

**PARTICIPATING SPECIAL ENTITY AGREEMENT**

**Between**

**THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY**

**And**

**PHILLIPS 66 PIPELINE LLC**

**1.0 PARTIES**

This Agreement is made and entered into by the East Contra Costa County Habitat Conservancy (“Conservancy”) and Phillips 66 Pipeline LLC (“Participating Special Entity” or “PSE”) as of the Effective Date.

**2.0 RECITALS**

The Parties have entered into this Agreement in consideration of the following facts:

- 2.1** The East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (“HCP/NCCP,” or “Plan”) is intended to provide a comprehensive framework to protect natural resources in eastern Contra Costa County, while improving and streamlining the environmental permitting process for certain projects that would cause impacts on endangered and threatened species. The primary policy priority of the Plan is to provide comprehensive species, wetlands, and ecosystem conservation and contribute to recovery of endangered and threatened species within East Contra Costa County while balancing open space, habitat, agriculture, and urban development. To that end, the Plan describes how to avoid, minimize, and mitigate, to the maximum extent practicable, impacts on Covered Species and their habitats while allowing for certain development and other activities in selected regions of the County and the Cities of Pittsburg, Clayton, Oakley, and Brentwood.
- 2.2** The Conservancy is a joint powers authority formed by its members, the County of Contra Costa (“County”), the City of Pittsburg (“Pittsburg”), the City of Clayton (“Clayton”), the City of Oakley (“Oakley”) and the City of Brentwood (“Brentwood”), to implement the HCP/NCCP.
- 2.3** The HCP/NCCP covers approximately one-third of the County, or 174,082 acres, all in East Contra Costa County, in which impacts from certain development and other activities are evaluated, and in which conservation will occur.
- 2.4** The area covered by the HCP/NCCP has been determined to provide, or potentially provide, habitat for twenty-eight (28) species that are listed as endangered or threatened, that could in the future be listed as endangered or threatened, or that have some other special status under federal or state laws.

- 2.5 The Conservancy has received authorization from the United States Fish and Wildlife Service (“USFWS”) under incidental take permit TE 160958-0, and the California Department of Fish and Wildlife (“CDFW”), under incidental take permit 2835-2007-01-03, for the Take of the twenty-eight (28) special-status species and certain other species, as take is defined respectively under federal and state law, while carrying out certain development and other activities.
- 2.6 The Conservancy may enter into agreements with participating special entities that allow certain activities of theirs to be covered by the Federal Permit and the State Permit, subject to the conditions in the Implementing Agreement (“IA”), the HCP/NCCP and the Permits.
- 2.7 PSE proposes to conduct the Line 200 Pipeline Vasco Road Remediation Project and seeks extension of the Conservancy’s permit coverage to drill 12 boring sample locations and 4 monitoring well locations to test soil and ground water contamination from an August 27, 2011 Line 200 crude oil pipeline leak, as further described in the Application, attached as Exhibit 1.
- 2.8 The Conservancy has concluded, based on the terms of this Agreement and the application submitted by PSE (the “Application”), that PSE has provided adequate assurances that it will comply with all applicable terms and conditions of the IA, the HCP/NCCP, and the Permits. The Application is attached hereto as Exhibit 1 and is hereby incorporated into this Agreement by reference.

### 3.0 **DEFINITIONS**

The following terms as used in this Agreement will have the meanings set forth below. Terms specifically defined in the Federal Endangered Species Act (“FESA”), the California Endangered Species Act (“CESA”) or the Natural Community Conservation Planning Act (“NCCPA”) or the regulations adopted by USFWS and CDFW under those statutes shall have the same meaning when used in this Agreement. Definitions used in this Agreement may elaborate on, but are not intended to conflict with, such statutory or regulatory definitions.

- 3.1 **“Agreement”** means this Agreement, which incorporates the IA, the HCP/NCCP, the Permits, and the Application by reference.
- 3.2 **“Application”** means the application submitted by the PSE in accordance with Chapter 8.4 of the HCP/NCCP, and which is attached hereto as Exhibit 1. The Application contains a cover sheet, the results of required planning surveys and the avoidance, minimization and mitigation measures that will be a condition of the PSE using Conservancy’s Permits.
- 3.3 **“Authorized Take”** means the extent of incidental Take of Covered Species authorized by the USFWS in the Federal Permit issued to the Conservancy pursuant to Section 10(a)(1)(B) of FESA, and the extent of

Take of Covered Species authorized by CDFW in the State Permit issued to the Conservancy pursuant to California Fish and Game Code section 2835.

- 3.4 **“CDFW”** means the California Department of Fish and Wildlife, formerly the California Department of Fish and Game, a department of the California Resources Agency.
- 3.5 **“CESA”** means the California Endangered Species Act (Fish & G. Code, § 2050 et seq.) and all rules, regulations and guidelines promulgated pursuant to that Act.
- 3.6 **“Changed Circumstances”** means changes in circumstances affecting a Covered Species or the geographic area covered by the HCP/NCCP that can reasonably be anticipated by the Parties and that can reasonably be planned for in the HCP/NCCP. Changed Circumstances and planned responses to Changed Circumstances are more particularly defined in Section 12.2 of the IA and Chapter 10.2.1 of the HCP/NCCP. Changed Circumstances do not include Unforeseen Circumstances.
- 3.7 **“Covered Activities”** means those land uses and conservation and other activities described in Chapter 2.3 of the HCP/NCCP to be carried out by the Conservancy or its agents that may result in Authorized Take of Covered Species during the term of the HCP/NCCP, and that are otherwise lawful.
- 3.8 **“Covered Species”** means the species, listed and non-listed, whose conservation and management are provided for by the HCP/NCCP and for which limited Take is authorized by the Wildlife Agencies pursuant to the Permits. The Take of Fully Protected Species is not allowed. The Take of extremely rare plants that are Covered Species is allowed only as described in Section 6.0 and the IA.
- 3.9 **“Effective Date”** means the date when this Agreement is fully executed.
- 3.10 **“Federal Listed Species”** means the Covered Species which are listed as threatened or endangered species under FESA as of the Effective Date, and the Covered Species which are listed as threatened or endangered pursuant to FESA during the term of the HCP/NCCP as of the date of such listing.
- 3.11 **“Federal Permit”** means the federal incidental Take permit issued by USFWS to the Conservancy and other local agencies pursuant to Section 10(a)(1)(B) of FESA (permit number TE 160958-0), as it may be amended from time to time.
- 3.12 **“FESA”** means the Federal Endangered Species Act of 1973, as amended (16 U.S.C § 1531 et seq.) and all rules, regulations and guidelines promulgated pursuant to that Act.
- 3.13 **“Fully Protected Species”** means any species identified in California Fish and Game Code sections 3511, 4700, 4800, 5050 or 5515 that occur within the Plan Area.
- 3.14 **“HCP/NCCP”** or **“Plan”** means the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan.

- 3.15 “Implementing Agreement” or “IA”** means the “Implementing Agreement for the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan,” dated January 22, 2007.
- 3.16 “Jurisdictional Wetlands and Waters”** means State and federally regulated wetlands and other water bodies that cannot be filled or altered without permits from either the U.S. Army Corps of Engineers under section 404 of the Clean Water Act or, from the State Water Resources Control Boards under either section 401 of the Clean Water Act or the Porter-Cologne Water Quality Act, or CDFW under section 1602 of the Fish and Game Code, as further explained in Chapter 1.3.5 of the HCP/NCCP.
- 3.17 “Listed Species”** means a species (including a subspecies, or a distinct population segment of a vertebrate species) that is listed as endangered or threatened under FESA or CESA.
- 3.18 “NCCPA”** means the Natural Community Conservation Planning Act (Fish & G. Code, § 2800 et seq.) and all rules, regulations and guidelines promulgated pursuant to that Act.
- 3.19 “Non-listed Species”** means a species (including a subspecies, or a distinct population segment of a vertebrate species) that is not listed as endangered or threatened under FESA or CESA.
- 3.20 “Party” or “Parties”** means any or all of the signatories to this Agreement.
- 3.21 “Permit Area”** means the area within the Plan Area where the Conservancy has received authorization from the Wildlife Agencies for the Authorized Take of Covered Species while carrying out Covered Activities.
- 3.22 “Permits”** means the Federal Permit and the State Permit.
- 3.23 “Plan Area”** means the geographic area analyzed in the HCP/NCCP, located in the eastern portion of Contra Costa County, as depicted in Figure 1-1 of the HCP/NCCP. The Plan Area is further described in detail in Chapter 1.2.1 of the HCP/NCCP. The Plan Area is also referred to as the “Inventory Area” in the HCP/NCCP.
- 3.24 “Preserve System”** means the land acquired and dedicated in perpetuity through either a fee interest or conservation easement intended to meet the preservation, conservation, enhancement and restoration objectives of the HCP/NCCP.
- 3.25 “Project”** means the Line 200 Pipeline Vasco Road Remediation Project, as described in Section 2.7.
- 3.26 “State Permit”** means the state Take permit issued to the Conservancy and other local agencies pursuant to Section 2835 of the California Fish and Game Code (permit number 2835-2007-01-03), as it may be amended from time to time.
- 3.27 “Take”** has the same meaning provided by FESA and its implementing regulations with regard to activities subject to FESA, and also has the same

meaning provided in the California Fish and Game Code with regard to activities subject to CESA and NCCPA.

- 3.28 “Unforeseen Circumstances”** under the Federal Permit means changes in circumstances affecting a Covered Species or geographic area covered by the HCP/NCCP that could not reasonably have been anticipated by the Plan developers and USFWS at the time of the Plan’s negotiation and development, and that result in a substantial and adverse change in the status of a Covered Species. “Unforeseen Circumstances” under the State Permit means changes affecting one or more species, habitat, natural community, or the geographic area covered by the Plan that could not reasonably have been anticipated at the time of Plan development, and that result in a substantial adverse change in the status of one or more Covered Species.
- 3.29 “USFWS”** means the United States Fish and Wildlife Service, an agency of the United States Department of Interior.
- 3.30 “Wildlife Agencies”** means USFWS and CDFW.

#### **4.0 PURPOSES**

This Agreement defines the Parties’ roles and responsibilities and provides a common understanding of actions that will be undertaken to avoid, minimize and mitigate the effects on the Covered Species caused by the Project, and to provide for the conservation of the Covered Species within the Plan Area. The purposes of this Agreement are to ensure implementation of each of the terms and conditions of this Agreement, and the relevant terms of the IA, the HCP/NCCP, and the Permits, and to describe remedies and recourse should either Party fail to perform its obligations as set forth in this Agreement.

#### **5.0 AVOIDANCE, MINIMIZATION AND MITIGATION OF IMPACTS**

##### **5.1 General Framework**

As required by FESA and NCCPA, the HCP/NCCP includes measures to avoid and minimize take of Covered Species and to conserve natural communities and Covered Species at the landscape-, habitat- and species-level. Chapter 6 of the HCP/NCCP provides further instructions to determine which avoidance and minimization measures are applicable to particular Covered Activities. PSE shall implement all applicable avoidance and minimization measures as required by the HCP/NCCP, including but not limited to those identified in Chapter 6, as described in the Application and this Agreement.

##### **5.2 Surveys and Avoidance Measures**

Planning surveys are required prior to carrying out any Covered Activity for which a fee is collected or land in lieu of a fee is provided. PSE has submitted a planning survey report for approval by the Conservancy in accordance with Chapter 6.2.1 of the HCP/NCCP. This planning survey report is contained within the Application, which describes the results of the planning survey and describes in detail the pre-construction surveys, construction monitoring, avoidance measures and mitigation measures that apply to the Project and shall

be performed by PSE. Based on the Application, the Conservancy has determined that PSE will implement and comply with all applicable preconstruction surveys and construction monitoring requirements described in Chapters 6.2.2 and 6.2.3 of the HCP/NCCP.

**5.3 No Take of Extremely Rare Plants or Fully Protected Species**

Nothing in this Agreement, the HCP/NCCP or the Permits shall be construed to allow the Take of extremely rare plant species listed in Table 6-5 of the HCP/NCCP (“No-Take Plant Population”) or any Fully Protected Species under California Fish and Game Code sections 3511, 4700, 4800, 5050 or 5515. PSE shall avoid Take of these species.

**5.4 Fees and Dedications**

As set forth in the Application, PSE agrees to pay the Conservancy a one-time payment of **\$9,026.84**, which amount includes all HCP/NCCP mitigation fees necessary for the Project. The payment also includes an amount sufficient to implement additional actions that will contribute to the recovery of endangered and threatened species (“Contribution to Recovery”). The overall payment amount is the sum of the following:

Fee for Temporary Impact: \$4,513.42

Contribution to Recovery: \$4,513.42

The payment must be paid in full before any ground-disturbance associated with the Project occurs. Notwithstanding the above, the Parties acknowledge that the Conservancy adjusts its fee schedule annually on March 15<sup>th</sup> of each year in accordance with the fee adjustment provisions of Chapter 9.3.1 of the HCP/NCCP. If the PSE pays before March 15, 2016 and construction of the Project commences before March 15, 2016, the amount due will be as stated above. If PSE pays on or after March 15, 2016 or construction of the Project does not commence before March 15, 2016, the amount due will be subject to annual fee adjustments for all fees, and subject to annual adjustments of the Contribution to Recovery based on the formula set forth in Chapter 9.3.1. Based on these adjustments, if PSE pays before March 15 of any year, but construction does not commence before March 15<sup>th</sup> of that year, PSE will either be required to submit an additional payment for any increases or be entitled to a refund without interest for any decreases.

**6.0 TAKE AUTHORIZATION**

**6.1 Extension of Take Authorization to PSE**

As provided in Chapter 8.4 of the HCP/NCCP, after receipt of the Wildlife Agencies’ written concurrence that the Project complies with the HCP/NCCP, the Permits and the IA, and after execution of this Agreement, payment of fees, and compliance with the California Environmental Quality Act (Public Resources Code section 21000, et seq.) ("CEQA"), the Conservancy shall issue a Certificate of Inclusion to PSE that specifically describes the Authorized Take and required conservation measures and extends Take authorization under the Permits to PSE. PSE is ultimately responsible for compliance with all applicable terms and conditions of this Agreement, the IA, the HCP/NCCP and the Permits.

**6.1.1 Compliance with the California Environmental Quality Act**

The Conservancy's issuance of a Certificate of Inclusion to the PSE is a public agency action that must comply with CEQA. For purposes of the Project, the Conservancy is the CEQA lead agency. The Conservancy has determined the Project is exempt from the requirements of CEQA pursuant to a categorical exemption for minor actions to stabilize or mitigate the release of hazardous substances (Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15330).

**6.2 Duration of Take Authorization**

Once the Take authorization has been extended to the Project, it shall remain in effect for a period of fifteen (15) years, unless and until the Permits are revoked by USFWS or CDFW, in which case the Take authorization may also be suspended or terminated.

**6.3 Section 7 Consultations with USFWS**

Nothing in this Agreement is intended to alter the obligation of a federal agency to consult with USFWS pursuant to Section 7 of FESA (16 U.S.C. §1536(a)). The PSE acknowledges that, if the Project is authorized, funded, or carried out by a federal agency, the federal agency and the Project must also comply with Section 7. As provided in Section 16.1 of the IA, USFWS has made a commitment that, unless otherwise required by law or regulation, it will not require any measures under Section 7 that are inconsistent with or exceed the requirements of the HCP/NCCP and the Permits for activities covered by the HCP/NCCP and the Permits.

**7.0 RIGHTS AND OBLIGATIONS OF PSE**

**7.1 Rights**

Upon the Conservancy's issuance of a Certificate of Inclusion to PSE, PSE may Take the Covered Species while carrying out the Project in the Permit Area, as further authorized by and subject to the conditions of this Agreement, the IA, the HCP/NCCP, and the Permits. The authority issued to PSE applies to all of its elected officials, officers, directors, employees, agents, subsidiaries, contractors, and subcontractors, and their officers, directors, employees and agents to the extent that they participate in the implementation of the Project. PSE shall periodically conduct an educational program to fully inform all such persons and entities of the terms and conditions of the Permits, and PSE shall be responsible for supervising their compliance with those terms and conditions. All contracts between PSE and such persons and entities shall require their compliance with the Permits.

**7.2 General Obligations**

The PSE will fully and faithfully perform all obligations assigned to it under this Agreement, the IA, the HCP/NCCP, the Permits, including but not limited to the obligations assigned in the following chapters of the HCP/NCCP: Chapter 6.0 (Conditions on Covered Activities), Chapter 8.4 (Participating Special Entities), and Chapter 9.0 (Funding). PSE shall implement all measures and adhere to all standards included in the Application, and PSE shall reserve funding sufficient to fulfill its obligations under this Agreement, the IA, the HCP/NCCP and the Permits throughout the term of this Agreement. PSE will promptly notify the Conservancy of any material change in its financial ability to fulfill its obligations under this Agreement.

### **7.3 Obligations In The Event of Suspension or Revocation**

In the event that USFWS and/or CDFW suspend or revoke the Permits pursuant to Sections 19.0 and 21.0 of the IA, PSE will remain obligated to fulfill its mitigation, enforcement, management, and monitoring obligations, and its other HCP/NCCP obligations, in accordance with this Agreement and applicable statutory and regulatory requirements for all impacts resulting from implementation of the Project prior to the suspension or revocation.

### **7.4 Interim Obligations upon a Finding of Unforeseen Circumstances**

If the Wildlife Agencies make a finding of Unforeseen Circumstances with regard to a Federal Listed Covered Species, during the period necessary to determine the nature and location of additional or modified mitigation, PSE will avoid contributing to an appreciable reduction in the likelihood of the survival and recovery of the affected species. As described in Section 15.2.2 and Section 15.3.2 of the IA, the Wildlife Agencies shall be responsible for implementing such additional measures or modifications, unless PSE consents to do so.

### **7.5 Obligations In The Event Of Changed Circumstances**

Changed Circumstances, as described in 50 Code of Federal Regulations section 17.22(b)(5)(i), are adequately addressed in Chapter 7 and Chapter 10 of the HCP/NCCP, and PSE shall implement any measures for such circumstances as called for in the HCP/NCCP, as described in Section 12.2 of the IA.

### **7.6 Obligation to Compensate Conservancy for Administrative Costs**

PSE shall compensate the Conservancy for its direct costs associated with this Agreement, including but not limited to, staff, consultant and legal costs incurred as a result of the review of the Application, drafting and negotiating this Agreement, monitoring and enforcement of this Agreement, and meetings and communications with PSE (collectively, Conservancy's "Administrative Costs"). Conservancy's Administrative Costs shall not exceed **\$5,000** in the aggregate. Conservancy shall provide PSE with invoices detailing its Administrative Costs monthly or quarterly, at Conservancy's discretion. PSE shall remit payment of each invoice within thirty (30) days of receiving it.

This provision is not intended to, and shall not be construed to, limit PSE's duty to indemnify the Conservancy as provided in Section 7.7 of this Agreement.

### **7.7 Indemnification**

PSE agrees to defend, indemnify, and hold harmless the Conservancy and its board members, officers, contractors, consultants, attorneys, employees and agents from any and all claim(s), action(s), or proceeding(s) (collectively referred to as "Proceedings") brought against Conservancy or its board members, officers, contractors, consultants, attorneys, employees, or agents arising out of or resulting from any of the following.

- Decisions or actions of the Conservancy related to the Project, this PSE Agreement, or compliance with the California Environmental Quality Act of 1970, as amended ("CEQA") with regard to the Project; and

- The negligence, recklessness, or intentional misconduct of any representative, employee, or agent of PSE.

Notwithstanding the above, (i) PSE shall have no duty to defend, indemnify, or hold harmless the Conservancy to the extent damages are sought in a tort claim arising out of or resulting from the individual negligence, recklessness, or intentional misconduct of any representative, employee, or agent of the Conservancy and (ii) the indemnification obligations set forth above shall in no way limit the rights and remedies of PSE with respect to any breach of the terms and conditions of this PSE Agreement by the Conservancy.

PSE's duty to indemnify the Conservancy includes, but is not limited to, damages, fees and/or costs awarded against or incurred by Conservancy, if any, and costs of suit, claim or litigation, including without limitation attorneys' fees and other costs, liabilities and expenses incurred in connection with any Proceedings.

#### **7.7.1 Enforcement of Indemnification Provision**

PSE agrees to indemnify Conservancy for all of Conservancy's costs, fees, and damages incurred in enforcing the indemnification provisions of this Agreement.

#### **7.7.2 Compliance Costs**

PSE agrees to defend, indemnify and hold harmless Conservancy, its officers, contractors, consultants, attorneys, employees and agents from and for all costs and fees incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending, any document (such as this Agreement or any document required for purposes of compliance with CEQA) if made necessary by any Proceedings.

#### **7.7.3 Obligations in the Event of Litigation**

In the event that PSE is required to defend Conservancy in connection with any Proceedings, Conservancy shall have and retain the right to approve, which approval shall not be withheld unreasonably:

- the counsel to so defend Conservancy;
- all significant decisions concerning the manner in which the defense is conducted; and
- any and all settlements.

Conservancy shall also have and retain the right to decline to participate in the defense, except that Conservancy agrees to reasonably cooperate with PSE in the defense of the Proceedings. If Conservancy participates in the defense, all Conservancy fees and costs shall be paid by PSE.

PSE's defense and indemnification of Conservancy set forth herein shall remain in full force and effect throughout all stages of litigation including any and all appeals of any lower court judgments rendered in the Proceedings.

## **8.0 REMEDIES AND ENFORCEMENT**

If PSE fails to comply with the terms of this Agreement, the IA, the HCP/NCCP, or the

Permits, the Conservancy may withdraw the Certificate of Inclusion and terminate any Take authorization extended to PSE. The Conservancy shall also have all of the remedies available in equity (including specific performance and injunctive relief) and at law to enforce the terms of this Agreement, the IA, the HCP/NCCP and the Permits, and to seek redress and compensation for any breach or violation thereof. The Parties acknowledge that the Covered Species are unique and that their loss as species would be irreparable and that therefore injunctive and temporary relief may be appropriate in certain instances involving a breach of this Agreement.

## **9.0 FORCE MAJEURE**

In the event that a Party is wholly or partially prevented from performing obligations under this Agreement because of unforeseeable causes beyond the reasonable control of and without the fault or negligence of Party (“Force Majeure”), including, but not limited to, acts of God, labor disputes, sudden actions of the elements not identified as Changed Circumstances, or actions of non-participating federal or state agencies or local jurisdictions, the Party shall be excused from whatever performance is affected by such unforeseeable cause to the extent so affected, and such failure to perform shall not be considered a material violation or breach, provided that nothing in this section shall be deemed to authorize either Party to violate FESA, CESA or NCCPA, and provided further that:

- The suspension of performance is of no greater scope and no longer duration than is required by the Force Majeure;
- Within seven (7) days after the occurrence of the Force Majeure, the Party invoking this section shall give the other Party written notice describing the particulars of the occurrence;
- The Party shall use best efforts to remedy its inability to perform (however, this paragraph shall not require the settlement of any strike, walk-out, lock-out or other labor dispute on terms which in the sole judgment of the Party is contrary to its interest); and
- When the Party is able to resume performance of their obligations, it shall give the other Party written notice to that effect.

## **10.0 MISCELLANEOUS PROVISIONS**

### **10.1 Calendar Days**

Throughout this Agreement and the HCP/NCCP, the use of the term “day” or “days” means calendar days, unless otherwise specified.

### **10.2 Notices**

Any notice permitted or required by this Agreement shall be in writing, and delivered personally, by overnight mail, or by United States mail, certified and postage prepaid, return receipt requested. Notices may be delivered by facsimile or electronic mail, provided

they are also delivered by one of the means listed above. Delivery shall be to the name and address of the individual responsible for each of the Parties, as follows:

Abigail Fateman  
East Contra Costa County Habitat Conservancy  
c/o Contra Costa County Department of Conservation and Development  
30 Muir Road  
Martinez, CA 94553  
Email: abigail.fateman@dcd.cccounty.us  
Phone: 925-674-7820

Frank L. Nichols  
Senior Advisor, Western Region Right-of-Way  
Phillips 66 Pipeline LLC  
1232 Park Street, Suite 300  
Paso Robles, CA 93446  
Email: frank.l.nichols@p66.com  
Phone: 805-226-2644

Notices shall be transmitted so that they are received within the specified deadlines. Notices delivered personally shall be deemed received on the date they are delivered. Notices delivered via overnight delivery shall be deemed received on the next business day after deposit with the overnight mail delivery service. Notice delivered via certified mail, return receipt requested, shall be deemed received as of the date on the return receipt or five (5) days after deposit in the United States mail, whichever is sooner. Notices delivered by facsimile or other electronic means shall be deemed received on the date they are received.

### **10.3 Entire Agreement**

This Agreement, together with the IA, the HCP/NCCP and the Permits, constitutes the entire agreement among the Parties. This Agreement supersedes any and all other agreements, either oral or in writing, between the Parties with respect to the subject matter hereof and contains all of the covenants and agreements among them with respect to said matters, and each Party acknowledges that no representation, inducement, promise of agreement, oral or otherwise, has been made by any other Party or anyone acting on behalf of any other Party that is not embodied herein.

### **10.4 Amendment**

This Agreement may only be amended with the written consent of both Parties.

### **10.5 Attorneys' Fees**

If any action at law or equity, including any action for declaratory relief is brought to enforce or interpret the provisions of this Agreement, the prevailing Party shall be able to recover its attorneys' fees and costs.

### **10.6 Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the United States and the State of California, as applicable.

**10.7 Duplicate Originals**

This Agreement may be executed in any number of duplicate originals. A complete original of this Agreement shall be maintained in the official records of each of the Parties hereto.

**10.8 Relationship to the FESA, CESA, NCCPA and Other Authorities**

The terms of this Agreement are consistent with and shall be governed by and construed in accordance with FESA, CESA, NCCPA and other applicable state and federal law.

**10.9 No Third Party Beneficiaries**

Without limiting the applicability of rights granted to the public pursuant to FESA, CESA, NCCPA or other applicable law, this Agreement shall not create any right or interest in the public, or any member thereof, as a third party beneficiary thereof, nor shall it authorize anyone not a Party to this Agreement to maintain a suit for personal injuries or property damages under the provisions of this Agreement. The duties, obligations, and responsibilities of the Parties to this Agreement with respect to third party beneficiaries shall remain as imposed under existing state and federal law.

**10.10 References to Regulations**

Any reference in this Agreement, the IA, the HCP/NCCP, or the Permits to any regulation or rule of the Wildlife Agencies shall be deemed to be a reference to such regulation or rule in existence at the time an action is taken.

**10.11 Applicable Laws**

All activities undertaken pursuant to this Agreement, the IA, the HCP/NCCP, or the Permits must be in compliance with all applicable local, state and federal laws and regulations.

**10.12 Severability**

In the event one or more of the provisions contained in this Agreement is held invalid, illegal or unenforceable by any court of competent jurisdiction, such portion shall be deemed severed from this Agreement and the remaining parts of this Agreement shall remain in full force and effect as though such invalid, illegal, or unenforceable portion had never been a part of this Agreement.

**10.13 Due Authorization**

Each Party represents and warrants that (1) the execution and delivery of this Agreement has been duly authorized and approved by all requisite action, (2) no other authorization or approval, whether of governmental bodies or otherwise, will be necessary in order to enable it to enter into and comply with the terms of this Agreement, and (3) the person executing this Agreement on behalf of each Party has the authority to bind that Party.

**10.14 No Assignment**

The Parties shall not assign their rights or obligations under this Agreement, the Permits, or the HCP/NCCP to any other individual or entity.

**10.15 Headings**

Headings are using in this Agreement for convenience only and do not affect or define the Agreement's terms and conditions.

**IN WITNESS WHEREOF, THE PARTIES HERETO** have executed this Agreement to be in effect as of the date last signed below.

**EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY**

By: \_\_\_\_\_ DATE: \_\_\_\_\_  
**JOHN KOPCHIK**, Secretary

By: \_\_\_\_\_ DATE: \_\_\_\_\_  
**ABIGAIL FATEMAN**, Executive Director

**PHILLIPS 66 PIPELINE LLC**

By: \_\_\_\_\_ DATE: \_\_\_\_\_  
**BILL A. HALLETT**, Attorney-In-Fact

# EXHIBIT 1

## Application Form and Planning Survey Report

### To Comply With and Receive Permit Coverage Under The East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan

Please complete this application to apply for take authorization under the state and federal East Contra Costa County HCP/NCCP incidental take permits. The East Contra Costa County Habitat Conservancy ("Conservancy") or local jurisdiction (City of Brentwood, City of Clayton, City of Oakley, City of Pittsburg, and Contra Costa County) may request more information in order to deem the application complete.

#### I. PROJECT OVERVIEW

PROJECT INFORMATION	
<b>PROJECT NAME:</b> <a href="#">Line 200 Vasco Road Remediation Testing Project</a>	
<b>PROJECT TYPE:</b> <input type="checkbox"/> Residential <input type="checkbox"/> Commercial <input type="checkbox"/> Transportation <input checked="" type="checkbox"/> Utility <input type="checkbox"/> Other	
<b>PROJECT DESCRIPTION (BRIEF):</b> <a href="#">Phillips 66 plans to drill 12 boring sample locations and 4 monitoring well locations to test soil and ground water contamination from an August 27, 2011 Line 200 crude oil pipeline leak in this area.</a>	
<b>PROJECT ADDRESS/LOCATION:</b> <a href="#">Project site is located off Vasco Road in Byron, California. Turn right onto Dyer Road, drive for 1.5 miles on the road and then the project area is approximately 0.5 mile to the northeast.</a>	
<b>PARCEL/PROJECT SIZE (ACRES):</b> <a href="#">2.2 acres</a>	
<b>PROJECT APN(S):</b> <a href="#">005-180-007; 005-190-001</a>	
<b>APPLICATION SUBMITTAL DATE:</b> <a href="#">November 20, 2015</a>	<b>FINAL PSR DATE:</b> (City/County/Conservancy use)
<b>LEAD PLANNER:</b> <a href="#">Allison Van Dorn, East Contra Costa County Habitat Conservancy</a>	
<b>JURISDICTION:</b> <input type="checkbox"/> City of Brentwood <input type="checkbox"/> City of Clayton <input type="checkbox"/> City of Oakley <input type="checkbox"/> City of Pittsburg <input type="checkbox"/> Contra Costa County <input checked="" type="checkbox"/> Participating Special Entity*	
<small>*Participating Special Entities are organizations not subject to the authority of a local jurisdiction. Such organizations may include school districts, irrigation districts, transportation agencies, local park districts, geological hazard abatement districts, or other utilities or special districts that own land or provide public services.</small>	
<b>DEVELOPMENT FEE ZONE:</b> <input type="checkbox"/> Zone I <input checked="" type="checkbox"/> Zone II <input type="checkbox"/> Zone III <input type="checkbox"/> Zone IV	
<small>See figure 9-1 of the HCP/NCCP at <a href="http://www.cocohcp.org">www.cocohcp.org</a> for a generalized development fee zone map. Detailed development fee zone maps by jurisdiction are available from the jurisdiction.</small>	

PROJECT APPLICANT INFORMATION	
<b>APPLICANT'S NAME:</b> <a href="#">Chris Swartz</a>	
<b>AUTHORIZED AGENT'S NAME AND TITLE:</b> <a href="#">Phillips 66 Program Manager</a>	
<b>PHONE NO.:</b> <a href="#">(510) 245-5133</a>	<b>APPLICANT'S E-MAIL:</b> <a href="mailto:Chris.Swartz@p66.com">Chris.Swartz@p66.com</a>
<b>MAILING ADDRESS:</b> <a href="#">1380 San Pablo Avenue, Rodeo, CA 94572</a>	

BIOLOGIST INFORMATION <sup>1</sup>	
<b>BIOLOGICAL/ENVIRONMENTAL FIRM:</b> <a href="#">Monk &amp; Associates, Inc</a>	
<b>CONTACT NAME AND TITLE:</b> <a href="#">Molly Peterson, Project Biologist</a>	
<b>PHONE NO.:</b> <a href="#">(925)947-4867 ext. 211</a>	<b>CONTACT'S E-MAIL:</b> <a href="mailto:Molly@monkassociates.com">Molly@monkassociates.com</a>
<b>MAILING ADDRESS:</b> <a href="#">1136 Saranap Ave. Ste Q Walnut Creek, Ca 94595</a>	

<sup>1</sup> A USFWS/CDFW-approved biologist (project-specific) is required to conduct the surveys. Please submit biologist(s) approval request to the Conservancy.

## II. PROJECT DETAILS

Please complete and/or provide the following attachments:

### 1) Project Description

Attach as **Attachment A: Project Description**. Provide a detailed written description that concisely and completely describes the project and location. Include the following information:

- All activities proposed for the site or project, including roads utilized, construction staging areas, and the installation of underground facilities, to ensure the entire project is covered by the HCP/NCCP permit
- Proposed construction dates, including details on construction phases, if applicable
- Reference a City/County application number for the project, if applicable
- General Best Management Practices, if applicable
- If the project will have temporary impacts, please provide a restoration plan describing how the site will be restored to pre-project conditions, including revegetation seed mixes or plantings and timing

### 2) Project Vicinity Map

Provide a project vicinity map. Attach as **Figure 1 in Attachment B: Figures**.

### 3) Project Site Plans

Provide any project site plans for the project. Attach as **Figure 2 in Attachment B: Figures**.

### 4) CEQA Document

Indicate the status of CEQA documents prepared for the project. Provide additional comments below table if necessary.

Type of Document	Status	Date Completed
<input type="checkbox"/> Initial Study		
<input type="checkbox"/> Notice of Preparation		
<input type="checkbox"/> Draft EIR		
<input type="checkbox"/> Final EIR		
<input checked="" type="checkbox"/> Notice of Categorical Exemption		
<input checked="" type="checkbox"/> Notice of Statutory Exemption		
<input type="checkbox"/> Other (describe)		

The proposed project is located in an area that has been highly manipulated within the last 5 years owing to extensive dirt removal and oil cleanup. All soils have been scraped, removed, and new dirt imported and compacted. During the proposed drilling, the applicant will install a wildlife friendly fence around the temporary work area and will install a silt fence around the small drainage swale. There will be no potentially significant impacts to special status species. As such, and for the following reasons below, M&A concludes that this project is exempt from CEQA based on both categorical and statutory exemptions.

## TITLE 14. CALIFORNIA CODE OF REGULATIONS

### Chapter 3. Guidelines for Implementation of the California Environmental Quality Act

#### ARTICLE 19. CATEGORICAL EXEMPTIONS

##### Section 15304 Minor Alterations to Land

**Class 4** consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of mature, scenic trees except for forestry and agricultural purposes. Examples include but are not limited to:

- A. Grading on land with a slope of less than ten (10) percent, except that grading shall not be exempt in a waterway, in any wetland, in an officially designated (by federal, state, or local government action) scenic area, or in officially mapped areas of severe geologic hazard, such as an Alquist-Priolo Earthquake Fault Zone or within an official Seismic Hazard Zone, as delineated by the State Geologist;

- B. Issuance of a grading permit in conjunction with a project for which a design review approval has been granted and/or following any discretionary action which was subject to environmental review;
- C. New gardening or landscaping; including the replacement of existing conventional landscaping with water efficient or fire resistant landscaping;
- D. Filling of earth into previously excavated land with material compatible with the natural features of the site;
- E. Minor alterations in land, water, and vegetation on existing officially designated wildlife management areas or fish production facilities which result in improvement of habitat for fish and wildlife resources or greater fish production;
- F. Minor temporary use of land having negligible or no permanent effects on the environment, including carnivals, outdoor festivals/concerts, sales of Christmas trees, arts and crafts fairs, etc.;
- G. Minor trenching and backfilling where the surface is restored;
- H. Maintenance dredging where the spoil is deposited in a spoil area authorized by all applicable state and federal regulatory agencies;
- I. The creation of bicycle lanes on existing rights-of-way.
- J. Fuel management activities within 30 feet of structures to reduce the volume of flammable vegetation, provided that the activities will not result in the taking of endangered, rare, or threatened plant or animal species or significant erosion and sedimentation of surface waters. This exemption shall apply to fuel management activities within 100 feet of a structure if the public agency having fire protection responsibility for the area has determined in writing, or by written policy or ordinance, that 100 feet of fuel clearance is required due to extra hazardous fire conditions. (Ord. 5119-B, 2001)

**Section 15330. Minor Actions to Prevent, Minimize, Stabilize, Mitigate or Eliminate the Release or Threat of Release of Hazardous Waste or Hazardous Substances.**

**Class 30** consists of any minor cleanup actions taken to prevent, minimize, stabilize, mitigate, or eliminate the release or threat of release of a hazardous waste or substance which are small or medium removal actions costing \$1 million or less.

(a) No cleanup action shall be subject to this Class 30 exemption if the action requires the onsite use of a hazardous waste incinerator or thermal treatment unit or the relocation of residences or businesses, or the action involves the potential release into the air of volatile organic compounds as defined in Health and Safety Code Section 25123.6, except for small scale in situ soil vapor extraction and treatment systems which have been permitted by the local Air Pollution Control District or Air Quality Management District. All actions must be consistent with applicable state and local environmental permitting requirements including, but not limited to, off-site disposal, air quality rules such as those governing volatile organic compounds and water quality standards, and approved by the regulatory body with jurisdiction over the site.

(b) Examples of such minor cleanup actions include but are not limited to:

- (1) Removal of sealed, non-leaking drums or barrels of hazardous waste or substances that have been stabilized, containerized and are designated for a lawfully permitted destination;
- (2) Maintenance or stabilization of berms, dikes, or surface impoundments;
- (3) Construction or maintenance or interim of temporary surface caps;
- (4) Onsite treatment of contaminated soils or sludges provided treatment system meets Title 22 requirements and local air district requirements;
- (5) Excavation and/or offsite disposal of contaminated soils or sludges in regulated units;
- (6) Application of dust suppressants or dust binders to surface soils;
- (7) Controls for surface water run-on and run-off that meets seismic safety standards;
- (8) Pumping of leaking ponds into an enclosed container;
- (9) Construction of interim or emergency ground water treatment systems;
- (10) Posting of warning signs and fencing for a hazardous waste or substance site that meets legal requirements for protection of wildlife.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Section 21084, Public Resources Code.

**ARTICLE 18. STATUTORY EXEMPTIONS**

**Section 15282. Other Statutory Exemptions**

The following is a list of existing statutory exemptions. Each subdivision summarizes statutory exemptions found in the California Code. Lead agencies are not to rely on the language contained in the summaries below but must rely on the actual statutory language that creates the exemption. This list is intended to assist lead agencies in finding them, but not as a substitute for them. This section is merely a reference tool.

Sections are omitted except as relevant to the project as presented below.

(k) The installation of new pipeline or maintenance, repair, restoration, removal, or demolition of an existing pipeline as set forth in Section 21080.21 of the Public Resources Code, as long as the project does not exceed one mile in length.

### III. EXISTING CONDITIONS AND IMPACTS

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Please complete and/or provide the following attachments:

**1) Field-Verified Land Cover Map<sup>2</sup>**

Attach a field-verified land cover map in **Attachment B: Figures** and label as **Figure 3**. The map should contain all land cover types present on-site overlaid on aerial/satellite imagery. Map colors for the land cover types should conform to the HCP/NCCP (see *Figure 3-3: Landcover in the Inventory Area* for land cover type legend).

**2) Photographs of the Project Site**

Attach representative photos of the project site in **Attachment B: Figures** and label as **Figure 4**. Please provide captions for each photo.

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<sup>2</sup> For PSEs and city or county public works projects, please also identify permanent and temporary impact areas by overlaying crosshatching (permanent impacts) and hatching (temporary impacts) on the land cover map.

### 3) Land Cover Types and Impacts and Supplemental Tables

- For all terrestrial land cover types please provide calculations to the nearest **hundredth of an acre (0.01)**. For aquatic land cover types please provide calculations to the nearest **thousandth of an acre (0.001)**.
- **Permanent Impacts** are broadly defined in the ECCC HCP/NCCP to include all areas removed from an undeveloped or habitat-providing state and includes land in the same parcel or project that is not developed, graded, physically altered, or directly affected in any way but is isolated from natural areas by the covered activity. Unless such undeveloped land is dedicated to the Preserve System or is a deed-restricted creek setback, the development mitigation fee will apply (if proposed, would require Conservancy approval).
- **Temporary Impacts** are broadly defined in the ECCC HCP/NCCP as any impact on vegetation or habitat that does not result in permanent habitat removal (i.e. vegetation can eventually recover).
- If **wetland (riparian woodland/scrub, wetland, or aquatic)** land cover types are present on the parcel but will not be impacted please discuss in the following section 4) Jurisdictional Wetlands and Waters. Wetland impact fees will only be charged if wetland features are impacted. However, development fees will apply to the entire parcel.
- **Stream** land cover type is considered a linear feature where impacts are calculated based on length impacted. The acreage within a stream, below Top of Bank (TOB), must be assigned to the adjacent land cover type(s). Insert area of impact to stream below TOB in parentheses after the Land Cover acreage number (e.g., Riparian Woodland/Scrub: 10 (0.036) – where 10 is the total impacted acreage including 0.036 acre, which is the acreage within stream TOB). Complete following supplemental **Stream Feature Detail** table to provide information for linear feet.
- **Total Impacts** acreage should be the total parcel acreage (development project) or project footprint acreage (rural infrastructure or utility project).

*Proposed for HCP/NCCP  
Dedication on the Parcel  
(Requires Conservancy Approval)*

**Table 1: Land Cover Types and Impacts**

Land Cover Type	Permanent Impacts	Temporary Impacts	Stream Setback	Preserve System Dedication
<i>Grassland</i>				
Annual Grassland		0.84 Acre		
Alkali Grassland				
Ruderal				
<i>Shrubland</i>				
Chaparral and Scrub				
<i>Woodland</i>				
Oak Savannah				
Oak Woodland				
<i>Riparian</i>				
Riparian Woodland/Scrub				
<i>Wetland</i>				
Permanent Wetland				
Seasonal Wetland				
Alkali Wetland				
<i>Aquatic</i>				
Aquatic (Reservoir/Open Water)				
Slough/Channel				
Pond				
Stream (in linear feet)	-	-	-	-
<i>Irrigated Agriculture</i>				
Pasture				
Cropland				
Orchard				
Vineyard				
<i>Other</i>				
Nonnative woodland				
Wind turbines				
<i>Developed (not counted toward Fees)</i>				
Urban		0.04 Acre		
Aqueduct				
Turf				
Landfill				
<b>TOTAL IMPACTS</b>		<b>0.88 Acre</b>		

Identify any uncommon vegetation and uncommon landscape features<sup>3</sup>:

**Supplemental to Table 1: Uncommon Vegetation and Landscape Features**

	Permanent Impacts	Temporary Impacts
<i>Uncommon Grassland Alliances</i>		
Purple Needlegrass Grassland		
Blue Wildrye Grassland		
Creeping Ryegrass Grassland		
Wildflower Fields		
Squirreltail Grassland		
One-sided Bluegrass Grassland		
Serpentine Bunchgrass Grassland		
Saltgrass Grassland		
Alkali Sacaton Bunchgrass Grassland		
<input type="checkbox"/> Other		
<i>Uncommon Landscape Features</i>		
Rock Outcrops		
Caves		
Springs and seeps		
Scalds		
Sand Deposits		
<input type="checkbox"/> Mines <sup>4</sup>		
<input type="checkbox"/> Buildings (bat roosts) <sup>3</sup>		
<input type="checkbox"/> Potential nest sites (trees or cliffs) <sup>3</sup>		

Please provide details of impacts to stream features:

Stream Name: N/A

Watershed: N/A

**Supplemental to Table 1: Stream Feature Detail<sup>5</sup>**

Stream Width	Stream Type <sup>6</sup>	Permanent Impacts (linear feet) <sup>7</sup>	Temporary Impacts (linear feet) <sup>7</sup>
<input type="checkbox"/> ≤ 25 feet wide <input type="checkbox"/> > 25 feet wide	<input type="checkbox"/> Perennial <input type="checkbox"/> Intermittent <input type="checkbox"/> Ephemeral, 3rd or higher order <input type="checkbox"/> Ephemeral, 1st or 2nd order		
<input type="checkbox"/> ≤ 25 feet wide <input type="checkbox"/> > 25 feet wide	<input type="checkbox"/> Perennial <input type="checkbox"/> Intermittent <input type="checkbox"/> Ephemeral, 3rd or higher order <input type="checkbox"/> Ephemeral, 1st or 2nd order		
<input type="checkbox"/> ≤ 25 feet wide <input type="checkbox"/> > 25 feet wide	<input type="checkbox"/> Perennial <input type="checkbox"/> Intermittent <input type="checkbox"/> Ephemeral, 3rd or higher order <input type="checkbox"/> Ephemeral, 1st or 2nd order		

<sup>3</sup> These acreages are for Conservancy tracking purposes. Impacts to these uncommon vegetation and landscape features should be accounted for within the land cover types in Table 1 (e.g., x acres of purple needlegrass in this supplemental table should be accounted for within annual grassland in Table 1).

<sup>4</sup> Insert amount/number, not acreage. Provide additional information on these features in Attachment A: Project Description.

<sup>5</sup> Use more than 1 row as necessary to describe impacts to streams on site.

<sup>6</sup> See glossary (Appendix A) for definition of stream type and order.

<sup>7</sup> Stream length is measured along stream centerline, based on length of impact to any part of the stream channel, TOB to TOB.

#### 4) Summary of Land Cover Types

Please provide a written summary of descriptions for land cover types found on site including characteristic vegetation.

Land cover types checked in Table 1 (above) and discussed below are based on a cover classification system developed by the ECCCHC in the HCP and mapped as Figure 3-3 within the HCP. These land cover types are broad-brush based on the ECCCHC's aerial photograph interpretation and may not be specific to the project site as the land cover types were mapped years ago. However, after conducting a field visit, land cover types can be adjusted to more accurately reflect the real onsite habitats. Attachment B Figure 3 depicts the land cover map for the Phillips 66 Vasco Road Remediation project site based on M&A's field verification site visit.

The project area is mapped as "Annual Grassland" with existing gravel roads mapped as "Urban". The project area consists of non-native annual grassland dominated by soft chess (*Bromus hordeaceus*), foxtail barley (*Hordeum murinum ssp. leporinum*) short-podded mustard (*Hirschfeldia incana*) and filaree (*Erodium moschatum* and *Erodium cicutarium*). Other non-dominant species include thistles such as milk thistle (*Silybum marianum*), Italian thistle (*Carduus pycnocephalus*) and tocalote (*Centaurea melitensis*), as well as slender wild oat (*Avena barbata*), black mustard (*Brassica nigra*), foxtail chess (*Bromus madritensis ssp. madritensis*), Italian ryegrass (*Festuca perennis*) and great valley gumplant (*Grindelia camporum*). The vegetation comprised approximately 85% of the cover, while 15% was bare ground area where seed had not yet established or the area had frequent disturbance (such as vehicular traffic). The topography of the site varies from relatively flat along the southern portion of the project area to slopes of 15% or more along the northern extents of the project area.

#### 5) Jurisdictional Wetlands and Waters

If wetlands and waters are present on the project site, project proponents must conduct a delineation of jurisdictional wetlands and waters. Jurisdictional wetlands and waters are defined on pages 1-18 and 1-19 of the ECCCHC HCP/NCCP as the following land cover types: permanent wetland, seasonal wetland, alkali wetland, aquatic, pond, slough/channel, and stream. It should be noted that these features differ for federal and state jurisdictions. If you have identified any of these land cover types in Table 1, complete the section below.

- a) Attach the wetland delineation report as **Attachment E: Wetland Delineation**. If a wetland delineation has not been completed, please explain below in section 4c.
- b) **Please check the following permits the project may require. Please submit copies of these permits to the Conservancy prior to the start of construction:**
- CWA Section 404 Permit<sup>8</sup>                       CWA Section 401 Water Quality Certification
- Waste Discharge Requirements                       Lake and Streambed Alteration Agreement
- c) **Provide any additional information on impacts to jurisdictional wetland and waters below, including status of the permit(s):**

A formal wetland delineation has not been completed for the project site. However, M&A biologists are trained wetland biologists and we evaluated the project site to determine if there could be regulated wetlands and/or other waters present.

During the site investigation, M&A observed a potential "Other Waters," a minor drainage feature (i.e., is not a wetland) that runs east to west through the middle of the project area. This swale is mostly barren and the minimal vegetation present is dominated by soft chess (*Bromus hordeaceus*), a Facultative upland species. There was evidence of a small and minor flow from the recent storms that passed through the project area in the last two weeks. Rainfall at the site was 1.25 inches in the largest of the two storm events. These flows end immediately west of the project area on flat ground where the small flows completely dissipate into uplands. This minor drainage feature is highly ephemeral and does not meet the U.S Army Corps of Engineers wetland criteria. It also would be regarded as "isolated" as the downstream end of this feature is immediately adjacent to the project area. It simply conveys large rainfall event sheet flows off adjacent hillsides. Flows are not large enough to cause flows much further than the base of the nearby adjacent

<sup>8</sup> The USACE Sacramento District issued a Regional General Permit 1 (RGP) related to ECCCHC HCP/NCCP covered activities. The RGP is designed to streamline wetland permitting in the entire ECCCHC HCP/NCCP Plan Area by coordinating the avoidance, minimization, and mitigation measures in the Plan with the Corps' wetland permitting requirement. Applicants seeking authorization under this RGP shall notify the Corps in accordance with RGP general condition number 18 (Notification).

steep slopes. This minor drainage feature does not connect to the closest intermittent tributary which is Brushy Creek located approximately 550 feet west of the project area. Thus this “other waters” would not be subject to U.S. Army Corps of Engineers regulation pursuant to Section 404 of the Clean Water Act. In addition, this minor drainage feature will not be impacted by the proposed project; however this minor drainage feature, which is a couple of feet wide, will need to be driven over in order to access the northern portion of the project site. As such, the applicant will install multiple driving span plates (4 Ft. by 8 Ft. plywood cover boards) over the minor drainage feature so that it is not impacted by project vehicles. These cover plates will be placed across the drainage and laid side by side to protect the drainage while allowing the necessary vehicles/equipment to cross over the drainage (See Figure 2 for location of cover plates). In addition, silt fence will be installed running the length of the drainage on both sides to clearly delineate the avoidance area and to ensure no deminimis fill enters this drainage feature. Fencing will not be installed where the driving span plates are located. All proposed bore and well sampling locations have been placed far enough away to ensure there will be no impacts to this swale feature.

6) Species-Specific Planning Survey Requirements

Based on the land cover types found on-site and identified in Table 1, check the applicable boxes in Table 2a.

**Table 2a. Species –Specific Planning Survey Requirements**

Land Cover Type in Project Area	Required Survey Species	Habitat Element in Project Area	Planning Survey Requirement <sup>9</sup>	Info in HCP
<input checked="" type="checkbox"/> Grasslands, oak savannah, agriculture, or ruderal	<input checked="" type="checkbox"/> San Joaquin kit fox	Assumed if within modeled range of species	If within modeled range of species, identify and map potential breeding or denning habitat within the project site and a 250-ft radius around the project footprint.	pp. 6-37 to 6-38
	<input checked="" type="checkbox"/> Western burrowing owl	Assumed	Identify and map potential breeding habitat within the project site and a 500-ft radius around the project footprint. Please note the HCP requires buffers for occupied burrows. Surveys may need to encompass an area larger than the project footprint.	pp. 6-39 to 6-41
<input type="checkbox"/> Aquatic (ponds, wetlands, streams, sloughs, channels, and marshes)	<input type="checkbox"/> Giant garter snake	Aquatic habitat accessible from the San Joaquin River	Identify and map potential habitat.	pp. 6-43 to 6-45
	<input checked="" type="checkbox"/> California tiger salamander	Ponds and wetlands Vernal pools Reservoirs Small lakes	Identify and map potential breeding habitat. Document habitat quality and features. Provide the Conservancy with photo-documentation and report.	pp. 6-45
	<input checked="" type="checkbox"/> California red-legged frog	Slow-moving streams, ponds and wetlands	Identify and map potential breeding habitat. Document habitat quality and features. Provide the Conservancy with photo-documentation and report.	p. 6-46
	<input type="checkbox"/> Covered shrimp	Seasonal wetlands Vernal pools Sandstone rock outcrops Sandstone depressions	Identify and map potential habitat. Please note the HCP requires a 50 foot non-disturbance buffer from seasonal wetlands that may be occupied by covered shrimp. Surveys may need to encompass an area larger than the project footprint.	pp. 6-46 to 6-48
<input type="checkbox"/> Any	<input type="checkbox"/> Townsend’s big-eared bat	Rock formations with caves Mines Abandoned buildings outside urban area	Map and document potential breeding or roosting habitat.	pp. 6-36 to 6-37
	<input type="checkbox"/> Swainson’s hawk	Potential nest sites within 1,000 feet of project	Inspect large trees for presence of nest sites. Document and map.	pp. 6-41 to 6-43
	<input type="checkbox"/> Golden Eagle	Potential nest sites with ½ mile of project	Inspect large trees for presence of nest sites. Document and map.	pp. 6-38 to 6-39

Surveys for all covered species must be conducted by a qualified biologist (USFWS/CDFW project-specific approved). Please submit biologist approval request to the East Contra Costa County Habitat Conservancy.

Surveys for all covered species must be conducted according to the respective USFWS or CDFW survey protocols, as identified in Chapter 6.4.3 in the HCP/NCCP.

7) Planning Survey Species Habitat Maps

Provide Planning Survey Species Habitat Maps as required in Table 2a, attach as **Figure 5 in Attachment B: Figures**.

<sup>9</sup> The planning survey requirements in this table are not comprehensive. Please refer to Chapter 6.4.3 in the ECCC HCP/NCCP for more detail.

## 8) Results of Species Specific Surveys

Provide a written summary describing the results of the planning surveys. Please discuss the location, quantity, and quality of suitable habitat for specified covered wildlife species on the project site.

A planning survey was conducted by M&A biologists Mr. Geoff Monk and Ms. Molly Peterson on November 12, 2015. All proposed impact areas and vegetation communities were investigated and evaluated to determine if special status species could occur within the project area. The project area is comprised of highly disturbed non-native annual grassland dominated by soft chess (*Bromus hordeaceus*), foxtail barley (*Hordeum murinum ssp. leporinum*) hoary mustard (*Hirschfeldia incana*) and filaree (*Erodium sp.*). Other non-dominant species include thistles such as milk thistle (*Silybum marianum*), Italian thistle (*Carduus pycnocephalus*) and purple starthistle (*Centaurea calcitrapa*), as well as slender wild oat (*Avena barbata*), black mustard (*Brassica nigra*), and great valley gumplant (*Grindelia camporum*). California ground squirrel (*Spermophilus beecheyi*) burrows are abundant in the area around the project site. The entire footprint of the project area is within the footprint of the emergency remediation project in 2011. All surface soils were removed and replaced with clean, unaffected soil. While the grassland community has recovered, it still remains more barren than surrounding areas. Owing to the amount and extent of intrusive soil disturbance, rare plants would not be expected to occur within the project area footprint.

Based on the annual grassland habitat present on the project site and the abundance of burrows in the area, the project site constitutes suitable habitat for the San Joaquin kit fox and western burrowing owl. It is also assumed that the California tiger salamander and the California red-legged frog could over-summer in this grassland habitat. It should be noted that there are no large trees within the project area or within 1,000 feet of the project area. In 2011 there were three Eucalyptus trees (*Eucalyptus sp.*) in the area that were covered in oil after the oil release and subsequently had to be removed. As such, there is no potential for Swainson's hawk (*Buteo swainsoni*) or golden eagle (*Aquila chrysaetos*) to be nesting in the project area.

During M&A's project site assessment, the only wildlife species that were detected in the area were American kestrel (*Falco sparverius*), American pipit (*Anthus rubescens*), red-winged blackbird (*Agelaius phoeniceus*), brewer's blackbird (*Euphagus cyanocephalus*), American crow (*Corvus brachyrhynchos*), Say's phoebe (*Sayornis saya*), savannah sparrow (*Passerculus sandwichensis*), mourning dove (*Zenaida macroura*), northern shrike (*Lanius excubitor*), western meadowlark (*Sturnella neglecta*), red-tailed hawk (*Buteo jamaicensis*), and California ground squirrel (*Spermophilus beecheyi*).

The four covered wildlife species with potential to occur on the project site are discussed in further detail below:

### San Joaquin Kit Fox

San Joaquin kit fox (*Vulpes macrotis ssp. mutica*) is a federally listed endangered species and a California listed threatened species. This species' distribution is primarily limited to the San Joaquin Valley and adjacent regions. Kit fox live primarily in the lowlands of the San Joaquin Valley of California, but are also known to occur in several counties in the coast mountain ranges including Santa Barbara, San Luis Obispo, Monterey, San Benito, Santa Clara, Contra Costa and Alameda Counties.

This fox species is usually found in open grassland and shrubland communities, but has also been observed in orchards that border grassland or shrubland plant communities. Kit fox are carnivorous, usually feeding on small rodents such as pocket mice (*Perognathus inornatus*), deer mice (*Peromyscus maniculatus*), western harvest mice (*Reithrodontomys megalotis*), kangaroo rats (*Dipodomys spp.*) and larger rodents such California ground squirrel. Kit fox also prey upon lagomorphs such as black-tailed hare (*Lepus californicus*) and desert cottontail (*Sylvilagus audubonii*). It relies on dens for breeding, and to provide escape cover from potential predators. Kit fox are reputedly poor diggers, so dens are excavated in loose-textured soils, generally in areas with low to moderate relief, or they will utilize holes left by other species. They will utilize burrows dug by rabbits, ground squirrels, and on occasion, badgers (*Taxidea taxus*).

The project site and surrounding area have an abundance of ground squirrel burrows. In addition, the project area falls within the Conservancy's modelled range of the San Joaquin kit fox. During the site investigation Monk & Associates biologists surveyed the project area for San Joaquin kit fox by inspecting the project area for potential suitable dens (greater than or equal to 5" opening). Owing to the amount and extent of soil disturbance that occurred from the 2011 emergency remediation project, all burrows are of relatively recent origin. No burrows appearing large enough to provide suitable denning habitat were observed, nor was any sign of the San Joaquin kit fox observed.

### Western Burrowing Owl

Western burrowing owl (*Athene cunicularia hypugaea*) is classified in the State of California as a “species of special concern.” This designation provides protection for this species pursuant to the California Environmental Quality Act (CEQA). Burrowing owls are also protected under the federal Migratory Bird Treaty Act (16 U.S.C. 703-711 and 50 CFR 10.13), and their nests, eggs, and/or young are protected by California Fish and Game Code §3505, §3503.5, and §3800.

The closest California Natural Diversity Database (CNDDDB) record for this species was recorded in 2007 approximately 0.50 miles west of the project site (CNDDDB Occurrence No. 983). The record is on the west side of Vasco Road near the Souza and Vasco Caves Parcel. The project site is on the east side of Vasco Road. The western burrowing owl usually utilizes rodent burrows, typically ground squirrel (*Spermophilus beecheyi*) burrows, for nesting and cover. The project site supports a few California ground squirrels which could provide suitable burrows for western burrowing owls. While no burrowing owls or their sign were observed on the project site during the initial site survey, this is a highly mobile species that could use the project site for foraging and/or occupancy in future years. Western burrowing owl was not observed on or near the project area on November 12, 2015 when M&A biologist surveyed the project area and surrounding areas within 300 feet of the project area.

### California Tiger Salamander

The California tiger salamander (CTS) (*Ambystoma californiense*) has different state and federal legal protections. The Santa Barbara Distinct Population Segment (DPS) of the CTS was federally listed as endangered on January 19, 2000. The Sonoma County DPS of the CTS was federally listed as endangered on July 22, 2002. Finally, the Central California DPS of the CTS was federally listed as threatened on August 4, 2004. On August 19, 2010, the CTS was also state listed as a threatened species under the California Endangered Species Act (CESA).

CTS occur in grasslands and open oak woodlands that provide suitable over summering and/or breeding habitats. CTS spend the majority of their lives underground. They typically only emerge from their subterranean refugia for a few nights each year during the rainy season to migrate to breeding ponds.

The closest CNDDDB record for this species is a mapped portion of Brushy Creek and the surrounding uplands approximately 0.16 miles from the project area (CNDDDB Occurrence No.1036). A large polygon was mapped in 2008 and 2011.

Since there are an abundance of California ground squirrel burrows in the area, the project area could provide suitable over-summering habitat for the California tiger salamander. There is also a dry stock pond and Brushy Creek that occur approximately 500-600 feet west of the project area. As such, the California tiger salamander cannot be ruled out as utilizing the project area for over-summering habitat.

### California Red-legged Frog

The California red-legged frog (*Rana aurora draytonii*) was federally listed as threatened on May 23, 1996 (Federal Register 61: 25813-25833) and as such is protected pursuant to the Federal Endangered This frog is also a California “species of special concern.”

The California red-legged frog is typically found in slow-flowing portions of perennial streams, and in ephemeral streams, and hillside seeps that maintain pool environments or saturated soils throughout the summer months. Riparian vegetation such as willows (*Salix* sp.) and emergent vegetation such as cattails are preferred red-legged frog habitats, though not necessary for this species to be present. This frog is also found in man-made ponds. Populations of California red-legged frog will be reduced in size or eliminated from ponds supporting non-native species such as bullfrogs (*Rana catesbeiana*), Centrarchid fish species (such as sunfish, blue gill, or large mouth bass), and signal and red swamp crayfish (*Pacifastacus leniusculus* and *Procambarus clarkii*, respectively), all known California red-legged frog predators.

The closest CNDDDB record for this species occurs approximately 0.16 miles from the project site (CNDDDB Occurrence No. 130). However, the mapped area is a large polygon that encompasses ponds within Vaquero Farms and ponds along Brushy Peak. Brushy Creek is approximately 500-600 feet west of the project area and may be a migration corridor for the California red-legged frog. Because of the abundance of California ground squirrel burrows in the area, California red-legged frog could potentially be taking refuge in upland burrows near Brushy Creek during the hot summer months when this creek is dry.

## 9) Covered and No-Take Plants

Please check the applicable boxes in Table 2b based on the land cover types found in the project area. If suitable land cover types are present on site, surveys must be conducted using approved CDFW/USFWS methods during the appropriate season for identification of covered and no-take species (see page 6-9 of the ECCC HCP/NCCP). Reference populations of covered and no-take plants should be visited, where possible, prior to conducting surveys to confirm that the plant species is visible and detectable at the time surveys are conducted. In order to complete all the necessary covered and no-take plant surveys, spring, summer, and fall surveys may be required.

**Table 2b. Covered and No-Take Plant Species**

Plant Species	Covered (C) or No-Take (N)	Associated Land Cover Type	Typical Habitat or Physical Conditions, if Known	Typical Blooming Period	Suitable Land Cover Type Present
Adobe navarretia ( <i>Navarretia nigelliformis</i> ssp. <i>radians</i> ) <sup>a</sup>	C	Annual Grassland	Generally found on clay barrens in Annual Grassland <sup>b</sup>	Apr–Jun	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Alkali milkvetch ( <i>Astragalus tener</i> ssp. <i>tener</i> )	N	Alkali grassland Alkali wetland Annual grassland Seasonal wetland	Generally found in vernal moist habitat in soils with a slight to strongly elevated pH	Mar–Jun	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Big tarplant ( <i>Blepharizonia plumosa</i> )	C	Annual grassland	Elevation below 1500 feet <sup>d</sup> most often on Altamont Series or Complex soils	Jul–Oct	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Brewer's dwarf flax ( <i>Hesperolinon breweri</i> )	C	Annual grassland Chaparral and scrub Oak savanna Oak woodland	Generally, restricted to grassland areas within a 500+ buffer from oak woodland and/or chaparral/scrub <sup>d</sup>	May–Jul	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Brittlescale ( <i>Atriplex depressa</i> )	C	Alkali grassland Alkali wetland	Restricted to soils of the Pescadero or Solano soil series; generally found in southeastern region of plan area <sup>d</sup>	May–Oct	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Caper-fruited tropidocarpum ( <i>Tropidocarpum capparideum</i> )	N	Alkali grassland		Mar–Apr	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Contra Costa goldfields ( <i>Lasthenia conjugens</i> )	N	Alkali grassland Alkali wetland Annual grassland Seasonal wetland	Generally found in vernal pools	Mar–Jun	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Diablo Helianthella ( <i>Helianthella castanea</i> )	C	Chaparral and scrub Oak savanna Oak woodland	Elevations generally above 650 feet <sup>d</sup>	Mar–Jun	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Diamond-petaled poppy ( <i>Eschscholzia rhombipetala</i> )	N	Annual grassland		Mar–Apr	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Large-flowered fiddleneck ( <i>Amsinckia grandiflora</i> )	N	Annual grassland	Generally on clay soil	Apr–May	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Mount Diablo buckwheat ( <i>Eriogonum truncatum</i> )	N	Annual grassland Chaparral and scrub	Ecotone of grassland and chaparral/scrub	Apr–Sep	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Mount Diablo fairy-lantern ( <i>Calochortus pulchellus</i> )	C	Annual grassland Chaparral and scrub Oak savanna Oak woodland	Elevations generally between 650 and 2,600 <sup>d</sup>	Apr–Jun	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Mount Diablo Manzanita ( <i>Arctostaphylos auriculata</i> )	C	Chaparral and scrub	Elevations generally between 700 and 1,860 feet; restricted to the eastern and northern flanks of Mt. Diablo <sup>d</sup> and the vicinity of Black Diamond Mines	Jan–Mar	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Recurved larkspur ( <i>Delphinium recurvatum</i> )	C	Alkali grassland Alkali wetland		Mar–Jun	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Round-leaved filaree ( <i>California macrophylla</i> ) <sup>c</sup>	C	Annual grassland		Mar–May	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

San Joaquin Spearscale ( <i>Extriplex joaquinana</i> )	C	Alkali grassland Alkali wetland		Apr–Oct	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Showy madia ( <i>Madia radiata</i> )	C	Annual grassland Oak savanna Oak woodland	Primarily occupies open grassland or grassland on edge of oak woodland	Mar–May	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

<sup>a</sup> The species *Navarretia nigelliformis* subsp. *nigelliformis* is no longer considered to occur within Contra Costa County based on specimen annotations at the UC and Jepson Herbaria at the University of California Berkeley as well as the opinions of experts in the genus. This taxon is now recognized as *Navarretia nigelliformis* subsp. *radians*. Any subspecies of *Navarretia nigelliformis* encountered as a part of botanical surveys in support of a PSR should be considered as covered under this HCP/NCCP.

<sup>b</sup> Habitat for the *Navarretia nigelliformis* subspecies that occurs within the inventory are inaccurately described in the HCP/NCCP as vernal pools. The entity within the Inventory generally occupies clay barrens within Annual Grassland habitat, which is an upland habitat type.

<sup>c</sup> From California Native Plant Society. 2007. *Inventory of Rare and Endangered Plants* (online edition, v7-07d). Sacramento, CA. Species may be identifiable outside of the typical blooming period; a professional botanist shall determine if a covered or no take plant occurs on the project site. Reference population of covered and no-take plants should be visited, where possible, prior to conducting surveys to confirm that the plant is visible and detectable at the time surveys are conducted.

<sup>d</sup> See Species Profiles in Appendix D of the Final HCP/NCCP. Reference populations of covered and no-take plants should be visited, where possible, prior to conducting surveys to confirm that the plant species is visible and detectable at the time surveys are conducted.

<sup>e</sup> In the recent update to the Jepson eflora (JFP 2013) *Atriplex joaquinana* has been circumscribed and segregated into a new genus called *Extriplex* based on the work of Elizabeth Zacharias and Bruce Baldwin (2010). The etymology of the genus *Extriplex* means, "beyond or outside *Atriplex*".

## 10) Results of Covered and No-Take Plant Species

Provide a written summary describing the results of the planning surveys conducted as required in Table 2b. Describe the methods used to survey the site for all covered and no-take plants, including the dates and times of all surveys conducted (see Tables 3-8 and 6-5 of the ECCC HCP/NCCP for covered and no-take plants), including reference populations visited prior to conducting surveys.

If any covered or no-take plant species were found, include the following information in the results summary:

- Description and number of occurrences and their rough population size.
- Description of the “health” of each occurrence, as defined on pages 5-49 and 5-50 of the HCP/NCCP.
- A map of all the occurrences.
- Justification of surveying time window, if outside of the plant’s blooming period.
- The CNDDDB form(s) submitted to CDFW (if this is a new occurrence).
- A description of the anticipated impacts that the covered activity will have on the occurrence and how the project will avoid impacts to all covered and no-take plant species. If impacts to covered plant species cannot be avoided and plants will be removed by covered activity, the Conservancy must be notified and has the option to salvage the covered plants. All projects must demonstrate avoidance of all six no-take plants (see table 6-5 of the HCP/NCCP).

In accordance with the HCP/NCCP, a total of 6 covered and no-take plant species have the potential to occur in the grasslands of the project area. The 6 covered and no-take species include big tarplant (*Blepharizonia plumosa*), showy madia (*Madia radiata*), large-flowered fiddleneck (*Amsinckia grandiflora*), round-leaved filaree (*California macrophylla*), and diamond-petaled California poppy (*Eschscholzia rhombipetala*).

It should be noted that no special-status plant species were observed during M&A’s site investigation conducted by Mr. Monk and Ms. Peterson on November 12, 2015. In addition, multiples site surveys were conducted by Mr. Monk and Ms. Hope Kingma in the project area in 2011 after the oil release. Mr. Steve Bobzien and Mr. Dave Amme of the East Bay Regional Park District also aided in the 2011 site surveys. These surveys were conducted throughout the first week of the oil release (August 27, 2011 to September 4, 2011). Complete rare plant surveys were also conducted by Ms. Sarah Lynch and Ms. Christy Owens, professional botanists at M&A in the spring and summer of 2012. The special-status plant surveys followed all HCP/NCCP guidelines and were conducted when the special-status plants under consideration were known to be flowering and readily identifiable. Ms. Lynch and Ms. Owens surveyed the release area and all impacted areas (total of +/- 7 acres). No covered or no-take plant species were observed during appropriately timed surveys on the project site.

The entire footprint of the project area is within the footprint of the emergency remediation project in 2011. All surface soils were removed and replaced with clean, unaffected soil. While the grassland community has recovered, it still remains more barren than surrounding areas. Owing to the amount and extent of intrusive soil disturbance no covered or no-take plant species are expected to occur within the project footprint or an area of impact around the project footprint. As such, no additional special status plant surveys will need to be conducted prior to the commencement of work.

## IV. SPECIES-SPECIFIC AVOIDANCE AND MINIMIZATION REQUIREMENTS

Please complete and/or provide the following attachments:

### 1) Species-Specific Avoidance and Minimization for Selected Covered Wildlife

Complete the following table and check the applicable box for covered species determined by the planning surveys.

**Table 3. Summary of Applicable Preconstruction Surveys, Avoidance and Minimization, and Construction Monitoring Requirements<sup>10</sup>**

Species	Preconstruction Survey Requirements	Avoidance and Minimization Requirements	Construction Monitoring Required	Info in HCP
<input checked="" type="checkbox"/> San Joaquin kit fox	<ul style="list-style-type: none"> <li>On project footprint and 250-ft radius, map all dens (&gt;5 in. diameter) and determine status</li> <li>Provide written survey results to USFWS within 5 working days after surveying</li> </ul>	<ul style="list-style-type: none"> <li>Monitor dens</li> <li>Destroy unoccupied dens</li> <li>Discourage use of occupied (non-natal) dens</li> </ul>	<ul style="list-style-type: none"> <li>Establish exclusion zones (&gt;50 ft for potential dens, and &gt;100 ft for known dens)</li> <li>Notify USFWS of occupied natal dens</li> </ul>	pp. 6-37 to 6-38
<input checked="" type="checkbox"/> Western burrowing owl	<ul style="list-style-type: none"> <li>On project footprint and 500-ft radius, identify and map all owls and burrows, and determine status</li> <li>Document use of habitat (e.g. breeding, foraging)</li> </ul>	<ul style="list-style-type: none"> <li>Avoid occupied nests during breeding season (Feb-Sep)</li> <li>Avoid occupied burrows during nonbreeding season (Sep – Feb)</li> <li>Install one-way doors in occupied burrow (if avoidance not possible)</li> <li>Monitor burrows with doors installed</li> </ul>	<ul style="list-style-type: none"> <li>Establish buffer zones (250 ft around nests)</li> <li>Establish buffer zones (160 ft around burrows)</li> </ul>	pp. 6-39 to 6-41
<input type="checkbox"/> Giant garter snake	<ul style="list-style-type: none"> <li>Delineate aquatic habitat up to 200 ft from water's edge on each side</li> <li>Document any occurrences</li> </ul>	<ul style="list-style-type: none"> <li>Limit construction to Oct-May</li> <li>Dewater habitat April 15 – Sep 30 prior to construction</li> <li>Minimize clearing for construction</li> </ul>	<ul style="list-style-type: none"> <li>Delineate 200 ft buffer around potential habitat near construction</li> <li>Provide field report on monitoring efforts</li> <li>Stop construction activities if snake is encountered; allow snake to passively relocate</li> <li>Remove temporary fill or debris from construction site</li> <li>Mandatory training for construction personnel</li> </ul>	pp. 6-43 to 6-45
<input checked="" type="checkbox"/> California tiger salamander	<ul style="list-style-type: none"> <li>Provide written notification to USFWS and CDFW regarding timing of construction and likelihood of occurrence on site</li> </ul>	<ul style="list-style-type: none"> <li>Allow agency staff to translocate species, if requested</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>	p. 6-45
<input checked="" type="checkbox"/> California red-legged frog	<ul style="list-style-type: none"> <li>Provide written notification to USFWS and CDFW regarding timing of construction and likelihood of occurrence on site</li> </ul>	<ul style="list-style-type: none"> <li>Allow agency staff to translocate species, if requested</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>	p. 6-46
<input type="checkbox"/> Covered shrimp	<ul style="list-style-type: none"> <li>Establish presence/absence</li> <li>Document and evaluate use of all habitat features (e.g. vernal pools, rock outcrops)</li> </ul>	<ul style="list-style-type: none"> <li>Establish buffer near construction activities</li> <li>Prohibit incompatible activities</li> </ul>	<ul style="list-style-type: none"> <li>Establish buffer around outer edge of all hydric vegetation associated with habitat (50 ft or immediate watershed, whichever is larger)</li> <li>Mandatory training for construction personnel</li> </ul>	pp. 6-46 to 6-48
<input type="checkbox"/> Townsend's big-eared bat	<ul style="list-style-type: none"> <li>Establish presence/absence</li> <li>Determine if potential sites were recently occupied (guano)</li> </ul>	<ul style="list-style-type: none"> <li>Seal hibernacula before Nov</li> <li>Seal nursery sites before April</li> <li>Delay construction near occupied sites until hibernation or nursery seasons are over</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>	pp. 6-36 to 6-37
<input type="checkbox"/> Swainson's hawk	<ul style="list-style-type: none"> <li>Determine whether potential nests are occupied</li> </ul>	<ul style="list-style-type: none"> <li>No construction within 1,000 ft of occupied nests within breeding season (March 15 - Sep 15)</li> <li>If necessary, remove active nest tree after nesting season to prevent occupancy in second year.</li> </ul>	<ul style="list-style-type: none"> <li>Establish 1,000 ft buffer around active nest and monitor compliance (no activity within established buffer)</li> </ul>	pp. 6-41 to 6-43
<input type="checkbox"/> Golden Eagle	<ul style="list-style-type: none"> <li>Establish presence/absence of nesting eagles</li> </ul>	<ul style="list-style-type: none"> <li>No construction within ½ mile near active nests (most activity late Jan – Aug)</li> </ul>	<ul style="list-style-type: none"> <li>Establish ½ mile buffer around active nest and monitor compliance with buffer</li> </ul>	pp. 6-38 to 6-39

<sup>10</sup> The requirements in this table are not comprehensive; they are detailed in the next section on the following page.

**2) Required Preconstruction Surveys, Avoidance and Minimization, and Construction Monitoring**

All preconstruction surveys shall be conducted in accordance with the requirements set forth in Section 6.4.3, Species-Level Measures, and Table 6-1 of the ECCC HCP/NCCP. Detailed descriptions of preconstruction surveys, avoidance and minimization, and construction monitoring applicable to each of the wildlife species in Table 3 are located below. Please remove the species-specific measures that do not apply to your project (highlight entire section and delete).

**SAN JOAQUIN KIT FOX****Preconstruction Surveys**

Prior to any ground disturbance related to covered activities, a USFWS/CDFW– approved biologist will conduct a preconstruction survey in areas identified in the planning surveys as supporting suitable breeding or denning habitat for San Joaquin kit fox. The surveys will establish the presence or absence of San Joaquin kit foxes and/or suitable dens and evaluate use by kit foxes in accordance with USFWS survey guidelines (U.S. Fish and Wildlife Service 1999).

Preconstruction surveys will be conducted within 30 days of ground disturbance. On the parcel where the activity is proposed, the biologist will survey the proposed disturbance footprint and a 250-foot radius from the perimeter of the proposed footprint to identify San Joaquin kit foxes and/or suitable dens. Adjacent parcels under different land ownership will not be surveyed. The status of all dens will be determined and mapped. Written results of preconstruction surveys will be submitted to USFWS within 5 working days after survey completion and before the start of ground disturbance. Concurrence is not required prior to initiation of covered activities.

If San Joaquin kit foxes and/or suitable dens are identified in the survey area, the measures described below will be implemented.

**Avoidance and Minimization Requirements**

- If a San Joaquin kit fox den is discovered in the proposed development footprint, the den will be monitored for 3 days by a USFWS/CDFW– approved biologist using a tracking medium or an infrared beam camera to determine if the den is currently being used.
- Unoccupied dens should be destroyed immediately to prevent subsequent use.
- If a natal or pupping den is found, USFWS and CDFW will be notified immediately. The den will not be destroyed until the pups and adults have vacated and then only after further consultation with USFWS and CDFW.
- If kit fox activity is observed at the den during the initial monitoring period, the den will be monitored for an additional 5 consecutive days from the time of the first observation to allow any resident animals to move to another den while den use is actively discouraged. For dens other than natal or pupping dens, use of the den can be discouraged by partially plugging the entrance with soil such that any resident animal can easily escape. Once the den is determined to be unoccupied it may be excavated under the direction of the biologist. Alternatively, if the animal is still present after 5 or more consecutive days of plugging and monitoring, the den may have to be excavated when, in the judgment of a biologist, it is temporarily vacant (i.e., during the animal's normal foraging activities).

**Construction Monitoring**

If dens are identified in the survey area outside the proposed disturbance footprint, exclusion zones around each den entrance or cluster of entrances will be demarcated. The configuration of exclusion zones should be circular, with a radius measured outward from the den entrance(s). No covered activities will occur within the exclusion zones. Exclusion zone radii for potential dens will be at least 50 feet and will be demarcated with four to five flagged stakes. Exclusion zone radii for known dens will be at least 100 feet and will be demarcated with staking and flagging that encircles each den or cluster of dens but does not prevent access to the den by kit fox.

## WESTERN BURROWING OWL

### **Preconstruction Surveys**

Prior to any ground disturbance related to covered activities, a USFWS/CDFW- approved biologist will conduct a preconstruction survey in areas identified in the planning surveys as having potential burrowing owl habitat. The surveys will establish the presence or absence of western burrowing owl and/or habitat features and evaluate use by owls in accordance with CDFW survey guidelines (California Department of Fish and Game 1995).

On the parcel where the activity is proposed, the biologist will survey the proposed disturbance footprint and a 500-foot radius from the perimeter of the proposed footprint to identify burrows and owls. Adjacent parcels under different land ownership will not be surveyed. Surveys should take place near sunrise or sunset in accordance with CDFW guidelines. All burrows or burrowing owls will be identified and mapped. Surveys will take place no more than 30 days prior to construction. During the breeding season (February 1– August 31), surveys will document whether burrowing owls are nesting in or directly adjacent to disturbance areas. During the nonbreeding season (September 1–January 31), surveys will document whether burrowing owls are using habitat in or directly adjacent to any disturbance area. Survey results will be valid only for the season (breeding or nonbreeding) during which the survey is conducted.

### **Avoidance and Minimization and Construction Monitoring**

This measure incorporates avoidance and minimization guidelines from CDFW's *Staff Report on Burrowing Owl Mitigation* (California Department of Fish and Game 1995).

If burrowing owls are found during the breeding season (February 1 – August 31), the project proponent will avoid all nest sites that could be disturbed by project construction during the remainder of the breeding season or while the nest is occupied by adults or young. Avoidance will include establishment of a non-disturbance buffer zone (described below). Construction may occur during the breeding season if a qualified biologist monitors the nest and determines that the birds have not begun egg-laying and incubation or that the juveniles from the occupied burrows have fledged. During the nonbreeding season (September 1 – January 31), the project proponent should avoid the owls and the burrows they are using, if possible. Avoidance will include the establishment of a buffer zone (described below).

During the breeding season, buffer zones of at least 250 feet in which no construction activities can occur will be established around each occupied burrow (nest site). Buffer zones of 160 feet will be established around each burrow being used during the nonbreeding season. The buffers will be delineated by highly visible, temporary construction fencing.

If occupied burrows for burrowing owls are not avoided, passive relocation will be implemented. Owls should be excluded from burrows in the immediate impact zone and within a 160-foot buffer zone by installing one-way doors in burrow entrances. These doors should be in place for 48 hours prior to excavation. The project area should be monitored daily for 1 week to confirm that the owl has abandoned the burrow. Whenever possible, burrows should be excavated using hand tools and refilled to prevent reoccupation (California Department of Fish and Game 1995). Plastic tubing or a similar structure should be inserted in the tunnels during excavation to maintain an escape route for any owls inside the burrow.

## CALIFORNIA TIGER SALAMANDER

### **Minimization**

Written notification to USFWS, CDFW, and the Implementing Entity, including photos and breeding habitat assessment, is required prior to disturbance of any suitable breeding habitat. The project proponent will also notify these parties of the approximate date of removal of the breeding habitat at least 30 days prior to this removal to allow USFWS or CDFW staff to translocate individuals, if requested. USFWS or CDFW must notify the project proponent of their intent to translocate California tiger salamanders within 14 days of receiving notice from the project proponent. The applicant must allow USFWS or CDFW access to the site prior to construction if they request it.

There are no restrictions under this Plan on the nature of the disturbance or the date of the disturbance unless CDFW or USFWS notify the project proponent of their intent to translocate individuals within the required time period. In this case, the project proponent must coordinate the timing of disturbance of the breeding habitat to allow USFWS or CDFW to translocate the individuals. USFWS and CDFW shall be allowed 45 days to translocate individuals from the date the first written notification was submitted by the project proponent (or a longer period agreed to by the project proponent, USFWS, and CDFW).

**CALIFORNIA RED-LEGGED FROG****Minimization**

Written notification to USFWS, CDFW, and the Implementing Entity, including photos and habitat assessment, is required prior to disturbance of any suitable breeding habitat. The project proponent will also notify these parties of the approximate date of removal of the breeding habitat at least 30 days prior to this removal to allow USFWS or CDFW staff to translocate individuals, if requested. USFWS or CDFW must notify the project proponent of their intent to translocate California red-legged frog within 14 days of receiving notice from the project proponent. The applicant must allow USFWS or CDFW access to the site prior to construction if they request it.

There are no restrictions under this Plan on the nature of the disturbance or the date of the disturbance unless CDFW or USFWS notify the project proponent of their intent to translocate individuals within the required time period. In this case, the project proponent must coordinate the timing of disturbance of the breeding habitat to allow USFWS or CDFW to translocate the individuals. USFWS and CDFW shall be allowed 45 days to translocate individuals from the date the first written notification was submitted by the project proponent (or a longer period agreed to by the project proponent, USFWS, and CDFW).

**3) Construction Monitoring Plan**

Before implementing a covered activity, the applicant will develop and submit a construction monitoring plan to the planning department of the local land use jurisdiction and the East Contra Costa County Habitat Conservancy for review and approval. Elements of a brief construction monitoring plan will include the following:

- Results of planning and preconstruction surveys.<sup>11</sup>
- Description of avoidance and minimization measures to be implemented, including a description of project-specific refinements to the measures or additional measures not included in the HCP/NCCP.
- Description of monitoring activities, including monitoring frequency and duration, and specific activities to be monitored.
- Description of the onsite authority of the construction monitor to modify implementation of the activity.

Check box to acknowledge this requirement.

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<sup>11</sup> If the preconstruction surveys do not trigger construction monitoring, results of preconstruction surveys should still be submitted to the local jurisdiction and the East Contra Costa County Habitat Conservancy.

## V. SPECIFIC CONDITIONS ON COVERED ACTIVITIES

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### 1) Check off the HCP conservation measures that apply to the project.

#### APPLIES TO ALL PROJECTS

**Conservation Measure 1.11. Avoid Direct Impacts on Extremely Rare Plants, Fully Protected Wildlife Species, or Migratory Birds.** This conservation measure applies to all projects. All projects will avoid all impacts on extremely rare plants and fully protected species listed in Table 6-5 of the ECCC HCP/NCCP. See HCP pp. 6-23 to 6-25, and Table 6-5.

#### APPLIES TO PROJECTS THAT IMPACT COVERED PLANT SPECIES

**Conservation Measure 3.10. Plant Salvage when Impacts are Unavoidable.** This condition applies to projects that cannot avoid impacts on covered plants and help protect covered plants by prescribing salvage whenever avoidance of impacts is not feasible. Project proponents wishing to remove populations of covered plants must notify the Conservancy of their construction schedule to allow the Conservancy the option of salvaging the populations. See HCP pp. 6-48 to 6-50.

#### APPLIES TO PROJECTS THAT INCLUDE ARE ADJACENT TO STREAMS, PONDS, OR WETLANDS

**Conservation Measure 2.12. Wetland, Pond, and Stream Avoidance and Minimization.** All projects will implement measures described in the HCP to avoid and minimize impacts on wetlands, ponds, streams, and riparian woodland/scrub. See HCP pp. 6-33 to 6-35.

#### APPLIES TO NEW DEVELOPMENT PROJECTS

**Conservation Measure 1.10. Maintain Hydrologic Conditions and Minimize Erosion.** All new development must avoid or minimize direct and indirect impacts on local hydrological conditions and erosion by incorporating the applicable Provision C.3 Amendments of the Contra Costa County Clean Water Program's (CCCCWP's) amended NPDES Permit (order no. R2-2003-0022; permit no. CAS002912). The overall goal of this measure is to ensure that new development covered under the HCP has no or minimal adverse effects on downstream fisheries to avoid take of fish listed under ESA or CESA. See HCP pp. 6-21 to 6-22.

#### APPLIES TO NEW DEVELOPMENT PROJECTS THAT INCLUDE OR ARE ADJACENT TO STREAMS, PONDS, OR WETLANDS

**Conservation Measure 1.7. Establish Stream Setbacks.** A stream setback will be applied to all development projects covered by the HCP according to the stream types listed in Table 6-2 of the HCP. See HCP pp. 6-15 to 6-18 and Table 6-2.

#### APPLIES TO NEW DEVELOPMENT PROJECTS ADJACENT TO EXISTING PUBLIC OPEN SPACE, HCP PRESERVES, OR LIKELY HCP ACQUISITION SITES

**Conservation Measure 1.6. Minimize Development Footprint Adjacent to Open Space.** Project applicants are encouraged to minimize their development footprint and set aside portions of their land to contribute to the HCP Preserve System. Land set aside that contributes to the HCP biological goals and objectives may be credited against development fees. See HCP pages 6-14 to 6-15.

**Conservation Measure 1.8. Establish Fuel Management Buffer to Protect Preserves and Property.** Buffer zones will provide a buffer between development and wildlands that allows adequate fuel management to minimize the risk of wildlife damage to property or to the preserve. The minimum buffer zone for new development is 100 feet. See HCP pages 6-18 to 6-19.

**Conservation Measure 1.9. Incorporate Urban-Wildlife Interface Design Elements.** These projects will incorporate design elements at the urban-wildlife interface to minimize the indirect impacts of development on the adjacent preserve. See HCP pp. 6-20 to 6-21.

#### APPLIES TO ROAD MAINTENANCE PROJECTS OUTSIDE THE UDA

**Conservation Measure 1.12. Implement Best Management Practices for Rural Road Maintenance.** Road maintenance activities have the potential to affect covered species by introducing sediment and other pollutants into downstream waterways, spreading invasive weeds, and disturbing breeding wildlife. In order to avoid and minimize these impacts, BMPs described in the HCP will be used where appropriate and feasible. See HCP pp. 6-25 to 6-26.

#### APPLIES TO NEW ROADS OR ROAD IMPROVEMENTS OUTSIDE THE UDA

**Conservation Measure 1.14. Design Requirements for Covered Roads Outside the Urban Development Area (UDA).** New roads or road improvements outside the UDA have impacts on many covered species far beyond the direct impacts of their project footprints. To minimize the impacts of new, expanded, and improved roads in agricultural and natural areas of the inventory area, road and bridge construction projects will adopt siting, design, and construction requirements described in the HCP and listed in Table 6-6. See HCP pp. 6-27 to 6-33 and Table 6-6.

#### APPLIES TO FLOOD CONTROL MAINTENANCE ACTIVITIES

**Conservation Measure 1.13. Implement Best Management Practices for Flood Control Facility Maintenance.** Flood control maintenance activities have the potential to affect covered species by introducing sediment and other pollutants into downstream waterways and disturbing breeding wildlife. In order to avoid and minimize these impacts, BMPs described in the HCP will be used where appropriate and feasible. See HCP pp. 6-26 to 6-27.

- 2) For all checked conservation measures, describe how the project will comply with each measure. Attach as Attachment C: Project Compliance to HCP Conditions.

## VI. MITIGATION MEASURES

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- 1) **Mitigation Fee Calculator(s)**

Complete and attach the fee calculator (use permanent and/or temporary impact fee calculator as appropriate), and attach as **Attachment D: Fee Calculator(s)**.

- 2) **Briefly describe the amount of fees to be paid and when applicant plans to submit payment.**

The applicant will pay fees totaling \$9,026.84 for Temporary impacts within Fee Zone II to approximately 1.9 acres of annual grassland habitat and for the Contribution to Recovery Fee (based on 2 years of temporary impacts for well monitoring and abandonment and 1 year to account for the delay in habitat recovery based on HCP pg. 9-27). It should be noted that there is 0.12 acre of gravel roads that run through the project site and portions of the 50 foot impact buffer that is required to address indirect impacts associated with the proposed project. This gravel road constitutes "Urban" land cover and was not included in the impact fees. Attachment D, the Fee Calculator, was specially formulated By M&A for this project to more appropriately display the temporary impacts, the buffer impacts, and the Contribution to Recovery Fee. Since the total temporary impact fee was less than \$10,000 (it totaled \$4,513.42), the Contribution to Recovery Fee is 100% of the temporary fee based on East Contra Costa County's Contribution to Recovery calculator. This fee shall be paid upon receipt of all project approvals and permits, and prior to implementation of the proposed project.

**ATTACHMENT A: PROJECT DESCRIPTION**

**Attachment A: Project Description**

On August 27, 2011 Phillips 66 (ConocoPhillips' at the time) 24-inch crude oil Line 200 Pipeline was punctured by an unauthorized trackhoe excavation by an unknown party that resulted in a release of pressurized crude oil into an undeveloped area east of the intersection of Vasco Road and Dyer Road, in east Contra Costa County, California (Figure 1). Monk and Associates (M&A) was notified of the emergency release event on August 27, 2011, and began biological monitoring and surveys the same day; M&A's monitoring and surveys continued for the duration of the pipeline repair and spill clean-up. Early in the spill response process, the U.S. Fish and Wildlife Service (USFWS), the California Department of Fish and Wildlife (CDFW), and the East Bay Regional Park District (EBRPD) also arrived on scene to evaluate the impact of the spill. These agencies, along with M&A, determined that coverage under the East Contra Costa County HCP/NCCP was the best method of mitigating the impacts of the emergency oil release. The emergency oil release event temporarily impacted 12.02 acres of relatively level non-native annual grassland in the East Contra Costa County HCP/NCCP jurisdictional area.

The release point was on relatively flat ground near an existing dirt road with a slight southward gradient. Liquid oil pooled on the surface and flowed along the existing road for a few hundred feet. In addition, owing to high pipeline pressure, and high winds at the time of the release, windblown oil was also distributed in a northwesterly direction covering an additional 5 to 7 acres. The total visible oil affected area was estimated to be approximately 9+ acres. Most of the area affected by the pressured spray release was limited to a coating on the top portion of herbaceous vegetation, but there was also a ground plume. In 2011, under the direction of the Regional Water Quality Control Board (RWQCB), the lead agency on the emergency response, the surface affected vegetation was successfully cleaned/removed from the site to an appropriate and licensed landfill. In addition, significant subsurface excavation and disposal of affected soils occurred in 2011. Again the affected soils were removed to a licensed landfill.

Phillips 66 worked diligently to remediate the emergency release while consulting with the various resource agencies to ensure that the remediation project was implemented with the greatest consideration possible for protection of special-status species and sensitive habitats. Over the first month after the spill, contaminated site soils were removed from those areas where oil pooled at the surface and/or infiltrated into subsoils. Upon completion of these remedial efforts, the original topography of the site was restored to emulate the original topography to an extent that there were no "moderate or large changes in elevation" out of character with the area. In areas, especially near the release site, where contaminated soils have been removed to greater depths than just a few inches, importation of fill and recontouring occurred. Soil was imported from the Wind Energy Project immediately south of the oil release site and thus soils and any imported seed bank are consistent with the remediated area's original soils and seed bank.

The RWQCB recently requested that Phillips 66 conduct final soil and water testing to determine if the spill site was fully remediated in 2011. As such, Phillips 66 is proposing to use an auger to drill 12 boring sites approximately 12 feet deep to observe the soil horizon/profile to see if there is any contamination within the soil and if there is where it occurs in the soil. Phillips 66 is also proposing to install 4 monitoring wells approximately 50 feet deep, or until they hit ground water, so that they are able to test the ground water in the area around the spill site. Figure 2

shows the boring and well locations. The frequency of groundwater monitoring and sampling from the wells will be on a quarterly calendar basis (every three months). Groundwater sampling from the wells will not require equipment, and vehicle access to the site will be restricted to previously established access roads. All work will be completed within the temporary impact work area. It should be noted that the proposed project is an iterative process such that based on the soil and groundwater findings, additional remediation work may be required. If this is the case, then the permit may need to be modified, or issuance of a new permit to cover the new scope of work may be required. The applicant will not know the outcome until initial investigation and groundwater monitoring and sampling are complete. As such, the applicant will assume two years of groundwater sampling and well abandonment and 1 year of habitat restoration until further information is obtained. The ECCC HCP/NCCP fees will be based on this assumption.

Equipment utilized will include a limited access rhino rig (6' x 10') and a support truck (8' x 22') with a 22' trailer. All equipment will be staged and stored within the temporary work area as detailed in Figure 2.. A previously established gravel access road will be used as an entrance to the site (see Figure 2). In addition, the applicant proposes to temporarily cut a portion of the Jackson Family Ranch existing barbed wire fence in order to access the northern portion of the temporary work area more easily. An H brace will be installed so that the barbed wire fence can easily be restored to current conditions. All fence work (cutting of the fence and installation of the H brace) will occur within the temporary work area. The proposed drilling will take +/- 1 week and P66 is hopeful to do this work starting in the new year (January 2016), pending weather.

During the proposed project, orange construction/wildlife exclusion fence will be installed around the temporary work area to keep wildlife out and to provide a limit for area of disturbance. In addition, if work occurs during the wet season, California tiger salamander escape ramps will be installed approximately every 100 feet to provide an escape route if necessary. Wildlife friendly hay wattles will also be installed if rain is in the forecast during the work period as an erosion control measure. The temporary orange construction/wildlife fence will be removed after drilling work has been completed.

It should also be noted that an isolated "Other Waters drainage swale" runs east to west through the middle of the project area (visible on Figure 2). Because of its isolation it would not be regulated by the U.S. Army Corps of Engineers (Corps) or the Regional Water Quality Control Board pursuant to the Clean Water Act. Regardless it will not be impacted by the proposed project. This swale is mostly barren and the minimal vegetation present is dominated by soft chess (*Bromus hordeaceus*), a Facultative upland species. There was evidence of flow in the recent storms that passed through the area, but this swale does not meet the U.S Army Corps of Engineers wetland criteria and it literally spreads out into the flatlands immediately west of the project site where it readily infiltrates into the soils at its termination point. There is no wetland at the termination point of the swale like feature. It also has no connectivity with Brushy Creek, the nearest tributary about 600 feet west of the project area. In addition, this swale will not be impacted by the proposed project; however this swale will need to be driven over in order to access the northern portion of the project site. There is no easy access route to the northern portion of the project area without crossing over this swale feature. All other access points to the

northern portion of the temporary work area would result in much greater overall impacts to the surrounding natural area. As such, the applicant will install multiple driving span plates (4 Ft. by 8 Ft. plywood cover boards) over the small (approximately 3 feet wide) swale feature so that it is not impacted by project vehicles. These cover plates will be placed across the drainage and laid side by side to protect the drainage while allowing the necessary vehicles/equipment to cross over the drainage (See Figure 2 for location of cover plates). In addition, silt fence will be installed running the length of the drainage on both sides to clearly delineate the avoidance area and to ensure no deminimis fill enters this drainage feature. Fencing will not be installed where the driving span plates are located. All proposed bore and well sampling locations have been placed far enough away to ensure there are no impacts to this feature.

After all drilling and testing work is complete; all areas where vegetation and soil are disturbed will be revegetated either by applying a hydroseed mix containing California native grassland species, or by spreading seed and raking the seeds into the soil surface. Upon seeding it will be covered with a 2 inch layer of straw. A temporary electric fence will be maintained around the area of disturbance to protect germinating seeds from cattle until the vegetation is at least 4 inches tall. In the event that the vegetation does not grow to at least 4 inches tall within the first year, the applicant will re-hydroseed every year, for up to three years, until vegetation sprouts. M&A fully expects that the vegetation will recover within the 3 year time frame. The temporary electric fence will be removed prior to the end of the HCP coverage time period, whether vegetation has fully established or not.

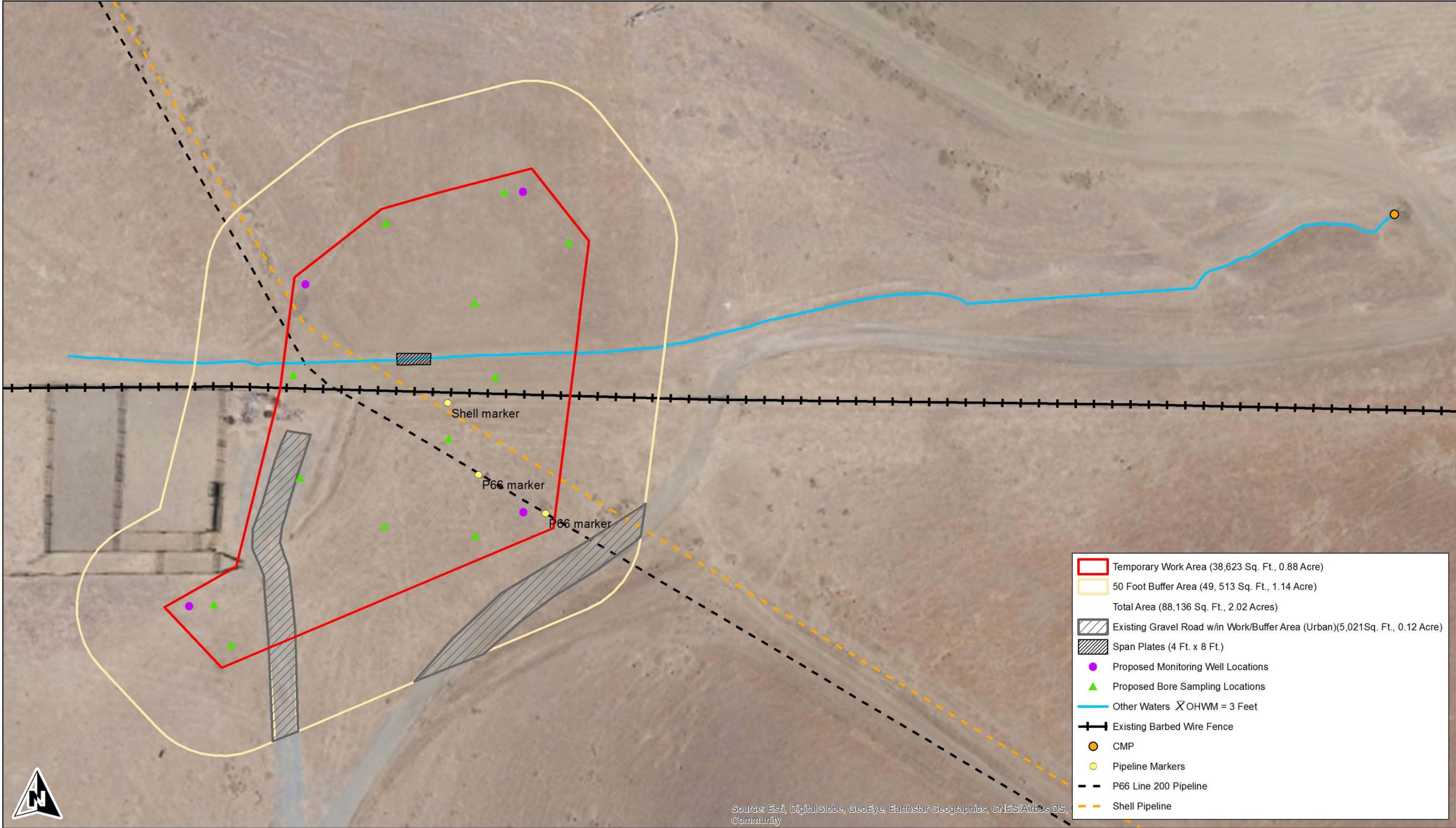
**ATTACHMENT B: FIGURES**



Monk & Associates  
Environmental Consultants  
1136 Saranap Avenue, Suite Q  
Walnut Creek, California 94595  
(925) 947-4867

Figure 1. Phillips 66 Line 200 Pipeline  
Vasco Road Emergency Release Project Site Regional Map  
Contra Costa County, California

County: Contra Costa  
Map Preparation Date: August 24, 2012



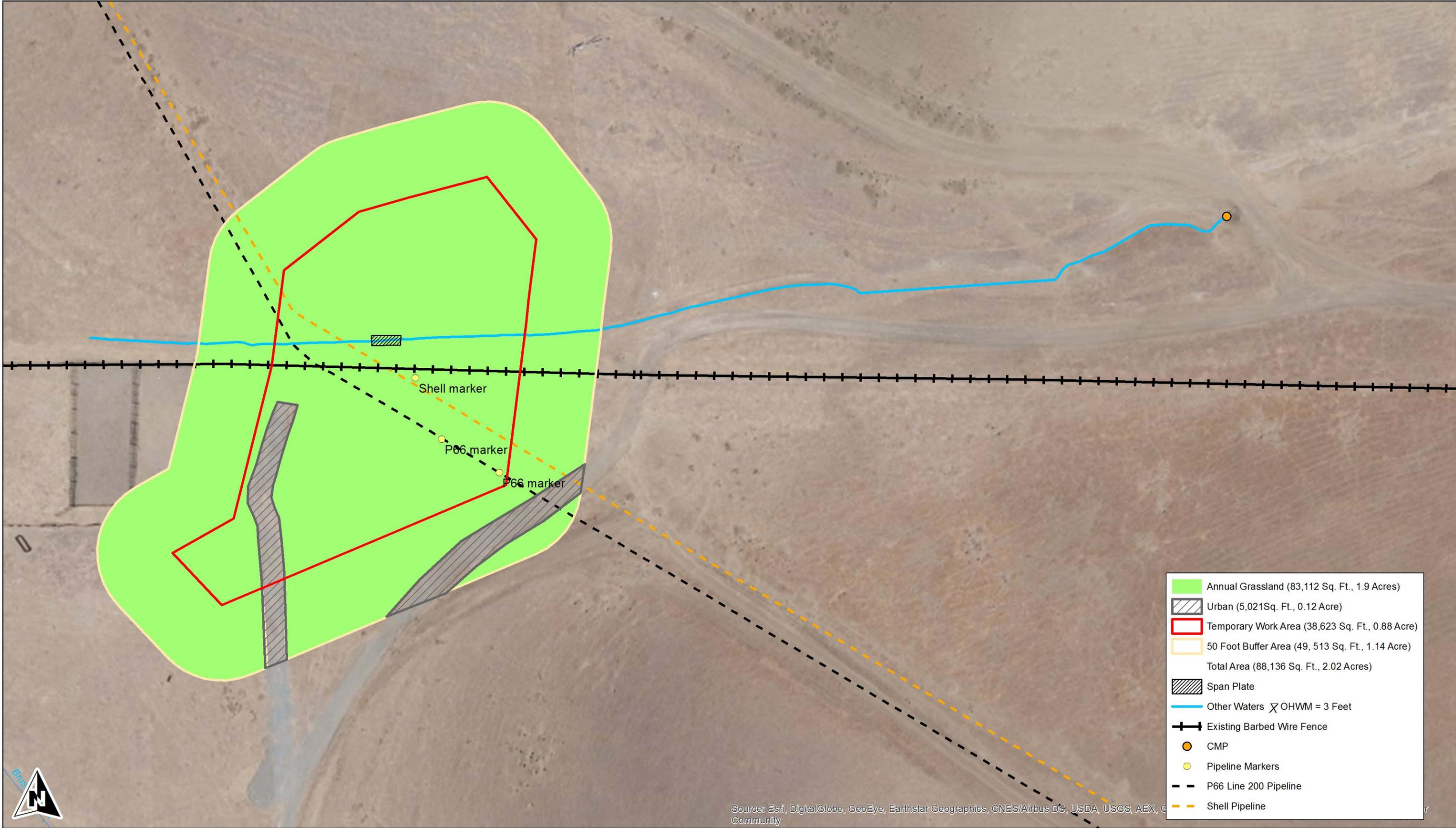
- Temporary Work Area (38,623 Sq. Ft., 0.88 Acre)
- 50 Foot Buffer Area (49, 513 Sq. Ft., 1.14 Acre)
- Total Area (88,136 Sq. Ft., 2.02 Acres)
- Existing Gravel Road w/in Work/Buffer Area (Urban)(5,021Sq. Ft., 0.12 Acre)
- Span Plates (4 Ft. x 8 Ft.)
- Proposed Monitoring Well Locations
- ▲ Proposed Bore Sampling Locations
- Other Waters  $\times$  OHWM = 3 Feet
- Existing Barbed Wire Fence
- CMP
- Pipeline Markers
- P66 Line 200 Pipeline
- Shell Pipeline



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, Community



Figure 2. Phillips 66 Line 200 Pipeline  
Vasco Road Remediation Project Overview



	Annual Grassland (83,112 Sq. Ft., 1.9 Acres)
	Urban (5,021 Sq. Ft., 0.12 Acre)
	Temporary Work Area (38,623 Sq. Ft., 0.88 Acre)
	50 Foot Buffer Area (49, 513 Sq. Ft., 1.14 Acre)
	Total Area (88,136 Sq. Ft., 2.02 Acres)
	Span Plate
	Other Waters $\times$ OHWM = 3 Feet
	Existing Barbed Wire Fence
	CMP
	Pipeline Markers
	P66 Line 200 Pipeline
	Shell Pipeline



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, eCommunity



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(925) 947-4867

Figure 3.Land Cover Map  
Phillips 66 Line 200 Pipeline  
Vasco Road Remediation Project

Aerial Photograph Source: ESRI  
Map Preparation Date: December 4, 2015

Figure 4. Representative Project Photographs



Photograph 1. Overview of the project area. The oil release initiated between the two Phillips 66 white marker poles in the foreground (see arrow).



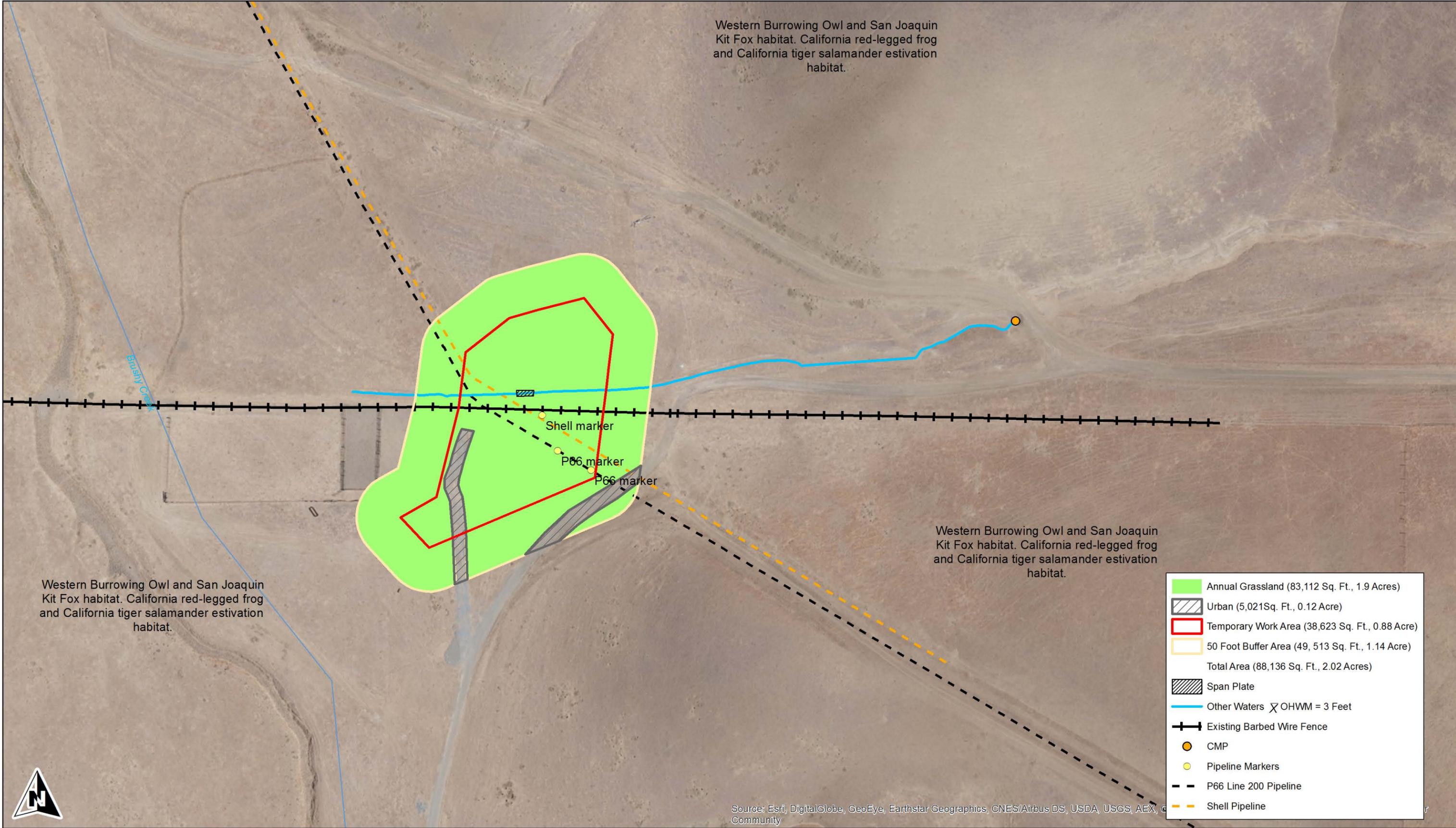
Photograph 2. Close up of where the excavator punctured the Phillips 66 Line 200 pipeline and oil began to release.



Photograph 3. View of the mostly unvegetated Isolated Other Waters swale that runs east to west on the project site. This isolated other waters swale is dominated by soft chess (*Bromus hordeaceus*), a FACU species, and will be avoided during project activities.



Photograph 4. View of the existing gravel road that will be used to access the project area.



	Annual Grassland (83,112 Sq. Ft., 1.9 Acres)
	Urban (5,021 Sq. Ft., 0.12 Acre)
	Temporary Work Area (38,623 Sq. Ft., 0.88 Acre)
	50 Foot Buffer Area (49, 513 Sq. Ft., 1.14 Acre)
	Total Area (88,136 Sq. Ft., 2.02 Acres)
	Span Plate
	Other Waters $\times$ OHWM = 3 Feet
	Existing Barbed Wire Fence
	CMP
	Pipeline Markers
	P66 Line 200 Pipeline
	Shell Pipeline

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, eCommunity



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Environmental Consultants  
1136 Saranap Avenue, Suite Q  
Walnut Creek, California 94595  
(925) 947-4867

Figure 5. Species Habitat Map  
Phillips 66 Line 200 Pipeline  
Vasco Road Remediation Project

Aerial Photograph Source: ESRI  
Map Preparation Date: December 4, 2015

**ATTACHMENT C: PROJECT COMPLIANCE TO HCP CONDITIONS**

**Attachment C. Project Compliance to HCP Conditions****Conservation Measure 1.11. Avoid Direct Impacts on Extremely Rare Plants, Fully Protected Wildlife Species, or Migratory Birds**

The project will not impact rare plants, fully protected wildlife species or migratory birds. No special status plants are present on the project site as was confirmed by multiple site surveys in the last 4 years. Owing to complete soil excavation and removal, and replacement with clean, unaffected soils, the project area is not expected to support rare plants. There is potential for San Joaquin kit fox and/ or western burrowing owl on the project site, in addition to the possibility for over-summering California tiger salamander (CTS) and California red-legged frog (CRLF). However, the proposed project will not impact potential breeding habitat for CTS or CRLF and therefore there shall be no requirements or restrictions prior to the commencement of the proposed project for these two species. See below requirements for San Joaquin kit fox and western burrowing owl.

**San Joaquin kit fox Pre-construction Survey:**

Prior to any ground disturbance related to covered activities, a USFWS/CDFW- approved biologist will conduct a preconstruction survey in areas identified in the planning surveys as supporting suitable breeding or denning habitat for San Joaquin kit fox. The surveys will establish the presence or absence of San Joaquin kit foxes and/or suitable dens and evaluate use by kit foxes in accordance with USFWS survey guidelines (U.S. Fish and Wildlife Service 1999).

Preconstruction surveys will be conducted within 30 days of ground disturbance. On the parcel where the activity is proposed, the biologist will survey the proposed disturbance footprint and a 250-foot radius from the perimeter of the proposed footprint to identify San Joaquin kit foxes and/or suitable dens. Adjacent parcels under different land ownership will not be surveyed. The status of all dens will be determined and mapped. Written results of preconstruction surveys will be submitted to USFWS within 5 working days after survey completion and before the start of ground disturbance. Concurrence is not required prior to initiation of covered activities.

**Western burrowing owl pre-construction Survey:**

Prior to any ground disturbance related to covered activities, a USFWS/CDFW- approved biologist will conduct a preconstruction survey in areas identified in the planning surveys as having potential burrowing owl habitat. The surveys will establish the presence or absence of western burrowing owl and/or habitat features and evaluate use by owls in accordance with CDFW survey guidelines (California Department of Fish and Game 1995).

On the parcel where the activity is proposed, the biologist will survey the proposed disturbance footprint and a 500-foot radius from the perimeter of the proposed footprint to identify burrows and owls. Adjacent parcels under different land ownership will not be surveyed. Surveys should take place near sunrise or sunset in accordance with CDFW guidelines. All burrows or burrowing owls will be identified and mapped. Surveys will take place no more than 30 days

prior to construction. During the breeding season (February 1– August 31), surveys will document whether burrowing owls are nesting in or directly adjacent to disturbance areas. During the nonbreeding season (September 1–January 31), surveys will document whether burrowing owls are using habitat in or directly adjacent to any disturbance area. Survey results will be valid only for the season (breeding or nonbreeding) during which the survey is conducted.

Conservation Measure 2.12. Wetland, Pond, and Stream Avoidance and Minimization.

The project as proposed will not impact any wetland, pond, or stream feature. In order to avoid any impacts to the small drainage swale that runs east to west through the middle of the temporary project area, the applicant proposes to do the following:

- Install multiple driving span plates (4 Ft. by 8 Ft. plywood cover boards) over the narrow swale feature so that it is not impacted by project vehicles/equipment. These cover plates will be placed across the drainage and laid side by side to protect the drainage while allowing the necessary vehicles/equipment to cross over the drainage (See Figure 2 for location of cover plates).
- Temporary silt fence will be installed running the length of the drainage on both sides to clearly delineate the avoidance area and to ensure no de minimis fill enters this drainage feature. Fencing will not be installed where the driving span plates are located. However, if there is potential for debris or fill from the equipment driving over the plates to enter the drainage swale, then the applicant will place sand bags on the outside edges of the span plate perpendicular to the drainage feature. The temporary silt fence will be removed when the proposed project drilling work is completed.
- Personnel conducting ground-disturbing activities within or adjacent to the buffer zone of wetlands, ponds, streams, or riparian woodland/scrub will be trained by a qualified biologist in these avoidance and minimization conditions. and on the permit obligations of project proponents working under this HCP/NCCP.
- Trash generated by covered activities will be promptly and properly removed from the site.

**ATTACHMENT D: FEE CALCULATOR(S)**

<b>ECCC HCP/NCCP Fee Calculator Worksheet</b>								
Project Applicant: Phillips 66 Pipeline Company								
Project Name: Phillip 66 Line 200 Vasco Road Release Site Testing								
Jurisdiction: Participating Special Entity								
Date: November 18, 2015								
<b>Temporary Impact Calculations</b>								
	Acreage to be Impacted		Years of Disturbance (2 years is the minimum for ground disturbance)			Fee per Acre (Fee Zone II)		Total Fees
Sample Drilling Areas (Work Area, Temporary Impacts. Minus the Gravel Road Mapped Urban)	0.84	X	3	/30	X	\$23,754.84	=	\$1,995.41
50 Foot Buffer Area (Minus the Gravel Road Mapped Urban)	1.06	X	3	/30	X	\$23,754.84	=	\$2,518.01
<b>Total Temporary Impact Fee:</b>							=	<b>\$4,513.42</b>
Contribution to Recovery (Based on Total Temporary Impact Fee; 100% of the fee)							=	\$4,513.42
<b>Total Fees Due (Temporary Impact Fee + Contribution to Recovery Fee)</b>							=	<b>\$9,026.84</b>

**ATTACHMENT E: RARE PLANT SURVEY RESULTS**

# East Contra Costa County HCP/NCCP Planning Survey Report for Vasco Road Line 200 Pipeline Emergency Release Participating Special Entity

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## I. Project Overview

**Project proponent:** ConocoPhillips Pipeline Company

**Project Name:** Vasco Road Line 200 Pipeline Emergency Release

**Application Submittal Date:** January 10, 2012

**Jurisdiction:**  Contra Costa County  Participating Special Entity<sup>1</sup>  
 City of Oakley  
 City of Pittsburg  
 City of Clayton  
 City of Brentwood

**Check appropriate Development Fee Zone(s):**  Zone I  Zone IV  
 Zone II  
 Zone III

See Figure 9-1 of the Final HCP/NCCP for a generalized development fee zone map. Detailed development fee zone maps by jurisdiction are available from the jurisdiction or at [www.cocohcp.org](http://www.cocohcp.org).

**Total Parcel Acreage:** NA

**Acreage of land to be permanently disturbed<sup>1</sup>:** None

**Acreage of land to be temporarily disturbed<sup>2</sup>, including impact buffers:** 24.22

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<sup>1</sup> *Participating Special Entities* are organizations not subject to the authority of a local jurisdiction. Such organizations may include school districts, water districts, irrigation districts, transportation agencies, local park districts, geologic hazard abatement districts, or other utilities or special districts that own land or provide public services.

<sup>1</sup> *Acreage of land permanently disturbed* is broadly defined in the HCP/NCCP to include all areas removed from an undeveloped or habitat-providing state and includes land in the same parcel or project that is not developed, graded, physically altered, or directly affected in any way but is isolated from natural areas by the covered activity. Unless such undeveloped land is dedicated to the Preserve System or is a deed-restricted creek setback, the development fee will apply. The development fees were calculated with the assumption that all undeveloped areas within a parcel (e.g., fragments of undisturbed open space within a residential development) would be charged a fee; the fee per acre would have been higher had this assumption not been made. See Chapter 9 of the HCP/NCCP for details.

<sup>2</sup> *Acreage of land temporarily disturbed* is broadly defined in the HCP/NCCP as any impact on vegetation or habitat that does not result in permanent habitat removal (i.e. vegetation can eventually recover).

## Covered and No-Take Plants

On suitable land cover types, surveys for covered and no-take plants must be conducted using approved CDFG/USFWS methods during the appropriate season to identify any covered or no-take plant species that may occur on the site (see page 6-9 of the Final HCP/NCCP). Based on the land cover types found in the project area and identified in Table 1, check the applicable boxes in Table 2b and provide a summary of survey results as required below. If any no-take plants are found in the project area, the provisions of Conservation Measure 1.11 must be followed (see *Avoidance and Minimization Measures* below).

Table 2b. Covered and No-Take Plant Species, Typical Habitat Conditions, and Typical Blooming Periods

Land Cover Type in the project area?	Plant Species	Covered (C) or No-Take (N)?	Typical Habitat or Physical Conditions, if Known	Typical Blooming Period <sup>a</sup>
<input type="checkbox"/> Oak savanna	Diablo Helianthella ( <i>Helianthella castanea</i> )	C	Elevation above 650 feet <sup>b</sup>	Mar–Jun
	Mount Diablo fairy-lantern ( <i>Calochortus pulchellus</i> )	C	Elevation between 650 and 2,600 feet <sup>b</sup>	Apr–Jun
<input type="checkbox"/> Oak woodland	Brewer's dwarf flax ( <i>Hesperolinon breweri</i> )	C		May–Jul
	Diablo Helianthella ( <i>Helianthella castanea</i> )	C	Elevation above 650 feet <sup>b</sup>	Mar–Jun
	Mount Diablo fairy-lantern ( <i>Calochortus pulchellus</i> )	C	Elevation between 650 and 2,600 feet <sup>b</sup>	Apr–Jun
	Showy madia ( <i>Madia radiata</i> )	C		Mar–May
<input type="checkbox"/> Chaparral and scrub	Brewer's dwarf flax ( <i>Hesperolinon breweri</i> )	C		May–Jul
	Diablo Helianthella ( <i>Helianthella castanea</i> )	C	Elevation above 650 feet <sup>b</sup>	Mar–Jun
	Mount Diablo buckwheat ( <i>Eriogonum truncatum</i> )	N		Apr–Sep; uncommonly Nov–Dec.
	Mount Diablo fairy-lantern ( <i>Calochortus pulchellus</i> )	C	Elevation between 650 and 2,600 feet <sup>b</sup>	Apr–Jun
	Mount Diablo Manzanita ( <i>Arctostaphylos auriculata</i> )	C	Elevation between 700 and 1,860 feet; restricted to the eastern and northern flanks of Mt. Diablo <sup>b</sup>	Jan–Mar

Land Cover Type in the project area?	Plant Species	Covered (C) or No-Take (N)?	Typical Habitat or Physical Conditions, if Known	Typical Blooming Period <sup>a</sup>
<input type="checkbox"/> Alkali grassland	Brittlescale ( <i>Atriplex depressa</i> )	C	Restricted to soils of the Pescadero or Solano soil series; generally found in southeastern region of plan area <sup>b</sup>	May–Oct
	Caper-fruited tropidocarpum ( <i>Tropidocarpum capparideum</i> )	N		Mar–Apr
	Contra Costa goldfields ( <i>Lasthenia conjugens</i> )	N	Generally found in vernal pools	Mar–Jun
	Recurved larkspur ( <i>Delphinium recurvatum</i> )	C		Mar–Jun
	San Joaquin spearscale ( <i>Atriplex joaquiniana</i> )	C		Apr–Oct
<input type="checkbox"/> Alkali wetland	Alkali milkvetch ( <i>Astragalus tener</i> ssp. <i>tener</i> )	N		Mar–Jun
	Brittlescale ( <i>Atriplex depressa</i> )	C	Restricted to soils of the Pescadero or Solano soil series; generally found in southeastern region of plan area <sup>b</sup>	May–Oct
	San Joaquin spearscale ( <i>Atriplex joaquiniana</i> )	C		Apr–Oct
<input checked="" type="checkbox"/> Annual grassland	Alkali milkvetch ( <i>Astragalus tener</i> ssp. <i>tener</i> )	N		Mar–Jun
	Big tarplant ( <i>Blepharizonia plumosa</i> )	C	Elevation below 1500 feet <sup>b</sup>	Jul–Oct
	Brewer's dwarf flax ( <i>Hesperolinon breweri</i> )	C	Restricted to grassland areas within a 500+ buffer from oak woodland and chaparral/scrub <sup>b</sup>	May–Jul
	Contra Costa goldfields ( <i>Lasthenia conjugens</i> )	N	Generally found in vernal pools	Mar–Jun
	Diamond-petaled poppy ( <i>Eschscholzia rhombipetala</i> )	N		Mar–Apr

Land Cover Type in the project area?	Plant Species	Covered (C) or No-Take (N)?	Typical Habitat or Physical Conditions, if Known	Typical Blooming Period <sup>a</sup>
	Large-flowered fiddleneck ( <i>Amsinckia grandiflora</i> )	N		Apr–May
	Mount Diablo buckwheat ( <i>Eriogonum truncatum</i> )	N		Apr–Sep; uncommonly Nov–Dec
	Mount Diablo fairy-lantern ( <i>Calochortus pulchellus</i> )	C	Elevation between 650 and 2,600 <sup>b</sup>	Apr–Jun
	Round-leaved filaree ( <i>California macrophylla</i> ) <sup>1</sup>	C		Mar–May
	Showy madia ( <i>Madia radiata</i> )	C		Mar–May
<input type="checkbox"/> Seasonal wetland	Adobe navarretia ( <i>Navarretia nigelliformis</i> ssp. <i>nigelliformis</i> )	C	Generally found in vernal pools <sup>b</sup>	Apr–Jun
	Alkali milkvetch ( <i>Astragalus tener</i> sp. <i>tener</i> )	N		Mar–Jun
	Contra Costa goldfields ( <i>Lasthenia conjugens</i> )	N	Generally found in vernal pools	Mar–Jun

<sup>a</sup> From California Native Plant Society. 2007. *Inventory of Rare and Endangered Plants* (online edition, v7-07d). Sacramento, CA. Species may be identifiable outside of the typical blooming period; a professional botanist shall determine if a covered or no take plant occurs on the project site.

<sup>b</sup> See Species Profiles in Appendix D of the Final HCP/NCCP.

## Results of Covered and No-Take Plant Species Planning Surveys Required in Table 2b

**Describe the results of the planning survey conducted as required in Table 2b.** Describe the methods used to survey the site for all covered and no-take plants, including the dates and times of all survey's conducted (see Tables 3-8 and 6-5 of the HCP/NCCP for covered and no-take plants). In order to complete all the necessary covered and no-take plant surveys, both spring and fall surveys are required, check species survey requirements below.

**If any covered or no-take plants were found, include the following information in the results summary:**

- Description and number of occurrences and their rough population size.
- Description of the “health” of each occurrence, as defined on pages 5-49 and 5-50 of the HCP/NCCP.
- A map of all the occurrences.

- Justification of surveying time window, if outside of the plant's blooming period.
- The CNDDDB form(s) submitted to CDFG (if this is a new occurrence).
- A description of the anticipated impacts that the covered activity will have on the occurrence and/or how the project will avoid impacts to all covered and no-take plant species. All projects must demonstrate avoidance of all six no-take plants (see table 6-5 of the HCP/NCCP).

In accordance with the HCP/NCCP, a total of 10 covered and no-take species have the potential to occur in the grasslands of the project area. The 10 covered and no-take species include big tarplant (*Blepharizonia plumosa*), Contra Costa goldfields (*Lasthenia conjugens*), showy madia (*Madia radiata*), large-flowered fiddleneck (*Amsinckia grandiflora*), alkali milkvetch (*Astragalus tener* var. *tener*), round-leaved filaree (*California macrophylla*), Mt. Diablo fairy lantern (*Calochortus pulchellus*), Brewer's dwarf flax (*Hesperolinon breweri*), diamond-petaled California poppy (*Eschscholzia rhombipetala*), and Mt. Diablo buckwheat (*Eriogonum truncatum*).

No special-status plant species were observed in the project area during multiple site surveys conducted by Mr. Geoff Monk and Ms. Hope Kingma of Monk & Associates, as well as Mr. Steve Bobzien and Mr. Dave Amme of the East Bay Regional Park District. These surveys were conducted throughout the first week of the project (August 27, 2011 to September 4, 2011). Of the 10 special-status plant species that have the potential to occur in the project area, only two species can be dismissed from the project area due to the lack of suitable habitat: Brewer's dwarf flax and Contra Costa goldfields.

As ConocoPhillips was on an urgent timeline to complete the emergency pipeline repair and area remediation, they are proposing to conduct rare plant surveys in the project area during April, June, and August of 2012. Special-status plant surveys shall be conducted for big tarplant, showy madia, large-flowered fiddleneck, alkali milkvetch, round-leaved filaree, Mt. Diablo fairy lantern, diamond-petaled California poppy, and Mt. Diablo buckwheat. Special-status plant surveys shall follow all HCP/NCCP guidelines and shall be conducted when the special-status plants under consideration are known to be flowering and readily identifiable. Special-status plant surveys shall be conducted within the 24.22 acres of temporary impact area (which includes the temporary impacts buffers), as well as within an additional 200-foot survey buffer around the 24.22 acre project area. In the unlikely event of a rare plant occurrence within the project footprint, it would likely be part of a larger population that extends beyond the project footprint. This larger population would be detectable during the spring 2012 surveys. M&A believes that conducting these rare plant surveys will provide an accurate assessment of impacts to special-status plant species.

ConocoPhillips salvaged and stockpiled the topsoil from the 1.37 acres of the project area cleared for parking, equipment staging, and fire suppression. The topsoil was replaced over the 1.37-acre cleared area after the ground-disturbing activities were completed. Thus, the seed bank for any rare plant that may occur within the project area will be retained in the project area.

A rare plant survey report shall be submitted to the East Contra Costa County Conservancy by September 30, 2012. If special-status plant species are identified on or within 200 feet of the project area, the applicant will be required to meet and confer with Conservancy staff to develop and implement a suitable plan to address Conservation Measure 3.10 "Plant Salvage when Impacts are Unavoidable," Section 6.31. "Covered and No-Take Plants," and Table 5-20 "Protection Requirements for Covered Plants" in the HCP/NCCP as well as be required to comply with several additional measures to avoid and minimize impacts in order to ensure that this species is protected.

## Avoidance Measures for Special-Status Plant Species

To ensure that no project-related impacts occur to special-status plants in the project area, the applicant implemented the following avoidance measures over the 1.37 acres where the topsoil was salvaged and stockpiled:

- The removal and replacement of all uncontaminated soils within the project area ensured that all plants and their associated bulbs and seed in the soils were retained in the project area.

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MONK & ASSOCIATES  
Environmental Consultants

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September 20, 2012

East Contra Costa County Habitat Conservancy  
Department of Conservation and Development  
30 Muir Road  
Martinez, California 94553

Attention: Ms. Krystal Hinojosa

**RE: Special-Status Plant Survey Report  
Phillips 66 Line 200 Pipeline, Vasco Road Emergency Release Site  
Contra Costa County, California**

Dear Ms. Hinojosa:

## **1. INTRODUCTION**

In the spring and summer of 2012, Monk & Associates, Inc. (M&A) completed focused surveys for special-status (that is rare, threatened, or endangered) plants on the Phillips 66 Line 200 Pipeline, Vasco Road Emergency Release Site located in East Contra Costa County, California (herein referred to as the “release site”) (Figures 1 and 2). Phillips 66 (P66), formerly named ConocoPhillips Company (COP), uses the East Contra Costa County Habitat Conservation Plan (HCP)/ Natural Community Conservation Plan (NCCP) as a means of permitting impacts to State and Federal listed species protected under respective Endangered Species Acts. The East Contra Costa County Habitat Conservancy (ECCCHC) is required by the California Department of Fish and Game (CDFG) and the U.S. Fish and Wildlife Service (USFWS) to ensure that all projects/project applicants seeking coverage under the HCP conduct special-status plant surveys since distribution of special-status plants is based on actual observations. Thus, the ECCCHC required that Phillips 66 contract with a biological consultant who conducts special-status plant surveys. M&A’s special-status plant surveys at the release site, as discussed in this report, are a required condition of project approval under the HCP.

### **1.1 Project Background**

On August 27, 2011, Phillips 66 Pipeline Company’s 24-inch crude oil Pipeline Line 200 was punctured due to unauthorized trackhoe excavation by an unknown party. This unauthorized damage resulted in the release of pressurized crude oil into an undeveloped area southeast of Vasco Road in east Contra Costa County, California. The pipeline was remotely shutdown at 6:00 a.m. Pacific Daylight Time. Immediately thereafter, personnel were dispatched to the pipeline segment where the crude oil release occurred. This pipeline segment is located between Phillips 66’s Byron pump station and the Rodeo Refinery.

The damage resulted in liquid oil spraying over a large area of non-native annual grassland and pooling on the ground surface. This oil then flowed along the existing dirt road for approximately 500 hundred feet. High winds at the time of the oil release carried oil spray in a northwesterly direction. This wind-enhanced distribution of sprayed oil covered approximately 7.7 acres. The spray extended in a fan pattern with easily defined visual boundaries. The total oil-impacted area is 12.4 acres, the limits of which are shown in Figure 3. This 12.4-acre area is

Page 2

where the special-status plant surveys were conducted. In areas where contaminated soils were removed to depths exceeding a few inches, imported fill was used to rebuild and recontour the land surface. Imported soil originated from the Wind Energy Project immediately south of the oil release site. Thus, soils and any imported seed bank are consistent with original soils and seed bank. Special-status plant surveys were conducted in this area after all land clean up, rebuilding, and recontouring work was completed.

Below, we provide our survey methods, a brief discussion on the legal protections provided to special-status plants, a description of the release site and plant communities therein and the results of our surveys. We also provide a list of plant species observed during the surveys in Table 1, attached, and special-status plants and their potential to occur on the release site in Table 2.

## **2. LEGAL PROTECTION FOR SPECIAL-STATUS PLANTS**

For purposes of this analysis, special-status plants are legally protected under the California and Federal Endangered Species Acts (CESA and FESA, respectively) or other regulations, and species that are considered rare by the scientific community (for example, the CNPS). Special-status plant species are defined as:

- plants that are listed or proposed for listing as threatened or endangered under the CESA (Fish and Game Code §2050 et seq.; 14 CCR §670.1 et seq.) or the FESA (50 CFR 17.12 for plants; 50 CFR 17.11 for animals; various notices in the Federal Register [FR] for proposed species);
- plants that are candidates for possible future listing as threatened or endangered under the FESA (50 CFR 17; FR Vol. 64, No. 205, pages 57533-57547, October 25, 1999); and under the CESA (California Fish and Game Code §2068);
- plants that meet the definition of endangered, rare, or threatened under the California Environmental Quality Act (CEQA) (14 CCR §15380) that may include species not found on either State or Federal Endangered Species lists;
- plants occurring on Lists 1A, 1B and 2 of CNPS' Electronic Inventory (CNPS 2001). The California Department of Fish and Game (CDFG) recognizes that Lists 1A, 1B, and 2 of the CNPS Inventory contain plants that, in the majority of cases, would qualify for State listing, and CDFG requests their inclusion in EIRs pursuant to CEQA.

## **3. PROPERTY LOCATION AND SETTING**

The Vasco Road emergency release site is located in an undeveloped area near an existing dirt road with a slight southward gradient, southeast of Vasco Road in east Contra Costa County, California (Figures 1 and 2). The topography of the site varies from relatively flat along the southern portion of the release site to slopes of 15% or more along the northern extents of the release site. No waters of the United States or State occur within the release site. A perennial stream channel and pond are located approximately 150 feet to the west of the project area.

Page 3

The release site consists solely of non-native annual grassland dominated by non-native grasses including soft chess (*Bromus hordeaceus*), foxtail barley (*Hordeum murinum* ssp. *leporinum*), wild oats (*Avena barbata*), foxtail chess (*Bromus madritensis* ssp. *madritensis*), and Italian ryegrass (*Festuca perennis*). Non-native forb species including milk thistle (*Silybum marianum*), Italian thistle (*Carduus pycnocephalus*), totalote (*Centaurea melitensis*), short-podded mustard (*Hirschfeldia incana*) and filaree (*Erodium moschatum* and *Erodium cicutarium*) occur on the release site sporadically and in dense patches. Native forb species that occur on the release site include California goldfields (*Lasthenia californica* ssp. *californica*) and common fiddleneck (*Amsinckia menziesii*).

#### 4. SURVEY METHODOLOGY

Prior to conducting the 2012 special-status plant surveys on the release site, M&A searched the California Department of Fish and Game's (CDFG) Natural Diversity Database (RareFind 3 Application)<sup>1</sup> for occurrences of special-status plants within a five mile radius of the release site. Drawings, photographs and written descriptions of pertinent special-status plant species were reviewed prior to or during the survey period. M&A also searched the 2012 electronic version of the California Native Plant Society's (CNPS) *Inventory of Rare and Endangered Plants of California* (CNPS 2001)<sup>2</sup> for records of special-status plants known in the region of the release site. All special-status species records were compiled into Table 2. M&A examined all known record locations for special-status species for their potential to occur on the release site or within an area of affect.

In April, May and August of 2012, special-status plant surveys were conducted by M&A biologists, Ms. Sarah Lynch and Ms. Christy Owens. The 2012 surveys were conducted within the area of the release site which includes the site of the pipeline puncture and the area of spray extent as shown in Figure 3. The surveys followed CDFG<sup>3</sup> and California Native Plant Society (CNPS) published survey guidelines. These guidelines state that special-status plant surveys should be conducted at the appropriate time of the year when special-status and locally significant plants are evident and identifiable. These guidelines also state that the surveys be floristic in nature with every plant observed identified to species, subspecies, or variety as necessary to determine their rarity status. Finally, these surveys must be conducted in a manner that is consistent with conservation ethics and accepted plant collection and documentation techniques. Following these guidelines, surveys were conducted during the months when special-status plant species from the region were known to be evident and flowering.

During surveys, all areas of the release site were examined by walking systematic transects through potential habitat, and by closely examining any existing microhabitats that could support special-status plants. Nearly all plant species found on the release site were identified to species. All plants were identified to the level required to determine rarity status. A list of all vascular

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<sup>1</sup> California Natural Diversity Data Base (CNDDB). 2011. RareFind 3. Computer printout for special-status species within a 5-mile radius of the release site. California Natural Heritage Division, California Department of Fish and Game, Sacramento, CA.

<sup>2</sup> CNPS (California Native Plant Society). 2001. Inventory of rare and endangered plants of California (sixth edition). Rare plant scientific advisory committee, David P. Tibor, convening editor. California Native Plant Society. Sacramento, CA. x+338 pps.

<sup>3</sup> California Department of Fish and Game (CDFG). 2000. Guidelines for assessing the effects of proposed projects on rare threatened and endangered plants and natural communities. December 9, 1983; revised May 8, 2000. 2 pps.

Page 4

plant taxa encountered within the release site was recorded in the field. Plants that needed further evaluation were collected and keyed in the lab. Final determinations for collected plants were made by keying specimens using standard references such as *The Jepson Manual, Second Edition*<sup>4</sup>.

## 5. SURVEY RESULTS AND DISCUSSION

All plants observed on the 12.4-acre release site during the 2012 special-status plant surveys are listed in Table 1, attached. As shown in Table 2, a total of 42 special-status species are known to occur in the release site region but only 27 had suitable habitat and any potential for occurrence. **No special-status plant species were observed on the release site during the appropriately-timed field surveys in 2012.** A large number of non-native species and some native species were observed during the 2012 surveys which is characteristic of non-native annual grassland. Overall, a total of 24 plant species were observed on the release site during special-status surveys in 2012. Of these 24 species, 21 plant taxa (or 88%) were non-native, and 3 plant taxa (or 2%) were native.

## 6. CONCLUSIONS

M&A did not identify any special-status plant species on the release site during appropriately timed botanical surveys. This concludes M&A's special-status plant species survey report. Should you have any questions, or wish to discuss any other aspect of these surveys, please do not hesitate to call me at (925) 947-4867, extension 206.

Sincerely,



Christy Owens  
Project Biologist

Cc: Mr. James Adams, Phillips 66

Attachments: Figures 1-3  
Tables 1-2

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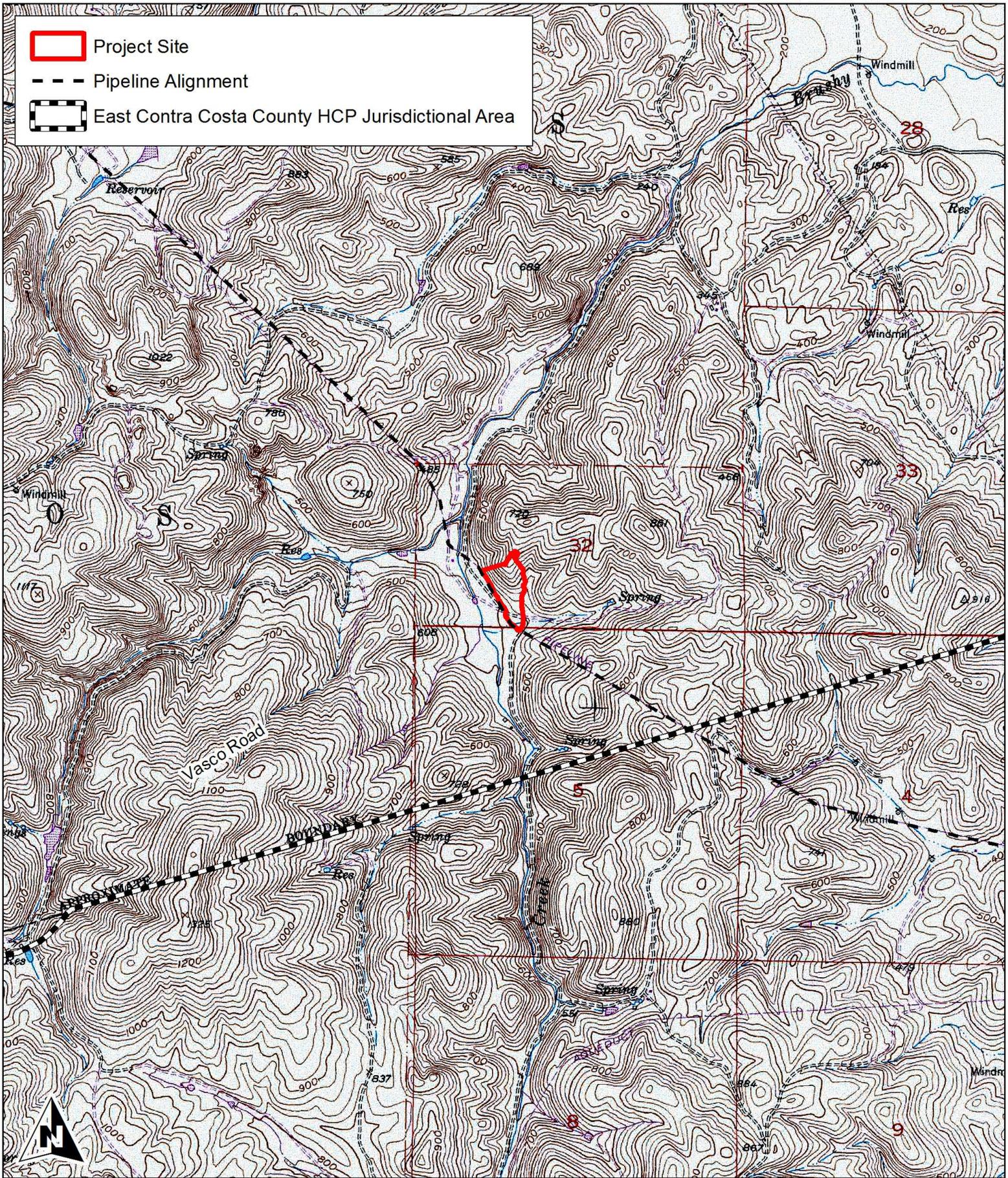
<sup>4</sup> Baldwin, B. (ed.). 2012. *The Jepson Manual, Second Edition: Vascular Plants of California*. University of California Press, Berkeley. 1568 pp.



Monk & Associates  
Environmental Consultants  
1136 Saranap Avenue, Suite Q  
Walnut Creek, California 94595  
(925) 947-4867

Figure 1. Phillips 66 Line 200 Pipeline  
Vasco Road Emergency Release Project Site Regional Map  
Contra Costa County, California

County: Contra Costa  
Map Preparation Date: August 24, 2012



Monk & Associates  
Environmental Consultants  
1136 Saranap Avenue, Suite Q  
Walnut Creek, California 94595  
(925) 947-4867

Figure 2. Phillips 66 Line 200 Pipeline  
Vasco Road Emergency Release Location Map  
Contra Costa County, California

7.5-Minute Byron Hot Springs quadrangle  
Topography Source: <http://gis.ca.gov>  
Map Preparation Date: August 24, 2012



Monk & Associates  
Environmental Consultants  
1136 Saranap Avenue, Suite Q  
Walnut Creek, California 94595  
(925) 947-4867

0 50 100 200 300 400 500 Feet

Figure 3. Aerial Photograph of the  
Phillips 66 Line 200 Pipeline  
Vasco Road Emergency Release Site

Aerial Photograph Source: Bing Maps  
Map Preparation Date: August 24, 2012

Table 1

## Plants Species Observed on the P66 Vasco Road Emergency Release Site

## Angiosperms - Dicots

**Asteraceae**

* <i>Carduus pycnocephalus subsp. pycnocephalus</i>	Italian thistle
* <i>Centaurea melitensis</i>	Tocalote
* <i>Cirsium arvense</i>	Canada thistle
<i>Lasthenia californica subsp. californica</i>	California goldfields
* <i>Silybum marianum</i>	Milk thistle

**Boraginaceae**

<i>Amsinckia menziesii</i>	Common fiddleneck
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**Brassicaceae**

* <i>Brassica nigra</i>	Black mustard
* <i>Hirschfeldia incana</i>	Short-podded mustard

**Euphorbiaceae**

<i>Croton setigerus</i>	Turkey mullein
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**Fabaceae**

* <i>Medicago polymorpha</i>	California burclover
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**Geraniaceae**

* <i>Erodium cicutarium</i>	Red-stem filaree
* <i>Erodium moschatum</i>	White-stem filaree

**Malvaceae**

* <i>Malva parviflora</i>	Cheeseweed
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**Polygonaceae**

* <i>Rumex crispus</i>	Curly dock
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## Angiosperms - Monocots

**Poaceae**

* <i>Avena barbata</i>	Slender wild oat
* <i>Avena fatua</i>	Wild oat
* <i>Bromus diandrus</i>	Ripgut grass
* <i>Bromus hordeaceus</i>	Soft chess
* <i>Bromus madritensis subsp. madritensis</i>	Foxtail chess
* <i>Bromus madritensis subsp. rubens</i>	Red brome
* <i>Festuca myuros</i>	Rattail sixweeks grass
* <i>Festuca perennis</i>	Italian ryegrass
* <i>Hordeum marinum subsp. gussoneanum</i>	Mediterranean barley
* <i>Hordeum murinum subsp. leporinum</i>	Hare barley

Table 2

## Special-Status Plant Species Known To Occur within 5 Miles of the Vasco Road Emergency Release Site

Family Taxon Common Name	Status*	Flowering Period	Habitat	Area Locations	Probability on Project Site
<b>Adoxaceae</b>					
<i>Viburnum ellipticum</i> Western viburnum	Fed: - State: - CNPS: List 2.3	May-July	Chaparral; cismontane woodland; lower montane coniferous forest.	On CNPS nine quad search	None. No suitable habitat occurs onsite. Not observed during appropriately timed surveys in 2012.
<b>Apiaceae (Umbellife)</b>					
<i>Eryngium racemosum</i> Delta button-celery	Fed: - State: CE CNPS: List 1B.1	June-August	Riparian scrub (vernally mesic clay depressions).	On CNPS nine quad search	None. No suitable habitat occurs onsite. Not observed during appropriately timed surveys in 2012.
<i>Lilaeopsis masonii</i> Mason's lilaeopsis	Fed: - State: CR CNPS: List 1B.1	April-October	Marshes and swamps (brackish or freshwater); riparian scrub.	Closest record for this species is located 4.6 miles northeast of the project site (Occurrence No. 192)	None. No suitable habitat occurs onsite. Not observed during appropriately timed surveys in 2012.
<b>Asteraceae</b>					
<i>Balsamorhiza macrolepis</i> Big-scale balsam-root	Fed: - State: - CNPS: List 1B.2	March-June	Cismontane woodland; valley and foothill grassland; [sometimes serpentine].	On CNPS nine quad search	None. Suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<i>Blepharizonia plumosa</i> Big tarplant	Fed: - State: - CNPS: List 1B.1	July-October	Valley and foothill grassland.	Closest record for this species is located 3.7 miles north of the project site (Occurrence No. 38)	None. Suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<i>Centromadia parryi congdonii</i> Congdon's tarplant	Fed: - State: - CNPS: List 1B.2	May-November	Valley and foothill grassland (alkaline).	Closest record for this species is located 3.0 miles south of the project site (Occurrence No. 68)	None. Suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.

Table 2

Special-Status Plant Species Known To Occur within 5 Miles of the Vasco Road Emergency Release Site

Family Taxon Common Name	Status*	Flowering Period	Habitat	Area Locations	Probability on Project Site
<i>Deinandra bacigalupii</i> Livermore tarweed	Fed: - State: - CNPS: List 1B.2	June-October	Meadows and seeps (alkaline).	On CNPS nine quad search	None. Suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<i>Helianthella castanaea</i> Diablo helianthella	Fed: - State: - CNPS: List 1B.2	April-June	Broadleafed upland forest; chaparral; cismontane woodland; coastal scrub; riparian woodland; valley and foothill grassland.	Closest record for this species is located 4.4 miles west of the project site (Occurrence No. 20)	None. Suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<i>Lasthenia conjugens</i> Contra Costa goldfields	Fed: FE State: - CNPS: List 1B.1	March-June	Valley and foothill grassland (mesic); vernal pools.	On CNPS nine quad search	None. Marginally suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<i>Madia radiata</i> Showy madia	Fed: - State: - CNPS: List 1B.1	March-May	Cismontane woodland; valley and foothill grassland.	On CNPS nine quad search	None. Suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<i>Senecio aphanactis</i> Chaparral ragwort	Fed: - State: - CNPS: List 2.2	January-April	Foothill woodland; coastal scrub; (alkaline).	Closest record for this species is located 3.6 miles northeast of the project site (Occurrence No. 16)	None. No suitable habitat occurs onsite. Not observed during appropriately timed surveys in 2012.
<i>Symphotrichum lentum</i> Suisun Marsh aster	Fed: - State: - CNPS: List 1B.2	August-November	Marshes and swamps (brackish and fresh water)	On CNPS nine quad search	None. No suitable habitat occurs onsite. Not observed during appropriately timed surveys in 2012.

Table 2

Special-Status Plant Species Known To Occur within 5 Miles of the Vasco Road Emergency Release Site

Family Taxon Common Name	Status*	Flowering Period	Habitat	Area Locations	Probability on Project Site
<b>Boraginaceae</b>					
<i>Amsinckia grandiflora</i> Large-flowered fiddleneck	Fed: FE State: CE CNPS: List 1B.1	April-May	Cismontane woodland, Valley and foothill grassland	On CNPS nine quad search	None. Suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<i>Amsinckia lunaris</i> Bent-flowered fiddleneck	Fed: - State: - CNPS: List 1B.2	March-June	Cismontane woodland, Valley and foothill grassland	On CNPS nine quad search	None. Suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<i>Cryptantha hooveri</i> Hoover's cryptantha	Fed: - State: - CNPS: List 1A	April-May	Valley and foothill grassland (sandy).	On CNPS nine quad search	None. Suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<i>Plagiobothrys glaber</i> Hairless popcornflower	Fed: - State: - CNPS: List 1A	April-May	Meadows (alkaline); marshes and swamps (coastal salt).	On CNPS nine quad search	None. Marginally suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<b>Brassicaceae</b>					
<i>Caulanthus lemmonii</i> Jewelflower	Fed: State: CNPS: List 1B.2	March-May	Pinyon and juniper woodland; Valley and foothill grassland	On CNPS nine quad search	None. Suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<i>Tropidocarpum californicum</i> Kings gold	Fed: - State: - CNPS: List 1B.1	March-March	Chenopod scrub.	Closest record for this species is located 2.4 miles south of the project site (Occurrence No. 11)	None. No suitable habitat occurs onsite. Not observed during appropriately timed surveys in 2012.

Table 2

Special-Status Plant Species Known To Occur within 5 Miles of the Vasco Road Emergency Release Site

Family Taxon Common Name	Status*	Flowering Period	Habitat	Area Locations	Probability on Project Site
<b>Chenopodiaceae</b>					
<i>Atriplex cordulata cordulata</i> Heartscale	Fed: - State: - CNPS: List 1B.2	April-October	Meadows and seeps; chenopod scrub; valley and foothill grassland (sandy); [saline or alkaline].	Closest record for this species is located 3.6 miles east of the project site (Occurrence No. 84)	None. Suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<i>Atriplex depressa</i> Rhomboid bract saltbush	Fed: - State: - CNPS: List 1B.2	May-October	Chenopod scrub; playas; valley and foothill grassland; [alkaline or clay].	Closest record for this species is located 1.9 miles northeast of the project site (Occurrence No. 43)	None. Suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<i>Atriplex minuscula</i> Lesser saltbush	Fed: - State: - CNPS: List 1B.1	May-October	Chenopod scrub; playas; valley and foothill grassland [alkaline].	Closest record for this species is located 3.5 miles south of the project site (Occurrence No. 44)	None. Suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<i>Extriplex joaquinana</i> San Joaquin spearscale	Fed: - State: - CNPS: List 1B.2	April-September	Chenopod scrub; meadows; valley and foothill grassland; [alkaline].	Closest record for this species is located 0.1 miles east of the project site (Occurrence No. 14)	None. Suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<b>Ericaceae</b>					
<i>Arctostaphylos auriculata</i> Mount Diablo manzanita	Fed: - State: - CNPS: List 1B.3	January-March	Chaparral (sandstone).	On CNPS nine quad search	None. No suitable habitat occurs onsite. Not observed during appropriately timed surveys in 2012.
<i>Arctostaphylos manzanita laevigata</i> Contra Costa manzanita	Fed: - State: - CNPS: List 1B.2	January-February	Chaparral (rocky),	On CNPS nine quad search	None. No suitable habitat occurs onsite. Not observed during appropriately timed surveys in 2012.

**Table 2**

**Special-Status Plant Species Known To Occur within 5 Miles of the Vasco Road Emergency Release Site**

Family Taxon Common Name	Status*	Flowering Period	Habitat	Area Locations	Probability on Project Site
<b>Fabaceae</b>					
<i>Astragalus tener tener</i> Alkali milkvetch	Fed: - State: - CNPS: List 1B.2	March-June	Playas; valley and foothill grassland (adobe clay), vernal pools (alkaline).	Closest record for this species is located 3.8 miles northeast of the project site (Occurrence No. 9)	None. Suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<i>Lathyrus jepsonii jepsonii</i> Delta tulle pea	Fed: - State: - CNPS: List 1B.2	May-September	Marshes and swamps (freshwater and brackish).	On CNPS nine quad search	None. No suitable habitat occurs onsite. Not observed during appropriately timed surveys in 2012.
<i>Trifolium hydrophilum</i> Saline clover	Fed: - State: - CNPS: List 1B.2	April-June	Marshes and swamps; valley and foothill grassland (mesic, alkaline); vernal pools. 0-300 m.	On CNPS nine quad search	None. Marginally suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<b>Geraniaceae</b>					
<i>California macrophylla</i> Large-leaf storksbill	Fed: - State: - CNPS: List 1B.1	March-May	Cismontane woodland; valley and foothill grassland/clay.	Closest record for this species is located 2.5 miles southwest of the project site (Occurrence No. 142)	None. Suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<b>Lamiaceae</b>					
<i>Scutellaria galericulata</i> Marsh skullcap	Fed: - State: - CNPS: List 2.2	June-September	Lower montane coniferous forest; meadows (mesic); marshes and swamps.	On CNPS nine quad search	None. No suitable habitat occurs onsite. Not observed during appropriately timed surveys in 2012.

Table 2

Special-Status Plant Species Known To Occur within 5 Miles of the Vasco Road Emergency Release Site

Family Taxon Common Name	Status*	Flowering Period	Habitat	Area Locations	Probability on Project Site
<b>Liliaceae</b>					
<i>Calochortus pulchellus</i> Mt. Diablo fairy lantern	Fed: - State: - CNPS: List 1B.2	April-June	Chaparral; cismontane woodland; valley and foothill grassland.	Closest record for this species is located 3.1 miles west of the project site (Occurrence No. 33)	None. Suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<b>Linaceae</b>					
<i>Hesperolinon breweri</i> Brewer's dwarf flax	Fed: - State: - CNPS: List 1B.2	May-July	Chaparral; cismontane woodland; valley and foothill grassland; [mostly serpentinite].	Closest record for this species is located 4.4 miles west of the project site (Occurrence No. 29)	None. No suitable habitat nor serpentine substrate occurs onsite. Not observed during appropriately timed surveys in 2012.
<b>Malvaceae</b>					
<i>Hibiscus lasiocarpus occidentalis</i> Woolly rose-mallow	Fed: - State: - CNPS: List 1B.2	June-September	Marshes and swamps (freshwater).	Closest record for this species is located 4.7 miles northwest of the project site (Occurrence No. 152)	None. No suitable habitat occurs onsite. Not observed during appropriately timed surveys in 2012.
<i>Malacothamnus hallii</i> Hall's bush mallow	Fed: - State: - CNPS: List 1B.2	May-September	Chaparral.	On CNPS nine quad search	None. No suitable habitat occurs onsite. Not observed during appropriately timed surveys in 2012.
<b>Orobanchaceae</b>					
<i>Chloropyron molle hispidum</i> Hispid salty bird's-beak	Fed: - State: - CNPS: List 1B.1	June-September	Meadows; playas; [alkaline]. 1-155m.	On CNPS nine quad search	None. Marginally suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.

**Table 2**

**Special-Status Plant Species Known To Occur within 5 Miles of the Vasco Road Emergency Release Site**

Family Taxon Common Name	Status*	Flowering Period	Habitat	Area Locations	Probability on Project Site
<i>Chloropyron palmatum</i> Palmate salty bird's-beak	Fed: FE State: CE CNPS: List 1B.1	May-October	Chenopod scrub; valley and foothill grassland; (alkaline).	On CNPS nine quad search	None. Suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<b>Papaveraceae</b>					
<i>Eschscholzia rhombipetala</i> Diamond-petaled California poppy	Fed: - State: - CNPS: List 1B.1	March-April	Valley and foothill grassland (clay).	Closest record for this species is located onsite (Occurrence No. 4)	None. Suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012. No members of the <i>Eschscholzia</i> genus observed on the release site.
<b>Polemoniaceae</b>					
<i>Navarretia nigelliformis radians</i> Shining navarretia	Fed: - State: - CNPS: List 1B.2	May-June	Cismontane woodland; valley and foothill grassland; vernal pools.	On CNPS nine quad search	None. Suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<i>Navarretia prostrata</i> Prostrate vernal pool navarretia	Fed: State: CNPS: List 1B.1	April-July	Coastal scrub, meadows and seeps, valley and foothill grassland (alkaline), and vernal pools (mesic). Elevation 15-1210 m.	On CNPS nine quad search	None. Suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<b>Polygonaceae</b>					
<i>Eriogonum truncatum</i> Mount Diablo buckwheat	Fed: - State: - CNPS: List 1B.1	April-September	Chaparral; coastal scrub; valley and foothill grassland; [sandy].	On CNPS nine quad search	None. Marginally suitable habitat occurs onsite but no sandy substrate. Not observed during appropriately timed surveys in 2012.

Table 2

Special-Status Plant Species Known To Occur within 5 Miles of the Vasco Road Emergency Release Site

Family Taxon Common Name	Status*	Flowering Period	Habitat	Area Locations	Probability on Project Site
<b>Ranunculaceae</b>					
<i>Delphinium californicum interius</i> Hospital Canyon larkspur	Fed: - State: - CNPS: List 2.2	April-June	Cismontane woodland (mesic).	On CNPS nine quad search	None. No suitable habitat occurs onsite. Not observed during appropriately timed surveys in 2012.
<i>Delphinium recurvatum</i> Recurved larkspur	Fed: - State: - CNPS: List 1B.2	March-June	Chenopod scrub; cismontane woodland; valley and foothill grassland; [alkaline].	Closest record for this species is located 3.3 miles northeast of the project site (Occurrence No. 2)	None. Suitable habitat occurs onsite but not observed during appropriately timed surveys in 2012.
<b>Scrophulariaceae</b>					
<i>Limosella subulata</i> Southern mudwort	Fed: - State: - CNPS: List 2.1	May-August	Marshes and swamps; intertidal mudflats.	On CNPS nine quad search	None. No suitable habitat occurs onsite. Not observed during appropriately timed surveys in 2012.

**\*Status**

Federal:  
 FE - Federal Endangered  
 FT - Federal Threatened  
 FPE - Federal Proposed Endangered  
 FPT - Federal Proposed Threatened  
 FC - Federal Candidate

State:  
 CE - California Endangered  
 CT - California Threatened  
 CR - California Rare  
 CC - California Candidate  
 CSC - California Species of Special Concern

CNPS:  
 List 1A - Presumed extinct in California  
 List 1B - Plants rare, threatened, or endangered in California and elsewhere  
 List 1B.1 - Seriously endangered in California (over 80% occurrences threatened/ high degree and immediacy of threat)  
 List 1B.2 - Fairly endangered in California (20-80% occurrences threatened)  
 List 1B.3 - Not very endangered in California (<20% of occurrences threatened or no current threats known)

CNPS Continued:  
 List 2 - Plants rare, threatened, or endangered in California, but more common elsewhere  
 List 2.1 - Seriously endangered in California, but more common elsewhere  
 List 2.2 - Fairly endangered in California, but more common elsewhere  
 List 2.3 - Not very endangered in California, but more common elsewhere  
 List 3 - Plants about which we need more information (Review List)  
 List 3.1 - Plants about which we need more information (Review List)  
 Seriously endangered in California  
 List 3.2 - Plants about which we need more information (Review List)  
 Fairly endangered in California  
 List 4 - Plants of limited distribution - a watch list