

**Analysis of Whittier Oil Project and Lease for
Consistency with Proposition A and the
Project Agreement**

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Executive Summary

The County of Los Angeles (County) Board of Supervisors (Board), in its capacity as the governing body of the Los Angeles County Regional Park and Open Space District (District), and acting as a Responsible Agency under the California Environmental Quality Act (CEQA), has discretion to approve or deny any lease or lease amendment affecting lands acquired with County Proposition A funds and any proposed change of use or disposition of property acquired pursuant to Proposition A.¹ This Analysis was prepared at the request of District staff regarding the proposed Whittier Main Oil Field Development Project (Project), which involves the City of Whittier (Whittier) leasing approximately 1,280 acres of open space in the Whittier Hills (Whittier Hills Property) that were acquired using funds from Proposition A enacted by County voters in 1992 for oil and gas exploration, drilling, processing, and production by the Matrix Oil Corporation (Matrix). Pursuant to Proposition A and the Proposition A Project Agreement² between the District and Whittier (Project Agreement), the District is reviewing the Project and Lease³ both as a change of use of the Whittier Hills Property and as a disposition of less than the entire interest in the property originally acquired by Whittier. This analysis includes a summary of the significant events associated with Proposition A, Whittier's acquisition of the Whittier Hills Property at issue, the Lease of the Whittier Hills Property, Whittier's review and approval of the Project, and the five lawsuits challenging the Lease and Project and Lease (Figure ES-1, *Timeline*).

¹ The shorthand term "Proposition A" refers to the Order of the Board of Supervisors of the County of Los Angeles Initiating Proceedings for Formation of the Los Angeles County Regional Park and Open Space District, Forming an Assessment District, and Calling, Providing for, and Giving Notice of a Special Election to be Held in the County on November 3, 1992 and Consolidating the Special Election with the General Election to be Held on November 3, 1992, which can be found on the District's website: http://openspacedistrict.lacounty.info/cms1_033687.pdf Main website: <http://openspacedistrict.lacounty.info/default.asp>

² *Mountains Recreation and Conservation Authority v. City of Whittier*, BS 136211 (MRCA Lawsuit), Trial Exhibits, Volume 3, Exhibit 21: City of Whittier (Whittier) and Los Angeles County Regional Park and Open Space District (District). 9 November 1993. Project Agreement. Los Angeles County Regional Park and Open Space District Grant Specified Program, Grant No. 58L1-94-0034. (Project Agreement). Hereafter, Trial Exhibits will be cited as follows: "TE, Vol. __, Exh. __."

³ TE, Vol. 6, Exh. 67: Whittier Main 2008 Mineral Extraction Oil, Gas, and Mineral Lease (The Lease). October 28, 2008 agreement between Whittier (Lessor) and Matrix Oil Corporation (Matrix) (25%) and Clayton Williams Energy, Inc. (75%) (Lessee), Section 7: Royalties.

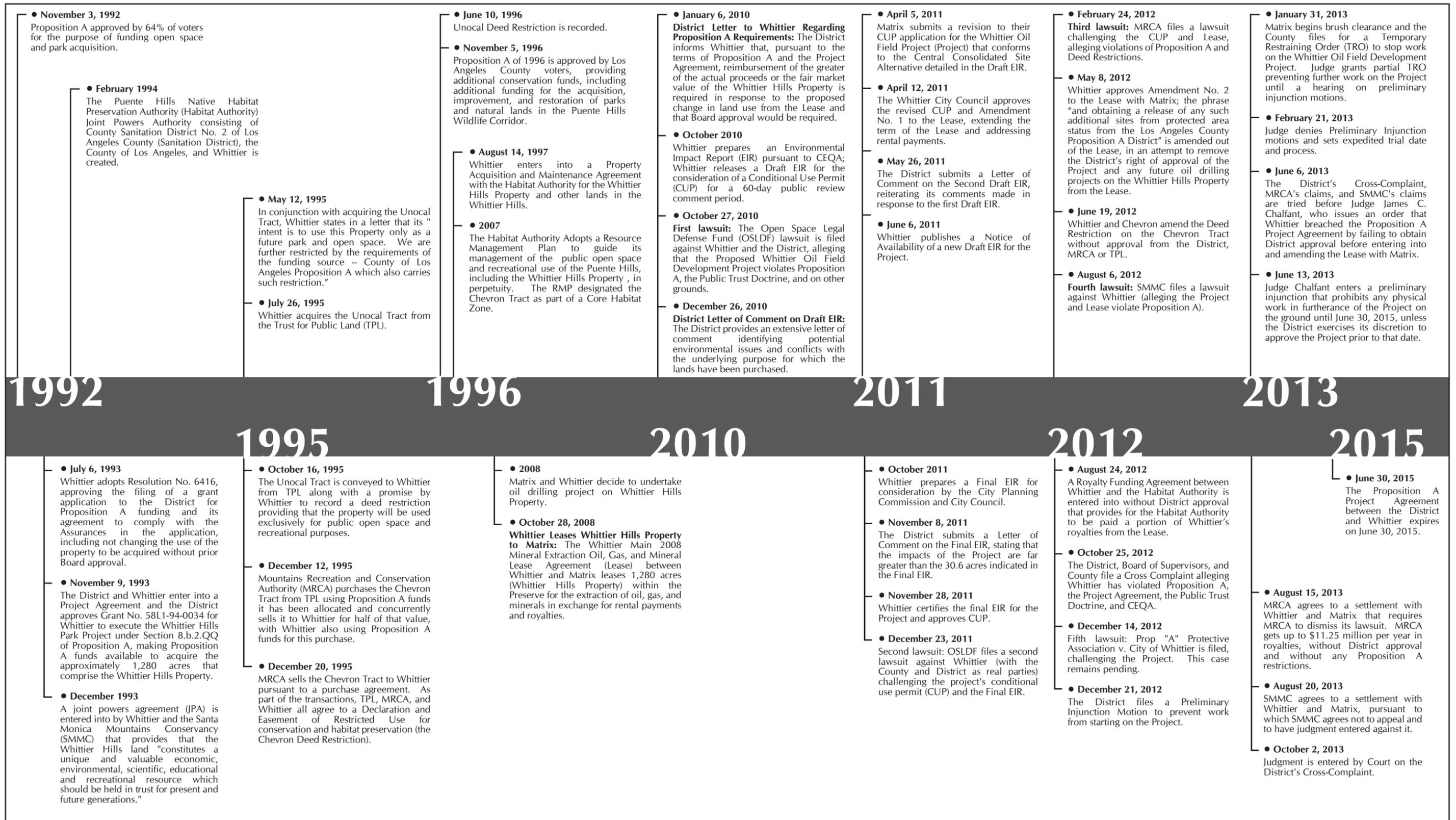


FIGURE ES-1
Timeline

The approximately 1,280-acre Whittier Hills Property that Whittier leased to Matrix consists primarily of two tracts of land that were acquired using Proposition A funds: land previously owned by Chevron (the “Chevron Tract”) and land previously owned by Unocal (the “Unocal Tract”). Whittier used TPL as its agent to assist it in the purchase of the Whittier Hills Property. MRCA purchased and sold the Chevron Tract to Whittier. As part of the transactions, TPL, MRCA, and Whittier all agreed to a Declaration and Easement of Restricted Use for conservation and habitat preservation (the Chevron Deed Restriction). The Unocal Tract was sold to TPL and then purchased from TPL by Whittier. The Unocal Tract has a deed restriction recorded over it (Unocal Deed Restriction) that restricts uses of the property to open space, recreation, habitat, and related uses.

The District’s consideration of the Project and Lease must be guided by the express purpose of Proposition A to preserve wildlife habitat, open space, and recreation resources for County residents and visitors. In considering whether to approve or deny the Lease, change of use, and disposition, the District should consider the understanding and intent of the voters who approved Proposition A; the purpose and intent of Proposition A; and the requirements of Proposition A, the Project Agreement, and the Proposition A Procedural Guide.⁴ The District must also take into consideration that there was a reasonable expectation on the part of County voters that land purchased with Proposition A grant funds would remain wildlife habitat and recreation space in perpetuity. The benefits that were explicitly stated in Proposition A and the Engineer’s Report that calculated the benefits for the property tax assessment that was imposed by approval of Proposition A must also be considered.⁵ The findings of the Legislature regarding the benefits of creating the District in the state statute that provided the County with the authority to create the District should also be considered. The District should also consider the Public Trust that was created when Whittier acquired the Whittier Hills Property using public funds and subject to two deed restrictions that cover the majority of the land constituting the Whittier Hills Property.

⁴ TE, Vol. 7, Exh. 72: The Los Angeles County Regional Park and Open Space District. June 2009. Procedural Guide for the Specified Project, the Per Parcel Discretionary & the Excess Funds Grant Programs, Funds from the Safe Neighborhood Parks Propositions of 1992 and 1996 (Procedural Guide).

⁵ County of Los Angeles. March 16, 1992. Engineer’s Report for County of Los Angeles Landscaping and Lighting District No. 92-1. Available online at: http://file.lacounty.gov/dpr/cms1_196820.pdf (Engineer’s Report for Proposition A).

The District must consider the final Environmental Impact Report (FEIR) prepared by Whittier for the Project, especially the significant unavoidable environmental impacts that would result from the Project, as well as the impacts that would flow from the District's decision to approve the Project and Lease. The Lease grants Matrix exploration and drilling rights to the entire approximately 1,280 acres of the Whittier Hills Property, and if the Lease is approved by the District, there is nothing to prevent Whittier from allowing Matrix to use portions of the Whittier Hills Property. In addition to assessing the impacts of the Project, the District, as part of its required exercise of discretion as a Responsible Agency, must also consider the effects of Matrix's future rights under the Lease to apply for additional approvals (at Whittier's sole discretion) for additional drill sites throughout the Whittier Hills Property until it is fully drilled. If the District approves the Lease, Whittier could then modify existing approvals, or grant future approvals, that would allow impacts and changes to the Whittier Hills Property beyond those analyzed in the FEIR. District approval of the Lease could result in Whittier approving oil and gas exploration, drilling, and processing and associated activities on that land that is restricted by the Chevron Deed Restriction and Unocal Deed Restriction.⁶

While approval of the Lease and Project would directly impact the Whittier Hills Property and other nearby lands acquired with Proposition A Fund, the District must also consider the precedent that would be set for future requests to change the use and dispose of property acquired with Proposition A funding. The District's decision will set a precedent and approval of the Lease and Project could result in future requests to change the use or dispose of the more than 20,000 other acres of property purchased with Proposition A funds throughout the County because there are oil deposits under many other of those properties. Additionally, the District must consider the impact that its decision would have on future efforts to acquire and preserve land in the County, including future voter initiatives and funding mechanisms.

Several lawsuits have been filed and litigated regarding this Project and Lease, including the issues raised by the Mountains Recreation and Conservation Authority (MRCA) and District in the MRCA Lawsuit. At the trial of the MRCA Lawsuit, Los Angeles Superior Court Judge James C. Chalfant ruled that Whittier breached the Project Agreement by failing to obtain the District's approval before entering into and amending the Lease with Matrix. The Court held

⁶ TE, Vol. 6, Exh. 67: The Lease. Section 7: Royalties.

that in order to ensure Proposition A's specific purpose of restoring and preserving parks, wildlife, and open space resources in identified areas, Proposition A must be interpreted as permitting a change of use or disposition of property acquired with Proposition A funding only when the District consents. Judge Chalfant entered a judgment that included an order of specific performance to enforce the requirement in the Project Agreement that Whittier obtain the District's discretionary consent before entering into any lease or other agreement that changes the use of, or disposes of, any portion of the property or allows the Project to proceed.

Judge Chalfant also ruled that the District acts as a Responsible Agency because the District has discretionary authority over whether to approve the Project and Lease.⁷ A Responsible Agency is subject to Section 15021 of the State CEQA Guidelines, which establishes a duty for public agencies to avoid or minimize environmental damage where feasible. If the District were to approve the Lease, it would have to first analyze and make a determination regarding the environmental consequences of its proposed discretionary approval and take action to avoid or minimize environmental damage, where feasible.

Approval of the Lease would be inconsistent with the Deed Restrictions on the Chevron and Unocal Tracts, which constitute the majority of the acreage within the Whittier Hills Property. The oil and mineral exploration and development allowed under the Lease are incompatible with the US Fish and Wildlife Service designation of the Property as Critical Habitat for the Coastal California Gnatcatcher. The proposed oil and mineral extraction and development would be incompatible with the National Park Service's proposed designation as part of the San Gabriel Unit of National Park Service Proposed Amendment (National Recreation Area) and the County's proposed designation of the property as SEA No. 15, Puente-Chino Hills, currently under consideration under Chapter 9: Conservation and Natural Resources Element of the Los Angeles County General Plan 2035. As a result of the acquisition of the Whittier Hills Property with Proposition A funds, the entire Whittier Hills Property has been

⁷ June 6, 2013. Tentative Decision on Petition for Writ of Mandate, Breach of Contract, and Declaratory Relief: granted in Large Part. *Mountains Recreation and Conservation Authority v. City of Whittier*, BS136211, pg. 13, footnote 7. Available online at: <http://parks.lacounty.gov/wps/portal/dpr/osd/?1dmy&page=dept.lac.dpr.home.osd.detail.hidden&urile=wcm%3Apat h%3A/dpr+content/dpr+site/home/open+space+district/announcements/whittier+main+oil+field+project> PDF: http://file.lacounty.gov/dpr/cms1_201872.pdf. Page 28. Court adopted as final decision on June 6, 2013. (Trial Court Decision in MRCA Lawsuit).

inventoried under the California Protected Areas Database as a City/County-designated protected open space through fee ownerships; the lands mapped within this database are intended to be owned and permanently protected for open space purposes. The SMMC and MRCA have stated that the proposed oil and mineral exploration and development would cause irreparable harm to the resources and would violate Proposition A. Approval of the Lease and Project would result in the closure of a public trail for up to 8 years and could result in adverse impacts to two other trails, including one that is a part of the County trail system.

Denial of the Lease by the District is warranted based on its inconsistency with the Voter's intended use of the Property for wildlife habitat, open space, and recreation. If the District were to approve a change of use or disposition. The Lease allows land uses that are inherently incompatible with the operation and maintenance of the land for open space conservation, wildlife habitat, and recreation purposes. While Whittier sees the Lease and Project as a revenue source for its general fund, Proposition A and the Project Agreement restrict the use of all proceeds from such change of use or disposition and all revenues generated by land uses other than those specified by Proposition A must be used to achieve the intended purposes of Proposition A, and not for general fund purposes. Denial is the only course of action that is consistent with, and supportable under, Proposition A and the Project Agreement. It is the recommendation of the authors of this Analysis that the District exercise its discretion to deny the Lease and Project as they are inconsistent with the intent and requirements of Proposition A.

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A Contributors

I. Introduction

This Analysis of the Whittier Oil Project and Lease for Consistency with Proposition A and the Project Agreement (Analysis) addresses the issues and requirements that the Los Angeles County (County) Board of Supervisors (Board), acting in its capacity as the governing body of the County of Los Angeles Regional Park and Open Space District (District), and as a Responsible Agency pursuant to the California Environmental Quality Act (CEQA), should consider exercising its discretion pursuant to the Proposition A Project Agreement between the City of Whittier (Whittier) and the District (Project Agreement) and Proposition A regarding the Lease associated with the Whittier Oil Field Development Project (Project) between Whittier and Matrix Oil Corporation and Clayton Williams Energy, Inc. (collectively, Matrix).

The purpose of this Analysis is to provide the Board, in its role as a Responsible Agency, with the relevant requirements and information to be considered in determining whether to approve the Lease between Whittier and Matrix, the change of use resulting from the Lease and the Project, and the disposition resulting from the Project and Lease. This analysis includes background information regarding the purchase of the Whittier Hills Property with Proposition A grant funds, the habitat and open space values represented by the property, the benefits to the Voters of the County of Los Angeles (Voters) that resulted from the assessment under Proposition A and the specific purchase of the property, the significant and unavoidable impacts that would be expected to occur to the Whittier Hills Property and to other nearby lands purchased with Proposition A funding if the District were to approve the Lease.

This Analysis also discusses the litigation in the Los Angeles Superior Court related to the Project and Lease. At the recent trial of *Mountains Recreation and Conservation Authority (MRCA) v. City of Whittier* (MRCA Lawsuit), Judge James C. Chalfant determined that Whittier breached the Project Agreement by entering into the Lease and approving the Project without first obtaining the District's approval.⁸ Judge Chalfant held that in deciding whether to consent to the Lease, the District “undoubtedly may consider whether” the Project is consistent with Proposition A’s purpose, a fact acknowledged in the FEIR prepared by Whittier.⁹ Judge

⁸ Trial Court Decision in MRCA Lawsuit.

⁹ *Id.*, p. 28.

Chalfant further held that the “scope of the District’s discretion includes whether the Lease/[P]roject compl[ies] with Prop[osition] A and the environmental impacts of approval.”¹⁰ The authors of this Analysis have reviewed information from the Joint Trial Exhibits from the MRCA Lawsuit; the FEIR; the June 6, 2013 Trial Decision in the MRCA Lawsuit (Trial Decision); publicly available documents on Whittier’s website related to the Lease and Project and documents obtained by the District from Whittier pursuant to two Public Records Act requests; information from expert witnesses retained on behalf of the District, Ms. Marie Campbell and Ms. Nancy Beresky (Appendix, *Contributors*); and records and archival research related to the habitat, open space, and recreation values of the Whittier Hills Property and the impacts from oil and gas exploration, development, production, and transmission.

Wherever possible, certain terms and phrases have been abbreviated:

- Assessor’s Identification Number (“AIN”) (formally known as Assessor’s Parcel Number [“APN”])
- California Environmental Quality Act (“CEQA”)
- City of Whittier (“Whittier”)
- Conditional Use Permit (“CUP”)
- County of Los Angeles (“County”)
- Declaration and Easement of Restricted Use for Chevron Tract (“Chevron Deed Restriction”)
- Declaration of Restricted Use for Unocal Tract (“Unocal Deed Restriction”)
- Department of Conservation Division of Oil, Gas and Geothermal Resources (“DOGGR”)
- Los Angeles County Regional Park and Open Space District (“District”)

¹⁰ *Id.*, p. 29.

- Joint Powers Agreement (“JPA”)
- June 6, 2013 Trial Court Decision in *Mountains Recreation and Conservation Authority v. City of Whittier*, Los Angeles Superior Court Case No. BS 136211 (“Trial Court Decision”)
- Land that forms a part of the Whittier Hills Property that was previously owned by Chevron (“Chevron Tract”) (“Sale Property” in Chevron Deed Restriction)
- Land that forms a part of the Whittier Hills Property that was previously owned by Unocal (“Unocal Tract”)
- Los Angeles County Board of Supervisors (“Board”)
- Matrix Oil Corporation and Clayton Williams Energy, Inc. (collectively, “Matrix”)
- Mountains Recreation and Conservation Authority (“MRCA”)
- *Mountains Recreation and Conservation Authority v. City of Whittier [County and District Cross-Complainants]*, Los Angeles Superior Court Case No. BS 136211 (“MRCA Lawsuit”)
- October 28, 2008, Whittier Main 2008 Mineral Extraction Oil, Gas, and Mineral Lease between Whittier and Matrix (“Lease”)
- Open Space Legal Defense Fund (“OSLDF”)
- Order of the Board of Supervisors of the County of Los Angeles Initiating Proceedings for Formation of the Los Angeles County Regional Park and Open Space District, Forming an Assessment District, and Calling, Providing for, and Giving Notice of a Special Election to be Held in the County on November 3, 1992, and Consolidating the Special Election with the General Election to be Held on November 3, 1992 (“Proposition A”)

- Whittier Oil Field Development Project (“Project”)
- Puente Hills Native Habitat Authority Preserve (“Preserve”)
- Proposition A Procedural Guide (“Procedural Guide”)
- Proposition A Project Agreement between Whittier and the District (“Project Agreement”)
- Puente Hills Landfill Native Habitat Preservation Authority (“Habitat Authority”)
- Puente Hills Landfill Native Habitat Preserve (“Preserve”)
- Resource Management Plan prepared by the Habitat Authority for the Preserve (“RMP”)
- Santa Monica Mountains Conservancy (“SMMC”)
- Significant Ecological Area (“SEA”)
- State Regional Water Quality Control Board (“Water Board”)
- Trial Exhibits (“TE”) admitted into evidence in the trial of the “MRCA Lawsuit”¹¹
- Trust for Public Land (“TPL”)
- Approximately 1,280 acres and associated mineral rights acquired in Whittier Hills by the City of Whittier using Proposition A funds (there is a discrepancy in which Exhibit A of the Lease says the leased lands encompass 1,290.72 acres) (“Whittier Hills Property”)
- Voters of the County of Los Angeles (“Voters”)

¹¹ On file with the Office of County Counsel, 500 W. Temple, 6th Floor, Los Angeles, CA 90012; telephone: (213) 974-1811. Front desk office hours: Mon–Fri, 8 a.m. – 5 p.m., excluding federal holidays.

II. Background

In approving Proposition A, a majority of the Voters expressed their support for taxing themselves to raise funding to acquire, restore, develop, and improve park, beach, recreation, and open space lands throughout the County. Proposition A was placed on the ballot by the Board and enjoyed the support of two-thirds of the 88 city councils in the County, including Whittier.¹² Proposition A was sponsored by Citizens for Safe Neighborhood Parks, an offshoot of the Santa Monica Mountains Conservancy (SMMC).¹³ Proposition A raised \$540 million by creating a huge benefit assessment district that provided funds for acquisition of parks, open space, wildlife habitat, and recreation resources. The justification for the assessment was based on the anticipated benefits for residential landowners in the County, specifically preservation of park, open space and wildlife habitat, and the provision of public access for passive recreation.¹⁴

A. Benefit of Open Space and Recreation Facilities

Proposition A contains the following findings and declarations regarding the benefits of Proposition A, parks, open space, and recreational opportunities:

- (a) The increase in restoration of “open space and recreation lands” will help maintain sound economic conditions and a high standard of livability in the District by increasing property values, economic activity, employment opportunities, and tourism throughout the District.
- (b) Clean and safe parks will increase public safety, help to reduce crime, increase the attractiveness of the District as a place to live, and enhance the overall quality of life in the District.
- (c) The “acquisition, improvement, restoration, and maintenance of the public parks, open space, beaches, trails and other public recreational facilities within [the District] confer a direct and specific benefit to all parcels within the District,

¹² Taylor, Ald B. October 23, 1992. “Elections. Proposition A, Bond Act has \$10 Million for Peninsula Parks Projects,” Metro Section, *Los Angeles Times*.

¹³ *Id.*

¹⁴ Engineer’s Report for Proposition A.

including without limitation increased attractiveness, improved environmental quality, enhanced recreational opportunities and increased economic activity, each of which will result in maintained or enhanced property values within the District.”

- (d) The “protection of” “wildlife, park, recreation, and natural lands are vital to the quality of life in the District, providing important recreational opportunities to all residents of the District” and “helping to protect air and water quality.”
- (e) Restoring and improving parks throughout the District improves the overall quality of life of communities and provides pleasant places that all District residents can enjoy for the relief from traffic and urban congestion.
- (f) The District's mountains, foothills, and canyons are a vital part of the region's natural heritage and are home to hundreds of species of native Californian animals and plants.¹⁵

The benefits of open space and recreation facilities are articulated in the District Engineer’s Report on Proposition A, as derived from a study conducted by the National Park Service: “The benefits of parks and other recreational facilities to residential and commercial/industry projects have been summarized by a number of studies. The United States Department of the Interior, National Park Service, in a publication of June 1984, concluded that:

- “Parks and recreation stimulates business and generates tax revenues.
- “Parks and recreation create direct and indirect job opportunities.
- “Parks and recreation help conserve land, energy, and resources.
- “An investment in parks and recreations helps reduce pollution and noise, makes communities more livable, and increases property values.

¹⁵ Proposition A, section 6.

- “Public recreation benefits all employers by providing continuing opportunities to maintain a level of fitness throughout one’s working life, and through helping individuals cope with the stress of a fast-paced and demanding life.”¹⁶

The District Engineer’s Report goes on to state that property values in the community are raised when parks, open space, and recreation are available and well maintained and decrease when parks and recreation facilities are in disrepair, old, unsafe, unclean, and unusable.¹⁷

Public Resources Code section 5539.9, the State law that authorized the creation of the District, provides in subsection (j):

The Legislature hereby finds and declares that the land acquisition, improvements, and services provided by the regional district, if created and established, will specially benefit the properties assessed and the persons paying the assessments authorized in this section in at least the following respects:

- (1) Enhanced recreational opportunities and expanded access to recreational facilities for all residents throughout the district.
- (2) Improved quality of life for all communities in the district by protecting, restoring, and improving the district’s irreplaceable beach, wildlife, park, and open-space land.
- (3) Preservation of mountains, foothills, and canyons, and development of public access to these lands throughout the district.
- (4) Protection of historical and cultural assets of the region.
- (5) Increased economic activity and expanded employment opportunities within the regional district.

¹⁶ *Id.*, Page 22, Section V. Rate and Method of Assessment: Benefit to Property from Park and Recreation Facilities.

¹⁷ *Id.*

- (6) Increased property values, resulting from the effects specified in this subdivision.
- (7) Provision of benefits to all properties within the county, including positive impacts on air and water quality, capacity of roads, transportation and other public infrastructure systems, schools, and public utilities.

Public Resources Code section 5539.9 subsection (k) further provides the Legislature finds and declares the following:

- (1) The expansion, restoration, and improvement of park, recreation, beach, and open-space lands throughout Los Angeles County benefits all residents in the county.
- (2) Protection, restoration, and improvement of these lands are vital to the quality of life for all residents in Los Angeles County.
- (3) Increased park and recreation opportunities in the densely populated and heavily urbanized areas of Los Angeles County are vital to the health and well-being of all residents in the county, and providing these opportunities is a high priority.
- (4) The protection and enhancement of the recreational opportunities provided by Los Angeles County's beaches, shoreline, and mountains must be included within the expenditure plan specified in subdivision (c) of Section 5506.9 in order to provide benefits to each resident of the county.
- (5) The population of Los Angeles County continues to grow at an increasing rate, and already is far behind other urban areas in the state in providing adequate park, recreation, and open-space facilities for its residents. Creation of a regional park and open-space district with boundaries coterminous with those of Los Angeles County is critical to help address the growing and unmet park and recreation needs in Los Angeles County. It is therefore vital that Los Angeles County act immediately to address these issues.

B. The Purpose of Proposition A and Its Passage by the Voters

In 1992, the voters of the County approved Proposition A. The stated intent of Proposition A is “to provide funds to benefit property and improve the quality of life in the District by preserving and protecting the beach, wildlife, park, recreation and natural lands of the District, improving recreation facilities for senior citizens, planting trees, building trails and restoring rivers and streams.” Proposition A was established as a case study by the Trust for Public Land (TPL) on voter-supported open space dedication for the 1992 public vote “to buy new park and natural facilities, build facilities for at-risk youth and gang prevention, restore rivers and streams, build trails and plant trees throughout the County.... Proposition A is also noteworthy because of the unprecedented, bi-partisan and diverse coalition of business, civic, senior, park, environmental, gang prevention and community organization and leaders who came together to support the measure and its passage.... This need for parks, recreation areas and natural places is perhaps nowhere felt more keenly than in Los Angeles County, home to nine million people and growing, and more park-poor than most of the rest of urban California.”¹⁸

Through provision of funding, the goal of Proposition A is “to acquire, restore, and preserve parks, wildlife, and open space resources.”¹⁹ The November 3, 1992, Los Angeles County General Election ballot statement for Proposition A stated that it is for the purpose of “improving the safety of recreation areas, preventing gangs, planting trees, and acquiring, restoring and preserving beach, park, wildlife, and open space resources” throughout the County.²⁰ The ballot arguments in favor of Proposition A stated that it will “preserve disappearing natural lands,” and that if “we don’t act today, it will be too late to save our disappearing natural lands, mountains and canyons for our children and grandchildren to enjoy tomorrow.”²¹ Editorials in the *Whittier Daily News* and the *San Gabriel Valley Tribune* urged a yes vote on Proposition A, stating that it would fund huge land acquisitions in the Whittier Hills

¹⁸ January 3, 1993, Release from The Trust for Public Land. “The Proposition A Story—How Los Angeles County Voters Gained \$540 Million for Parks, Recreation, and Natural Lands.” This release was one of the Trial Exhibits admitted into evidence by Judge Chalfant during the trial of the MRCA Lawsuit. TE, Vol. 2, Exh. 12.

¹⁹ Trial Court Decision in MRCA Lawsuit, p. 23.

²⁰ TE, Vol. 2, Exh. 8: November 3, 1992, Los Angeles County General Election ballot statement (official sample ballot).

²¹ *Id.*, DeWitt W. Clinton (County Counsel)’s analysis of Proposition A.

that “would protect them from development.”²² At the 1992 public hearing before the Board that resulted in Proposition A being placed before the voters, Whittier councilman Bob Henderson testified to the Board in support of Proposition A and stated that in “Whittier we have a unique opportunity to acquire wilderness that will be lost forever if these actions are not taken.”²³

Proposition A authorizes the Board to levy assessments pursuant to the Landscaping and Lighting Act of 1972 and Division 5 of the Public Resources Code (Section 21.a., Proposition A) against real property within the County, to be used to fund and maintain park, recreation, and related public improvements, over a 22-year period, with 20-year bonds issued to repay the debt.²⁴ Proposition A, approved by 64 percent of County voters on November 3, 1992, provided the County with \$540 million in funding from a special benefit assessment averaging \$1 per month per single-family home to support more than 100 specific projects, including \$16.3 million for the acquisition of natural lands adjacent to Hellman Wilderness Park and development of trails and a visitor center in Whittier. (Proposition A granted \$9.3 million for acquisition of approximately 4,000 acres contiguous to Hellman Park and Murphy Ranch Park, including land designated by the County, pursuant to the General Plan, as Significant Ecological Areas [SEAs] containing chaparral, native oak woodlands, and coastal sage scrub ecosystems.)²⁵

Proposition A created the Los Angeles County Regional Park and Open Space District (District) and gave the District the responsibility to take all actions necessary and desirable to carry out Proposition A’s purposes. The governing body of the District is the Board, and the Board is vested with all powers and authority of the District.

On November 5, 1996, County voters approved Proposition A of 1996, which provided an additional \$319 million in funding “for the development, acquisition, improvement, restoration and maintenance of parks, recreational, cultural and community facilities and open

²² TE, Vol. 1, Exh. 17: Appendix of “The Proposition A Story: How Los Angeles County Voters Gained \$540 Million for Parks, Recreation, and Natural Lands.” A Handbook for Designing Your Own Ballot Measure and Creating a Landscaping and Lighting Act Assessment District by Esther Feldman, Trust for Public Land, June 1993, at AR444, 439.

²³ TE, Vol. 1, Exh. 3: Transcript of Public Hearing on Proposition A, March 3, 1992, AR85.

²⁴ *Id.*

²⁵ District Grant Specified Project Grant Program. Project Agreement for Whittier Hills Park. November 3, 1992–December 31, 1995. *Also* TE, Vol. 2, Exh. 10: Tobar, Tor. October 25, 1992. “Local Elections/Proposition A: Seeking Funds for Parks and Gang Programs.” *Los Angeles Times*. *Also* TE, Vol. 2, Exh. 8: official sample ballot.

space lands within the County of Los Angeles” and provided Whittier with an additional \$2.5 million for the acquisition of natural lands within the Whittier Hills Wilderness area “for preservation of wildlife and natural lands and to provide public access and trails, to be expended by the Whittier-Puente Hills Conservation Authority.”²⁶ In addition to the \$2.5 million provided to Whittier for the Whittier Hills Wilderness, Proposition A of 1996 provided Whittier with an additional \$10 million to “acquire, improve and/or restore park and natural lands and develop public access in the Puente Hills Wildlife Corridor, which connects the Puente Hills to the Cleveland National Forest and provides critical habitat for wildlife and native plant communities.”²⁷

C. Benefit to Property in the District from Proposition A Acquisitions and Improvements

In considering the Lease, the District should evaluate the net effect on the initial benefits that were to accrue to the Voters as a result of the self-imposed assessment. As explained in the District Engineer’s Report for Proposition A, assessment law provides that the benefit must be related to the land because it is the land that must bear the assessment and articulated nine respects in which this was expected to occur, among which two are particularly relevant to the acquisition of the Whittier Hills Property:

“4) Increased attractiveness of the District for development or redevelopment as a result of preservation of mountains, foothills and canyons, and increased public access to these lands;

“5) Improved environmental quality by protecting, restoring, and improving the District’s irreplaceable beaches, wildlife, park, mountains and open space lands, and improved public access to those lands; . . .

²⁶ Proposition A of 1996, Page 20, Section 2 (c) (2) HHH ii.

²⁷ County of Los Angeles. As Amended June 18, 1996. Final Engineer’s Report for County of Los Angeles Landscaping and Lighting District No. 92-1 (Page 12, Section b. 14). Available online at: http://file.lacounty.gov/dpr/cms1_196821.pdf

“8) Improved recreational opportunities and expanded access to recreational facilities for all properties within the District, through improvements such as beaches, parks, trails and other public recreational facilities.”²⁸

D. Accomplishments under Proposition A

Under grants approved as a result of Propositions A of 1992 and 1996, Whittier acquired approximately 4,000 acres for the Whittier Hills Park Project, including the approximately 1,280 acres of the Whittier Hills Property containing the Project Location for the Project (Figure 1, *Regional Vicinity Map*; Figure 2, *Project Location Map*). The acreage acquired in Whittier with Proposition A funds comprised the following tracts: Chevron, Hall/Childs Estate, Hellman, Quaker, Rose Hills, Shannon, Sycamore Canyon, Unocal, and Worsham Canyon (see Figure 3 *Lands Acquired with Proposition A Funds*, in Section III).²⁹ TPL facilitated the acquisition of several acres of the Whittier Hills Park Project properties for Whittier, including the 76-acre Childs Estate.³⁰ Proposition A funding has resulted in the acquisition of over 800 parcels acquired comprising nearly 21,000 acres of land throughout Los Angeles County.³¹

E. Requirements of Proposition A, the Project Agreement, and the Procedural Guide

The District is the governing agency that oversees all aspects of the assessment and of the specific park projects included in Proposition A. Proposition A requires the submission of an application to, and entry into an agreement with, the District in order to receive funding. The Board, as governing body of the District, approved the Procedural Guide³² setting forth the specific requirements of the application and form of the Project Agreement required to be entered into by grant applicants. Proposition A requires that for specific park projects, including the Whittier Hills Property at issue here, no funds may be disbursed unless the recipient agrees to

²⁸ Engineer’s Report for Proposition A.

²⁹ Whittier Main Oilfield Project Final EIR. October 2011. Page A-8, Appendix A: Project Description Design Data.

³⁰ TE, Vol. 2, Exh. 12: Trust for Public Land. “Release: News from the Trust for Public Land.” January 7, 1993. Kevin Knowles, Project Manager. “A Green Oasis Grows in LA Basin As Trust Conveys Hillside to the City of Whittier.”

³¹ District. 25 July 2013. Acquisitions Database. “Acquisitions Grants Report: All Supervisorial Districts.” (District Acquisitions Database).

³² TE, Vol. 2, Exh. 14: District. 30 March 1993. “Safe Neighborhood Parks.” Procedural Guide, Specified Grant Program, Funds from Proposition A (November 1992). (Procedural Guide).

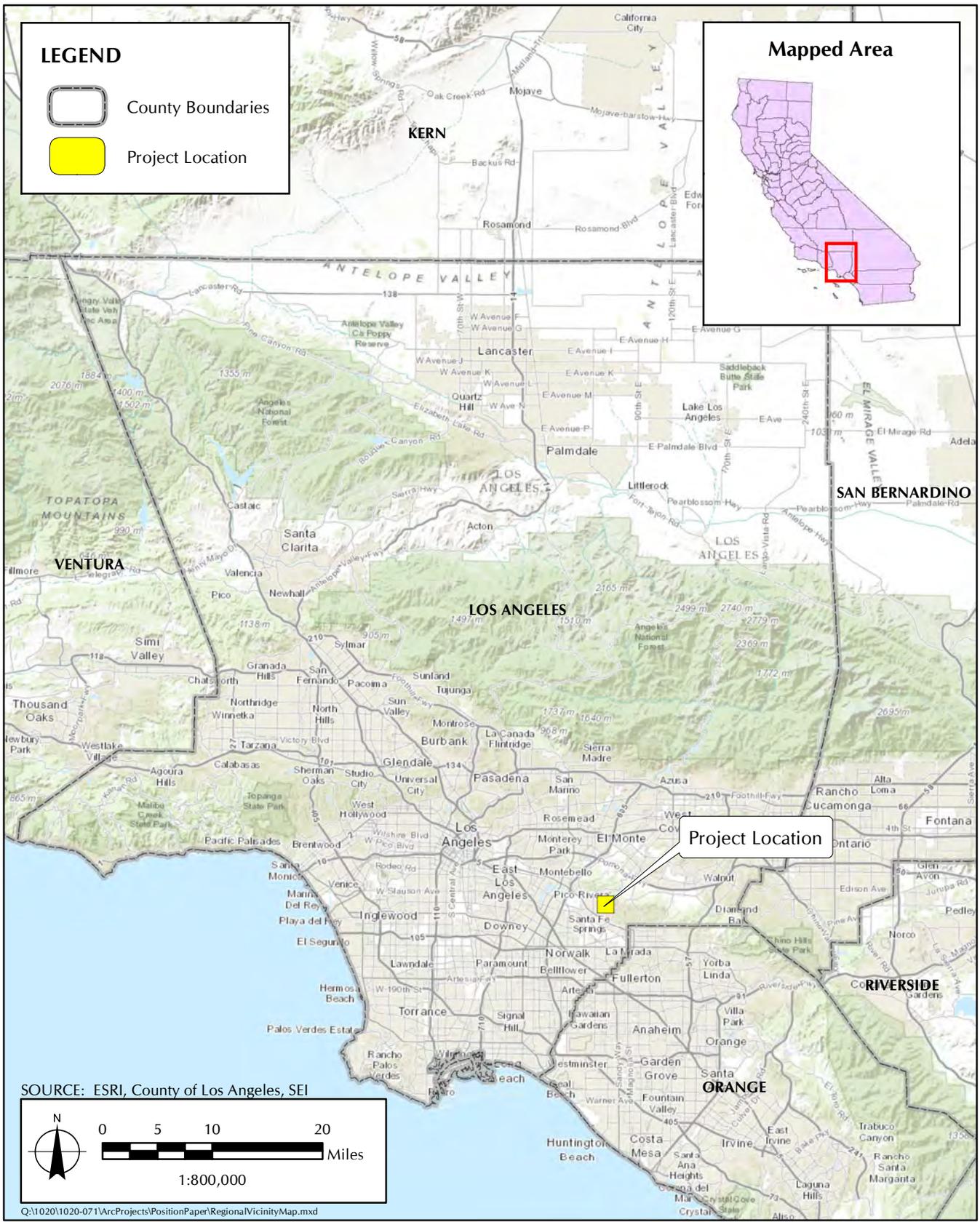
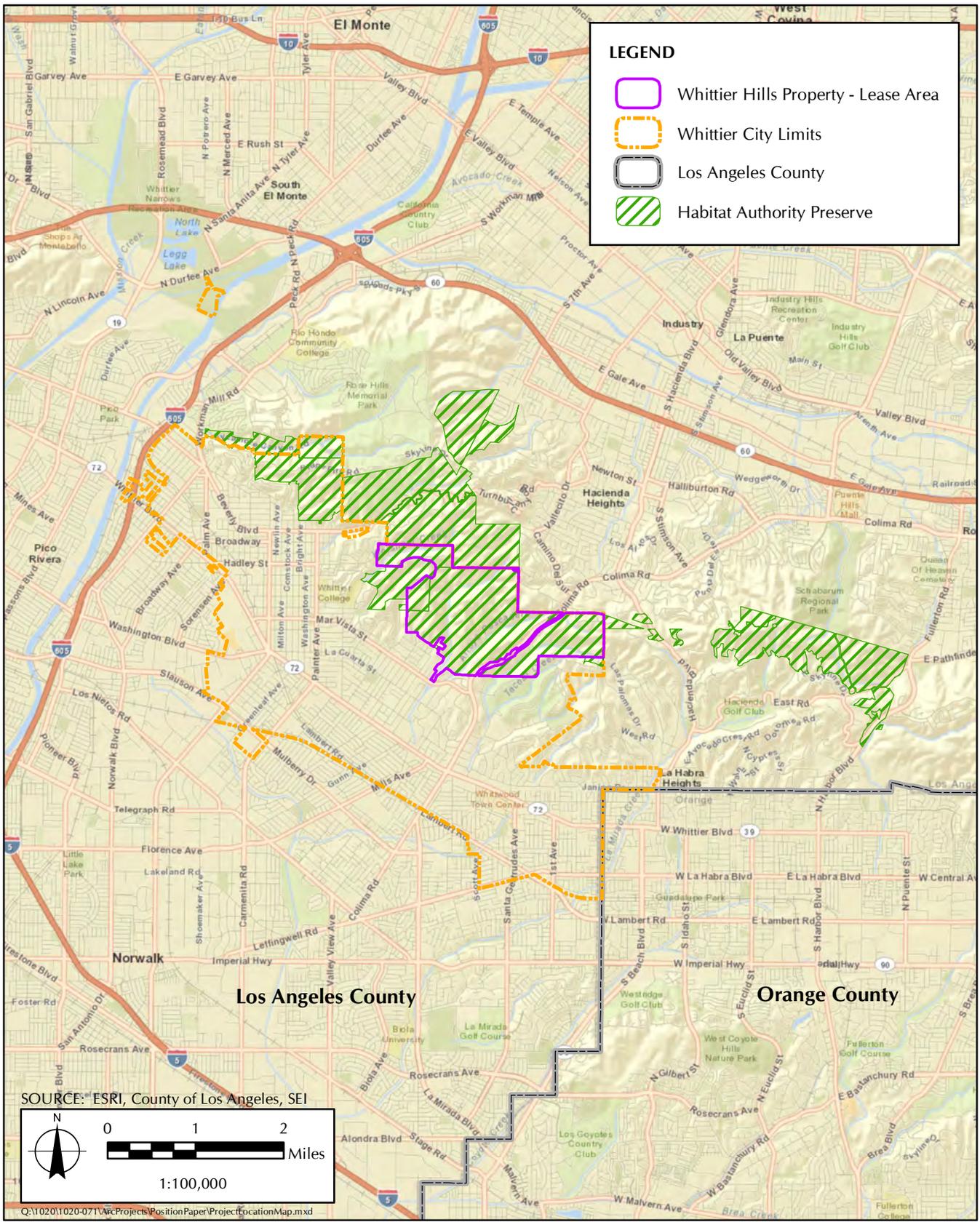


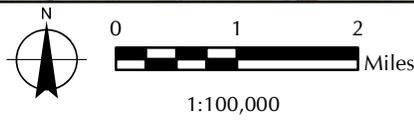
FIGURE 1
Regional Vicinity Map



LEGEND

-  Whittier Hills Property - Lease Area
-  Whittier City Limits
-  Los Angeles County
-  Habitat Authority Preserve

SOURCE: ESRI, County of Los Angeles, SEI



0 1 2 Miles
1:100,000



FIGURE 2
Project Location Map

“maintain and operate in perpetuity the property acquired, developed, improved, rehabilitated, or restored with the funds. With the approval of the granting agency [District], the recipient or its successors in interest in the property may transfer the responsibility to maintain and operate the property in accordance with this Section [16a].”³³ As a Proposition A Grant Recipient, Whittier is required to administer the lands acquired with Proposition A funds, consistent with the Project Agreement, that expressly required “prior District approval” for (1) any proposed lease agreement with a non-government entity and (2) any non-governmental use, operations, management, or other activity on the site.³⁴ The Procedural Guide expressly excludes the use of lands for private, non-governmental use without District review and approval.³⁵ Private Activity is defined in the Procedural Guide: “Private Activity: Any agency receiving District funds must submit for prior District approval any proposed operating agreement, lease, management contract, or similar arrangement with a non-governmental entity that relates to the project or project site. Prior District approval of all non-governmental use, operations, management or other activity on the site is necessary during, and after, the project performance period.”³⁶

If a change of use or disposition is approved by the Board, Section 16 of Proposition A provides that the recipient of the grant must agree to use the proceeds of such change of use or disposition only for the purposes permitted by the grant and to make no other use, sale, or disposition of the property, unless the “(1) amount of the grant, (2) the fair market value of the real property, or (3) the proceeds from the portion of such property acquired, developed, improved, rehabilitated, or restored with the grant, whichever is greater, shall be used by the recipient, subject to subdivision a of this Section, for a purpose authorized in that category or shall be reimbursed to the Parks Fund and be available for appropriation only for a use authorized in that category.”³⁷ Section D, Project Administration, subsection 10 of the Project Agreement contains similar language:

³³ Proposition A.

³⁴ TE, Vol. 2, Exh. 14: Procedural Guide.

³⁵ *Id.*, Page 4.

³⁶ *Id.*, Page 7.

³⁷ Proposition A, Section 16 b.

“10. If Applicant sells or otherwise disposes of property acquired or developed with grant monies provided under this Agreement, Applicant shall reimburse the District in an amount equal to the greater of 1) the amount of grant monies provided under this Agreement; 2) the fair market value of the real property; or 3) the proceeds from the portion of the property acquired, developed, improved, rehabilitated or restored with grant monies. If the property sold or otherwise disposed of is less than the entire interest in the property originally acquired, developed, improved, rehabilitated or restored with the grant monies, then Applicant shall reimburse the District an amount equal to the greater of: 1) an amount equal to the proceeds; or 2) the fair market value.”³⁸

F. Litigation Related to the Project and Proposition A

Several lawsuits have been filed and litigated, and continue to be litigated, challenging the Project and Lease. On October 27, 2010, the Open Space Legal Defense Fund (OSLDF) sued Whittier and the District, alleging that the Project violated Proposition A and the Public Trust Doctrine, as well as on other grounds (*OSLDF v. City of Whittier, et al.*, BS128995³⁹). On December 23, 2011, OSLDF filed a second lawsuit against Whittier (with the County and District as real parties) challenging the Project’s Conditional Use Permit (CUP) and FEIR (*OSLDF v. City of Whittier, et al.*, BS 135187⁴⁰). The two OSLDF lawsuits were litigated through October 30, 2012, when they were settled pursuant to a settlement agreement.⁴¹

On February 24, 2012, MRCA filed the MRCA Lawsuit challenging the CUP and lease, alleging violations of Proposition A and the deed restriction applicable to the Whittier Hills Property. MRCA amended its lawsuit on August 3, 2012.⁴² On August 6, 2012, SMMC filed a lawsuit against Whittier (*Santa Monica Mountains Conservancy v. City of Whittier et al.*, BS

³⁸ TE, Vol. 3, Exh. 21: Project Agreement, Section D, Project Administration, subsection 10, Page 8.

³⁹ TE, Vol. 7, Exh. 78: Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief, October 27, 2010.

⁴⁰ TE, Vol. 14, Exh. 117: Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief, December 23, 2011.

⁴¹ Settlement on file with County Counsel.

⁴² TE, Vol. 15, Exh. 150: MRCA’s First Amended Petition for Writ, August 3, 2012.

138796⁴³). On October 25, 2012, the District, the County, and the Board filed a Cross-Complaint asserting that Whittier had violated Proposition A, the Project Agreement, the Public Trust Doctrine, and CEQA in relation to the approval of the Lease, twice amending the Lease, and amending the deed restriction.⁴⁴

On December 14, 2012, a fifth lawsuit, *Proposition "A" Protective Association v. City of Whittier, et al.* (BS 140884), was filed challenging the Project under Proposition A.⁴⁵ This case remains pending.

The County's Cross-Complaint, MRCA's claims, and SMMC's claims were tried before Judge Chalfant on June 6, 2013. Following the trial on the claims challenging the Project by the District, MRCA, and SMMC, Judge Chalfant issued the Trial Court Decision consisting of four main rulings.

First, the court held that Whittier breached the Project Agreement between the District and Whittier by failing to obtain the District's approval before entering into and amending the lease with Matrix, in connection with the Project. The Court held that in order to ensure Proposition A's specific purpose of restoring and preserving parks, wildlife, and open space resources in identified areas, Proposition A must be interpreted as permitting a change of use or disposition of property acquired with Proposition A funding only when the District consents. Based on this breach of contract, the court held that the District is entitled to (a) an order requiring Whittier to request the District's approval for the Project and (b) an injunction prohibiting the Project from moving forward until the District approves the Project or until the Project Agreement expires on June 30, 2015, whichever occurs first. In exercising its discretion, the court found that the District will act as a responsible agency under CEQA and that the District must decide whether the Project is consistent with Proposition A.

Second, the court held that Proposition A requires that (a) Whittier obtain the District's approval for the Project before proceeding and, (b) in the event that approval is obtained, any

⁴³ TE, Vol. 15, Exh. 151: Santa Monica Mountains Conservancy's Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief, August 6, 2012.

⁴⁴ TE, Vol. 16, Exh. 161: County's Cross Complaint and Petition for Writ of Mandate, August 14, 2012.

⁴⁵ The Complaint is on file with County Counsel and available from the Los Angeles Superior Court file.

proceeds generated from the Project must be used for Proposition A purposes and not for Whittier's general fund purposes.

Third, the court held that the restrictive covenant over a portion of the former Chevron land where the Project is located (Chevron Deed Restriction) requires preservation of said land as open space in perpetuity. In this regard, the court found that the Project violates the Chevron Deed Restriction and that MRCA is entitled to a permanent injunction precluding any Project activities on the 600 acres where the Chevron Deed Restriction applies. A portion of the Project drilling site and an access road are located within the Chevron Deed Restriction area.

Finally, the court held that because the District did not challenge the CUP for the Project in a timely way, the District was barred from raising mandamus challenges to the Project based on the public trust doctrine and Proposition A.

On June 13, 2013, Judge Chalfant entered a preliminary injunction that prohibits any physical work in furtherance of the Project on the ground until June 30, 2015, unless the District exercises its discretion to approve the Project prior to that date.⁴⁶

On August 15, 2013, MRCA agreed to a settlement with Whittier and Matrix that requires Whittier to pay MRCA up to \$11.25 million per year in royalties from the Lease in exchange for MRCA dismissing its lawsuit, which it did on August 20, 2013. On August 15, 2013, SMMC agreed to a settlement with Whittier and Matrix, pursuant to which SMMC agreed not to appeal and to have judgment entered against it. On October 1, 2013, Judgment was entered against SMMC.⁴⁷

On October 1, 2013, judgment was entered in favor of the District in the MRCA Lawsuit.⁴⁸ The judgment provides the District with an order of specific performance to enforce the requirement in the Project Agreement that Whittier obtain the District's discretionary consent before entering into any lease or other agreement that changes the use, or disposes of, any

⁴⁶ Preliminary Injunction Order on file with County Counsel and available from the Los Angeles Superior Court file.

⁴⁷ The Whittier-MRCA Settlement Agreement, Dismissal of MRCA Lawsuit by MRCA, SMMC-Whittier Settlement Agreement, and the Judgment are all on file with County Counsel and available from the Los Angeles Superior Court file.

⁴⁸ The Judgment is on file with County Counsel and available from the Los Angeles Superior Court file.

portion of the property or allows the Project to proceed. The judgment also includes a final injunction restraining and enjoining Whittier and Matrix from any activity or disturbance whatsoever on the property in pursuit of, or related to, the Project.

G. District Role as a Responsible Agency

1. Roles, Responsibility, and Discretion Pursuant to CEQA

According to CEQA, the approval or rejection of a project falls under the discretion of the Responsible Agency. The Board, acting in its capacity as governing body of the District, is the decision-making body related to consideration of the proposed lease between Whittier and Matrix to allow exploration and recovery of petroleum resources from lands acquired with Proposition A funds. The District qualifies as a Responsible Agency, as defined pursuant to Section 15381 of the State CEQA Guidelines:

“‘Responsible Agency’ means a public agency which proposes to carry out or approve a project, for which a Lead Agency is preparing or has prepared an Environmental Impact Report or Negative Declaration. For the purposes of CEQA, the term ‘Responsible Agency’ includes all public agencies other than the Lead Agency which have discretionary approval power over the project.”⁴⁹

Per Section 15042 of the State CEQA Guidelines, a Responsible Agency (District) may refuse to approve a project in order to avoid one or more direct or indirect significant environmental effects that are within the District’s jurisdiction to carry out or approve.⁵⁰ The District, through the Board, acting in its capacity as its governing body, serves as the Responsible Agency for consideration of the Lease and request to change the use to allow the Project on lands acquired with Proposition A funds. The District, as a Responsible Agency, must consider the effects of the activities involved in the Project for which it is required to render a

⁴⁹ In the MRCA Lawsuit, Judge Chalfant held that the District was a Responsible Agency because it has discretionary approval over the lease. Trial Court Decision in MRCA, Page 28.

⁵⁰ State of California. Association of Environmental Professionals, publisher. 2013. *2013 CEQA Statutes and Guidelines*. Article 3: Authorities Granted to Public Agencies by CEQA. Section 15042: Authority to Disapprove Projects. Page 117. Available at: <http://ceres.ca.gov/ceqa/guidelines/art3.html>.

discretionary decision, pursuant to Section 21002.1(d) of the CEQA Statute.⁵¹ As a Responsible Agency, the District, through its Board, may determine that there is insufficient public benefit to support a Statement of Overriding Consideration in relation to significant and unavoidable impacts and may exercise its discretion not to approve the Project consistent with the provisions of Section 21080 (b)(5) of the CEQA Statute. Section 15270(a) of the State CEQA Guidelines provides that the Responsible Agency is not required to prepare an environmental document pursuant to CEQA when rejecting or disapproving a project.⁵²

⁵¹ *Id.*, Chapter 1: Policy. Section 21002.1 Use of Environmental Impact Reports; Policy. Pages 2-3. Available at: <http://ceres.ca.gov/ceqa/stat/chap1.html>.

⁵² *Id.*, Chapter 2.6: General. Section 21080: Division Application to Discretionary Projects; Nonapplication; Negative Declarations; Environmental Impact Report Preparation. Pages 8-9. Available at: http://ceres.ca.gov/ceqa/stat/chap2_6.html; State of California. *Id.*, Article 18: Statutory Exemptions. Section 15270: Projects Which Are Disapproved. Pages 221-222. Available at: http://ceres.ca.gov/ceqa/guidelines/15260-15285_web.pdf.

III. Whittier Acquisition of the Whittier Hills Property

In applying for and accepting Proposition A funds to acquire the Whittier Hills Property, Whittier expressly acknowledged the significant open space and wildlife habitat values represented by the land, made a commitment to manage the land in perpetuity for such purposes, and acknowledged the responsibility to fund the operation and maintenance of the lands, and accepted the requirement to obtain District approval for any proposed leases or change in land use of the Whittier Hills Property.⁵³

A. Whittier Proposition A Application, Assurances, and Project Agreement

1. Proposition A

Proposition A Section 8(b)(2) specifically provided \$9.3 million in funds to Whittier for the acquisition of natural lands in the Whittier Hills. Proposition A Section 8(c) provides \$40 million to SMMC, including in Section 8(c)(6) that not less than \$7 million of that money shall be expended in Whittier Hills (Figure 3, *Lands Acquired with Proposition A Funds*). Table 1, *Proposition A Acquisition Parcels, with Habitat Authority Lands Noted*, shows compilations of parcels that were acquired with Proposition A funds.⁵⁴

⁵³ TE, Vol. 2, Exh. 18: Whittier Resolution No. 6416. 7 July 1992. RE: Proposition A, Grant Application and Assurances.

⁵⁴ The District Acquisitions Database correctly reports parcel AIN 8137-021-907 as purchased with Proposition A funds.

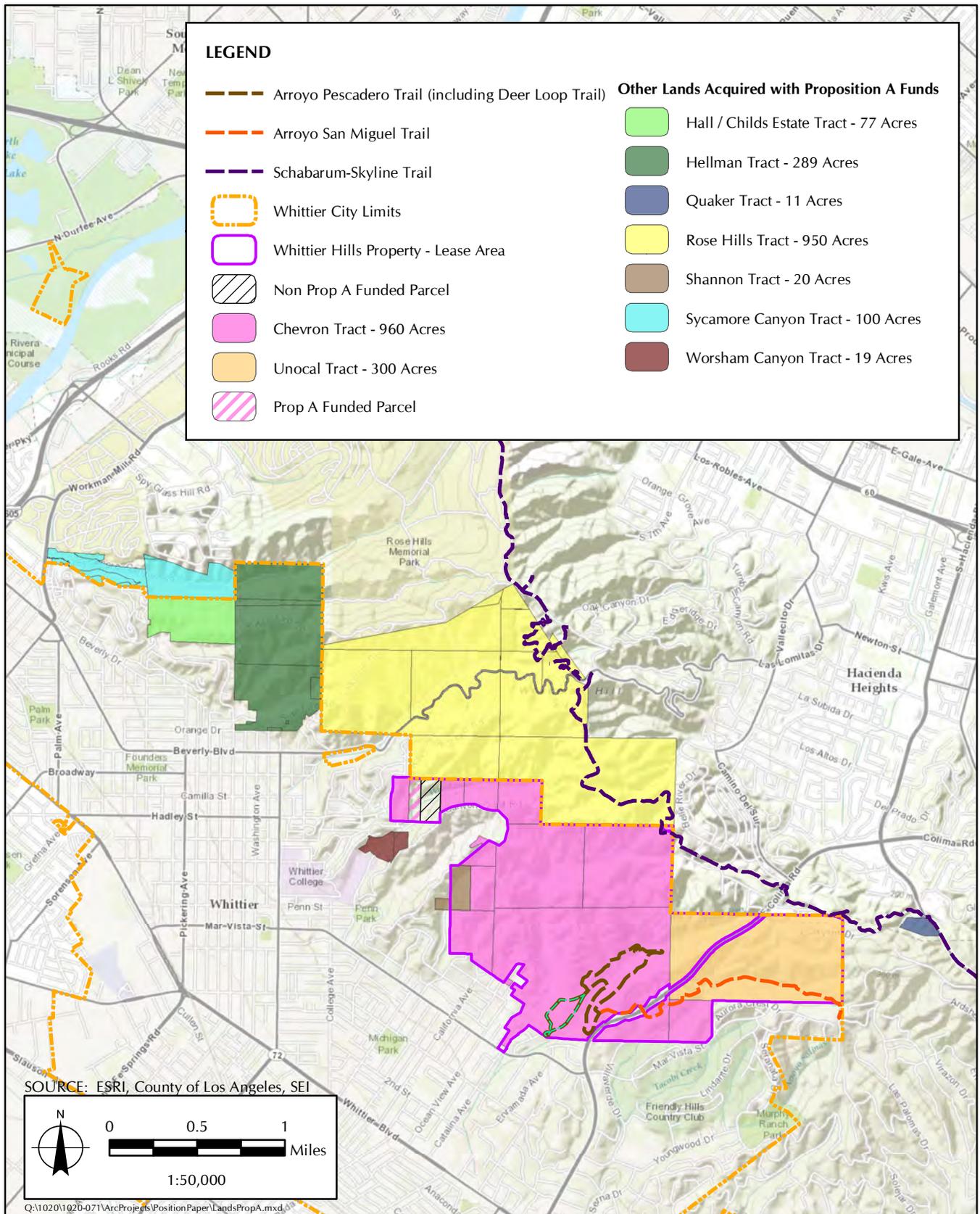


FIGURE 3

Lands Acquired with Proposition A Funds



TABLE 1
Proposition A Acquisition Parcels, with Habitat Authority Lands Noted*

Prop. A Funds?	Habitat Authority Preserve?	Tract Name	AIN	Part of Leased Whittier Hills Property?	Grant Numbers as Listed in District Database	Year Acquired by Whittier According to District Database
Yes	Yes	Hellman	8125-025-923	No	Grant No. 58A1- 94-0012; Grant No. 58L2- 97-1003	1997
Yes	Yes	Hellman	8125-025-924	No	Grant No. 58L2- 97- 1003	1997
Yes	Yes	Hellman	8126-041-902	No	-	-
Yes	Yes	Hellman	8126-041-904	No	Grant No. 58L2- 97- 1003	1997
Yes	Yes	Hellman	8126-041-906	No	-	
Yes	Yes	Hellman	8126-041-907	No	Grant No. 58L1- 94- 0034; Grant No. 58A1- 94- 0180	1998
Yes	Yes	Hellman	8126-041-908	No	Grant No. 58L1- 94- 0034; Grant No. 58A1- 94- 0180	1998
Yes	Yes	Hellman	8126-041-909	No	Grant No. 58L1- 94- 0034; Grant No. 58A1- 94- 0180	1998
Yes	Yes	Sycamore Canyon	8125-033-900	No	Grant No. 58A1- 94- 0180	1997
Yes	Yes	Sycamore Canyon	8126-001-902	No	Grant No. 58A1- 94- 0180	1997
Yes	Yes	Sycamore Canyon	8126-001-903	No	Grant No. 58A1- 94- 0180	1997
Yes	Yes	Sycamore Canyon	8126-001-904	No	Grant No. 58A1- 94- 0180	1997
Yes	Yes	Hall/Childs	8126-028-901	No	Grant No. 58L1- 94- 0034	1995
Yes	Yes	Rose Hills	8125-024-032	No	-	-
Yes	Yes	Rose Hills	8125-024-900	No	Grant No. 58L8 - 03- 0857	2002
Yes	Yes	Rose Hills	8125-024-901	No	Grant No. 58L8 - 03- 0857	2002
Yes	Yes	Rose Hills	8125-024-902	No	Grant No. 58L8 - 03- 0857	2002
Yes	Yes	Rose Hills	8125-024-903	No	Grant No. 58L8 - 03- 0857	2002
Yes	Yes	Rose Hills	8125-024-904	No	Grant No. 58L8 - 03- 0857	2002
Yes	Yes	Rose Hills	8125-024-905	No	Grant No. 58L8 - 03- 0857	2002
Yes	Yes	Rose Hills	8125-024-906	No	Grant No. 58L8 - 03- 0857	2002
Yes	Yes	Rose Hills	8137-021-910	No	Grant No. 58L8 - 03- 0857	2002
Yes	Yes	Rose Hills	8137-021-911	No	Grant No. 58L8 - 03- 0857	2002
Yes	Yes	Rose Hills	8221-027-905	No	Grant No. 58L8 - 03- 0857	2002
Yes	Yes	Rose Hills	8289-007-910	No	Grant No. 58L8 - 03- 0857	2002
Yes	Yes	Rose Hills	8289-007-911	No	Grant No. 58L8 - 03- 0857	2002
Yes	Yes	Rose Hills	8289-007-912	No	Grant No. 58L8 - 03- 0857	2002

TABLE 1
Proposition A Acquisition Parcels, with Habitat Authority Lands Noted*

Prop. A Funds?	Habitat Authority Preserve?	Tract Name	AIN	Part of Leased Whittier Hills Property?	Grant Numbers as Listed in District Database	Year Acquired by Whittier According to District Database
Yes	Yes	Worsham Canyon	8138-016-900	No	Grant No. 58LI- 94- 0034; Grant No. 58AI- 94- 0180	1995
Yes	Yes	Worsham Canyon	8138-016-901	No	-	-
Yes	Yes	Worsham Canyon	8138-016-902	No	Grant No. 58LI- 94- 0034; Grant No. 58AI- 94- 0180	1995
Yes	Yes	Worsham Canyon	8138-016-903	No	Grant No. 58LI- 94- 0034; Grant No. 58AI- 94- 0180	1995
Yes	Yes	Worsham Canyon	8126-041-908	No	-	-
Yes	Yes	Shannon	8138-033-915	Yes	Grant No. 58LI- 94- 0034	1996
Yes	Yes	Shannon	8138-033-916	No	Grant No. 58LI- 94- 0034	1996
Yes	Yes	Chevron	8137-021-908	Yes	Grant No. 58LI- 94- 0034; Grant No. 58AI- 94- 0180	1995
Yes	Yes	Chevron	8137-021-909	Yes	Grant No. 58LI- 94- 0034; Grant No. 58AI- 94- 0180	1995
Yes	Yes	Chevron	8137-028-900	Yes	Grant No. 58LI- 94- 0034; Grant No. 58AI- 94- 018	1995
Yes	Yes	Chevron	8138-032-901	Yes	Grant No. 58LI- 94- 0034; Grant No. 58AI- 94- 0180	1995
Yes	Yes	Chevron	8289-007-908	Yes	Grant No. 58LI- 94- 0034; Grant No. 58AI- 94- 0180	1995
Yes	Yes	Chevron	8138-033-912	No	Grant No. 58LI- 94- 0034; Grant No. 58AI- 94- 0180	1995
Yes	Yes	Chevron	8138-033-913	Yes	Grant No. 58LI- 94- 0034; Grant No. 58AI- 94- 0180	1995
Yes	Yes	Chevron	8138-033-914	Yes	Grant No. 58LI- 94- 0034	1995
Yes	Yes	Chevron	8289-007-907	Yes	Grant No. 58LI- 94- 0034; Grant No. 58AI- 94- 0180	1995
Yes	Yes	Chevron	8289-007-909	Yes	Grant No. 58LI- 94- 0034; Grant No. 58AI- 94- 0180	1995
Yes	Yes	Chevron	8291-004-900	Yes	Grant No. 58LI- 94- 0034; Grant No. 58AI- 94- 0180	1995
Yes	Yes	Chevron	8291-005-900	Yes	Grant No. 58LI- 94- 0034; Grant No. 58AI- 94- 0180	1995
Yes	Yes	Chevron	8289-021-902	No	Grant No. 58LI- 94- 0034; Grant No. 58AI- 94- 0180	1995

TABLE 1
Proposition A Acquisition Parcels, with Habitat Authority Lands Noted*

Prop. A Funds?	Habitat Authority Preserve?	Tract Name	AIN	Part of Leased Whittier Hills Property?	Grant Numbers as Listed in District Database	Year Acquired by Whittier According to District Database
Yes	Yes	Chevron	8289-021-903	Yes	Grant No. 58LI- 94- 0034; Grant No. 58AI- 94- 0180	1995
Yes	Yes	Chevron	8289-021-904	Yes	Grant No. 58AI- 94- 0180	1995
Yes	Yes	Chevron	8137-021-907	Yes	Grant No. 58LI- 94- 0034; Grant No. 58AI- 94- 0180	1995
Yes	Yes	Unocal	8289-020-900	Yes	Grant No. 58LI- 94- 0034	1995
Yes	Yes	Unocal	8291-003-901	Yes	Grant No. 58LI- 94- 0034	1995
Yes	Yes	Quaker	8240-001-900	No	Grant No. 58LI- 94- 0034	1995
No	Yes	-	8126-041-901	No	-	-
No	Yes	-	8126-041-905	No	-	-
No	Yes	-	8137-021-902 ⁴	Yes	-	1995
No	Yes	-	8138-033-903	No	-	-
No	Yes	-	8137-021-904	No	-	-
No	Yes	-	8138-033-905	No	-	-
No	Yes	-	8138-033-900	No	-	-
No	Yes	-	8138-033-901	No	-	-
No	Yes	-	8138-033-902	No	-	-
No	Yes	-	8138-033-907	No	-	-

Note: * Colors correspond to Tracts of parcels shown in Figure 3, *Lands Acquired with Proposition A Funds*.

Sources: 1. Tract Parcel APNs and Deeds: GIS data provided by County and “Whittier/Puente Hills Property Purchased with Proposition A Funds, Based on List of 1992 Proposition A Projects from Controller’s,” Pages A-8 to A-9.

2. Habitat Authority Lands obtained from GIS shapefile overlaid over countywide parcels.

3. Grant number and Date Acquired obtained from Los Angeles County Regional Park and Open Space District Acquisitions Database, July 25, 2013.

4. The Lease says Grant Deed Instrument No. 95-2043171 included this parcel in the Chevron transaction; the FEIR says this land was not purchased with Prop A funds, and District Acquisition Database does not include this parcel under its Grants.

2. Whittier Resolution 6416 Agreeing to Proposition A Assurances

On July 6, 1993, Whittier adopted Resolution No. 6416⁵⁵ acknowledging that: Proposition A established the District to administer the funds; through adoption of a Resolution, Whittier will enter into an Agreement with the District to provide the funds; as a condition precedent to the transfer of the funds, Whittier must acknowledge its understanding of the related assurances and certifications in the application form; and Whittier stipulates that it will have sufficient funds to operate the lands in perpetuity. In the adoption of Resolution No. 6416, Whittier promised that it would (1) “use the Property only for the purposes of the Proposition and will make no other use, sale, or other disposition of the Property except as authorized by specific act of the Board of Supervisors as the governing body of the District”; and (2) “maintain the Property acquired, developed, rehabilitated or restored with the funds in perpetuity.” The assurances in Resolution No. 6416 included the statement that the “Applicant will maintain and operate the property acquired, developed, rehabilitated, or restored with the funds in perpetuity.”⁵⁶

3. Whittier Files CEQA Notice of Exemption for Its Acquisition of Whittier Hills Property and Other Land in the Preserve

In the Notice of Exemption, attached to its grant application, Whittier acknowledged the importance of preserving the 4,000 acres as the last remaining wilderness lands in eastern Los Angeles County:

“The Puente/Whittier Hills are part of the last remaining, wilderness areas in eastern Los Angeles County. The hills contain a variety of native plant life and have been found to be part of wildlife migration corridors bridging the Chino Hills, San Gabriel Mountains and Santa Ana Mountains. Along the ridges,

⁵⁵ TE, Vol. 2, Exh. 18: July 6, 1993, Whittier Resolution No. 6416.

⁵⁶ TE, Vol. 2, Exh. 18: Whittier Resolution No. 6416. 7 July 1992. RE: Proposition A, Grant Application and Assurances.

canyons, and ravines of the area numerous species of birds, reptiles and mammals can be found.”⁵⁷

4. City of Whittier Proposition A Grant Application

The Whittier Hills Park grant application requested \$9.3 million under Proposition A.⁵⁸ The proposed 4,000-acre acquisition was described in the application with the intent to “preserve portions of the last remaining chaparral, native oak woodlands and coastal sage scrub ecosystems within eastern Los Angeles County,”⁵⁹ through use of land dedications and gift/purchase potentials for acquisition. No oil exploration or drilling was included in Whittier’s project description or application; the land to be acquired with public funds was intended solely for open space, wildlife habitat, and recreational use.

5. Project Agreement and District Approval of Grant No. 58L1-94-0034

As required pursuant to Proposition A, Whittier executed a Project Agreement⁶⁰ with the District on November 9, 1993. Based on Whittier’s application, assurances, and execution of the Project Agreement, on November 9, 1993, the District approved Grant No. 58L1-94-0034 for Whittier to execute the Whittier Hills Park Project under Section 8.b.2 of Proposition A.⁶¹ By signing the Project Agreement, Whittier acknowledged that the 4,000-acre property includes acreage designated as a Significant Ecological Area (SEA) by the County and that it constitutes “portions of the last remaining chaparral, native oak woodlands and coastal scrub ecosystem within eastern Los Angeles County;”⁶² agreed to submit for prior District approval all proposed operating agreements, leases, concession agreements, and any existing or proposed amendments/modifications; agreed that it would not permit the use of any portion of the Project by any private person or entity without the prior written consent of the District; and agreed to

⁵⁷ TE, Vol. 2, Exh. 20: Whittier. 24 August 1993. Notice of Exemption: Whittier Hills Park. 13230 East Penn Street, City of Whittier, CA, 90602. (Notice of Exemption).

⁵⁸ TE, Vol. 3, Exh. 21. Project Agreement. Whittier’s application indicated that it would use monies from a 1994 State bond initiative to acquire portions of the Park.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² TE, Vol. 2, Exh. 20: Notice of Exemption.

“maintain and operate in perpetuity the property acquired, developed, rehabilitated or restored with grant monies, subject to the provisions of the Proposition.”⁶³ The Project Agreement acknowledges the District’s role in approval of any changes to the proposed use of the property and Whittier’s commitment to maintain the property acquired with Proposition A grant funds in perpetuity: Section B.10, *Project Execution*, of the Project Agreement requires that “any modification or alteration in the Project... must be submitted, in writing, to the District for prior approval.”

In Section D.5, *Project Administration*, of the Project Agreement, Whittier, as “Applicant agrees to submit for prior District review and approval any and all existing or proposed operating agreements, leases, concession agreements, management contracts, or similar arrangements with non-governmental entities, and any existing or proposed amendments or modifications thereto, as they relate to the project or the project site for a period of twenty (20) years from the date of this Agreement. Applicant further agrees not to enter into any contract, lease, or similar arrangement, or to agree to any amendment or modification to an existing contract, agreement, lease or similar arrangement, that, in the District’s opinion, violates federal regulations restricting the use of funds from tax-exempt bonds.”

Section D.9, *Project Administration*, of the Project Agreement, states, “Applicant hereby agrees that it will not, without the prior written consent of the District, (a) permit the use of any portion of the project by any private person or entity, other than on such terms as may apply to the public generally; or (b) enter into any contract for the management or operation of the project or any portion thereof, except with a governmental agency or a nonprofit corporation that is exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.”

Section D.10, *Project Administration*, of the Project Agreement states that “if Applicant sells or otherwise disposes of property acquired or developed with grant monies provided under this Agreement, Applicant shall reimburse the District in an amount equal to the greater of 1) the amount of grant monies provided under this Agreement; 2) the fair market value of the real

⁶³ TE, Vol. 3, Exh. 21. Project Agreement.

property; or 3) the proceeds from the portion of the property acquired, developed, improved, rehabilitated, or restored with grant monies.

“If the property sold or otherwise disposed of is less than the entire interest in the property originally acquired, developed, improved, rehabilitated, or restored with the grant monies, then Applicant shall reimburse the District an amount equal to the greater of: 1) an amount equal to the proceeds; or 2) the fair market value.”

Section J.1, *Use of Facilities*, states, “Applicant agrees to use the property acquired or developed with grant monies under this Agreement only for the purpose for which it requested District grant monies and will not permit any other use of the area, except as allowed by specific act of the Board of Supervisors as governing body of the District and under the terms and conditions of the Proposition.”

Section J.2, *Use of Facilities*, states, “Applicant agrees to maintain and operate in perpetuity the property acquired, developed, rehabilitated or restored with grant monies, subject to the provisions of the Proposition. With the District’s approval, the Applicant, or its successors in interest in the property, may transfer the responsibility to maintain and operate the property in accordance with the Proposition.”

B. Whittier Acquires the Whittier Hills Property by Working with TPL, MRCA, and SMMC

The Puente Hills Native Habitat Authority Preserve (Preserve) comprises a total of 3,869 acres, a portion of which was purchased with Proposition A funds. The Whittier Hills Property that was acquired with Proposition A funds includes 17 parcels, totaling approximately 1,280 acres (Table 2, *Lease Exhibit A: Proposition A Funded Acquisition of Whittier Hills Property Parcels*). The Whittier Hills Property that Whittier leased to Matrix consists of two tracts of land that were previously owned by Chevron (the “Chevron Tract”) and Unocal (the “Unocal Tract”). Whittier used TPL as its agent to assist it in the purchase of the Whittier Hills Property.

TABLE 2
Lease Exhibit A: Proposition A Funded Acquisition of Whittier Hills Property Parcels

Date Acquired (Recorded)	Grant Number, Deed Number and Transaction Parties	Tract (if applicable)	AIN	Approximate Acreage
12/26/1995	95-2043171; Deed 2308; MRCA to Whittier	Chevron	8137-028-900	16.01
12/26/1995	95-2043171; MRCA to Whittier	-	8137-021-907	10.45
12/26/1995	95-2043171; MRCA to Whittier	Not Prop A Funded	8137-021-902	18.15
12/26/1995	95-2043171; Deed 2308; MRCA to Whittier	Chevron	8137-021-908	13.72
12/26/1995	95-2043171; Deed 2308; MRCA to Whittier	Chevron	8137-021-909	19.22
12/26/1995	95-2043171; Deed 2308; MRCA to Whittier	Chevron	8289-007-908	38.01
12/26/1995	95-2043171; Deed 2308; MRCA to Whittier	Chevron	8138-033-914	11.51
12/26/1995	95-2043171; City Deed 2333; MRCA to Whittier	Shannon	8138-033-915	18.45
12/26/1995	95-2043171; Deed 2308; MRCA to Whittier	Chevron	8138-033-913	22.56
12/26/1995	95-2043171; Deed 2308; MRCA to Whittier	Chevron	8289-007-909	148.02
12/26/1995	95-2043171; Deed 2308; MRCA to Whittier	Chevron	8289-007-907	150.95
12/26/1995	95-2043171; Deed 2308; MRCA to Whittier	Chevron	8138-032-901	45.12
12/26/1995	95-2043171; Deed 2308; MRCA to Whittier	Chevron	8289-021-904	401.86
12/26/1995	95-2043171; Deed 2308; MRCA to Whittier	Chevron	8289-021-903	0.59
12/26/1995	95-2043171; Deed 2308; MRCA to Whittier	Chevron	8291-005-900	36.25
12/26/1995	95-2043171; Deed 2308; MRCA to Whittier	Chevron	8291-004-900	37.6
10/16/1995	95-1666829; Deed 2300; TPL to Whittier	Unocal	8289-020-900	66.7
10/16/1995	95-1666829; Deed 2300; TPL to Whittier	Unocal	8291-003-901	235.55

Source: 2008 Lease, "Exhibit A."

1. Chevron Tract and Deed Restriction

The Chevron Tract was acquired with the use of Proposition A funds from both Section 8(b)(2) and Section 8(c)(6). SMMC granted a portion of its \$7 million Proposition A Section 8(c)(6) funds to MRCA to help facilitate Whittier’s acquisition of the Chevron Tract. MRCA purchased the Chevron Tract from TPL on December 12, 1995, using Proposition A funds it had been allocated and concurrently sold it to Whittier for half that value, with Whittier also using Proposition A funds for this purchase. On December 20, 1995, MRCA sold the Chevron Tract to Whittier pursuant to a purchase agreement. As part of the transactions, TPL, MRCA, and Whittier all agreed to a Declaration and Easement of Restricted Use for conservation and habitat preservation (the Chevron Deed Restriction).⁶⁴

The sale of the Chevron Tract was made with the intent for the property “to be preserved and used for public open space and recreational purposes.”⁶⁵ According to Recital F of the Chevron Deed Restriction, Chevron and TPL “desire that the conservation value of 600 acres of the Sale Property, more specifically described below and defined as a portion of the Restricted Property, shall be preserved and protected in perpetuity.”⁶⁶ The purpose of the Chevron Deed Restriction is to place an easement on 600 acres of the Sale Property, which would be retained in perpetuity in a natural, undeveloped open space condition, for wildlife habitat restoration purposes and to “to prevent any use of the Conservation Easement Area that will impair or interfere with the conservation values of the Sale Property.”⁶⁷ Permitted recreational uses for these 600 acres conveyed to TPL are hiking, biking, and horseback riding over signed trails open to the public; construction and maintenance of trails, staging areas, stables, and other limited park maintenance facilities in locations with minimal impact to sensitive habitat areas; and vehicular use of all existing paved roads or established roadways for park maintenance, fire prevention, administration, and security purposes.⁶⁸ Oil drilling, exploration, and processing are not activities allowed under the Chevron Deed Restriction. An attorney retained by Whittier

⁶⁴ TE, Vol. 4, Exh. 42: County Recorder Document No. 952043169. 26 December 1995. Declaration and Easement of Restricted Use Chevron Property. (Chevron Deed Restriction).

⁶⁵ *Id.*, Page 1, Recital D.

⁶⁶ *Id.*, Page 2, Recital F.

⁶⁷ *Id.*, Agreement 1, Agreement 6.

⁶⁸ *Id.*

prepared an opinion in July 2011 that Whittier posted on its website which states that in the Chevron Deed Restriction,

“Whittier agreed to restrict use ‘forever in a natural undeveloped, open space condition,’ ‘for wildlife habitat and habitat restoration purposes,’ and ‘to prevent any use’ that would ‘impair or interfere with [the site’s] conservation values.’ Permitted uses include hiking, biking and horseback riding. Any activities ‘inconsistent’ with habitat conservation or the permitted uses are prohibited.”⁶⁹

2. Unocal Tract and Deed Restriction

The Unocal Tract was sold by Unocal to TPL and then purchased by Whittier from TPL on October 16, 1995, using Proposition A funds.⁷⁰ The original sale of the Unocal Tract to TPL had been conditioned upon Whittier’s representation and covenant that the subject Property would be used exclusively for open space and recreational purposes.⁷¹ Prior to acquiring the Unocal Tract, Whittier’s City Manager assured Unocal and TPL in a May 12, 1995, letter that “the City’s intent is to use this Property only as a future park and open space. We are further restricted by the requirements of the funding source – County of Los Angeles Proposition A which also carries such restriction.”⁷² A May 7, 1996, letter from Whittier’s City Manager discussing the intended deed restriction for the Unocal Tract states that it is “severe” and requires “an open space use in perpetuity” because “the Council didn’t feel a 25-year restriction was enough.”⁷³ The purchase of the Unocal Property also required Unocal to complete some remediation of contamination on the site and to receive a No Further Action letter from the State

⁶⁹ TE, Vol. 8, Exh. 98: Carlyle Hall Report on Prop. A [Carlyle W. Hall, Jr., Akin Gump Strauss Hauer & Feld LLP. 26 July 2011. *Legal Analysis of Whittier’s Right to Extract Oil and Gas Resources Underlying Its Park and Open Space Properties in the Whittier Hills Consistent with Longstanding California Real Estate Law Principles and with Proposition A*]

⁷⁰ TE, Vol. 4, Exh. 47: County Recorder Document No. 96-909633. 14 May 1996. Declaration of Restricted Use Unocal (Unocal Deed Restriction). Recitals.

⁷¹ *Id.*

⁷² TE, Vol. 3, Exh. 29: Whittier. 12 May 1995. Letter from City of Whittier to Unocal, Subject: Environmental Agreement Between City of Whittier and Unocal.

⁷³ TE, Vol. 4, Exh. 46: Whittier. 7 May 1996. Letter from City of Whittier to Unocal, Subject: Declaration of Restricted Use Covenant.

Regional Water Quality Control Board (“Water Board”).⁷⁴ As part of the submittal to the Water Board, it was represented by Whittier that future use of the Unocal Tract would be open space.⁷⁵ The Water Board No Further Action Letter states that the “future land use for the subject property has been stated to staff to be open space with no intended development. Based on the above comments, remediation of the remaining site contamination is placed in abeyance pending future development of the area near the former production well MS2A. No further action required.”⁷⁶

On May 14, 1996, a Declaration of Restricted Use (“Unocal Deed Restriction”) was executed on the Unocal Tract by Whittier and then recorded by Whittier on June 10, 1996, as document No. 96 909633. The Unocal Deed Restriction required that the Unocal Tract be used in perpetuity exclusively for public open space and recreational purposes so as to benefit this generation and future generations to come “in accordance with the requirements and limitations set forth in County of Los Angeles Proposition A.”⁷⁷ Recital E of the Unocal Deed Restriction states that Whittier “intends to restrict use of the Subject Property in perpetuity exclusively for public open space and recreational purposes as to benefit this generation and future generations to come.”⁷⁸ The purpose of this Deed Restriction is to “restrict use of the Subject Property in perpetuity exclusively for public open space and recreational purposes subject to the uses specifically permitted in this Declaration, City intends that this Declaration will limit the use of the Subject Property shall be deemed the entirety of the Subject Property.”⁷⁹ As in the Chevron Deed Restriction, the permitted uses under the Unocal Deed Restriction are hiking, biking, and horseback riding over signed trails open to the public; construction and maintenance of trails, staging areas, stables and other limited park maintenance facilities in locations with minimal impact to sensitive habitat areas; and vehicular use of all existing paved roads or established

⁷⁴ TE, Vol. 4, Exh. 33: October 26, 1995 letter from J.R. Ross Unit Chief for the California Regional Water Control Board addressed to Mr. Van W. Orr, Unocal Corporation. Exh. 34: November 8, 1995 letter from David Sutton, Project Manager, The Trust for Public Land to Whittier City Manager Thomas G. Mauk. Exh. 35: Letter to Tily Shue, The Trust for Public Land from Earl D. James, Erler & Kalinowski, Inc. Exh. 37: November 28, 1995 letter from Whittier City Manager Thomas G. Mauk to David Sutton, Project Manager, The Trust for Public Land.

⁷⁵ TE, Vol. 4., Exh. 34: Letter from Trust for Public Land to City of Whittier, November 8, 1995.

⁷⁶ TE, Vol. 4, Exh. 33.

⁷⁷ TE, Vol. 4, Exh. 47: Unocal Deed Restriction.

⁷⁸ *Id.*, Recital E.

⁷⁹ *Id.*, Declaration 1. Purpose.

roadways for park maintenance, fire prevention, administration, and security purposes.⁸⁰ Oil drilling, exploration, and processing are not activities allowed under the Unocal Deed Restriction. Indeed, Whittier’s attorney prepared an opinion in July 2011, which was given to the District by Whittier, stating,

“Under the restrictive covenant for the former Unocal property, Whittier agreed to restrict use of the acquisition area ‘in perpetuity exclusively for public open space and recreational purposes,’ including hiking, biking and horseback riding. Any activity inconsistent with these purposes is prohibited.”⁸¹

C. Judge’s Trial Court Decision

At the trial of the MRCA Lawsuit, Judge Chalfant determined that the acquisition of the Whittier Hills Property using Proposition A funds by Whittier, and subject to the Chevron and Unocal Deed Restrictions dedicating the Chevron and Unocal Tracts for open space uses, subjected the Whittier Hills Property to the Public Trust Doctrine.⁸² Judge Chalfant held that the Chevron Deed Restriction was a conservation easement that was enforceable and prevented use of the land covered by the Deed Restriction from being used for the oil drilling activities approved a part of the Project. Judge Chalfant held that the Chevron Deed Restriction, which requires that the “‘600-acre Conservation Area be retained forever in a natural undeveloped open-space condition... for wildlife habitat and habitat restoration processes’ lasts in perpetuity.”⁸³

The Lease grants Matrix exploration and drilling rights to the entire approximately 1,280 acres of the Whittier Hills Property, and if the Lease is approved by the District, there is nothing to prevent Whittier from allowing Matrix to use portions of the Whittier Hills Property covered by the Chevron Deed Restriction for oil and gas exploration, drilling, and processing and

⁸⁰ *Id.*, Declaration 3. Permitted Uses.

⁸¹ TE, Vol. 8, Exh. 98: Carlyle Hall Report on Prop. A [Carlyle W. Hall, Jr., Akin Gump Strauss Hauer & Feld LLP. 26 July 2011. *Legal Analysis of Whittier’s Right to Extract Oil and Gas Resources Underlying Its Park and Open Space Properties in the Whittier Hills Consistent with Longstanding California Real Estate Law Principles and with Proposition A*]

⁸² Trial Court Decision in MRCA, Pages 34, 35.

⁸³ *Id.*, Pages 33, 35.

associated activities that are not allowed under the Chevron Deed Restriction. Similarly, if the District were to approve the Lease, Whittier could grant Matrix additional use permits to conduct oil and gas activities on the Unocal Tract in violation of the Unocal Deed Restriction.

**IV. Whittier’s Acquisition of Property with Public Funds to Be Preserved as
Open Space in Perpetuity Created a Public Trust and An Expectation by the Public
That the Whittier Hills Property Would Remain Open Space Forever**

District approval of the Lease would allow the Whittier Hills Property to be developed, contrary to the promise that was made to the Voters that the properties acquired with Proposition A funds were being purchased for the express purpose of being managed and enhanced for wildlife habitat and open space purposes in perpetuity.⁸⁴ Whittier acknowledged the importance of the property designation for wildlife habitat in their Notice of Exemption prepared to support the application for Proposition A Funds.⁸⁵ Furthermore, District approval of the Lease would be incompatible with the provisions of the Chevron and Unocal Deed Restrictions placed on the Whittier Hills Property which expressly require that the lands be managed in perpetuity as open space. The District Engineer’s Report specifies that the benefit provided to the Voters, in exchange for the assessment approved by the majority of the Voters, is the long-term conservation of open space and wildlife habitat.⁸⁶ The acquisition of the Whittier Hills Property by Whittier with public Proposition A funds and subject to the Chevron and Unocal Deed Restrictions created a public trust. The precedent for development of lands purchased with public funds that would be established if the District were to approve the Lease could motivate the other 155 entities that used Proposition A funds to acquire property to consider comparable development driven revenue generating schemes on their lands. Proposition A funds have been used to acquire over 800 parcels, comprising nearly 21,000 acres (33 square miles) throughout Los Angeles County.⁸⁷ Indeed, SMMC’s and MRCA’s executive director Joe Edmiston raised concerns about that very issue in the *Whittier Daily News*.⁸⁸ The SMMC is concerned about the

⁸⁴ TE, Vol. 2, Exh. 14: Procedural Guide.

⁸⁵ TE, Vol. 2, Exh. 20: Notice of Exemption.

⁸⁶ Engineer’s Report for Proposition A.

⁸⁷ District Acquisitions Database.

⁸⁸ TE, Vol. 14, Exh. 130, AR 3270-72. Scauzillo, Steve, San Gabriel Valley Tribune. 2 June 2012. Whittier Daily News. *Environmental Groups, State Conservancies say Whittier Oil Project Could Open Other Preserves to Oil Drilling*. PDF of original posted article available at: <http://www.whittierhillssoilwatch.org/resources/ENVIRONMENTAL%20GROUPS%20STATE%20ANGENCIES%20%200603120001.pdf> Article (posted 1 June 2012) is available on San Gabriel Valley Tribune website at: <http://www.sgvtribune.com/20120602/environmental-groups-state-conservancies-say-whittier-oil-project-could-open-other-preserves-to-oil-drilling>

implications of a precedent of developing an oil and gas project in a protected preserve bought with tax dollars because other nature preserves, such as those in the Pacific Palisades, could have the potential to be renegotiated.

A. The Whittier Hills Property Was Identified for Acquisition Due to High Wildlife and Open Space Values

Proposition A Section 8(c) provides \$40 million for the acquisition of park and open space land to SMMC, including in Section 8(c)(6) that not less than \$7 million of that money shall be expended in the Whittier Hills. Proposition A required that prior to the expenditure of such funds, SMMC shall enter into a joint powers agreement (JPA) with Whittier in order to facilitate the preservation of park and open space lands.⁸⁹ The Notice of Exemption prepared by Whittier for Proposition A Grant Application acknowledges the value of the lands to be acquired with Proposition A funds:

“The Puente/Whittier Hills are part of the last remaining, wilderness areas in eastern Los Angeles County.”⁹⁰

A JPA was entered into by Whittier and SMMC in December of 1993 providing that the Whittier Hills “constitutes a unique and valuable economic, environmental, scientific, educational and recreational resource which should be held in trust for present and future generations.”

The Whittier Hills Property is designated as part of the Puente Hills Landfill Native Habitat Preserve (Preserve) and is managed for Whittier by the Puente Hills Landfill Native Habitat Preservation Authority (Habitat Authority), a JPA whose members include Whittier, the County, and the Los Angeles County Sanitation Districts (Figure 4, *Lands Managed by Habitat Authority*). The Preserve is considered an integral part of the Puente-Chino Hills Wildlife Corridor, extending nearly 31 miles from the Cleveland National Forest in Orange County to the

⁸⁹ Proposition A.

⁹⁰ TE, Vol. 2, Exh. 20: Notice of Exemption.

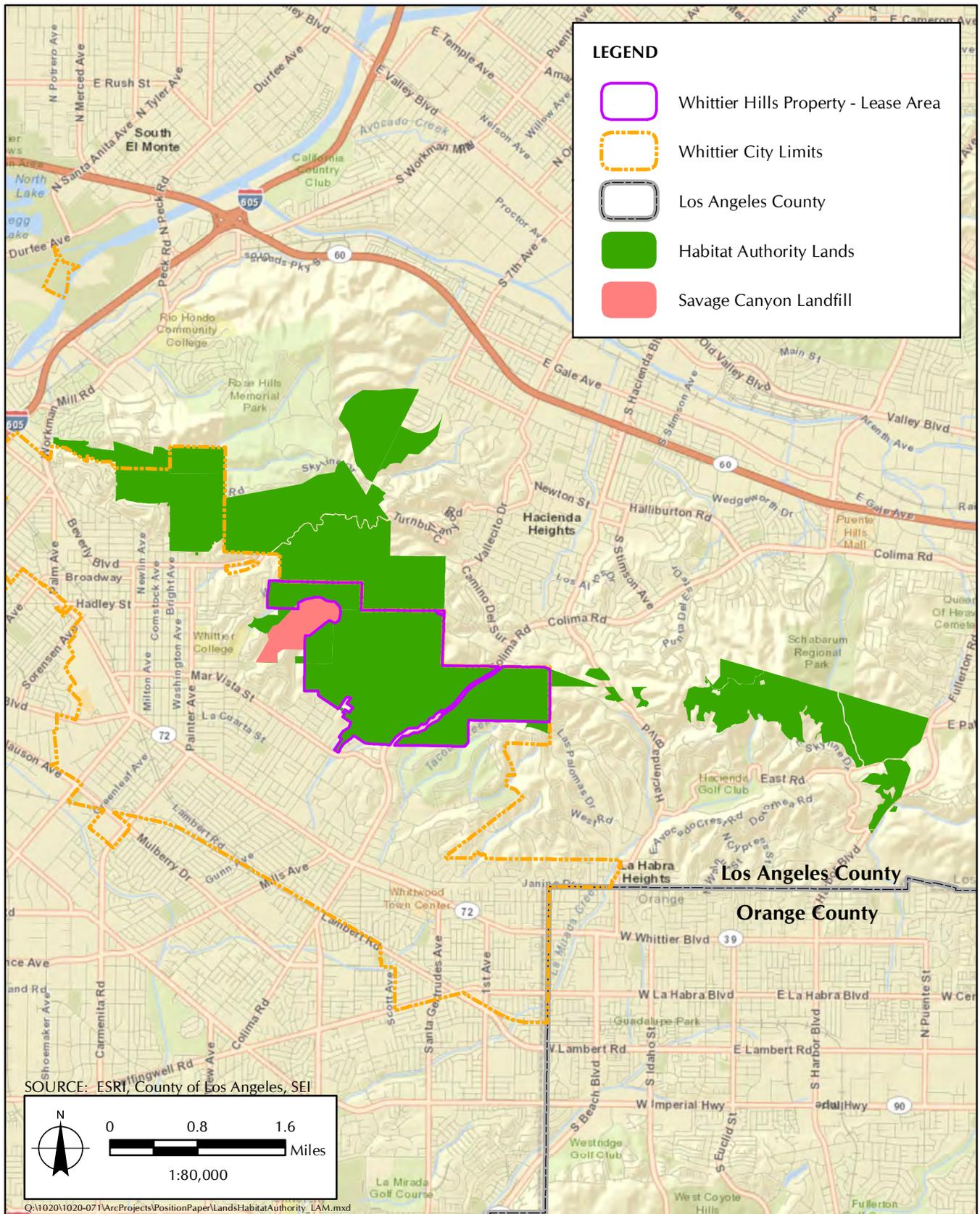


FIGURE 4
Lands Managed by Habitat Authority

west end of the Puente Hills above Whittier Narrows.⁹¹ The Whittier Hills Property also includes land within the boundaries of the proposed Significant Ecological Area No. 15, Puente Hills, selected for its ecologically significant land and water systems.⁹² The specific acquisitions comprising the Whittier Hills Property were part of a strategic measure to preserve ecologically valuable open space in response to the location of the Preserve and Puente-Chino Hills Wildlife Corridor.

B. Whittier Consistently Stated Its Understanding and Desire to Maintain the Whittier Hills Property as Open Space in Perpetuity

Whittier's actions and statements from 1993 through spring of 2008 (when it decided to pursue the Project) consistently indicated an intent and understanding that the Whittier Hills Property was acquired to be maintained in perpetuity as open space and habitat. In connection with the Unocal Deed Restriction, the Whittier City Manager assured Unocal and TPL in a May 12, 1995 letter that "the City's intent is to use this Property only as a future park and open space. We are further restricted by the requirements of the funding source – County of Los Angeles Proposition A which also carries such restriction."⁹³ On August 14, 1997, Whittier entered into a Property Acquisition and Maintenance Agreement with the Habitat Authority whereby the Habitat Authority was given power to "maintain, preserve and protect" in perpetuity the Whittier Hills Property for "public open space and recreational uses on behalf of this generation and the generations to come."⁹⁴ The Resource Management Plan (RMP) designated the Chevron Tract as part of its Core Habitat Zone of areas that were not opened to the public for the sole purpose of providing "undisturbed breeding habitat for wildlife and native vegetation which is recovering in the absence of human disturbance."⁹⁵ In addition, the RMP has a range of goals designed to

⁹¹ Puente Hills Landfill Native Habitat Preservation Authority. Resource Management Plan. Prepared by LSA Associates, Inc. 26 July 2007. Available at <http://www.habitatauthority.org/newsite/wp-content/uploads/2012/04/Final-RMP-July-2007.pdf> (Resource Management Plan).

⁹² County of Los Angeles. Accessed 6 September 2013. Draft Los Angeles County General Plan Conservation/Open Space Element. Available at: <http://planning.lacounty.gov/generalplan/maps>

⁹³ TE, Vol. 3, Exh 2: May 12, 1995 Letter from City of Whittier to Unocal. Page 1, Paragraph 2. AR664.

⁹⁴ TE, Vol. 4, Exh 48: Whittier. Whittier Puente Hills Conservation Authority, and Puente Hills Landfill Native Habitat Preservation Authority. August 14, 1997 *Property Acquisition and Maintenance Agreement (Whittier Hills Area)*.

⁹⁵ Resource Management Plan. Section 5.1.2 Core Habitat Zone, Page 72.

maintain visual resources and aesthetics of the open space, to avoid degradation of use, and to avoid noise pollution.

Whittier has undertaken and benefited from efforts to rehabilitate the Whittier Hills Property consistent with the purpose of maintaining it in perpetuity as open space. Whittier passed a resolution authorizing an application to the District in 1998 for Proposition A funds to develop trails on the Whittier Hills Property and for restoration and naturalization of the Chevron Tract.⁹⁶ In January and February 2008, the County Fire Department contracted for the removal of several acres of eucalyptus trees on the Whittier Hills Property to reduce fire danger and to allow the Habitat Authority to help propagate native vegetation in order to restore the hills to their natural state.⁹⁷

C. The Chevron and Unocal Deed Restrictions Were Designed to Preserve the Whittier Hills Property in Perpetuity

As discussed previously, the intention to preserve the lands in perpetuity is further articulated in the purpose of the Chevron Deed Restriction, which restricts 600 acres of the Chevron Tract to be retained forever in a natural, undeveloped open space condition, for wildlife habitat restoration purposes and to “to prevent any use of the Conservation Easement Area that will impair or interfere with the conservation values of the Sale Property.”⁹⁸ Similarly, the Unocal Deed Restriction limits activities in perpetuity on the Unocal Tract.⁹⁹

D. Whittier Hills Property to Be Held in Trust for the Benefit of the Voters and Property Owners Who Pay the Proposition A Property Tax Assessment

The Voters were promised that Proposition A would permanently protect and preserve open space and parks. The Voters authorized an assessment on themselves through Proposition A to be used to purchase open space lands such as the Whittier Hills Property for the purpose of

⁹⁶ TE, Vol. 4, Exh. 50: 1 October 2001. Whittier Proposition A Contract Executed Amendment.

⁹⁷ Michael Freeman, Fire Chief. County of Los Angeles Fire Department. 8 January 2008. *Approval of Contract for Eucalyptus Tree Removal Project*. Available at: [http://file.lacounty.gov/bc/q1_2008/cms1_081159.pdf#search="eucalyptus](http://file.lacounty.gov/bc/q1_2008/cms1_081159.pdf#search=).

⁹⁸ TE, Vol. 4, Exh. 42: Chevron Deed Restriction.

⁹⁹ *Id.*

open space and habitat and wildlife conservation. The District Engineer’s Report for Proposition A explained that assessment law provides that the benefit must be related to the land, because it is the land that must bear the assessment, and articulated nine respects in which this was expected to occur, among which three are particularly relevant to the acquisition of the Whittier Hills property:

“4) Increased attractiveness of the District for development or redevelopment as a result of preservation of mountains, foothills and canyons, and increased public access to these lands;

5) Improved environmental quality by protecting, restoring, and improving the District’s irreplaceable beaches, wildlife, park, mountains and open space lands, and improved public access to those lands; . . .

8) Improved recreational opportunities and expanded access to recreational facilities for all properties within the District, through improvements such as beaches, parks, trails and other public recreational facilities.”¹⁰⁰

Additionally, the Board assured Voters in 1992 that Proposition A would provide the following benefits to the County and to property owners paying the assessments:

“(a) The increase in, restoration of and enhanced safety of park, open space and recreation lands and facilities will help maintain sound economic conditions and a high standard of livability in the District by increasing property values, economic activity, employment opportunities and tourism throughout the District.

(b) Clean and safe parks will increase public safety, help to reduce crime, increase the attractiveness of the District as a place in which to live and locate businesses, and enhance the overall quality of life in the District.

¹⁰⁰ Engineer’s Report for Proposition A.

(c) The development, acquisition, improvement, restoration and maintenance of the public parks, open space, beaches, trails and other public recreational facilities within the proposed District confer a direct and specific benefit to all parcels within the District, including without limitation increased attractiveness, improved environmental quality, enhanced recreational opportunities and increased economic activity, each of which will result in maintained or enhanced property values within the District.

(d) The protection of beach, wildlife, park, recreation and natural lands are vital to the quality of life in the District, providing important recreational opportunities to all residents of the District, especially children and senior citizens, and helping to protect air and water quality.

(e) It is critical that we restore and improve neighborhood and regional parks throughout the District, to improve the overall quality of our communities, provide safe places for children to play and alternatives to gangs and gang activities, increase recreation opportunities for senior citizens and provide pleasant places that all District residents can enjoy for relief from traffic and urban congestion.

(f) The District's beaches are among its' most important natural and economic resources, attracting millions of visitors every year. The District's mountains, foothills, and canyons are a vital part of the regions' natural heritage and are home to hundreds of species of native Californian animals and plants.

(g) It is a priority to enhance employment and particularly employment of youth to help prevent gangs in the District by using funds from this act to employ youth to work on restoration or rehabilitation projects being carried out in their communities.”¹⁰¹

¹⁰¹ Proposition A of 1992, Section 6, Pages 2–3.

E. Effects of Setting a Precedent for Development of Lands Acquired with Proposition A Funds

The precedent for development of lands purchased with public funds that would be established if the District were to approve the Lease could generate a desire on the part of the other 155 Acquisition Grant recipients to consider development projects to create revenue. There are over 800 parcels acquired with Proposition A funds, which comprise nearly 21,000 acres (33 square miles) in Los Angeles County (see Figure 5, *Countywide Proposition A Acquisition Lands and DOGGR Oil Fields*).¹⁰²

The precedent of approving a Lease that allows oil and gas exploration, processing, and production on lands intended solely for the purpose of habitat and wildlife conservation would have a crippling impact on land conservation efforts in Southern California and the public's willingness to support and fund such efforts. The Project Agreement and Procedural Guide require that any change of use be subject to prior approval by the District.¹⁰³ In its consideration of the Lease, the District must consider the precedent that would be set by allowing the use of public funds to purchase lands from one developer in the name of conservation, only to be later sold or leased for purposes that are completely contrary to the conservation purposes for which the lands were purchased for the express purpose of being used in perpetuity as open space, wildlife habitat, and ancillary recreation uses. In a June 2012 news article in the *Whittier Daily News* about the controversy surrounding the Project, reporter Steve Scauzillo recorded the opposition of environmental groups including SMMC, OSLDF, and MRCA (who filed lawsuits challenging the Lease); and the San Gabriel Valley and the Puente-Chino Hills task forces of the Sierra Club, because of the precedent it would establish for "land that was supposed to be kept in perpetuity" as open space (Joan Licari, San Gabriel Valley task force chairwoman, Sierra Club).¹⁰⁴ In a September 2013 SCPR article, Molly Peterson interviewed activists in the Whittier Hills Oil Watch group, as they discussed the MRCA settlement and expressed concern that approval of the Project by the District could make other Proposition A-funded properties

¹⁰² District Acquisitions Database.

¹⁰³ TE, Vol. 2, Exh. 14: Procedural Guide.

¹⁰⁴ TE Vol. 14, Exh.130, AR 3270-72. Scauzillo, *Environmental Groups, State Conservancies say Whittier Oil Project Could Open Other Preserves to Oil Drilling*

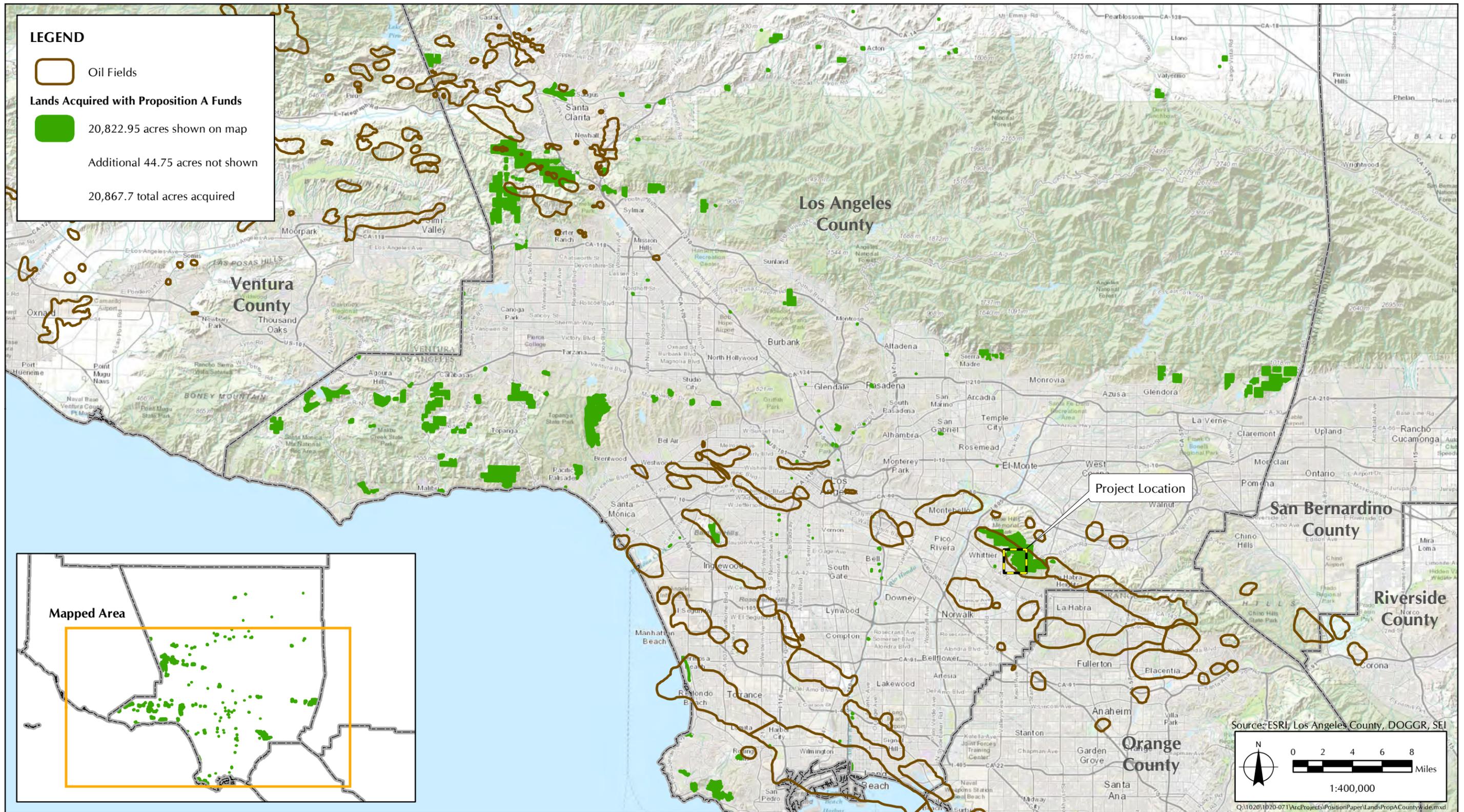


FIGURE 5
Countywide Proposition A Acquisition Lands and DOGGR Oil Fields

vulnerable to development “if drilling is deemed OK on the Whittier land.”¹⁰⁵ The Preserve and the Whittier Hills Property are City/County-designated Protected Areas according to the California Protected Area Database, which inventories lands protected primarily for open space uses through fee ownerships,¹⁰⁶ and the entirety of the Whittier Hills Property is designated as Open Space and Park in the Land Use Element of the City of Whittier General Plan (Figure 6, *California Protected Areas and Whittier General Plan Land Use Designations*).¹⁰⁷ The California Protected Areas Database contains data “about lands that are owned and permanently protected for open space purposes.”¹⁰⁸ The Whittier Hills Property has also been designated by the Whittier Zoning Ordinance¹⁰⁹ as Open Space for “the delineation of wildlands, wildlife and wildlife habitat”¹¹⁰ (Figure 7, *City of Whittier Zoning Designations*). District approval of the Lease, thus allowing lands designated as Open Space (Figure 6 and Figure 7) to be developed for oil and mineral exploration and production, would set a precedent for consideration of comparable development of other open space lands acquired with public funding throughout the County (Figure 5). Setting the precedent of allowing development on lands acquired with public funds would compromise the willingness of the public to support future assessment for open space and wildlife conservation purposes, as reported on KPCC radio commentary, *Public Officials, Activists Await Court Ruling About Oil Drilling in Whittier Hills*:

¹⁰⁵ Peterson, Molly. 30 September 2013. 89.3 KPCC: Southern California Public Radio. *Public Officials, Activists Await Court Ruling About Oil Drilling in Whittier Hills*. Available online at: <http://www.scpr.org/programs/take-two/2013/09/30/33957/public-officials-activists-await-court-ruling-abou/>

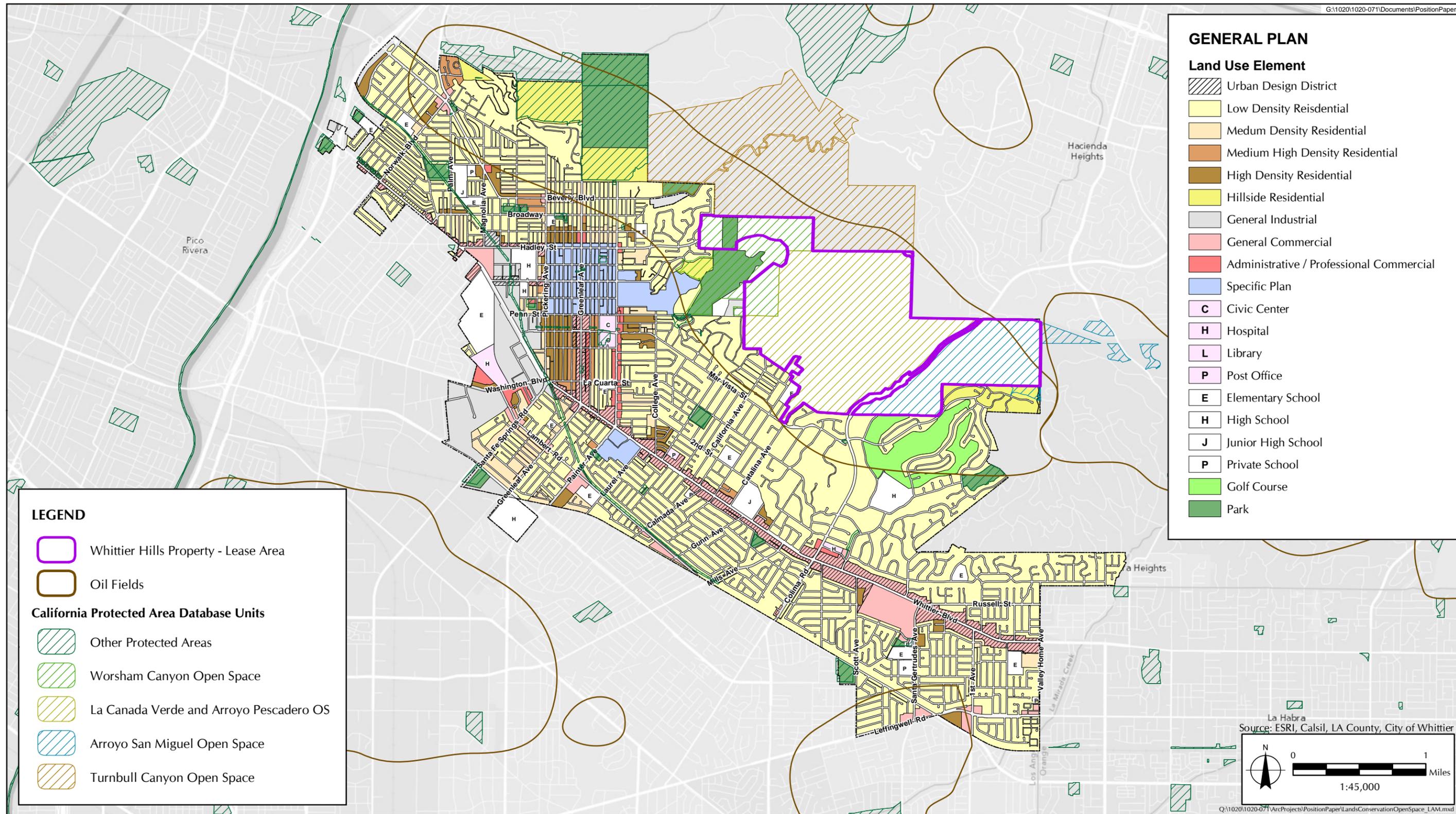
¹⁰⁶ GreenInfo Network. September 2013. “California Protected Areas Database (CPAD).” Geographic Information Systems inventory available online at: <http://www.calands.org/data>

¹⁰⁷ Land Use Element of the City of Whittier General Plan. Map of general plan land uses available at: <http://www.cityofwhittier.org/depts/clerk/gismap/default.asp> (pdf: <http://www.cityofwhittier.org/civicax/filebank/blobdload.aspx?blobid=3876>) .

¹⁰⁸ *Id.*

¹⁰⁹ Whittier. Whittier Zoning Map. Pdf of land zones available at: <http://www.cityofwhittier.org/civicax/filebank/blobdload.aspx?blobid=3879>. Main website: <http://www.cityofwhittier.org/depts/clerk/gismap/default.asp>

¹¹⁰ Whittier. Title 18: Zoning, Chapter 18.09 OS OPEN SPACE ZONE. Pursuant to (Ord. 2694 § 2 (part), 1996), the purpose of OS is to delineate wildlands, wildlife, and wildlife habitat. 18.09.010 Purpose. Available online at: <http://library.municode.com/index.aspx?clientId=16695&stateId=5&stateName=California>



LEGEND

- Whittier Hills Property - Lease Area
- Oil Fields

California Protected Area Database Units

- Other Protected Areas
- Worsham Canyon Open Space
- La Canada Verde and Arroyo Pescadero OS
- Arroyo San Miguel Open Space
- Turnbull Canyon Open Space

GENERAL PLAN

Land Use Element

- Urban Design District
- Low Density Residential
- Medium Density Residential
- Medium High Density Residential
- High Density Residential
- Hillside Residential
- General Industrial
- General Commercial
- Administrative / Professional Commercial
- Specific Plan
- Civic Center
- Hospital
- Library
- Post Office
- Elementary School
- High School
- Junior High School
- Private School
- Golf Course
- Park

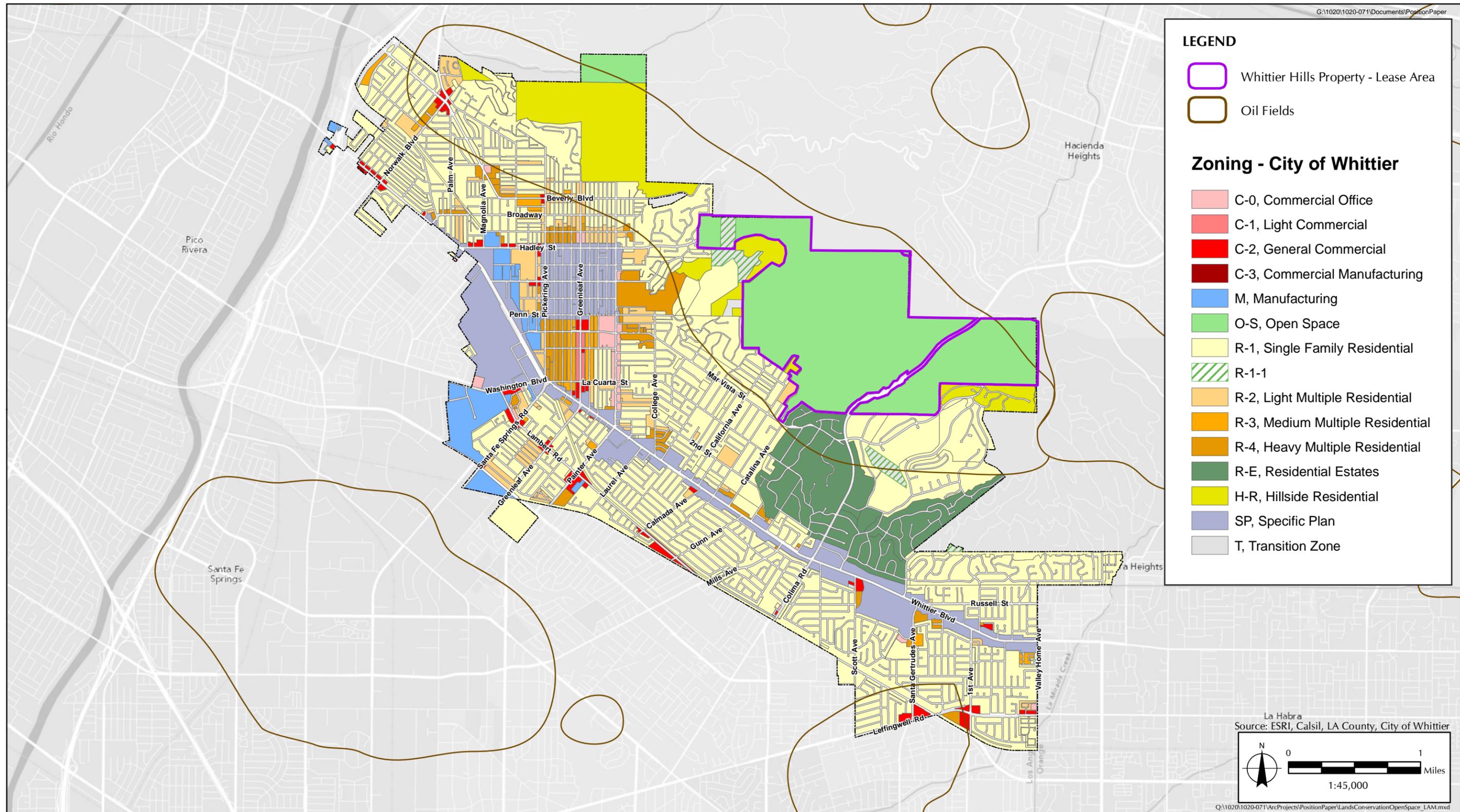
La Habra
Source: ESRI, Calsil, LA County, City of Whittier

1:45,000

Q:\1020\1020-071\ArcProjects\PositionPaper\LandsConservationOpenSpace_LAM.mxd



FIGURE 6
California Protected Areas and Whittier General Plan Land Use Designations



LEGEND

-  Whittier Hills Property - Lease Area
-  Oil Fields

Zoning - City of Whittier

-  C-0, Commercial Office
-  C-1, Light Commercial
-  C-2, General Commercial
-  C-3, Commercial Manufacturing
-  M, Manufacturing
-  O-S, Open Space
-  R-1, Single Family Residential
-  R-1-1
-  R-2, Light Multiple Residential
-  R-3, Medium Multiple Residential
-  R-4, Heavy Multiple Residential
-  R-E, Residential Estates
-  H-R, Hillside Residential
-  SP, Specific Plan
-  T, Transition Zone

La Habra
Source: ESRI, Calsil, LA County, City of Whittier



1:45,000



FIGURE 7
City of Whittier Zoning Designations

“Davidson and other activists say they’d be reluctant to support any new open-space tax: evidence of a newfound skepticism that could pose political obstacles for publicly-funded conservation efforts in the future.”¹¹¹

¹¹¹ Peterson, *Public Officials, Activists Await Court Ruling About Oil Drilling in Whittier Hills*.

V. Terms of Lease between Whittier and Matrix

A. Whittier Awards Lease to Matrix without District Approval

Contrary to the provisions of Proposition A, the Project Agreement, and the Procedural Guide, Whittier entered into the Lease granting Matrix's oil and gas drilling rights on the Whittier Hills Property in exchange for rental payments, payments to the Habitat Authority, and royalties paid to Whittier on proceeds from the sale of produced oil and natural gas. The Lease covers the entire approximately 1,280-acre Whittier Hills Property that was acquired with Proposition A.¹¹² Whittier did not conduct any CEQA review of the impacts of the Lease prior to entering into the Lease. Whittier amended the Lease twice: first on April 21, 2011, and then on May 8, 2012.¹¹³

Whittier has repeatedly stated that it views the Lease as potentially generating a substantial long-term income stream for Whittier. The first year rental payment under the Lease to Whittier is \$10.00 per acre (approximately \$13,000).¹¹⁴ The rent for the next two years is \$140.00 per acre or approximately \$182,000.¹¹⁵ The original term of the Lease was for 3 years. Under the Lease, Whittier will be receiving royalty payments for the oil and gas produced from the Whittier Hills Property. Matrix will pay 30% on the first \$1.5 million royalties plus 1.25% of 100% on each incremental \$250,000 in market price, not to exceed 50% in total royalties.¹¹⁶ Under the Lease, Matrix will pay the Habitat Authority a monthly management fee of \$5000 per month, to be increased to \$7000 per month upon commencement of drilling operations and a habitat enhancement fee of \$100,000 per year, commencing on the date of commencement of drilling operations.¹¹⁷

¹¹² TE, Vol. 6., Exh. 67: The Lease.

¹¹³ TE, Vol. 8, Exh. 88: April 12, 2011 Lease Amendment 1: Whittier Main 2008 Mineral Extraction Oil, Gas, and Mineral Lease. *Also* TE, Vol. 14, Exh. 120: May 8, 2012 Agenda Report requesting Lease Amendment 2: Whittier Main 2008 Mineral Extraction Oil, Gas, and Mineral Lease. *Also* TE, Vol. 14, Exh. 125: May 8, 2012 Executed Lease Amendment 2: Whittier Main 2008 Mineral Extraction Oil, Gas, and Mineral Lease.

¹¹⁴ TE, Vol. 6, Exh. 65: Whittier Agenda Report dated Aug. 26, 2008 re: Whittier Main 2008 Mineral Extraction Project, AR1203.

¹¹⁵ *Id.*, AR1204.

¹¹⁶ TE, Vol. 6., Exh. 67: The Lease. Section 7: Royalties.

¹¹⁷ *Id.*, Sections 2, 7, 9.

B. Scope of Allowable Activities in the Lease

In considering the Lease, the District must consider all of the rights and entitlements granted to Matrix for oil drilling operations under the terms of the Lease and the compatibility of those rights with the preservation of open space required by Whittier's use of the Proposition A funds. The Lease grants Matrix "the exclusive right of exploring... drilling and operating the Leased Land (defined as the entire approximately 1,280 acres contained in the Whittier Hills Property) for oil, gas, other hydrocarbons,... and other commercially valuable substances which may be produced through wells on the Leased Land."¹¹⁸ The rights and powers given to Matrix in the Lease for testing, drilling, construction and support activities for the entire Property are very broad:¹¹⁹

- Lease grants Matrix the exclusive right of exploring, drilling and operating on the Whittier Hills Property for oil, gas, other hydrocarbons, and other commercially valuable substances that may be produced through wells on the Property.¹²⁰
- Matrix may conduct "continuous operations of drilling" as long as "no more than 180 days lapse in which there are no drilling operations being conducted" (Paragraph 4.2) and may drill as many additional wells as it may elect."¹²¹
- In the event that Lessee has drilled six wells on the Leased Lands, then Lessee shall have the right to request from Lessor one or more additional drill sites subject to Lessee applying for and obtaining a Conditional Use Permit therefore. Whittier may in its sole discretion and for any reason deny or grant Lessee the right to construct any such additional sites.¹²²
- The Lease grants Matrix the right to "drill as many additional wells as it may elect in excess of the number required for the Leased Land to be considered fully

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*, AR1357.

¹²¹ *Id.*, AR1358. Sections 4.2: Continuous Operations and 17: Definitions.

¹²² *Id.*, AR1360.

drilled.”¹²³ In this regard, the term “fully drilled” means “a sufficient number of oil and/or gas wells to earn Wells Tracts, as hereinafter defined, to encompass all of the Leased Land.”¹²⁴

- Matrix was granted a perpetual right to exploit the entirety of the Property (i.e. beyond the 7 acre pad approved in the current Project) until “fully drilled” subject only to (1) an approved conditional use permit application by Whittier for additional drill sites and (2) Whittier’s approval of additional well sites in its sole discretion.¹²⁵
- The Lease sets no definitive term but instead allows Whittier the option “to purchase all of Lessee’s right, title and interest in this Lease and all wells thereon and operating equipment and pipeline associated therewith at the fair market value thereof.”¹²⁶ According to this provision, and under the Whittier Charter Section 418, the term of this Lease may extend beyond 25 years.¹²⁷

The rights granted to Matrix under the Lease exceed the limited Project description evaluated in the FEIR as the Lease provides Matrix:

“with the exclusive right of exploring, prospecting, mining, drilling, and operating the Leased Land for oil, gas, other hydrocarbons, associated substances, sulfur, nitrogen, carbon dioxide, helium and other commercially valuable substances which may be produced through wells on the Leased Land, similar to the above-mentioned substances except for water (but not excepting water which may be produced in association with leased substances which may be used by Lessee in its operations on the Leased Land, but not sold) and geothermal resources (hereinafter collectively called “substances”) and

¹²³ *Id.*

¹²⁴ *Id.*, Section 17: Definitions.

¹²⁵ *Id.*, AR1358-60; Also TE Vol. 14, Exh. 125, Executed Second Amendment to Matrix Lease. 8 May 2012. AR3236-37

¹²⁶ TE, Vol. 6., Exh. 7: The Lease.

¹²⁷ TE, Vol. 7, Exh. 80: Whittier. City Council of the City of Whittier, Greg Nordback, Cathy Warner, and Bob Henderson’s Notice of Demurrer and Demurrer to Plaintiff and Petitioner’s Complaint and Petition for Writ. AR1607.

producing, extracting, taking, treating, storing of oil, removing and disposing of such substances from the Leased Land together with the right to construct, erect, maintain, operate, use, repair, replace and remove pipelines, telephone, telegraph and power lines, tanks, machinery, appliances, buildings, and other structures, useful, necessary or proper for carrying on its operation on the Leased Land, or neighboring lands pooled therewith for any or all of the above-mentioned purposes. Lessor shall have the right to occupy and use the Leased Land in any manner and to any extent not inconsistent with Lessee's right or in interference with Lessee's operations hereunder."¹²⁸

In reviewing the proposed Lease, the District should consider all of the rights granted to Matrix under the Lease and not just the current Project described in the FEIR and CUP. District approval of the Lease would allow Whittier to dispose of and change the use of the entire acreage and mineral rights constituting the approximately 1,280 acres.

C. City Approval of Amendment No. 1 to Lease

On April 12, 2011, Whittier council approved Amendment No. 1 to the Lease, extending the term of the Lease and amending the terms for rental payments.¹²⁹ Whittier did not seek, and did not obtain, permission from the District to amend the Lease.

D. City Approval of Amendment No. 2 to Lease

On May 8, 2012, Whittier unilaterally approved Amendment No. 2 to the Lease in an attempt to eliminate the requirement for District approval, while clearly acknowledging that such approval powers existed:¹³⁰

¹²⁸ TE, Vol. 6, Exh. 67: The Lease.

¹²⁹ TE, Vol. 8, Exh. 88: Amendment to Whittier Main 2008 Mineral Extraction Oil, Gas, and Mineral Lease between City of Whittier and Matrix Oil Corporation and Clayton Williams Energy, Inc. Agreement No. A08-330. 12 April 2011.

¹³⁰ TE, Vol. 14, Exh. 125: Executed Second Amendment to Whittier Main 2008 Mineral Extraction Oil, Gas and Mineral Lease (TE, Vol. 6, Exh. 67). 28 October 2008 agreement between City of Whittier (Lessor) and Matrix Oil Corporation (25%) and Clayton Williams Energy, Inc. (75%) (Lessee). *Also* TE, Vol. 14, Exh. 123. Minutes for May 8, 2012 Whittier City Council, Whittier Redevelopment Successor Agency, and Whittier Utility Authority Joint Meeting. Section 16.A: Matrix Oil Mineral Lease Amendment No. 2.

“...clearly, this amendment deals with removing an approval requirement that was handed to the – to the County officials and now it’s being removed, nevertheless... How can you seek approval from people who won’t talk to you, won’t identify anybody who will talk to you, and just you go on and on and that’s an endless process? And that’s been the problem with contacting the District up until now.”¹³¹

Whittier amended paragraph 6.6 of the Lease to eliminate the requirement for District approval for any future wells, or as the minutes of the Whittier City Council meeting state, “to remove any preconditions for the [District] to approve the disposition of the property.”¹³² At the Whittier Council meeting regarding the Lease Amendment, Whittier received objections from MRCA and SMMC, and then approved this amendment.¹³³ This Lease Amendment purports to eliminate the requirement to obtain “a release from protected area status of the oil project portion of the” Property for both (1) commencement at the oil drilling project and (2) for any additional drill sites requested by Matrix throughout the entire Whittier Hills Property.¹³⁴ The requirement to obtain District approval is exactly the obligation Whittier committed to in the Assurances and Project Agreement as a condition to receiving Proposition A funds. Whittier did not seek, and did not obtain, permission from the District to agree to Lease Amendment No. 2.

¹³¹ TE Vol 14, Exh 124: May 8, 2012. Certified Transcript of Proceedings. Reporter Laura D. Guerrero. Redevelopment Attorney Markman, Page 21 Lines 3-25 and Page 22 Lines 1-4:

¹³² TE, Vol. 14, Exhs. 123–125, Whittier City Council Meeting Minutes; Certified Transcript of Proceedings; Executed Second Amendment to Matrix Lease, May 8, 2012, AR3199.

¹³³ TE, Vol. 14, Exh. 122: May 8, 2012. Letter to Whittier City Council from Mountains Recreation & Conservation Authority, Jeffrey K. Maloney, Staff Counsel, re: May 8, 2012 City Council Meeting. *Also* TE, Vol. 14, Exh. 123: Minutes for May 8, 2012 Whittier City Council, Whittier Redevelopment Successor Agency, and Whittier Utility Authority Joint Meeting. Section 16.A: Matrix Oil Mineral Lease Amendment No. 2. *Also* TE, Vol. 14, Exh. 124: Laura D. Guerrero, Certified Court Reporter. Reporter’s Transcription of Televised Proceedings for May 8, 2012 Whittier City Council, Whittier Redevelopment Successor Agency, and Whittier Utility Authority Joint Meeting.

¹³⁴ TE, Vol. 6, Exh. 67: The Lease. Section 6.6: Request for Additional Sites: The Lease originally provided that “in the event that Lessee has drilled six wells on the Leased Lands, then Lessee shall have the right to request from Lessor one or more additional drill sites, subject to Lessee applying for and obtaining a Conditional Use Permit (“CUP”) therefor and obtaining a release of any such additional sites from protected area status from the Los Angeles County Proposition A District. Lessor may in its sole discretion and for any reason deny or grant Lessee the right to construct any such additional site.” However, the phrase “and obtaining a release of any such additional sites from protected area status from the Los Angeles County Proposition A District” was amended out of the Lease on May 8, 2012. Thus, the Lease grants Matrix unlimited rights to exploit the entirety of the Leased Land until fully drilled over the next 25 years or more subject only to: (1) Whittier’s approval of subsequent Conditional Use Permit applications, and (2) Whittier’s approval of additional well sites in its sole and absolute discretion.

The Lease originally provided that “in the event that Lessee has drilled six wells on the Whittier Hills Property, then Lessee shall have the right to request from Lessor one or more additional drill sites, subject to Lessee applying for and obtaining a CUP, therefore, and obtaining a release of any such additional sites from protected area status from the Los Angeles County Proposition A District. Lessor may in its sole discretion and for any reason deny or grant Lessee the right to construct any such additional site.”¹³⁵ However, the phrase “and obtaining a release of any such additional sites from protected area status from the Los Angeles County Proposition A District” was amended out of the Lease on May 8, 2012, in an attempt to eliminate the District’s approval right.¹³⁶ As a result, Matrix can request additional drill sites beyond those approved in the current CUP subject only to Whittier’s approval, at its sole discretion. Indeed, Lease section 11.5 discusses the possibility of Whittier issuing additional CUPs. The Lease also provides Whittier the option, “exercisable within the first 180 days of the twenty-fourth (24th) year of the Lease if it is still then in effect, exercised by written notice by the Lessor (i.e., Whittier) to the Lessee (i.e., Matrix), to purchase all of Lessee’s right, title and interest in this Lease and all wells thereon and operating equipment and pipeline associated therewith at the fair market value thereof.”¹³⁷ According to this provision, and under Whittier’s Charter Section 418,¹³⁸ the term of this lease can extend beyond twenty-five years.¹³⁹ Thus, the Lease grants Matrix unlimited rights to exploit the entirety of the Whittier Hills Property until fully drilled over the next 25 years or more subject only to (1) Whittier’s approval of subsequent CUP applications and (2) Whittier’s approval of additional well sites in its sole and absolute discretion. Because the District’s right to subsequent approval has been removed from the

¹³⁵ TE, Vol. 6, Exh. 67: The Lease. Section 6.6: Request for Additional Sites.

¹³⁶ TE, Vol. 14, Exh. 120: May 8, 2012 Agenda Report requesting Lease Amendment 2: Whittier Main 2008 Mineral Extraction Oil, Gas and Mineral Lease. Section 6.6: Request for Additional Sites. *Also* TE, Vol. 14, Exh. 125: May 8, 2012 Executed Lease Amendment 2: Whittier Main 2008 Mineral Extraction Oil, Gas, and Mineral Lease. Section 6.6: Request for Additional Sites.

¹³⁷ TE, Vol. 6, Exh. 67: The Lease.

¹³⁸ “Section 418. Contracts; Restrictions. The city council shall not have the power to make or authorize any contract or lease or extension thereof for a longer period than twenty-five years unless said contract, lease or extension be approved by a majority of those qualified electors of the city voting on such question at any election.” City of Whittier, California. Accessed September 9, 2013. “Charter of the City of Whittier: Article IV. City Council.” Website. Available at: <http://library.municode.com/index.aspx?clientId=16695&stateId=5&stateName=California>

¹³⁹ TE, Vol. 7, Exh. 80: City of Whittier, City Council of the City of Whittier. 1 December 2010. Greg Nordback, Cathy Warner, and Bob Henderson’s Notice of Demurrer and Demurrer to Plaintiff and Petitioner’s Complaint and Petition for Writ.

Lease, the District, as a Responsible Agency, must consider all rights in the Lease, both expressly and conditionally granted, in exercising its discretion.¹⁴⁰

As characterized in the FEIR, under the terms of the Lease, Matrix is entitled to drill the entirety of the Whittier Hills Property, with operations 24 hours a day/7 days a week and monitoring once operational and estimated monthly water use of 39,000 gallons to be reinjected into the ground below the fresh aquifer.¹⁴¹ Because the Lease allows drilling throughout the approximately 1,280 acres, Matrix can apply for additional conditional use permits that would allow additional drilling wells and associated activities and impacts comparable to what has been characterized to the FEIR.

E. Whittier EIR Process for the CUP

Whittier prepared an EIR pursuant to CEQA for its consideration of a CUP for the Project. In October 2010, Whittier released the Draft EIR for a 60-day public review comment period. The District provided an extensive letter of comment identifying potential environmental issues and conflicts with the underlying purpose for which the lands had been purchased.¹⁴² In response to comments received on the initial version of the EIR circulated for public review, Matrix amended the project description to conform to one of the alternatives evaluated in the Draft EIR. On April 5, 2011, Matrix submitted a revised CUP application to establish a new project that conformed to the Central Consolidated Site Alternative detailed in the Draft EIR.¹⁴³

On June 6, 2011, Whittier published a Notice of Availability of a new Draft EIR for a 45-day public review comment period.¹⁴⁴ After circulating a new EIR for Whittier Oil Field Development Project, holding public hearings, Whittier prepared a final EIR in October 2011 for

¹⁴⁰ TE, Vol. 14, Exh. 125: Executed Second Amendment to Matrix Lease. 8 May 2012.

¹⁴¹ TE, Vol. 9, Exh. 105: Whittier. October 2011. Final Environmental Impact Report, Whittier Main Oil Field Development Project. Section 2.3.4.2 Project Description, Operations, Paragraph 2, Page 2-46.

¹⁴² TE, Vol. 7, Exh. 81: County of Los Angeles Recreation and Open Space District. 6 December 2010. Letter to City of Whittier, Subject: Comments on Draft EIR.

¹⁴³ TE, Vol. 8, Exh. 87: Matrix Oil Corporation. 5 April 2011. Matrix Conditional Use Permit Application (Revised) CUP09-004) submitted to the City of Whittier. Mineral Extraction Oil, Gas, and Mineral.

¹⁴⁴ TE, Vol. 8, Exh. 92: City of Whittier. 6 June 2011. Notice of Availability of Draft EIR for Whittier Main Oil Field Development Project.

consideration by the Whittier Planning Commission and City Council.¹⁴⁵ The District submitted a letter of comment on the FEIR again, identifying potential environmental issues and conflicts with the underlying purpose for which the lands had been purchased with Proposition A grant monies.¹⁴⁶

The FEIR states in two locations that District approval is necessary for the Project and would be obtained before the Project can move forward. First, in the Description of the Proposed Project in the Executive Summary, the FEIR states, “The majority of the land encompassing the oil field was purchased from Chevron and Unocal Corporation by Whittier via a grant of Proposition A funds. Conditions of this funding require Whittier to obtain the consent of the Los Angeles County Regional Park and Open Space District (‘the District’) for certain proposed uses or development of the land for anything other than open space or recreational use. In order to use the surface within the oilfield area for drilling and pumping, Whittier will be required to either reimburse the Los Angeles County Proposition A District for the lost acreage or provide a comparable area of land that can be used for open space.”¹⁴⁷

Then, in Section 4.11: Land Use and Policy Consistency Analysis, Policy 4.6 discusses making every effort to locate possible funds for the acquisition of open space; in consistency with the analysis of this policy, the FEIR states that “the City’s purchase of the Whittier Main Oilfield was funded by a grant of Proposition A funds. Conditions of this funding require the City to obtain the consent of the Los Angeles County Regional Park and Open Space District (‘the District’) for uses or development of the land for anything other than open space or recreational use ... the City is required to either reimburse the District for the 7 acres or provide a comparable area of land that can be used for open space. City staff is in contact with the District to determine the appropriate approach to comply with this requirement. The proposed lease includes a provision that the City will not issue a CUP until a release from protected area status is obtained from the District. Therefore, if issues are resolved with the District, the Project

¹⁴⁵ TE, Vols. 9–10, Exh. 105: Whittier. October 2011. Final EIR for Whittier Main Oil Field Development Project.

¹⁴⁶ TE, Vol. 12, Exh. 108: County of Los Angeles Recreation and Open Space District. 8 November 2011. Letter to City of Whittier, Subject: Comments on Final EIR.

¹⁴⁷ *Id.*, Executive Summary, Page ES-2, Description of Proposed Project, Paragraph 2.

would be consistent with this policy.”¹⁴⁸ Despite not receiving the District’s approval of the Lease, the City Council unanimously certified the final EIR and approved the CUP on November 28, 2011.¹⁴⁹ Whittier filed a Notice of Determination regarding the Whittier Main Oil Field Project on November 29, 2011.¹⁵⁰

F. District Role in Consideration of the Lease

1. Proposition A and Project Agreement

Pursuant to Proposition A and the Project Agreement, the District has express rights to approve any lease or lease amendment affecting the Whittier Hills Property and to consider the any proposed change of use of lands acquired with Proposition A funds. These discretionary approval powers of the District have been repeatedly acknowledged by Whittier, including in its Proposition A application assurances, the Project Agreement,¹⁵¹ and during the CEQA EIR process. Indeed, Proposition A’s primary author, Ms. Esther Feldman, also noted in July 2011 that the District’s approval is required for the Lease to become operative.¹⁵² The District’s consideration of the Lease must take into account the District’s express purpose to acquire open space and the effects of the Lease on current and future projects on the District’s open space preservation mission.

¹⁴⁸ *Id.*, Section 4.11, Land Use and Policy Consistency Analysis.

¹⁴⁹ TE, Vol. 12, Exh. 110: Resolution of the City Council of the City of Whittier, California, Approving Conditional Use Permit No. CUP09-004 to Allow the Development and of the Whittier Main Oil Field Project Located on City Property Owned with the Puente Hills Habitat Preservation Authority Area (Formerly the Whittier Main Oilfield), Generally Located North of Mar Vista Street and West of Colima Road. 28 November 2011. *Also* TE, Vol. 12, Exh. 111: Certified City of Whittier Resolution No. 8423. 28 November 2011.

¹⁵⁰ TE, Vol. 12, Exh. 112: Notice of Determination regarding Whittier Main Oil Field Development Project. 29 November 2011.

¹⁵¹ TE, Vol. 3, Exh. 21: Project Agreement.

¹⁵² TE, Vol. 8, Exh. 97: Presentation. July 2011. Review and Evaluation of Proposed Whittier Oil and Gas Project for Consistency with Proposition A by Community Conservation Solutions and Ester Feldman.

2. *Significant Direct and Indirect Impacts to 335 Acres from First CUP*

The District should consider that, as Judge Chalfant wrote in the Trial Court Decision, the Project “will substantially interfere with the use of the Whittier Hills [Property] as open space and wildlife habitat and will result in significant direct and indirect adverse impacts to 335 acres[.]” (Figure 8, *251-Acre Impact to Whittier Hills Property*, shows the 335 acres that will be impacted if the Project is executed, 251 acres of which are located directly on the Whittier Hills Property – Lease Area, with 114 acres located along the main Project access road and directly adjacent to the Whittier Hills Property).¹⁵³

The significant direct and indirect adverse impacts from the first CUP under consideration by Whittier, pursuant to the lease, will eliminate or substantially degrade the habitat functions and values, and recreation and open space characteristics on approximately 251 acres of the Whittier Hills Property. First, effects on wildlife – including thermal impacts, hydrological impacts, chemical and material pollutants, sediments, noise impacts, invasion of roadside species, human access, fire, and sensitive habitats – extend outward for greater than 100 meters from the road edges identified in the Project.¹⁵⁴ This distance – 100 meters – is developed from years of empirical data documented in the scientific literature, reflecting the historically demonstrated conversion of habitat that occurs due to vehicles and people carrying seeds for weeds that incrementally degrade the habitat along roads and trails, as well as animals aversion to humans and vehicles which cause them to avoid areas of human use, and general human impacts (such as increased emissions, leakage from vehicles, increased light at night, soil disturbance from pedestrian and vehicular traffic, etc.). Sapphos Environmental, Inc. performed a geospatial impact analysis using Geographic Information System or “GIS” to determine the conservative extent of potential impacts from vehicular and equipment noise, light and glare, odor and dust, alteration or removal of vegetation (and the attendant reduction in habitat functions and values) to accommodate the project features, and temporary or permanent interruption of recreational features. The analysis was undertaken in two components: (1) the construction staging/parking lot and well pad area; and (2) the appurtenant facilities including

¹⁵³ Trial Court Decision in MRCA Lawsuit, p. 13, fn. 7.

¹⁵⁴ Jochimsen, D. M., C. R. Peterson, K. M. Andrews, and J. W. Gibbons. 2004. *A Literature Review of the Effects of Roads on Amphibians and Reptiles and the Measures Used to Minimize Those Effects*. Idaho Fish and Game Department, USDA Forest Service.

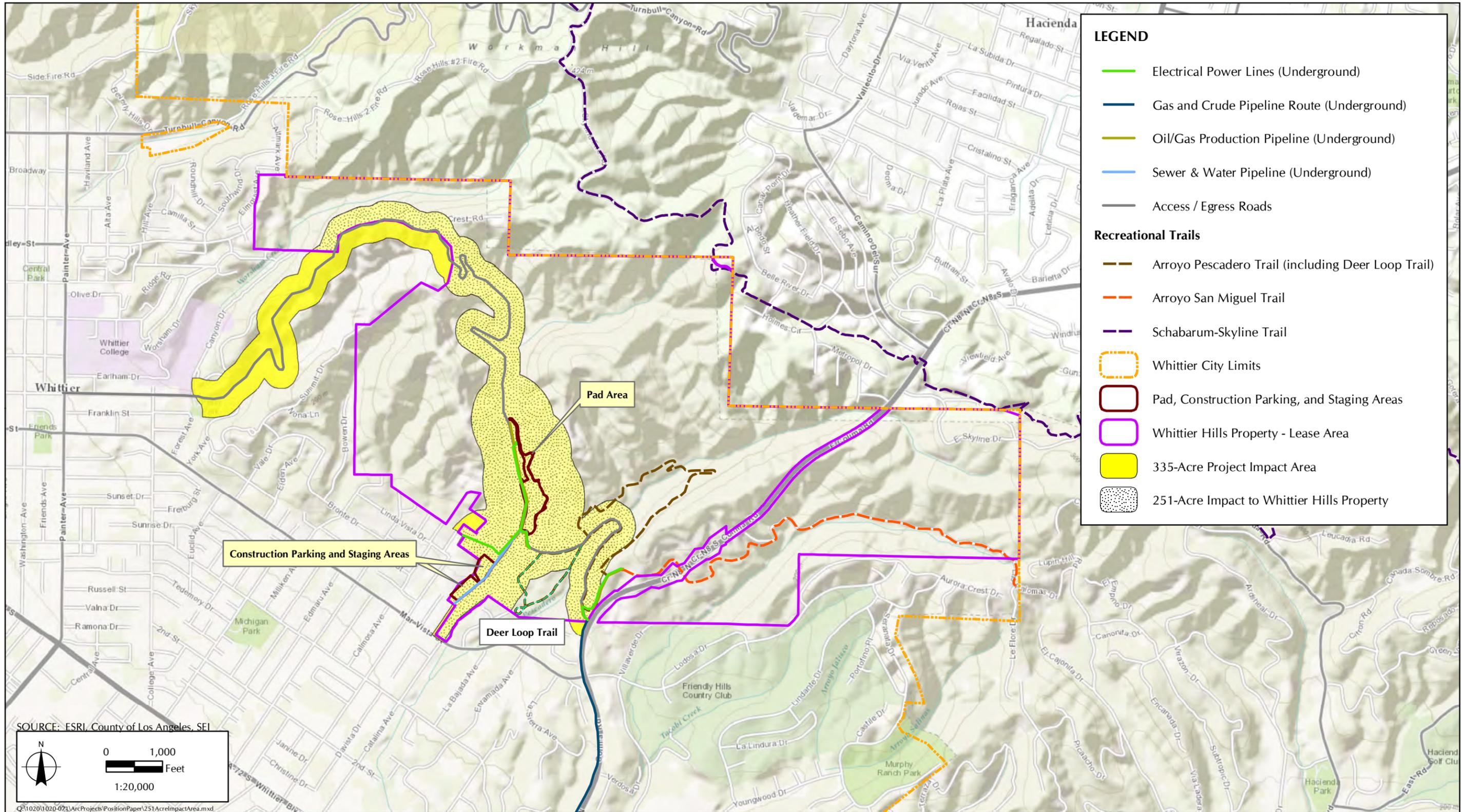


FIGURE 8
251-Acre Impact to Whittier Hills Property

roads within the Preserve. Using the formula for calculating noise attenuation from the source, the impact zone for anthropogenic was calculated as 151 acres, based on a noise attenuation a distance of 800 feet from the boundary of the oil production pad and the construction laydown and parking areas. Using empirical data from the published literature, the impact on biological resources was calculated as 253 acres, based on a distance of 100 meters from ingress and egress roadways for the Project site. There is a 69-acre area of overlap between noise attenuation area from the stationary operational areas of the project and the roadways. After accounting for the 69 acres where the impact areas overlap, there are 335 acres where the habitat would be removed or degraded as a result of the Project, 251 acres of which would be impacted within the Whittier Hills Property. The scope of the 335-acre impact area, including the 251 acres impacted on the Whittier Hills Property, is identified in Figure 8.

3. Direct and Indirect Impacts from Potential Future CUPs

In exercising its discretion under the Project Agreement and Proposition A, and as a responsible agency, the District must also consider the effects of Matrix's future rights under the lease to apply for CUP approval (at Whittier's sole discretion) for additional drill sites throughout the Whittier Hills Property until it is fully drilled. This is particularly true since Whittier attempted to act autonomously to remove the District's right of approval from the Project and any future expansion of drilling on the Whittier Hills Property. In this regard, any other drill sites approved within the Whittier Hills Property are expected to produce similar significant impacts on the dedicated open space areas and wildlife, with the cumulative impacts being much greater as the number and location of wells increases. If the Lease is executed, additional projects and CUPs can be approved by Whittier that far exceed those contemplated in the FEIR and do not require District approval, as a result of Amendment 2 to the Lease.

The testing, construction, and operation phases of these future drill sites will cause similar significant impacts to the open space as with the current Project including emissions, odors, light, noise, biological resources, visual resources, the combined effects of increased human activity, and increased trucking and heavy equipment traffic. Similar to the current Project, all these significant impacts are incompatible with the Proposition A intent to preserve

open space. Whittier could also seek to amend the current CUP to allow additional well sites and activities.

The District's consideration of the Lease and Project requires careful scrutiny of the entirety of the actions allowed under the Lease to ensure that the public trust values that have been characterized as the public benefits of the assessment authorized by the Voters are retained as they relate to the Whittier Hills Property. The District's decision on the Lease will likely influence the potential for other recipients Proposition A funds to propose activities beyond the intended use.

VI. Project Scope and Phases

A. Scope of Allowable Activities in the FEIR Project and CUP

Pursuant to the Lease, Matrix applied for a CUP to begin oil and mineral exploration, development, and operations within the Whittier Hills Property¹⁵⁵. The Project, as evaluated in the FEIR, is the first CUP approved by Whittier pursuant to the Lease without the required approval by the District. As described in Whittier's FEIR, the first phase of the Project consists of a single pad with well cellars, well test stations, an oil processing plant, a gas plant, liquid and gas separating equipment, an oil-truck loading facility, pipelines, utility poles, and disturbed and modified areas and roads (including a Los Angeles County Fire Department-mandated fuel modification zone), located on an approximately 30.6-acre site within the Whittier Hills Property.¹⁵⁶ Pursuant to the Lease, Matrix can request additional CUPs to expand its operations to other portions of the Whittier Hills Property.

As described in the FEIR, the total permanent area required for the pad would be approximately 6.9 acres, plus 6.5 acres of expanded roadways and 6.9 acres along roadways and around the pads for a fuel modification zone to reduce fire risk around the facility, involving 20 feet of land with drought-tolerant, low-fuel-volume plants around facility pads, 10 feet around roads, and 100 feet around the office building; up to 8.5 additional acres may be temporarily disturbed for construction and grading of the site, including parking and staging areas as well as installation of electrical poles and aboveground water pipelines.¹⁵⁷ A 2.5-mile access road (the North Access Road, leading from the northern end of the Project Site to Penn Street, with 1.2 miles within the Preserve and 1.3 miles within the Landfill boundaries) would be aligned, stabilized and widened, with 2,320 temporary feet of k-rail installed and 2,900 feet of retaining wall constructed.¹⁵⁸ Approximately 1,800 feet of Catalina Avenue within the Preserve would be

¹⁵⁵ TE, Vol. 12, Exh. 110. City of Whittier. 11/28/11. "Resolution No. 8424, a Resolution of the City Council of the City of Whittier, California, Approving Conditional Use Permit No. CUP09-004 to Allow the Development and Operation of the Whittier Main Oil Field Project Located on City Owned Land Within the Puente Hills Habitat Preservation Authority Area (Formerly the Whittier Main Oilfield), Generally Located North of Mar Vista Street and West of Colima Road"

¹⁵⁶ TE, Vols. 9–12, Exh. 105: City of Whittier FEIR. October 2011. Executive Summary: Project Description, paragraph 1, 2, 5, 6 and Project Description, paragraph 3.

¹⁵⁷ *Id.*, Section 2.3, Proposed Project Phases, paragraph 4.

¹⁵⁸ *Id.*, Executive Summary: Project Description, Section 2.3 Project Phases, Section 2.3.1: Site Access.

widened to meet LACoFD fuel management zone requirements, 220 feet of new roadway within the Preserve would be constructed adjacent the Project Site, and 2,000 feet of existing asphalt road within the Preserve adjacent to the Project site would be realigned, widened, and improved.¹⁵⁹ A 4,100-foot section of the Loop Trail Road may need to be widened to 20 feet to meet Fire Department requirements, with gravel or road base improvements for fire access.¹⁶⁰

1. Phased Implementation

Drilling and Testing

Up to three test wells will be drilled to vertical depths between 1,000 and 10,000 feet using horizontal drilling technology at the Project Site for assessment of the quality and quantity of oil and gas produced.¹⁶¹ Each of the three wells is estimated to take up to 30 days to drill, and once operational, the drilling will be conducted on a continuous schedule of 24 hours per day, 7 days per week.¹⁶² The three test wells will be drilled one after another utilizing the same drill rig and supporting equipment, which will remain on the property for 90 days.¹⁶³ Clearing and leveling of a portion of the Project site will be necessary to accommodate the drilling equipment (e.g., drilling rig).¹⁶⁴ Clearing space for the wells will require bringing clearing equipment to the site by truck and the actual clearing of each site by 10 people, operating earth moving equipment for 10 hours per day, 5 days per week, for up to 4 weeks.¹⁶⁵ The drilling of the test wells will require a large drilling rig approximately 130 feet tall that will drill 24 hours per day for up to 120 days and involve five workers working 10 hour shifts during the testing period.¹⁶⁶ Tanker

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *Id.*, Executive Summary: Project Description, paragraph 12 and Project Description, Section 2.3.2: Drilling and Testing Phase 1. *Also* TE, Vol. 6, Exh. 70. Michael McCaskey, Matrix Oil Corporation. April 5, 2011 CUP Application to Mr. Jeffrey W. Collier, Assistant City Manager, Whittier Redevelopment Agency: Project Description. Amendment to CUP 09-004 dated April 24, 2009. *Also* TE, Vol. 12, Exh. 110. November 28, 2011. Certified Resolution No. 8424 with Attachments. CUP Conditions of Approval.

¹⁶² TE, Vols. 9–12, Exh. 105: City of Whittier FEIR. October 2011. Project Description, Section 2.3.2: Drilling and Testing Phase 1.

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

trucks (10,000-gallon capacity) will transport the produced liquid (oil and water) off site through Catalina Avenue up to six times per day during daylight hours.¹⁶⁷ Accordingly, there are 90 days of drilling and then as many as 120 days of monitoring while drilling continues.¹⁶⁸ The oil and water brought to the surface during this time frame will be removed daily by 58-foot tanker trucks. Up to six truck trips will be made for removal for those crude oil and water removed during day light hours.¹⁶⁹ Site access will be through the Catalina Avenue Preserve gate at the north end of Catalina Avenue, which will be accessed from Mar Vista Street; trucks will travel along Mar Vista Street to Colima Road, where they will reach Highway 60 (north) and Whittier Boulevard leading to Interstate 605 (south).¹⁷⁰

Design and Construction

Phase II involves construction of well cellars, gas and oil processing equipment installation, and construction of gas/crude oil transportation facilities.¹⁷¹ Over 30 months, the existing landfill road will be stabilized and upgraded; oil and gas processing facilities, including a truck loading facility, will be constructed; sales gas and crude oil pipelines will be constructed; and well cellars and associated equipment will be constructed.¹⁷² The constructed facilities are designed to handle up to a daily maximum production volume of 10,000 barrels of crude oil.¹⁷³ The total area required for the well pads, oil and gas production and processing, and truck loading facilities is approximately 6.9 acres.¹⁷⁴ During this phase, a 12,000-gallon elevated

¹⁶⁷ *Id.*, Executive Summary: Project Description, paragraph 8, 9.

¹⁶⁸ *Id.*, Project Description, Section 2.3.2: Drilling and Testing Phase 1.

¹⁶⁹ *Id.* TE, Vol. 8, Exh. 87: Matrix Oil Corporation. April 5, 2011 CUP Application to Mr. Jeffrey W. Collier, Assistant City Manager, Whittier Redevelopment Agency: Project Description. Amendment to CUP 09-004 dated April 24, 2009. “A Resolution of the City Council of the City of Whittier, California, Approving Conditional Use Permit No. CUP09-004 to Allow the Development and Operation of The Whittier Main Oil Field Project Located on City Owned Land within the Puente Hills Habitat Preservation Authority Area (Formerly the Whittier Main Oilfield), Generally Located North of Mar Vista Street and West of Colima Road.”

¹⁷⁰ TE, Vols. 9–12, Exh. 105: FEIR. Executive Summary: Project Description, Section 2.3 Project Phases, Section 2.3.1: Site Access.

¹⁷¹ *Id.*, Project Description Section 2.3.3: Design and Construction Phase. *Also* TE, Vol. 12, Exh. 110. November 28, 2011. Certified Resolution No. 8424 with Attachments. CUP Conditions of Approval.

¹⁷² TE, Vols. 9–12, Exh. 105: FEIR. Project Description, Section 2.3.2: Drilling and Testing Phase 1. *Also* TE, Vol. 6, Exh. 70. Michael McCaskey, Matrix. April 5, 2011 CUP Application to Mr. Jeffrey W. Collier, Assistant City Manager, Whittier Redevelopment Agency: Project Description. Amendment to CUP 09-004 dated April 24, 2009.

¹⁷³ TE, Vols. 9–12, Exh. 105: FEIR. Project Description, Section 2.3.2: Drilling and Testing Phase 1.

¹⁷⁴ *Id.*

water tank will be provided and located on site to be used to moisten soil during compaction and for dust suppression.¹⁷⁵ It is estimated that the earth moving activities will last approximately 6 months.

The FEIR provided a description of the grading that Whittier and Matrix have characterized as being expected in conjunction with the initial design and construction phase of the Lease:

- Grading the central site during this phase is anticipated to involve 180,000 cubic yards of soil to be cut.¹⁷⁶
- Following testing for contamination, the clean soil will be trucked to the Savage Canyon landfill less than 2.5 miles from the Project site.
- The construction phase will include oil and gas pipelines to be built under existing Reserve Roads from this Central Site to Colima Road. The proposed gas pipeline will be 6 inches in diameter and approximately 1.8 miles in length. The crude oil pipeline will be 8 inches in diameter and 2.8 miles in total length.
- The gas plant to be located at the Central Site will be approximately 1.5 acres in area. All produced gas from the wells, tanks, and vessels will be sent to the gas plant via pipeline for removal of liquids and impurities.
- The oil processing facility will be located on the Central Site and will be approximately 3 acres in area.¹⁷⁷ This facility will include tanks and vessels for oil and water separation, air compressors for control purposes, pumps for moving oil and water, tanks for temporary storage of oil and water and supporting vessels, and controls and measuring equipment.
- Construction of the gas and oil processing facilities will involve grading and earthwork, concrete pad construction, vessel and tank erection, and piping,

¹⁷⁵ *Id.*

¹⁷⁶ Section 2.0, Project Description (2.3.3.2 Site Construction, page 2-27), of the FEIR

¹⁷⁷ *Id.*

electrical, controls, and equipment installation. Debris generated by the grading process such as branches and leaves will be disposed of on the Preserve site. All other waste of the construction process including pallets, cardboard boxes, plastics, and banding materials will be recycled at an appropriate facility, and other waste will be disposed of in the landfill. It is estimated that up to 80 tons of this material will be recycled and disposed of during the 30-month construction phase. Waste from the drilling operations will either be taken to an off-site recycling center or, if not applicable, then disposed of in a landfill. In addition, drill cuttings containing soil, sand, crushed rocks, and other material will also be disposed of in an appropriate landfill, and Matrix estimates that approximately 660 cubic yards of this material will be generated during the drilling of each well.

- During the 30-month construction phase, an average of 40 workers will drive to the job site and operate vehicles and equipment 5 days per week, and a very large range of high noise, grading earthwork, and facility construction equipment will be required.¹⁷⁸ Site access will be through both Catalina Avenue (vehicles weighing less than 3 tons) and Penn Street through the landfill property and through the Preserve on the North Access Road (vehicles weighing more than 3 tons); truck routes would follow Penn Street to Painter Avenue, north to Hadley Street, and west on Hadley to Whittier Avenue.
- Oil and gas would be transported by 10,000-gallon capacity tanker trucks through Catalina Avenue until the North Access Road is completed and then through the North Access Road until the permanent sales oil pipeline is constructed.¹⁷⁹

Operations and Maintenance

The third, and final, phase will involve the actual drilling and processing activity. This phase will involve drilling up to 57 additional wells taking up to 30 days per well, with occasional well workovers and well re-drilling, and the wells and gas and oil facilities will be

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

operated and maintained.¹⁸⁰ For each well, there will be the requirement for a drilling rig set up (as involving the same process as the Testing Phase), tear down, and drilling operations.¹⁸¹ This phase will encompass up to 5 years of drilling for testing and construction purposes alone.¹⁸² As many as eight injection wells will be drilled at the Central Site and a drilling rig will utilize diesel-powered electric generators.¹⁸³ Once operational, the oil field and gas field will operate 24/7 and oil field operators will be present 24 hours per day to monitor activity.¹⁸⁴ Monthly water use is estimated at 39,000 gallons, and this will be re-injected into the ground into several oil producing sands located below the fresh aquifer to a depth between 1,000 and 10,000 feet.¹⁸⁵ Oil and gas would be transported by pipeline: a new 2.8-mile pipeline will transfer crude oil from the Project Site to the existing Crimson Pipeline System, where it will be transported to the ConocoPhillips Refinery in Wilmington (a natural gas sales line will parallel the crude pipeline under existing roadways through the Preserve to Colima Road, where it will follow the oil pipeline to the Southern California Gas Company [SCGC] line interconnection at Lambert Road), and during rare periods when the pipeline system is shut down, crude oil would be transported in tanker trucks via the North Access Road before being transferred at a nearby receiving terminal into the Crimson California Pipe System.¹⁸⁶ Vehicle traffic for the actual drilling operations will be the same as for the test wells.¹⁸⁷

B. Allowable Uses in the Absence of a Lease

Pursuant to Proposition A and the Project Agreement, allowable uses of the Whittier Hills Property are limited to operations and maintenance activities, which involving restoration and management of natural areas, management of educational and recreational facilities, and passive

¹⁸⁰ *Id.* Michael McCaskey, Matrix. April 5, 2011 CUP Application to Mr. Jeffrey W. Collier, Assistant City Manager, Whittier Redevelopment Agency: Project Description. Amendment to CUP 09-004 dated April 24, 2009; November 28, 2011. Certified Resolution No. 8424 with Attachments. CUP Conditions of Approval.

¹⁸¹ TE, Vols. 9–12, Exh. 105: FEIR. Project Description, Section 2.3.2: Drilling and Testing Phase 1.

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ *Id.* TE, Vol. 6, Exh. 67: The Lease.

¹⁸⁵ TE, Vols. 9–12, Exh. 105: FEIR. Project Description, Section 2.3.2: Drilling and Testing Phase 1.

¹⁸⁶ *Id.*, Executive Summary: Project Description, paragraph 8, 10, 11 and Project Description Section 2.3, Proposed Project Phases, paragraph 8.

¹⁸⁷ *Id.*, Project Description, Section 2.3.2: Drilling and Testing Phase 1.

recreation overseen by the Habitat Authority pursuant to the Resource Management Plan.¹⁸⁸ The Whittier Hills Property is located within the 3,869-acre boundary of the Preserve. The Preserve has been managed for Whittier by the Habitat Authority, consistent with the provisions of Proposition A and the restricted uses established by the Chevron Deed Restriction and the Unocal Deed Restriction.¹⁸⁹ As a result of the Court's June 13, 2013 preliminary injunction and now permanent injunction in the Judgment, no activities related to, or in furtherance of, the Project are occurring on the Whittier Hills Property.

C. Pursuant to Proposition A and Project Agreement, the Lease Constitutes Both a Change in Use and a Disposition of Property

Section 16(b) of Proposition A provides in pertinent part as follows:

“If the use of the property acquired through grants pursuant to this order *is changed to one other than a use permitted under the category from which the funds were provided*, or the property is sold or *otherwise disposed of*, an amount equal to the (1) amount of the grant, (2) the fair market value of the real property, or (3) *the proceeds* from the portion of such property acquired, developed, improved, rehabilitated or restored with the grant, whichever is greater, shall be used by the recipient, subject to subdivision (a) of this Section, for a purpose authorized in that category or shall be reimbursed to the Parks fund and be available for appropriation only for a use authorized in that category.

“If the property sold or otherwise disposed of is less than the entire interest in the property originally acquired, developed, improved, rehabilitated or restored with the grant, an amount equal to the proceeds or the fair market value of the property interests sold or otherwise disposed of, whichever is greater, shall be used by the grantee, subject to subdivision (a) of this Section, for a purpose

¹⁸⁸ *Id.*, Executive Summary: Project Description, paragraph 4.

¹⁸⁹ *Id.*

authorized in that category or shall be reimbursed to the Park’s fund and be available for appropriation only for a use authorized in that category.”¹⁹⁰

Similarly, Paragraph D.10 of the Project Agreement provides for the same formula for payment of monies to the District in the event of a sale or other disposition of property acquired with Proposition A funds.¹⁹¹

Analyzing the language of Proposition A makes it clear, that the Lease and Project constitute a change in use “to one other than a use permitted under the category from which the funds were provided.” Section 8 of Proposition A provides for multiple categories of funding each designated for specific uses throughout the County.¹⁹² Whittier used Proposition A funds designated in Section 8(b)(2QQ) for “acquisition of natural lands and development of related facilities in the Whittier Hills.”¹⁹³ Similarly, SMMC funding was utilized by MRCA to facilitate the acquisition of the Chevron Tract from the funding category set forth in Section 8(c)(6) of Proposition A for the “facilitate the preservation of park and open space land.”¹⁹⁴

Because the Project is not a use permitted under either of these categories of Proposition A funding, the Lease allowing oil drilling constitutes a “change of use” other than permitted under Section 8. The provisions of Section 16(b) are thus applicable to the Lease and Project. Similarly, because the Lease constitutes a disposition of mineral rights to pursue oil, gas, and other mineral exploration and drilling, it is clearly a disposition of the Whittier Hills Property, making Section 16(b) equally applicable.¹⁹⁵

¹⁹⁰ TE, Exh. 21, AR527; TE, Vol. 1, Exh. 7, Proposition A. AR261 (emphasis added).

¹⁹¹ *Id.*

¹⁹² TE, Vol. 1, Exh. 7, Proposition A. AR252-57.

¹⁹³ TE, Vol. 1, Exh. 7, Proposition A AR257.

¹⁹⁴ TE, Vol. 1, Exh. 7, Proposition A AR257-58.

¹⁹⁵ Black’s Law dictionary defines “disposed of or disposition as “[t]he act of transferring something to another’s care or possession...the relinquishing of property.” (Black’s Law Dictionary (9th ed. 2009)). This meaning is applicable to the terms of the Lease in this case.

D. The Lease Allows Activities That Are Not Allowed under the Chevron and Unocal Deed Restrictions

District approval of the Lease would allow Whittier to change the use of the entire Whittier Hills Property to uses that are not permitted under the Chevron Deed Restriction and Unocal Deed Restriction. Judge Chalfant has already held that the Project is located on land subject to the Chevron Deed Restriction.¹⁹⁶ The Lease gives Matrix the right to drill wells and take other actions on the entirety of the Whittier Hills Property, including on the Unocal Tract, which is subject to the Unocal Deed Restriction. The fact that the current Project involves only the exploitation of subsurface oil and gas located under the Unocal Tract does not preclude Matrix from requesting, and Whittier approving, via a new CUP and amendment of the Unocal Deed Restriction, additional oil wells and activities in furtherance of oil and gas extraction and production. As Whittier has already amended the Chevron Deed Restriction in order to allow the Project to move forward, the District should assume that Whittier is similarly willing to amend the Unocal Deed Restriction.

E. The Lease Does Not Bar Hydraulic Fracturing of Subsurface Oil or Gas Formations

While CUP condition 77 prevents the use of “high volume, high pressure hydraulic fracturing” on the Project, the Lease does not contain similar language. Furthermore, if the Lease were approved by the District, Whittier could always amend CUP condition 77 to allow high-volume, high-pressure hydraulic fracturing. In addition, the term “high volume, high pressure hydraulic fracturing” is not defined and other fracking methods (current or future) that use lower pressures and volumes could be interpreted as allowable, causing confusion about whether fracking is completely prohibited or not.

¹⁹⁶ Trial Court Decision in MRCA Lawsuit, Page 35.

1. Description of Hydraulic Fracturing

Hydraulic fracturing (“fracking”) is an oil/gas production enhancement technology that has been used by oil/gas companies in California for decades. Fracking is a technology used to increase production from source rock formations that have low porosity and permeability, which causes oil and natural gas resources to be trapped in the rock. In these types of rock formations, fracking is a technology necessary to extract oil and gas resources that cannot be extracted directly via pumping wells.

Fracking is the process of injecting fluids that consist mostly of water and sand under high pressures into the oil or gas producing rock formation. Chemical additives are also used to increase the fracturing effects. The fluid is injected under pressure to break and fracture the rock and the sand then circulates through the fractures and “prop” open the breaks. Other propping agents besides sand can also be used. This process creates breaks, fractures, and fissures in the producing rock formation that are propped open allowing oil and natural gas to be released and extracted via pumping wells.

Fracking technology has developed over the years. Today fracking is also used in horizontally drilled wells, which allows for a great increase in the projected reserves of oil and natural gas from many previously unavailable resources including California’s Monterey Shale formation. The increase in projected oil and gas reserves caused by advances in fracking technology has also led to an increase in the use of fracking.

2. Environmental Concerns Associated with Hydraulic Fracturing

With the increase in fracking has come nation-wide controversy that is caused by reported instances of groundwater pollution, surfacing of natural gas through wells and the ground, and other public health and safety issues. Opponents of fracking contend that groundwater supplies are being threatened by the subsurface use of chemical additives, unanticipated movement of oil and gas is occurring up to the surface and/or into shallower rock layers including aquifers, and the potential for triggering earthquakes is increased because of high pressure injection into deep formations, among other concerns. In early September, 2013 two City of Los Angeles council members proposed a ban on all hydraulic fracturing in and

around the city claiming the activities are a major threat to the city's water supply, air quality and geological safety.

As of September 2013, there are still significant questions regarding the impacts that fracking can have on the surface, on air quality, and on public health. While many of these issues are to be the subject of future studies, there is no reliable information that exists at the present time to understand the potential issues of fracking in specific geographic areas or at specific locations where fracking is to be performed.

3. State of California Recent Legislation Regarding Hydraulic Fracturing

On September 20, 2013, Governor Brown signed SB 4, a bill that regulates hydraulic fracturing in California. Regulations go into effect January 1, 2014, and become final January 1, 2015. SB 4 requires oil and gas producers to obtain permits for fracking before starting work and also to notify nearby residents, publicly disclose chemicals they use, measure groundwater and air quality, and contribute to an independent scientific study. That study is described in the SB 4 bill as follows: "the Secretary of the Natural Resources Agency, on or before January 1, 2015, (is required) to cause to be conducted, and completed, an independent scientific study on well stimulation treatments, including acid well stimulation and hydraulic fracturing treatments."

SB 4 also tasks multiple state agencies to "adopt rules and regulations specific to well stimulation, including governing the construction of wells and well casings and full disclosure of the composition and disposition of well stimulation fluids, and would authorize the division to allow well stimulation treatments if specific conditions are met."

4. Hydraulic Fracturing in the Lease

According to the Lease, Matrix is expected to include wastewater reinjection in their production support facilities for drill and well sites. Although Matrix must obtain written consent from Whittier, and potentially a CUP, before engaging in steam injection or tertiary recovery operation, the required consent is exclusively at the discretion of Whittier as described in "Section 6.4 Enhanced Recovery Operations" of the Lease: "Lessee shall not engage or participate in any steam injection or tertiary recovery operation upon or affecting the Leased Land without first submitting a detailed plan of the proposed operation to Lessor and obtaining

Lessor's written consent thereto, which consent may be granted, withheld or conditioned at Lessor's sole discretion... if it is determined that a CUP is required for such flood, pressure maintenance or other enhanced recovery operation, such CUP must be applied for and obtained and Lessor's discretion as to the issuance of such CUP shall not be limited.” The Lease language creates some confusion in that fracking is neither “steam injection” nor “tertiary recovery.” It is considered “secondary recovery” which the Lease language does not address. In order to prohibit fracking, the Lease would need to be irrevocably amended to read “...shall not participate in any steam injection, secondary, tertiary, or other enhanced recovery including but not limited to acidizing, steam treatment, hydraulic fracturing, or the addition of diluent (a diluting agent)”.

Further, Section 11.4 of the Lease states that Matrix can convert a producing well into an injecting well over non-producing acreage to extend the length of production, in which the term “Injection Well” is defined as “a well used to inject water or gas for the purposes of maintaining reservoir pressure or waterflooding a formation in connection with secondary recovery operations.”

Although these Lease provisions discuss injection, there is no specific language regarding the use or conditional use of fracking with the exception that fracking could be included in the definition of “enhanced recovery operation” as quoted above. Given the controversial nature of fracking previously discussed, the new State legislation regarding fracking that will not take complete effect until 2015, and the unknown effects of fracking on the specific geology of the Whittier Oil Field, air quality, water quality, aquifers, human health and the environment (including flora and fauna), and public safety, the District should consider the potential public controversy and the potential negative environmental impacts of approving a Lease that does not unequivocally bar fracking on the Whittier Hills Property.

VII. District Acting as Responsible Agency

Pursuant to the 2013 State CEQA Statute and Guidelines (CEQA) Section 21083.9(a)(2), the District, as a Responsible Agency, has the responsibility to engage in the scoping process for a project of statewide, regional, or area-wide significance. The District, as a Responsible Agency, must be allowed to comment on all environmental documents related to the Project. The District provided comments on the two draft EIRs and the FEIR of the Project prepared in 2010 and 2011. The results of the District's review of these documents concluded that Whittier, the District, other responsible and trustee agencies, or the public were not adequately informed of the entirety of the impacts to the habitat functions and values, to quality of open space conservation lands, and to the experience of recreational users of the Preserve.

Furthermore, the District, as Responsible Agency, must be afforded the opportunity to consider all of the rights and entitlements granted to Matrix for oil drilling operations under the terms of the Lease in addition to being able to consider the compatibility of those rights with the preservation of open space required by Whittier's use of the Proposition A funds. Since the District's right to subsequent approval has been removed from the Lease, the District, as a responsible agency, must consider all rights in the Lease in exercising its discretion. However, the terms of the Lease, under specified conditions, entitle Matrix to conduct continuous drilling operations on the entire approximately 1,280 acres of the Whittier Hills Property until fully drilled over the next 25 years or more, subject only to Whittier's approval of subsequent CUP applications and Whittier's approval of additional well sites in its sole and absolute discretion.

Section J of the Project Agreement provides that:

“1. Applicant agrees to use the property acquired or developed with grant monies under this Agreement only for the purpose for which it requested District grant monies and will not permit any other use of the area, except as allowed by specific act of the Board of Supervisors as governing body of the District and under the terms and conditions of the Proposition.

“2. Applicant agrees to maintain and operate in perpetuity the property acquired, developed, rehabilitated or restored with grant monies, subject to the provisions of

the Proposition. With the District’s approval, the Applicant, or its successors in interest in the property, may transfer the responsibility to maintain and operate the property in accordance with the Proposition.”¹⁹⁷

The District’s Procedural Guide specifies that the Grantee must submit for prior District approval any proposed operating agreement, lease, management contract, or similar arrangement. Judge Chalfant ruled that the District acts as a Responsible Agency because the District has discretionary authority over whether to approve the Project and Lease.¹⁹⁸ A Responsible Agency is subject to §15021 of the State California Environmental Quality Act (CEQA) Guidelines, which establishes a duty for public agencies to avoid or minimize environmental damage where feasible. If the District were to approve the Lease, it would have to first analyze and make a determination regarding the environmental consequences of its proposed discretionary approval and take action to avoid or minimize environmental damage, where feasible.

A. District Notification to Whittier of a Need for an EIR to Support the Decision-Making Process

After receiving notice from the District of the need to demonstrate conformance with the parameters of Proposition A and that the District would hold off on consideration of the Lease and the proposed changes in land use, the City Manager of Whittier corresponded directly with the District via email, asking that the District approve the proposed action prior to circulation of the FEIR.¹⁹⁹ Whittier sent a letter to the District in October 26, 2010, asserting that the Project would only affect 7 acres of the Project site, constituting less than 1 percent of the properties within the Preserve. In this same letter Whittier stated that it understood that approval will be required by the Board of Supervisors as the governing board of the District.²⁰⁰ Whittier’s efforts to get the District to act prior to the release of the FEIR reflects Whittier’s objective as lead agency to generate revenue from oil production by expediting the approval process. This

¹⁹⁷ TE, Vol. 2, Exh. 14. March 1993. Procedural Guide for Proposition A.

¹⁹⁸ Trial Court Decision in MRCA Lawsuit, Page 28.

¹⁹⁹ TE, Vol. 7, Exh. 76: March 12, 2008. Whittier Daily News Article “Matrix Likely to Assist in Oil Drilling.”

²⁰⁰ TE, Vol. 7, Exh. 77: October 26, 2010. Letter from City of Whittier (Stephen W. Helvey) to the County of Los Angeles Department of Parks and Recreation (Russ Guiney). Re: Your January 6, 2010 Letter Regarding City of Whittier Proposed Oil Project in the Puente Hills.

objective contradicts the District's objective as responsible agency, whose priority is to maximize open space to be preserved in perpetuity.

B. District Participation in CEQA Process

1. January 6, 2010: District Letter to Whittier Regarding Proposition A Requirements

In 2010, the District notified Whittier of the provisions of Proposition A in relation to a proposed change in land use, and the need for results of the environmental analysis to be completed by Whittier pursuant to CEQA to inform the District's actions in relation to the proposed Lease. A letter from the District dated January 6, 2010, stated that the Office of the Los Angeles County Counsel ("County Counsel") was advised that Whittier's legal opinion regarding Whittier's obligation to the District is incorrect, in that it ignores the plain language of the Proposition and the Grant Agreement, both of which require reimbursement of the greater of the actual proceeds or the fair market value of the property.²⁰¹ The District's input reserved final approval, pending its consideration of the environmental and technical studies (including the Draft EIR).

2. December 26, 2010: District Letter of Comment on Draft EIR

The District sent a comment letter on the October 2010 release of a Draft EIR for 60-day public comment period to Whittier requesting that potential environmental effects, particularly the land use incompatibility issues, be properly evaluated and disclosed.²⁰² The District also recommended the assembly of a task force to identify opportunities to refine the Project to avoid and minimize impacts to the maximum extent practicable.²⁰³ The letter of comment issued on December 6, 2010, by Mr. Russ Guiney stated that the Draft EIR incorrectly limited the scope of analysis to the direct impacts of the oil field site and associated staging areas rather than the direct, indirect, and cumulative impacts of all activities that could result from the lease. The

²⁰¹ TE, Vol. 7, Exh. 75: Guiney, Russ. January 6, 2010. County of Los Angeles Department of Parks and Recreation. "City of Whittier Request to Use Property in Conjunction with Open Space Authority." Letter to Mr. Stephen W. Helvey, City Manager, City of Whittier.

²⁰² TE, Vol. 7, Exh. 81: Guiney, Russ. December 26, 2010. District Letter of Comment on the EIR.

²⁰³ *Id.*

District commented that the Draft EIR contained inconsistencies and potential inadequacies in analyzing the impacts to the issue areas listed in Appendix G of CEQA. Of particular concern to the District were the environmental issues that would be relevant to the District's consideration of the lease, or a proposed land disposal action: Biological Resources, Hazards and Hazardous Materials, Greenhouse Gas Emissions, Land Use, and Recreation.²⁰⁴

The District's letter of comment noted that the proposed exploration and oil field development and appurtenant transmission and operations and maintenance activities would be incompatible with the specified use of lands acquired with Proposition A grant funds, and would constitute a disposal of the property that would be required to conform to procedures set forth in Proposition A, the Project Agreement, the District's Procedural Guide. As indicated in Appendix G of CEQA, such an action constitutes a significant adverse impact related to land use that is required to be disclosed to the public and to the Whittier Planning Commission and City Council for their consideration in the land use decision-making process. The District notified Whittier that it had failed to comply with the spirit of CEQA in the design of the Project and meaningful mitigation measures and alternatives. The District urged Whittier to engage in a meaningful project planning effort: specifically, that they convene a working group with representatives of the U.S. Army Corps of Engineers (USACOE); the U.S. Fish and Wildlife Service (USFWS); the California Department of Fish and Game (CDFG); the Department of Oil, Gas and Geothermal Resources (DOGGR); and the District to identify development scenarios that were capable of protecting the land uses for which lands were purchased using Proposition A grant monies and minimizing environmental impacts.²⁰⁵

3. *May 26, 2011: District Letter of Comment on the Recirculated Draft EIR*

The District provided a letter of comment to the City on the Recirculated Draft EIR.²⁰⁶ The District reiterated the statement made in response to the first Draft EIR, in particular stating that, at the most basic level, the Draft EIR needs to demonstrate compliance with the process set forth in the State CEQA Guidelines; the Draft EIR should also show that Matrix has acted in

²⁰⁴ *Id.*

²⁰⁵ *Id.*

²⁰⁶ TE, Vol. 10, Exh. 105 (Appendix I to the Final EIR). Guiney, Russ. May 26, 2011. District Letter of Comment on the Final EIR.

accordance with the goals of CEQA. Mr. Guiney stated that the Draft EIR should fully examine the potential for each alternative to reduce significant impacts to the environment. The District expanded the scope of environmental issues (biological resources, hazards and hazardous materials, greenhouse gas emissions, land use, and recreation) considered in the letter of comment on the initial Draft EIR, to address all 17 issue areas from Appendix G of the State CEQA Guidelines.

4. November 8, 2011: Letter of Comment on FEIR

The District sent a final comment letter regarding Whittier's responses to comments that were submitted on the FEIR, in which it stated that, as a Responsible Agency, the District's mission requires the appropriate granting, administration, and monitoring of grant funds provided pursuant to Proposition A to ensure that the specified goals approved by the voters of the County are achieved: specifically, in this case, the preservation, restoration, and rehabilitation of real property to serve as wildlife habitat and natural habitat and to provide public access and trails.²⁰⁷

Although the District acknowledged the efforts that had been undertaken by Whittier to more accurately characterize the direct impacts of the Project, the District reiterated its concerns that the FEIR did not accurately characterize the full extent of the direct, indirect, and cumulative impacts to conservation lands purchased with public funds for the purpose of habitat conservation, wildlife management, open space preservation, and recreation. The District provided additional information that would allow a more accurate characterization of these impacts and recommendations to avoid and minimize such efforts, including the feasibility of acquiring off-site lands, in the ecoregion of comparable quality to offset impacts to Preserve lands.

In considering the combined effects of direct and indirect impacts from construction and operation of the Project, the District stated its belief that approximately 335 acres (251 acres on the Whittier Hills Property) would be adversely affected, rather than the approximately 30.6

²⁰⁷ TE, Vol. 12, Exh. 108. Guiney, Russ. November 8, 2011. District Letter of Comment on Final EIR.

acres described in the EIR.²⁰⁸ In response to comments received on the Draft EIR, Matrix developed potential design modifications in an attempt to reduce environmental impacts. According to responses to comments provided in the FEIR, the design modifications are considered refinements to the Project and not separate alternatives.

Through the letter of comment on the FEIR, the District notified Whittier that in limiting the scope of analysis in the FEIR, the FEIR failed to inform the District, and other responsible and trustee agencies, or the public of the entirety of the impacts to the habitat functions and values, the quality of open space conservations lands, and the experience of recreational users of the Preserve. In the absence of a more detailed analysis in the FEIR, the District established 335 acres of disturbed land as the basis for consideration of the impacts of the Project, in light of their role as a Responsible Agency pursuant to CEQA, in the administration of Proposition A and the associated Project Agreement.

In response to the District's letters of comment, Whittier responded in the FEIR that the FEIR expressly did not consider Proposition A issues, but deferred them to a separate process that would occur prior to any implementation of the Project:

The City's purchase of the property where the Project site is proposed with Proposition A funds raises a legal issue ... if the Project is approved, the City will comply with all legal requirements under Proposition A. As framed, the Proposed Project would not be able to go forward unless and until the land were permitted to be used for oil extraction consistent with the requirements of Proposition A... the incompatibility is a legal issue separate and apart from the environmental issues analyzed in the Draft EIR but will be addressed prior to any implementation of the Proposed Project."²⁰⁹

²⁰⁸ Trial Court Decision in MRCA Lawsuit.

²⁰⁹ TE, Vols. 9–12, Exh. 105. FEIR. AR2538, 2557

VIII. Whittier FEIR Findings Regarding Significant and Unavoidable Impacts

In the Whittier Statement of Overriding Considerations, Whittier focused on maximizing revenue—“the Project as proposed would develop the site and bring in additional revenue for the City and the most funding for the Preservation of the Preserve by yielding the most production”—to override the significant and unavoidable impacts of the Project on air quality, aesthetics, hydrology and water quality, land use and planning, and recreation.²¹⁰ Based on information contained in the FEIR, and the rights granted to Matrix in the Lease, the allowable development of access roads and right-of-ways for underground pipelines needed for transmission of oil and gas, electricity, and sewage and water would result in significant and unavoidable impacts to the Whittier Hills Property.²¹¹

In the Project Agreement Whittier provided the District with assurance that it had sufficient funds to support management of lands to be acquired with Proposition A funds in perpetuity. However, the generation of revenue is not an intended use of lands acquired with Proposition A funding, and it is not an appropriate finding for the District to use to override impacts related to the change of use or disposition of land.

The FEIR demonstrated that the implementation of the Project, as currently approved by Whittier to allow for oil and gas drilling and processing on up to 7 acres, would result in significant and unavoidable impacts to air quality, aesthetics and visual resources, hydrology and water resources, land use and planning, and recreation.²¹² The FEIR for the Project limited its scope of analysis to the direct impacts of the oil field site and associated staging areas based on a conceptual site plan presented in the project description. However, the Lease entitles Matrix to drill the entire approximately 1,280 acres of the Whittier Hills Property until all acreage needed for each type of drilling operation has been exhausted. Therefore, in its role as a Responsible Agency, the District, in considering the Lease, must take in to consideration the full range of

²¹⁰ TE, Vol. 13, Exh. 111: City of Whittier Resolution No. 8423. November 28, 2011. A Resolution to the City Council of the City of Whittier, California certifying the Final Environmental Impact Report for the Whittier Main Oil Field Development Project; Adopting Findings pursuant to the California Environmental Quality, Act; Adopting a Statement of Overriding Considerations, and Adopting a Mitigation Monitoring and Reporting Program. Exhibit A. Section V, Significant and Unavoidable Impacts and Exhibit B.

²¹¹ TE, Vols. 9–12, Exh. 105. FEIR. Executive Summary, Table ES-2, Significant and Unavoidable Impacts.

²¹² TE, Vols. 9–12, Exh. 105. FEIR. Executive Summary, Table ES-2, Significant and Unavoidable Impacts.

environmental consequences that could potentially occur under the terms of the Lease as required pursuant to Section 15021 of the State of CEQA Guidelines:

- (a) CEQA establishes a duty for public agencies to avoid or minimize environmental damages where feasible.
 - (1) In regulating public or private activities, agencies are required to give major consideration to preventing environmental damage.
 - (2) A public agency should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen any significant effects that the project would have on the environment.
- (b) In deciding whether changes in a project are feasible, an agency may consider specific economic, environmental, legal, social or technological factors.
- (c) The duty to prevent or minimize environmental damage is implemented through the findings required by Section 15091.
- (d) CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian. An agency shall prepare a statement of overriding considerations as described in Section 15093 to reflect the ultimate balancing of competing public objectives when the agency decides to approve the project that will cause one or more significant effects on the environment.

Therefore, the District is obligated to consider the potential for direct, indirect, and cumulative impacts in relation to the underlying purpose for which Proposition A grant funds were made available for the purchase of the Whittier Hills Property, namely open space and wildlife habitat conservation and recreation. The District, in making the funds available for the acquisition, had a reasonable expectation to believe that the lands would be managed in perpetuity for the intended purposes pursuant to Proposition A, as stipulated in Whittier's Resolution No. 6416 Re: Proposition A, Grant Applications and Assurances:

“Applicant will maintain and operate the property acquired, developed, rehabilitated, or restored with the funds in perpetuity. With the approval-of the

District, Applicant, or its successors in interest in the property, may transfer responsibility to maintain and operate the property in accordance with the Proposition. Applicant will use the property only for the purposes of the Proposition and will make no other use, sale, or other disposition of the property except as authorized by specific act of the Board of Supervisors as governing body of the District.”²¹³

A. Air Quality

1. Summary of FEIR Findings

The FEIR determined that construction of the Project would result in significant and unavoidable impacts to air quality from fugitive dust and nitrogen oxides (NO_x). Specifically, the FEIR determined that construction activities would generate emissions that would exceed South Coast Air Quality Management District (SCAQMD) thresholds even after the application of Mitigation Measures Air-1a, 1b, and 1d. Similarly, operations and drilling at the Whittier Main Oil Field would increase greenhouse gas emissions in excess of the SCAQMD threshold of 10,000 tons per year. The greenhouse gas emissions remain in excess of the SCAQMD threshold after the application of Air-4.²¹⁴ The FEIR describes odor incidents as being reduced to six incidents per year with the implementation of mitigation measures and thus considers them to be reduced to below the significance.

2. Significant and Unavoidable Environmental Impacts on Lands Acquired with Proposition A Grant Funds Resulting from Approval of Proposed Lease

If the District approves the Lease, the existing healthful air quality that exists on the Whittier Hills Property and other lands within the Preserve, some of which were acquired with Proposition A funds, would be compromised throughout construction and operation of the Project by increases in pollutants during construction and operation of the Project. Also, generation of odors not currently found at the property, and generation of greenhouse gas

²¹³ TE, Vol. 2, Exh. 18: Whittier. 7 July 1993. Whittier Resolution No. 6416 re: Proposition A, Grant Application and Assurances. Assurances. *Also* TE, Vol. 4, Exh. 47: County Recorder Document No. 96-909633. 14 May 1996. Declaration of Restricted Use Unocal. Declaration. 1. Purpose.

²¹⁴ *Id.*

emissions in excess of thresholds established by the SCAQMD, will change the existing character of the ambient air quality from a natural environment to an industrial land use. The greatest area of effect from emissions of pollutants and odors during construction and operation of the facility analyzed in the FEIR would be those located within one mile of the oil exploration and development, which encompasses approximately 33 percent of the lands within the Preserve, including 98.5 percent of the Chevron Tract, 37.7 percent of the Unocal Tract, and 23.3 percent of the Rose Hills Tract, all of which were acquired with Proposition A grant funds (Figure 9, *Air Quality Impacts to Whittier Hills Property and Preserve*; Table 3, *Air Quality Impacts within the Preserve*).

TABLE 3
Air Quality Impacts within the Preserve

Land Descriptor	Total Acres	Acres within One Mile of Oil Exploration / Production Pad Area	Percent of Total
Puente Hills Landfill Native Habitat Preserve	3,928.4 (3,869 acres were purchased with Prop A funds)	1,304	33% (34% of Prop A-funded Preserve lands)
Chevron	943.8	929.2	98.5%
Unocal	302.2	113.9	37.7%
Rose Hills	949.9	221.4	23.3%
Shannon	21.9	21.9	100%
Worsham Canyon	18.5	12.0	64.9%
Prop A Funded Parcel # 8137-021-907	10.4	5.5	52.9%

During construction, pollutants such as volatile organic compounds (VOC), carbon monoxide (CO), Nitrogen oxides (NO_x), and sulfur trioxide (SO₃), would increase from three to five times the conditions currently existing on the Whittier Hills Property and partially Proposition A-funded Preserve within a mile of the 7-acre FEIR Project site, even after the implementation of mitigation measures.²¹⁵ In particular, NO_x emissions remain a significant and unavoidable impact during construction of the Project, even after the application of mitigation measures required for consideration by the SCAQMD. The daily increase in pollutants ranges from 0.3 to 93.6 pounds per day.²¹⁶ The FEIR also indicates that VOC and NO_x emissions

²¹⁵ *Id.*, Tables 4.1.9 and 4.1.10.

²¹⁶ *Id.*, Table 4.1.13.

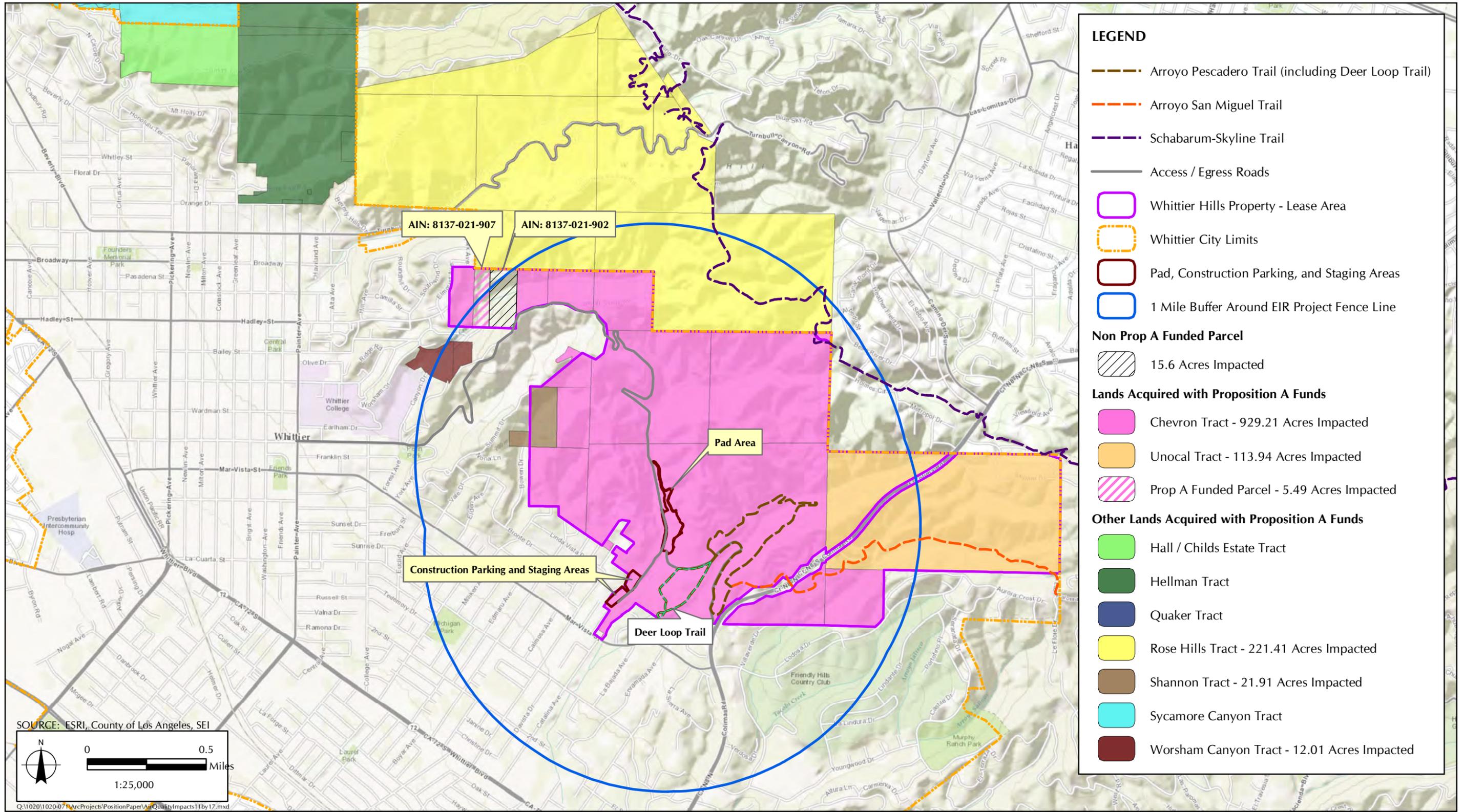


FIGURE 9
Air Quality Impacts to Whittier Hills Property and Preserve

would exceed the SCAQMD regional operations impacts over the life of the Project.²¹⁷ The oil drilling activities will result in fugitive dust emissions in excess of the SCAQMD thresholds. In addition, the ambient air quality that is below the SCAQMD thresholds would be compromised by industrial odors that are inconsistent with the open space land use designation and purpose. The air quality at the Whittier Hills Property will be further diminished due to greenhouse gas emissions in excess of the SCAQMD threshold for such emissions throughout the operational life of the Project. The greenhouse gas emissions remain significant after the implementation of mitigation measures.

Again, for purposes of considering approval of the Lease, the District should factor in the broad rights granted to Matrix under the Lease to drill throughout the Whittier Hills Property subject to Whittier granting it additional CUPs at its sole discretion. Future approvals granted by Whittier, pursuant to the Lease, would have the potential to adversely affect ambient air quality in other lands purchased with Proposition A funds.

B. Aesthetics and Visual Resources

1. Summary of FEIR Findings

The FEIR determined that the Project would result in significant and unavoidable impacts to aesthetics. Although mitigation measures AE-1a, 1b, and 1c require the use of berms and landscaping with native vegetation to be planted at the periphery of the property and that all visible structures shall be painted non-reflective earth-tone colors, the visibility of the drilling rigs from public viewsheds would remain significant even after the implementation of mitigation measures.

²¹⁷ *Id.*, Table 4.1.11.

2. Significant and Unavoidable Environmental Impacts on Lands Acquired with Proposition A Grant Funds Resulting from Approval of Proposed Lease

Should the District approve the Lease, the visual character of the area would be converted throughout construction and operation of the Project to an industrial character dominated by the drilling rigs required for the proposed exploration and production of oil allowed under the Lease. Even within the limited 7-acre site described in the FEIR, the drilling rigs will extend 130 feet in the air, exposing the rigs above ridge lines and to public view from multiple recreational trails, including the recreational Deer Loop Trail (Figure 10, *Photo Simulation of Views from the Deer Loop Trail* [Deer Loop Trail is indicated on Figure 8, *251-Acre Impact to Whittier Hills Property*, in Section V of this document]). Further, the FEIR project description describes the construction of a permanent concrete wall around the 7-acre well site, along with soundproofing and shielding, destroying the currently unobstructed open space views. As indicated in the FEIR, the Project will “strongly contrast with the surrounding environment.”²¹⁸

While in their early correspondence with the District, Whittier characterized the proposed Lease as having impacts on less than one percent of the lands within the preserve,²¹⁹ in actuality the proposed drilling rigs would be expected to be visible throughout the preserve and up to 100 percent of the lands acquired with Proposition A grant funds. Three scenarios were analyzed to determine the anticipated change in visual character of the area:

²¹⁸ *Id.*, Project Description, Section 2.3.4.2, Operations.

²¹⁹ TE, Vol. 7, Exh. 77: 26 October 2010. Letter from Whittier (Steven Helvey) to County of Los Angeles Department of Parks and Recreation (Russ Guiney).



FIGURE 10
FEIR Photo Simulation from Deer Loop Trail

1. The visibility of 130-foot high drilling rigs if all 60 wells that have been allowed under the CUP were to be drilled across the entire approximately 1,280 acres of the Whittier Hills Property Lease Area, pursuant to the Lease (Figure 11, *Significant and Unavoidable Impacts - Aesthetics and Visual Resources - Drilling Rigs Randomly Distributed within Lease Area*). This is the worst-case scenario of visual impacts, which could potentially occur if additional CUPs or an amendment to the CUP are approved under the Lease, during the initial drilling phase.
2. The visibility of 130-foot high drilling rigs if they were confined to the 7-acre FEIR Project site (Figure 12, *Significant and Unavoidable Impacts - Aesthetics and Visual Resources - Drilling Rigs Concentrated in Project Pad Area*). This is the maximum visual impact range during the course of the Project as it exists in the FEIR.
3. The visibility of the Project's tallest long-lived elements, 43.4 feet (13.23 meters) high production tanks as specified within the 7-acre Project site in the FEIR (Figure 13, *Significant and Unavoidable Impacts - Aesthetics and Visual Resources - Production Tanks within Project Pad Area*). This is what would be the most prominently visible element from the project after the initial drilling period has ceased and drilling rigs are removed. Once developed, Matrix will replace the drill rigs with less intensive well cellars that will reduce visibility in the Whittier Hills Property, and the production tanks will be the most visible element on the Project Pad Area.

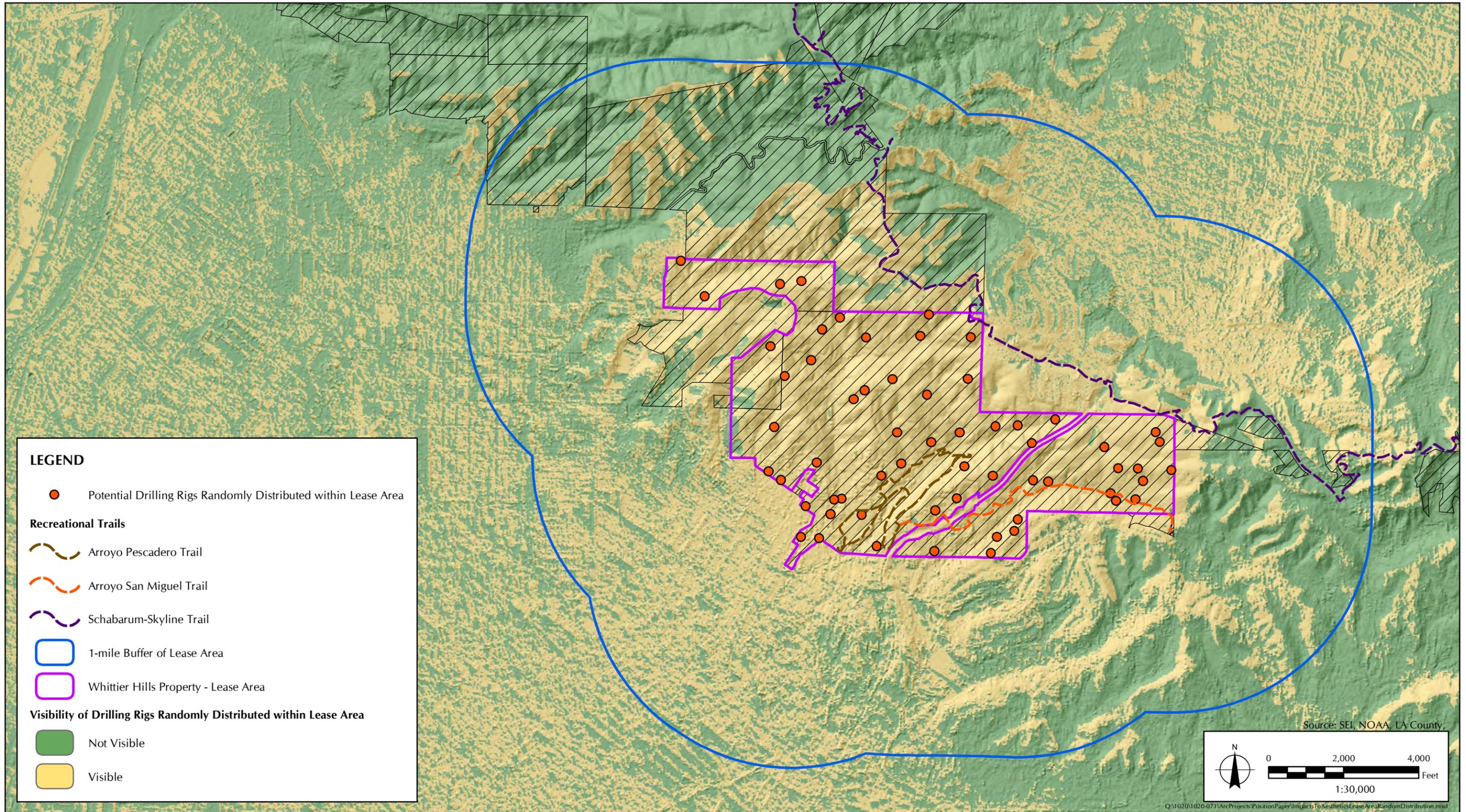


FIGURE 11
Significant and Unavoidable Impacts - Aesthetics and Visual Resources - Drilling Rigs Randomly Distributed within Lease Area

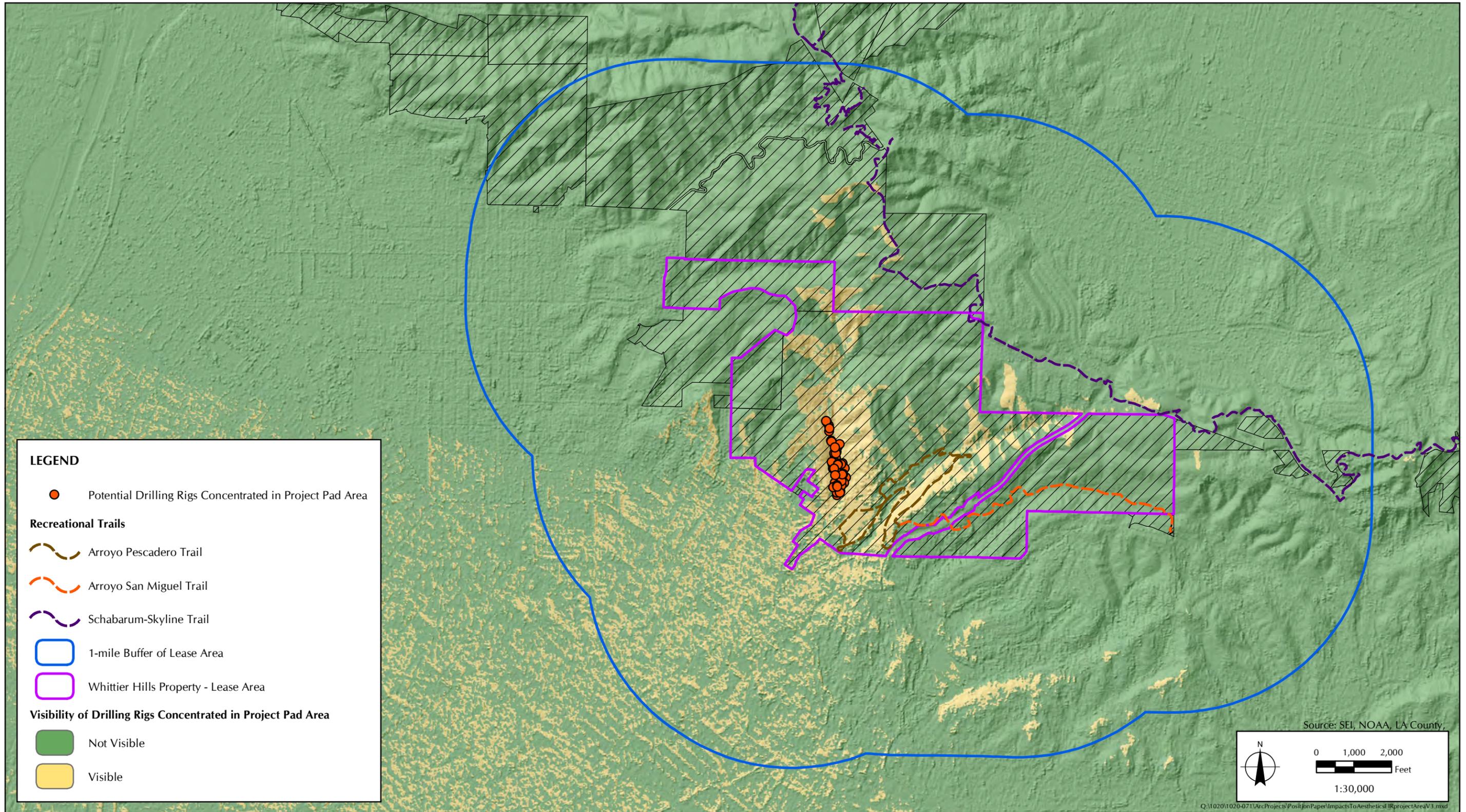


FIGURE 12
Significant and Unavoidable Impacts - Aesthetics and Visual Resources - Drilling Rigs Concentrated in Project Pad Area

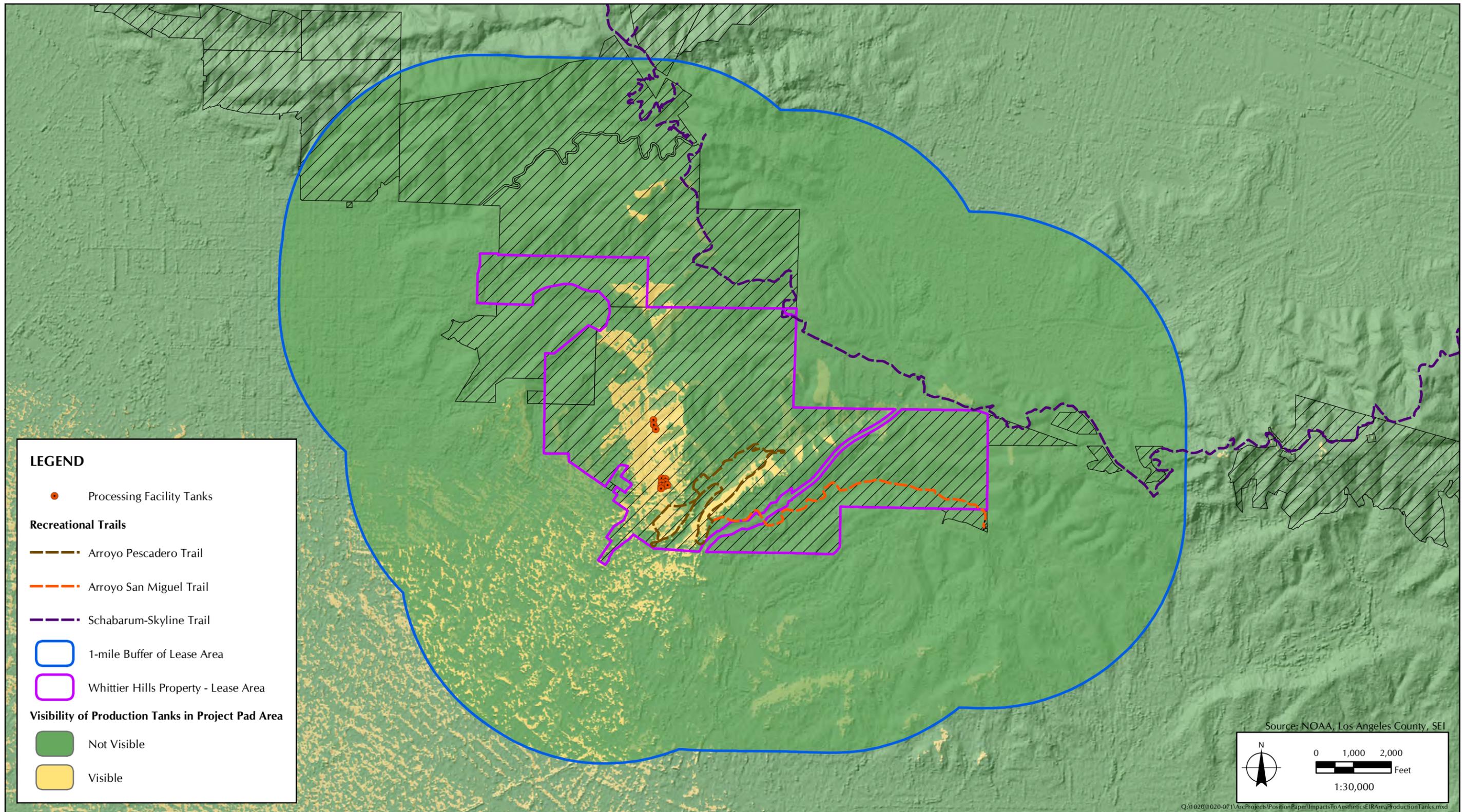


FIGURE 13

Significant and Unavoidable Impacts - Aesthetics and Visual Resources - Production Tanks within Project Pad Area

In Scenario 1, approximately 70.2% of the Preserve would be visibly impacted by drilling rigs distributed throughout the Whittier Hills Property Lease Area, with the 130-foot high drilling rigs visible from approximately 98% of the Whittier Hills Property (Table 4, *Anticipated Change in Visual Character of the Area: Drilling Rigs Concentrated in FEIR Area*).

TABLE 4
***Anticipated Change in Visual Character of the Area:
Random Distribution of Drilling Rigs in Lease Area***

Land Descriptor	Total Acres within One Mile of Lease Area	Acres within One Mile of Oil Exploration/Production in Lease Area with Potential Visibility of Drilling Rigs	Percent of Total
Non-Leased Lands within Puente Hills Landfill Native Habitat Preserve	228	151.1	66.3%
Chevron	943.3	930.0	98.6%
Unocal	302.1	300.2	99.4%
Rose Hills	939.6	388.7	41.4%
Hellman	132.1	14.6	11.1%
Quaker	10.7	1.6	15.0%
Shannon	21.9	16.0	73.1%
Worsham Canyon	18.5	16.9	91.4%
Prop A Funded Parcel # 8137-021-907	10.4	10.3	99.0%
Total Preserve Area Visually Impacted by 130-foot high Drilling Rigs in Lease Area	2,606.6	1,829.4	70.2%

In Scenario 2, the initial drilling phase of the Project, the visibility of the 130-foot high drilling rigs would affect 11.9% of the Preserve, with the Chevron Tract most significantly impacted (Table 5, *Anticipated Change in Visual Character of the Area: Drilling Rigs Concentrated in FEIR Area*).

TABLE 5
***Anticipated Change in Visual Character of the Area:
Drilling Rigs Concentrated in FEIR Area***

Land Descriptor	Total Acres within One Mile of Lease Area	Acres within One Mile of Oil Exploration/Production on Project Pad Area with Potential Visibility of Drilling Rigs	Percent of Total
Non-Leased Lands within Puente Hills Landfill Native Habitat Preserve	228	0.5	0.2%
Chevron	943.3	259.3	27.5%
Unocal	302.1	14.4	4.8%
Rose Hills	939.6	35.3	3.8%
Hellman	132.1	0.0	0%
Quaker	10.7	0.0	0%
Shannon	21.9	0.0	0%
Worsham Canyon	18.5	0.0	0%
Prop A Funded Parcel # 8137-021-907	10.4	0.0	0%
Total Preserve Area Visually Impacted by 130-foot high Drilling Rigs within Project Pad Area	2,606.6	309.5	11.9%

In Scenario 3, the 43.4-foot high production tanks concentrated in the 7-acre FEIR Project site would visually impact 6.7% of the Preserve, with the Chevron Tract most visually impacted by the production tanks (Table 6, *Anticipated Change in Visual Character of the Area: Production Tanks in FEIR Area*).

TABLE 6
Anticipated Change in Visual Character of the Area: Production Tanks in FEIR Area

Land Descriptor	Total Acres within One Mile of Lease Area	Acres within One Mile of Oil Exploration/Production on Project Pad Area with Potential Visibility of Production Tanks	Percent of Total
Non-Leased Lands within Puente Hills Landfill Native Habitat Preserve	228	0.3	0.1%
Chevron	943.3	160.7	17.0%
Unocal	302.1	2.8	0.9%
Rose Hills	939.6	11.2	1.2%
Hellman	132.1	0.0	0.0%
Quaker	10.7	0.0	0.0%
Shannon	21.9	0.0	0.0%
Worsham Canyon	18.5	0.0	0.0%
Prop A Funded Parcel # 8137-021-907	10.4	0.0	0.0%
Total Preserve Area Visually Impacted by 43.4-foot high Production Tanks in Project Pad Area	2,606.6	175.0	6.7

Again, for purposes of considering approval of the Lease, the District should factor in the broad rights granted to Matrix under the Lease to drill throughout the Whittier Hills Property subject to Whittier granting Matrix additional CUPs at its sole discretion. Future approvals that could be granted by Whittier, pursuant to the Lease, will have the potential to adversely affect additional lands acquired with Proposition A funds beyond those evaluated in the FEIR.

C. Hydrology and Water Resources

1. Summary of Findings in FEIR

The FEIR determined that the operation of the Project would result in significant and unavoidable impacts to hydrology and water resources. Specifically, the FEIR determined that a

rupture or leak during oil drilling operations, from pipelines, or other infrastructure could substantially degrade surface water and groundwater. The potential for impacts to surface and groundwater resources from an oil leak or spill would remain significant even after the application of Mitigation Measures WR-4a, 4b, and 4c.²²⁰

2. *Significant and Unavoidable Environmental Impacts on Lands Acquired with Proposition A Grant Funds Resulting from Approval of Lease*

Should the District approve the Lease, the potential for significant and unavoidable impact to surface and groundwater resources would be introduced in the vicinity of oil exploration and production areas and all underground pipelines: gas and crude pipelines routes, oil/gas production routes, and sewer/water pipeline routes. As acknowledged by the FEIR, the risk of leak or rupture can result from natural and anthropogenic activities. Specifically, proposed drilling and oil processing operations could result in oil spills due to geologic hazards, mechanical failure, structural failure, corrosion, or human error during any of the actions required for drilling of wells, operation of wells for oil and gas production and injection, processing and transport of oil, and transmission of gas resources, all of which provide opportunities for impacts to surface and groundwater resources.²²¹

The Whittier fault (Alquist-Priolo Fault Zones) lies beneath a portion of the Chevron Tract, with an active segment of the fault being approximately 1,500 feet north of the Project site and 1,500 feet northeast of the proposed pipeline alignment (Figure 14, *Significant and Unavoidable Impacts – Hydrology*). Whittier’s FEIR acknowledges that in the event of an earthquake along this active fault, a very significant risk of pipeline rupture and spills exists, resulting in contamination of the groundwater.²²² Whittier further acknowledges that there is no potential mitigation factor to address this impact. Significantly, in the event of an earthquake, oil spillage on the surface will result in groundwater contamination.²²³

²²⁰ TE, Vols. 9–12, Exh. 105. FEIR. Executive Summary, Table ES-2, Significant and Unavoidable Impacts: Hydrology and Water Resources.

²²¹ *Id.*, Section 4.8, Hydrology and Water Resources.

²²² *Id.*, Executive Summary, Table ES-3 Less Than Significant with Mitigation Impacts: Geological Resources.

²²³ *Id.*, Section 4.4, Biological Resources.

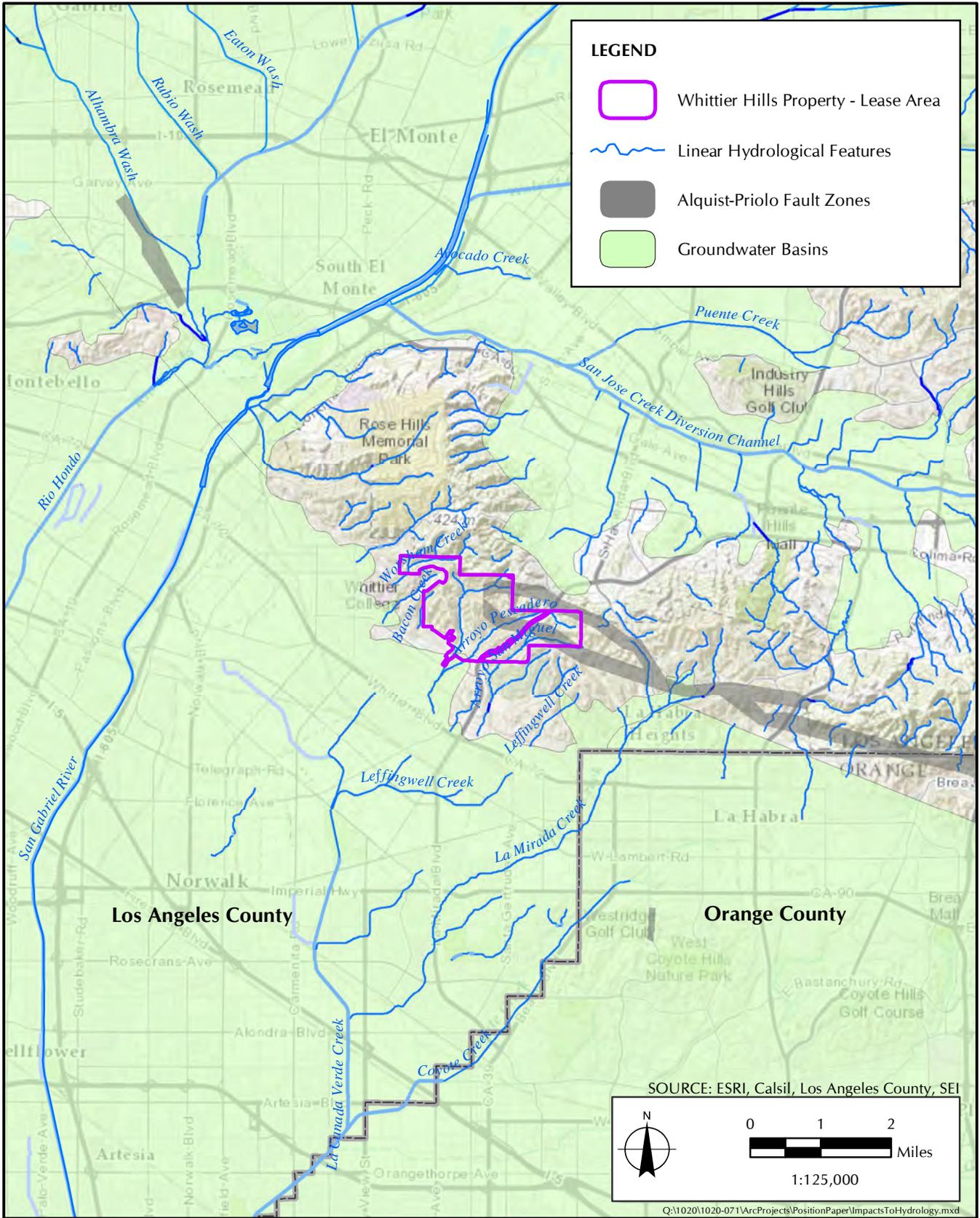


FIGURE 14
Significant and Unavoidable Impacts - Hydrology

An August 2012 hydrology study prepared for Matrix (done after the FEIR was certified by Whittier) indicates that drilling and operation of test wells could result in oil spills and such spills could substantially degrade groundwater, surface water, and the Whittier Hills Property.²²⁴ A large oil spill could spread contamination to residential communities, and storm drain facilities and could have a “significant long-term, widespread impact.”²²⁵

Again, for purposes of considering approval of the Lease, the District should factor in the broad rights granted to Matrix under the Lease to drill throughout the Whittier Hills Property subject to Whittier granting it additional CUPs at its sole discretion. Future approvals by Whittier pursuant to the Lease have the potential to adversely affect hydrology and water quality on other nearby lands purchased with Proposition A funds.

D. Land Use and Planning

1. Summary of FEIR Findings

The FEIR determined that the operation of the Project would result in significant and unavoidable impacts to land use and policy as a result of views of drilling rigs, construction, and potential incompatibility with adjacent land uses.²²⁶ In particular, the Project would be inconsistent with the Visual Resources and Aesthetics Element of the Resource Management Plan, which has a stated goal to “protect and enhance views and distinctive landscape features that contribute to the setting, character, and visitor experience of the Preserve.”²²⁷ The application of mitigation measures was limited to AE-1a and AE-1b that consist of landscaping treatments to screen visibility of development facilities that are less than 30 feet in height and were determined to be incapable of reducing significant impacts to aesthetics related to the visual character of the area to below the level of significance.²²⁸

²²⁴ TE, Vol. 15, Exh. 149: Preliminary Hydrology Study Test Well for Matrix Oil prepared for Matrix by Adams-Streeter Civil Engineers, Inc., August 2, 2012, AR3405.

²²⁵ TE, Vol. 15, Exh. 149, AR3405.

²²⁶ TE, Vols. 9–12, Exh. 105. FEIR. Executive Summary, Table ES-2, Significant and Unavoidable Impacts: Land Use and Policy.

²²⁷ Resource Management Plan.

²²⁸ TE, Vols. 9–12, Exh. 105. FEIR. Executive Summary, Table ES-2, Significant and Unavoidable Impacts: Aesthetics and Visibility.

2. Significant and Unavoidable Environmental Impacts on Lands Acquired with Proposition A Grant Funds Resulting from Approval of Proposed Lease

The Project will eliminate or substantially degrade the habitat functions and values as well as recreation and open space characteristics on hundreds of acres of the Whittier Hill Property, and is incompatible with the express requirements and spirit of Proposition A.²²⁹ Judge Chalfant cited expert witness testimony provided by Marie Campbell in the Trial Court Decision that the Project “will substantially interfere with the use of the Whittier Hills [Property] as open space and wildlife habitat and will result in significant direct and indirect adverse impacts to 335 acres[.]”

There are no feasible technical environmental measures that can be applied to the Project that would make the Project compatible with the designated purpose of protecting and preserving the open space lands and wildlife habitat contained in the Whittier Hills Property that Whittier acquired pursuant to Proposition A. Furthermore, there are no feasible technical measures, other than relocation of the Project to disturbed lands within the Puente Chino Hills that can be applied to development of the Project that would avoid, reduce, or compensate for the inherent incompatibility of the oil drilling project with habitat conservation and wildlife preservation purposes.

Again, for purposes of considering approval of the Lease, the District should factor in the broad rights granted to Matrix under the Lease to drill throughout the Whittier Hills Property subject to Whittier granting it additional CUPs at its sole discretion. Future approvals by Whittier, pursuant to the Lease, would have the potential to increase temporary and permanent impacts within the approximately 1,280 acres, beyond the 251 acres that would be impacted as a result of the CUP approved by Whittier.

²²⁹ *Id.*, Section 4.11 Land Use and Policy Consistency Analysis.

E. Recreation

1. Summary of Findings in FEIR

The Whittier FEIR determined that the operation of the Project would result in significant and unavoidable impacts to recreation that would occur due to an adverse effect on recreational viewsheds due to new drilling and operations.²³⁰ The application of mitigation measures was limited to AE-1a and AE-1b that consist of landscaping treatments to screen visibility of development facilities that are less than 30 feet in height and were determined to be incapable of reducing significant impacts to aesthetics related to the visual character of the area to below the level of significance.²³¹

2. Significant and Unavoidable Environmental Impacts on Lands Acquired with Proposition A Grant Funds Resulting from Approval of Proposed Lease

Should the District approve the Lease, the potential for significant and unavoidable impact to recreation users would result from the visual character of the area from natural open space to an industrial land use that would be visible from a large area of the Preserve and up to 100 percent of the Chevron Tract purchased with funds made available through Proposition A grant funds (see Figure 11). The Project will result in the closure of the Arroyo San Miguel Trail for up to 8 years.²³² The Project is directly adjacent to the locally-acknowledged Arroyo Pescadero Trail (and its Deer Trail Loop, see Figure 8, *251-Acre Impact to Whittier Hills Property*, in Section V of this analysis), which follows the eastern Project access road for a distance and will most likely be closed by the Project as well. Additionally, the County-designated Schabarum-Skyline Trail, which crosses the northeastern corners of the Whittier Hills Property, will be visually impacted if 130-foot high drilling rigs are constructed throughout the Lease Area (Figure 11).

²³⁰ *Id.*, Executive Summary, Table ES-2, Significant and Unavoidable Impacts: Recreation

²³¹ *Id.*

²³² *Id.*, Executive Summary, Proposed Project Environmental Impacts and Mitigation, Recreation; Table ES-2, Significant and Unavoidable Impacts: Recreation; Table ES-3 Less Than Significant Mitigation Impacts; Section 4.2 Biological Resources.

Again, for purposes of considering approval of the Lease, the District should factor in the broad rights granted to Matrix under the Lease to drill throughout the Whittier Hills Property subject to Whittier granting it additional CUPs at its sole discretion. Future approvals by Whittier, pursuant to the Lease, have the potential to adversely alter additional recreation trails for all users within and adjacent to the Whittier Hills Property (see Figure 12).

IX. Other Relevant Considerations for the District

As established by the Voters in their approval of Proposition A, the District's mission is to make funding available for the acquisition, restoration and rehabilitation of property for parks, recreation, and natural lands. Therefore, in rendering its decision on the Lease, the District needs to consider the park, recreation and natural land values associated with the Whittier Hills Property and the reduction in these values anticipated in conjunction with the oil and mineral exploration and production allowed by the Project and the Lease. As discussed below, the Whittier Hills Property has been determined eligible for inclusion in the national park system by the National Park Service (NPS) as a result of its national significance. The County of Los Angeles Department of Regional Planning, with support from the Significant Ecological Area Technical Advisory Committee has recommended that the Whittier Hills Property be designated as a Significant Ecological Area. The U.S. Fish and Wildlife Service has designated the Whittier Hills Property as "Critical Habitat" for the federally listed as endangered Coastal California gnatcatcher. Consistent with the characterization of anticipated environmental impacts contained in this analysis, the MRCA has also opined that the proposed oil and mineral exploration and development would degrade habitat quality and open space values for which the Whittier Hills Property was acquired. The potential for degradation of public lands acquired through a Voter-approved assessment has the concurrent detrimental effect of reducing public trust.

A. San Gabriel Unit of Santa Monica Mountains National Recreation Area

The NPS completed the San Gabriel Watershed and Mountains Special Resource Study (the NPS study) and it was transmitted to Congress for consideration on April 10, 2013.²³³ The San Gabriel River Watershed Study Act authorized the to conduct a special resource study of (1) the San Gabriel River and its tributaries north of and including the city of Santa Fe Springs and (2) the San Gabriel Mountains within the territory of the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy.²³⁴ The purpose of the NPS study was to determine whether any portion of the San Gabriel Watershed and Mountains study area is eligible to be designated

²³³ U.S Department of the Interior, National Park Service. April 2013. *San Gabriel Mountains and Watershed Special Study. Summary and Final Recommendations*. Available at: <http://www.nps.gov/pwro/sangabriel/>.

²³⁴ H.R. 519 (108th): San Gabriel River Watershed Study Act. 31 January 2003. Available at <http://www.gpo.gov/fdsys/pkg/CRPT-108srpt65/html/CRPT-108srpt65.htm>.

as a unit of the national park system.²³⁵ The NPS study found that many of the resources evaluated through the study are nationally significant, suitable, feasible, and appropriate for NPS management.

According to NPS management policies, a proposed addition to the national park system will receive a favorable recommendation from the NPS only if it meets four criteria for inclusion:

- It possesses nationally significant natural or cultural resources.
- It is a suitable addition to the system.
- It is a feasible addition to the system
- There is a need for direct NPS management, instead of alternative protection by other public agencies or the private sector.

Within the study area, two regions were found to be nationally significant: the San Gabriel River leading from the San Gabriel Mountains and the Puente-Chino Hills. The latter, the Puente-Chino Hills includes the Whittier Hills Property. Because these regions have not been as heavily urbanized as the lowland valleys and floodplains of the study area, they are outstanding examples of the native Southern California landscape. These resources are highly fragmented, and surrounding development has, in many cases, negatively impacted their integrity. Figure 15, *San Gabriel Unit of National Park Service Proposed Amendment*, shows a proposed amendment to the National Forest highlighting the two nationally significant regions within the NPS study area.

The NPS study documents the unique and significant biological resources that are present in the Puente-Chino Hills and recommends the entirety of the Project area for inclusion as part of the proposed San Gabriel Watershed and Mountains unit of the Santa Monica Mountains Recreation Area. The NPS has determined that the remaining undeveloped areas of the Puente-Chino Hills, inclusive of the Whittier Hills Property is located, are of national significance

²³⁵ U.S Department of the Interior, National Park Service. *Gabriel Mountains and Watershed Special Study. Summary and Final Recommendations.*

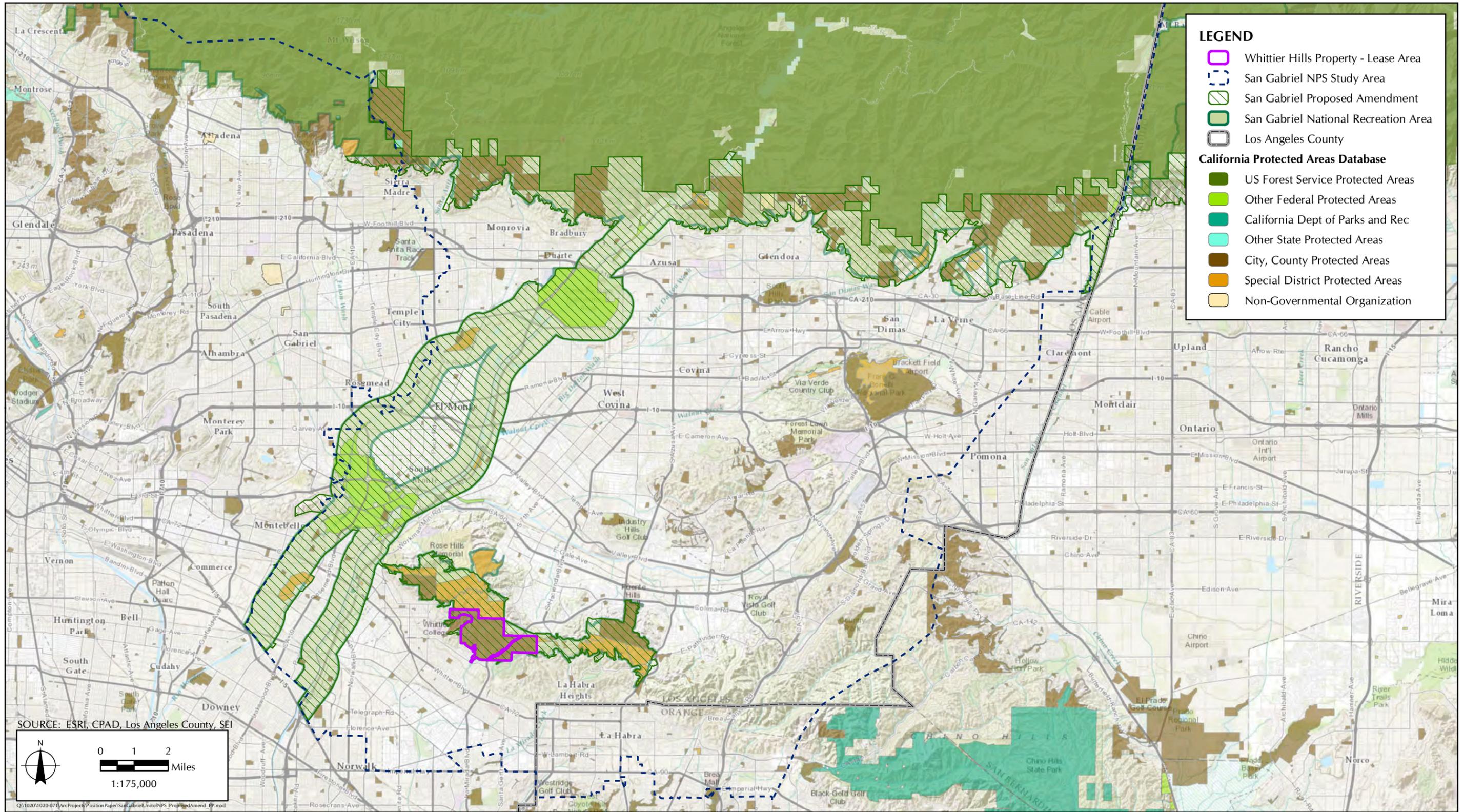


FIGURE 15
San Gabriel Unit of National Park Service Proposed Amendment

because they contain outstanding examples of Southern California native ecological communities, particularly coastal sage scrub, which is designated as critical habitat for the coastal California gnatcatcher.

B. County Existing/Proposed Significant Ecological Areas

The County completed a draft General Plan in 2011 that proposes to expand the existing Puente Hills Significant Ecological Area to include the Whittier Hills Property (Figure 16, *County of Los Angeles Significant Ecological Areas, Existing and Proposed*). The FEIR for the General Plan is scheduled to be considered by the County of Los Angeles Board of Supervisors in August 2014. The County of Los Angeles Significant Ecological Area (SEA) Program is a component of the Los Angeles County General Plan Conservation/Open Space Element.²³⁶ SEAs are ecologically important land and water systems that support valuable habitat for plants and animals, often integral to the preservation of rare, threatened, or endangered species and the conservation of biological diversity in the County. The Project is located within proposed SEA No. 15, Puente Hills. The 2011 County's Draft General Plan describes the proposed Puente Hills SEA as meeting the criterion for designation. SEA No. 15 provides habitat for sensitive, rare, threatened, or endangered species. Federally listed threatened or endangered plants and animals in SEA No. 15 include Braunton's milk vetch (*Astragalus leucolobus*), least Bell's vireo (*Vireo bellii pusillus*) (FE), southwestern willow flycatcher (*Empidonax traillii extimus*), and coastal California gnatcatcher (*Polioptila californica californica*). The Lease allows oil exploration and development activities that would directly and indirectly affect habitat for Federally listed threatened and endangered species and the interconnecting corridors for wildlife that are characteristic of SEA No. 15 and that are essential to the wildlife functions and values, including the exchange of genetic material between plant and animal populations throughout the Puente Hills, the Chino Hills, the Santa Ana Mountains, and the natural areas of other Peninsular Ranges of Southern and Baja California.

²³⁶ Los Angeles County Department of Regional Planning, November 1980. General Plan 2035, *Conservation and Open Space Element*. Available at: <http://planning.lacounty.gov/generalplan/existing>

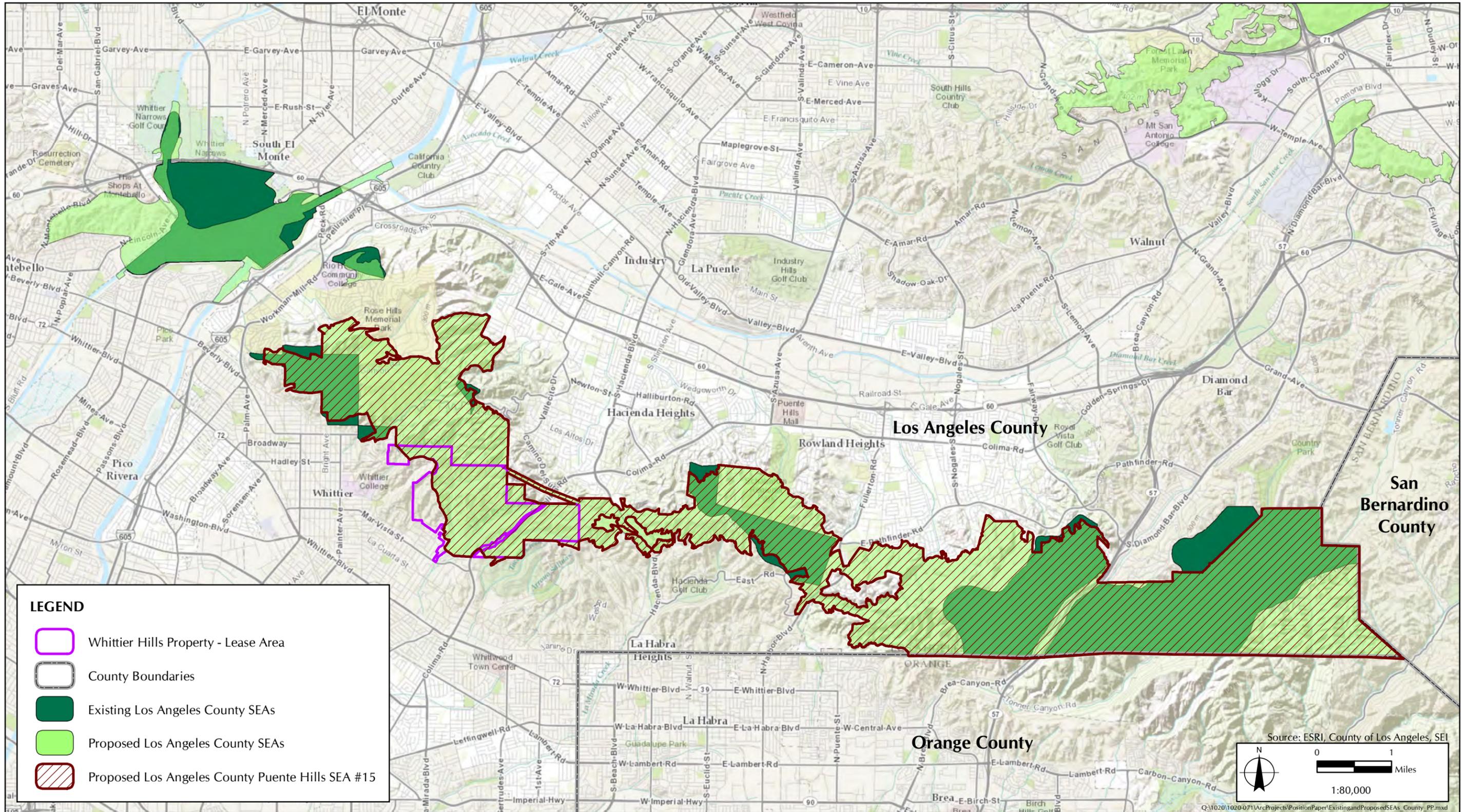


FIGURE 16
 County of Los Angeles Significant Ecological Areas, Existing and Proposed

C. Designated Critical Habitat for Coastal California Gnatcatcher

The U.S. Fish and Wildlife Service revised the designated critical habitat for the coastal California gnatcatcher under the Endangered Species Act of 1973, as amended.²³⁷ The entirety of the approximately 1,280-acre area proposed for Project development, and surrounding areas that will be adversely affected by the proposed development have been designated as critical habitat for the coastal California gnatcatcher by the U.S. Fish and Wildlife Service. The feasibility of exchanging or restoring up to approximately 1,280 acres of designated critical habitat within the Puente Hills is unknown. In total, approximately 197,300 acres of habitat in San Diego, Orange, Riverside, San Bernardino, Los Angeles, and Ventura Counties, California, are designated as critical habitat for the coastal California gnatcatcher (Figure 17, *Coastal California Gnatcatcher Designated Critical Habitat*).²³⁸

The U.S. Fish and Wildlife Service defines designated critical habitats as those that have been determined to be essential to the conservation of federally listed species, and which may require special management considerations or protection. Critical habitat is determined using the best available scientific and commercial information about the physical and biological needs of the species. These needs include:

- Space for individual and population growth, and for normal behavior
- Food, water, light, air, minerals or other nutritional or physiological needs
- Cover or shelter
- Sites for breeding, reproduction, and rearing of offspring
- Habitat that is protected from disturbance or is representative of the historical geographic ecological distribution of a species

²³⁷ 16 U.S.C. § 1531-1544; also known as Endangered Species Act (ESA).

²³⁸ Department of the Interior, Fish and Wildlife Service. December 2007. "Endangered and Threatened Wildlife and Plants; Revised Designation of Critical Habitat for Coastal California Gnatcatcher (*Polioptila californica californica*)." *Federal Register* 72, No. 243.

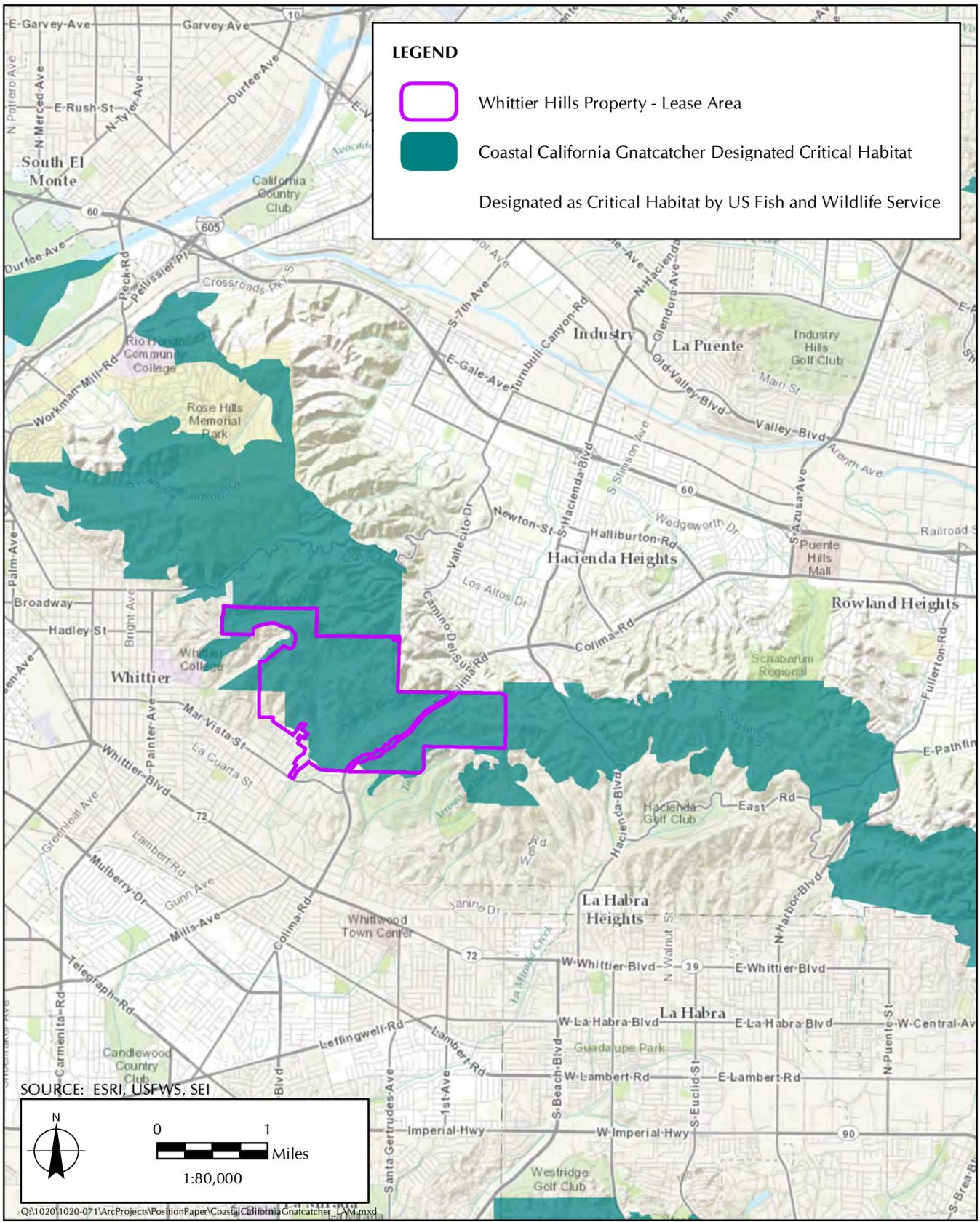


FIGURE 17
Coastal California Gnatcatcher Designated Critical Habitat

The coastal California gnatcatcher requires coastal sage scrub habitat. Coastal sage scrub is the characteristic plant community for the area of the Project, and is one of the most threatened plant communities in California, having been reduced to approximately 15 percent of its historic range since 1945.²³⁹

D. Audubon Society Important Bird Areas (IBAs)

Over 95% of the Whittier Hills Property is located within the Audubon Society Puente-Chino Hills Important Bird Area, a 43,391-acre designated habitat area for several extremely rare and local breeding bird species including Northern Harrier, Golden Eagle, California Gnatcatcher, Least Bell's Vireo and Bell's Sage Sparrow (Figure 18, *Audubon Society Important Bird Area*).

“This low (<1500') range of hills on the eastern side of the Los Angeles Basin supports an intact mosaic of lowland terrestrial habitats, notably extensive areas of grassland and, along its southern boundary in Orange Co., coastal sage scrub. The woodland is dominated by California Black Walnut, and small patches of riparian thickets are scattered throughout the hills, particularly along Tonner and Telegraph canyons, permanent stream in the eastern portion of the hills. In the far northeast, a marshy stock-pond within the grassland of upper Tonner Canyon adds habitat diversity to this IBA.”²⁴⁰

E. SMMC and MRCA Have Stated the Project Will Cause Irreparable Ecological Impacts

Paul Edelman, Deputy Director of Natural Resources and Planning for SMMC and the Chief of Natural Resources and Planning for MRCA, who has a Master of Science in Biology and has spent 25 years as a planner and ecologist for government agencies, has signed a written declaration under penalty of perjury that the Project “will cause irreparable ecological impacts to both the immediate subject area, and more importantly to the greater core habitat area” and “will

²³⁹ Kirkpatrick, J.B., and C.F. Hutchinson 1980. “The Environmental Relationships of Californian Coastal Sage Scrub and Some of Its Component Communities and Species.” *Journal of Biogeography* 7:23–28.

²⁴⁰ National Audubon Society 2013. Important Bird Areas in the U.S. *Site Profile: Puente-Chino Hills*. Report available online at: <http://netapp.audubon.org/iba/Reports/208>. Main website: <http://web4.audubon.org/bird/iba/>

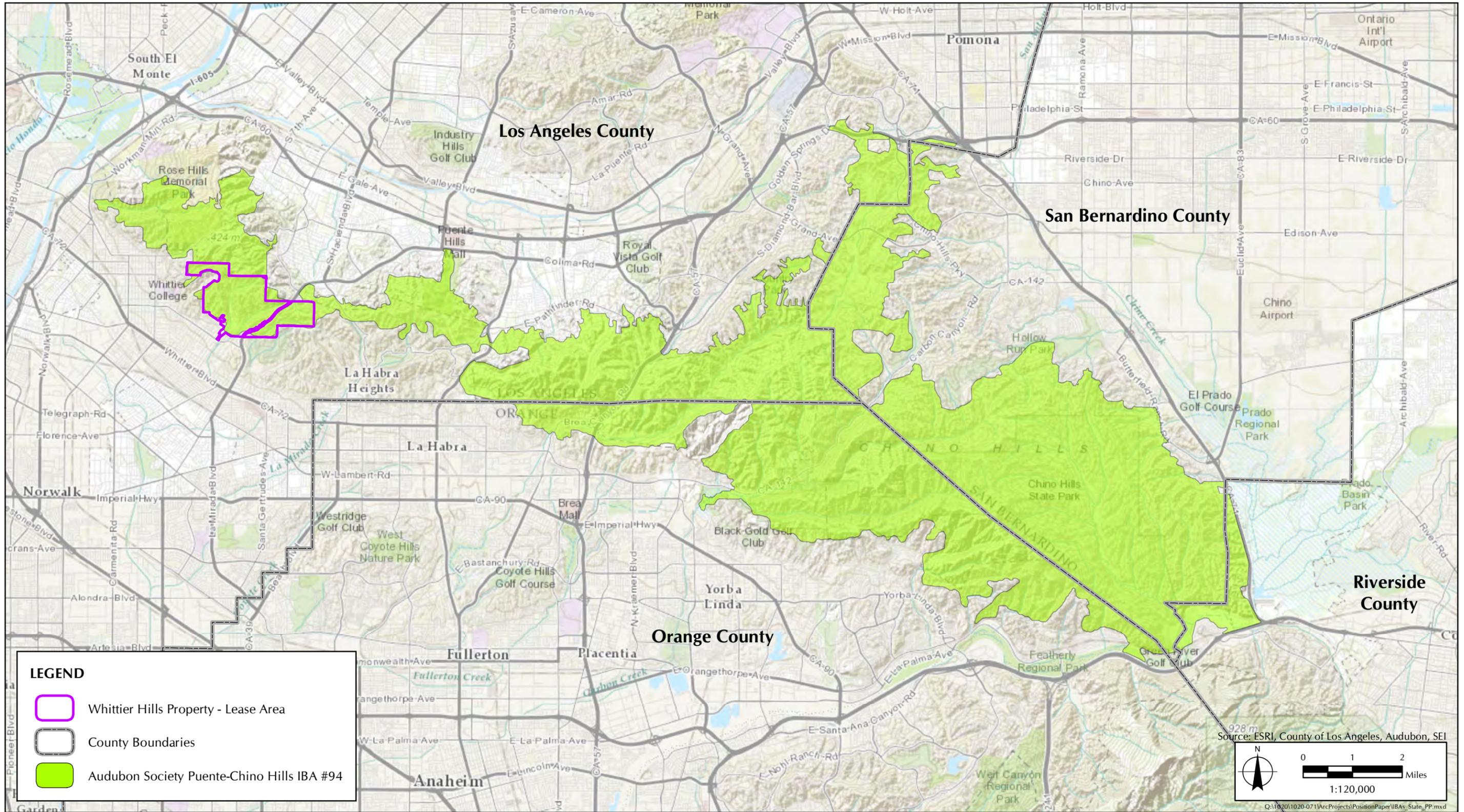


FIGURE 18
Audubon Society Important Bird Area

also result in widespread indirect ecological impacts that effectively will reduce habitat value with various adverse effects rippling in all directions.”²⁴¹

The trial brief submitted by MRCA and SMMC in the MRCA Lawsuit states that the “Project will substantially interfere with the use of the Whittier Hills Property as open space and wildlife habitat and will result in significant direct and indirect adverse impacts to 335 acres.”²⁴² The trial brief further states that the “Project will result in several significant and unavoidable impacts to the open space and wildlife on the Property which cannot be mitigated.”

F. Promises to Voters in Proposition A

Approval of the Lease would establish a dangerous precedent and the public trust would be compromised if the Whittier Hills Property were opened for oil development. The Voters were promised that Proposition A would permanently protect and preserve open space and parks. The Voters authorized taxes to be assessed on themselves to be used to purchase of properties like the Whittier Hills Property for the purpose of habitat and wildlife conservation and open space. The ballot arguments in favor of Proposition A stated that it will “preserve disappearing natural lands,” and that if “we don’t act today, it will be too late to save our disappearing natural lands, mountains and canyons for our children and grandchildren to enjoy tomorrow.”²⁴³ Editorials in the *Whittier Daily News* and the *San Gabriel Valley Tribune* urged a yes vote on Proposition A, stating that it would fund huge land acquisitions in the Whittier Hills that “would protect them from development.”²⁴⁴ At the 1992 public hearing before the Board that resulted in Proposition A being placed before the voters, Whittier councilman Bob Henderson testified to the Board in support of Proposition A and stated that in “Whittier we have a unique opportunity to acquire wilderness that will be lost forever if these actions are not taken.”²⁴⁵

²⁴¹ Declaration of Paul Edelman in Support of MRCA’s Motion for Preliminary Injunction in MRCA Lawsuit.

²⁴² On file with County Counsel and available from the Los Angeles Superior Court file.

²⁴³ TE, Vol. 2, Exh. 8: official sample ballot. DeWitt W. Clinton (County Counsel)’s analysis of Proposition A.

²⁴⁴ TE, Vol. 1, Exh. 17: Appendix of “The Proposition A Story: How Los Angeles County Voters Gained \$540 Million for Parks, Recreation, and Natural Lands.” A Handbook for Designing Your Own Ballot Measure and Creating a Landscaping and Lighting Act Assessment District by Esther Feldman, Trust for Public Land, June 1993, at AR444, 439.

²⁴⁵ TE, Vol. 1, Exh. 3, AR85.

The Habitat Authority's RMP and the associated environmental compliance document pursuant to CEQA and circulated the documents for public review again assuring the public and responsible agencies (National Park Service, U.S Fish and Wildlife Service, California Department of Fish and Wildlife, and the District) that the lands would be managed as protected open space and wildlife habitat as specified by the Proposition A in perpetuity. Current management of the Whittier Hills Property as open space and wildlife habitat consistent with the RMP conforms to the Chevron and Unocal Deed Restrictions.²⁴⁶ The precedent of allowing Whittier to enter into a lease for oil development on lands intended solely for the purpose of habitat and wildlife conservation would likely have a crippling impact on land conservation efforts in Southern California and the public's willingness to support and fund such efforts. If the Lease were approved and Whittier is allowed to spend lease payments and royalties on general fund purposes, it would be extremely difficult to ask the Voters to approve future ballot measures providing funding for parks, wildlife habitat and open space.

²⁴⁶ TE, Vol. 4, Exh. 42: County Recorder Document No. 952043169. 26 December 1995. Declaration and Easement of Restricted Use Chevron Property.

X. The District Should Consider Relevant Experiences from Other Oil Fields
Located within Close Proximity to Conservation Areas

As acknowledged by the FEIR, the risk of leak or rupture from facilities and pipelines can result from natural and anthropogenic activities.²⁴⁷ Additionally, the presence of flammable gas, toxic gas, and gas processing by-products such as flammable propane and butanes on oil production fields can create a hazard during drilling operations “because placing a well-bore through potentially pressurized reservoirs could create blow-out situations and release flammable gases.”²⁴⁸ The FEIR lists four principal immediate hazards to public health at an oil field:

- “Release of flammable gas causing vapor cloud explosions or thermal impacts from fire and flame jets;
- Releases of propane or butane causing vapor cloud explosions, thermal impacts from fire and flame jets, or thermal and overpressure impacts from explosions and boiling liquid expanding vapor explosions;
- Release of odorant causing toxic impacts; and
- Release of crude oil with subsequent fire causing impacts from thermal exposure to crude oil fires.”²⁴⁹

Figure 4.3-4 in the FEIR shows the results of the consequence modeling conducted for the Project, which estimates that well blowouts from a pressurized well would be the worst-case impacts associated with the Project, causing injuries from vapor clouds as far as 775 feet downwind and fatalities as far as 270 feet downwind, with thermal impacts causing injuries as far as 400 feet downwind and fatalities as far as 330 feet downwind.²⁵⁰ According to the FEIR, thermal impacts from incidents at the high-pressure Colima Pipeline could cause fatalities at a

²⁴⁷ TE, Vols. 9–12, Exh. 105. FEIR Section 4.3, Safety, Risk of Upset, and Hazardous Materials.

²⁴⁸ *Id.* Section 4.3, Safety, Risk of Upset, and Hazardous Materials. Page 4.3-1, Section 4.3.1 Environmental Setting, Paragraph 2.

²⁴⁹ *Id.* Section 4.3, Safety, Risk of Upset, and Hazardous Materials. Page 4.3-9, Section 4.3.1.4 Risk Assessment Methodology: Release Scenarios.

²⁵⁰ *Id.* FEIR. Section 4.3, Safety, Risk of Upset, and Hazardous Materials. Page 4.3-59, Section 4.3.4.1 Public Safety Risk Analysis: Consequence Analysis Results.

distance up to 215 feet downwind (injuries at up to 275 feet downwind), with vapor cloud impacts causing injury up to 445 feet downwind and fatalities up to 160 feet downwind.

A. Risk of Pipeline Incidents

Specifically, proposed drilling and oil processing operations could result in oil spills due to geologic hazards, mechanical failure, structural failure, corrosion, or human error during any of the actions required for drilling of wells, wells used for oil and gas production and injection, processing and transport of oil, and transmission of gas resources all provide opportunities for impacts to surface and groundwater resources.²⁵¹ Data on pipeline risk and safety, that), summarize all reported pipeline incidents and damage in the United States between 1992 and 2011, are compiled by the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) (Table 7, *Pipeline Incidents and Related Injuries and Fatalities 1992-2011*) and Figure 19, *Pipeline Injuries and Fatalities [1992-2011]*).

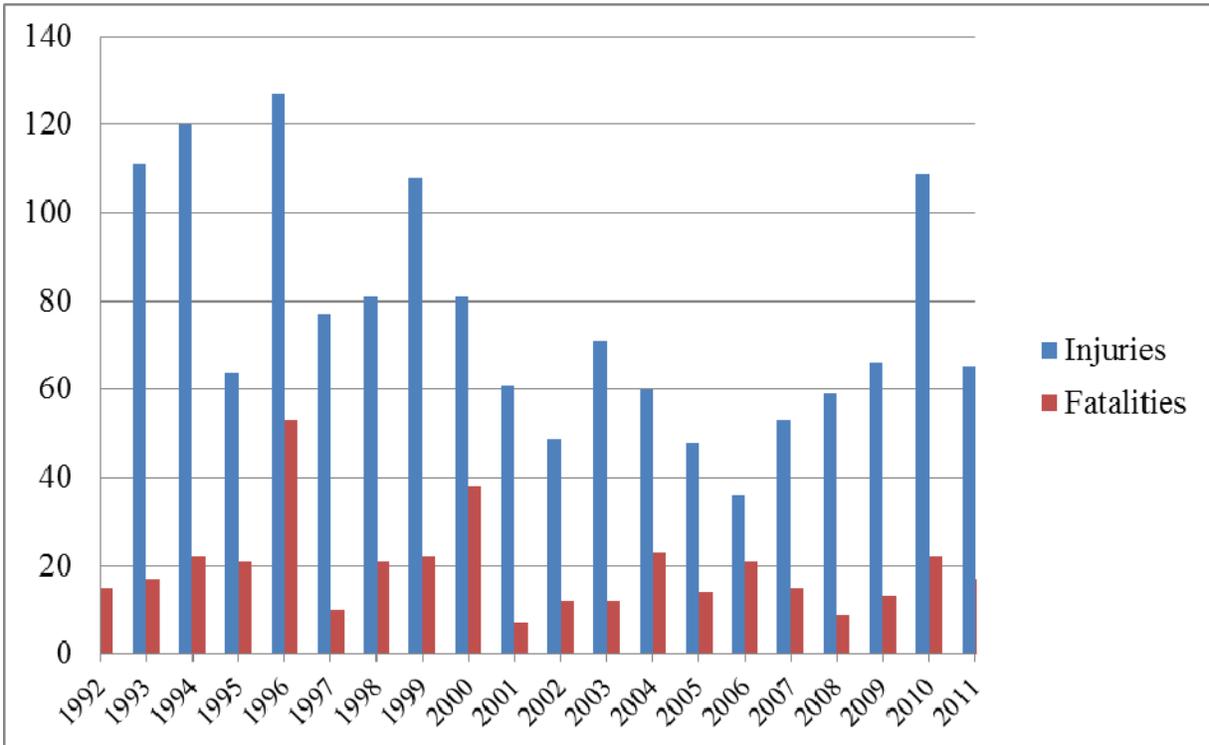
²⁵¹ *Id.*, Section 4.8, Hydrology and Water Resources.

TABLE 7
Pipeline Incidents and Related Injuries and Fatalities (1992-2011)

Year	Number	Property Damage as Reported* (in millions)	Net Barrels of Liquids Lost	Injuries	Fatalities
1992	389	\$70.5	68,810	118	15
1993	445	\$67.3	57,559	111	17
1994	467	\$160.6	114,002	120	22
1995	349	\$53.4	53,113	64	21
1996	381	\$114.5	100,949	127	53
1997	346	\$79.6	103,129	77	10
1998	389	\$126.9	60,791	81	21
1999	339	\$130.1	104,487	108	22
2000	380	\$191.8	56,953	81	38
2001	341	\$63.1	77,456	61	7
2002	644	\$102.1	77,953	49	12
2003	673	\$139.0	50,889	71	12
2004	673	\$271.9	69,003	60	23
2005	721	\$1,246.7	46,246	48	14
2006	641	\$151.1	53,905	36	21
2007	616	\$154.9	68,941	53	15
2008	664	\$555.8	69,815	59	9
2009	627	\$178.0	32,258	66	13
2010	586	\$1,336.4	123,419	109	22
2011	599	\$336.3	108,663	65	17
Totals	10,270	\$5,530.0	1,498,344	1,564	384

Source: * "All Reported Pipeline Incidents," The United States Department of Transportation Pipeline and Hazardous Materials Safety Administration Office of Pipeline Safety, accessed September 18, 2013. Available at: <http://primis.phmsa.dot.gov/comm/reports/safety/Allpsi.html?nocache=8953>

FIGURE 19
Pipeline Injuries and Fatalities (1992–2011)



According to Table 7 and Figure 19, from 1992 to 2011, the United States experienced 10,270 reported pipeline incidents, resulting in more than \$5.5 billion in property damages, and 1,564 injuries and 384 fatalities. Similarly, Table 8, *California Pipeline Incidents and Related Injuries and Fatalities (2003-2012)*, shows that from 2003 to 2012, California experienced 480 pipeline incidents, totaling more than half a billion dollars (\$524,360,596) in reported property damage. According to this data, from 2003 to 2011, California was responsible for approximately 7.4% of all incidents in the United States, and 25.3% of all property damage.

TABLE 8
California Pipeline Incidents and Related Injuries And Fatalities (2003–2012)

Year	Number	Property Damage as Reported	Gross Barrels Spilled	Injuries	Fatalities
2003	49	\$11,914,377	4,260	4	2
2004	48	\$30,378,686	8,543	3	5
2005	49	\$34,821,137	7,265	1	0
2006	51	\$14,713,630	3,954	3	0
2007	55	\$7,211,282	1,214	5	0
2008	59	\$6,198,631	8,596	6	1
2009	48	\$6,143,958	294	0	0
2010	36	\$392,123,603	981	56	10
2011	36	\$13,233,216	272	0	0
2012	43	\$7,622,071	777	1	3
Totals	480	\$524,360,596	36,161	79	21

Source: “California Incident and Mileage Overview”, The United States Department of Transportation Pipeline and Hazardous Materials Safety Administration Office of Pipeline Safety, accessed September 18, 2013. Available at: <http://primis.phmsa.dot.gov/comm/reports/safety/Allpsi.html?nocache=8953>

B. Risk of Incidents with Matrix as the Operator

In considering the Lease and Project the District should consider the performance record of Matrix at other nearby facilities.

1. 2005 Explosion and Fire at Matrix Oil Wells in Whittier (Honolulu Terrace) May 20 and 21, 2005

The FEIR describes a fatal fire that occurred on May 19, 2005 at the Honolulu Terrace facility owned by Matrix that was caused by gas coming up the well bore uncontrolled during a well workover operation (a well blowout incident):

“According to the OSHA accident report (number 305355869 dated 5/19/2005), the well released flammable vapors during a well workover and the engine on the rig, which was proximate to the well, ignited the vapor and caused a flash fire. The explosion triggered a brush fire that was quickly brought under control. The

well burned for more than 24 hours and a professional oil-rig firefighting crew eventually accessed an underground shutoff valve to stop the flow of gas and extinguish the fire.”²⁵²

In May 2005, there was an incident involving oil production facilities operated by Matrix in Whittier located on 12515 Pickering Avenue near Honolulu Terrace and Omelia Road. According to a statement by Matrix on May 20, 2005, an oil well fire erupted and caused a wildfire to surround the facility and to spread to the land beyond the facility. The fire occurred while Pool Oil Well Service, a contractor hired by Matrix, was working at the site to improve production at the facility. Denny Smith, a spokesman for Pool Well Service, said the workers encountered an unexpected release of a small pocket of natural gas from the well. The 2005 Division of Oil, Gas & Geothermal Resources (DOGGR) Annual Report, stated that the well (“Mitchell Energy Corp.” W-7) was being reworked when methane gas escaped and ignited.²⁵³ Three employees were injured during the incident, and one ultimately died from his injuries. As a result of the incident, Matrix and Pool Oil Well Services suspended maintenance, drilling, and production operations at the facility, until a full and complete investigation was conducted.²⁵⁴ The Whittier Daily News reported the incident as an explosion of an oil well that sparked a fire in the Whittier Hills, injured two workers, and forced the evacuation of the residents of six homes on a nearby ridge top.²⁵⁵ According to Inspector Edward Osorio of the Los Angeles County Fire Department, the explosion required 50 firefighters to stop the resulting fire that spread to the brush-covered hillside and threatened six homes. A spokesman for the California Department of Oil and Gas stated that the cause of the explosion was probably human error.²⁵⁶

²⁵² *Id.*, Section 4.3, Safety, Risk of Upset, and Hazardous Materials. Page 4.3-52, Section 4.3.4.1 Public Safety Risk Analysis: Release Scenarios.

²⁵³ California Department of Conservation, Division of Oil, Gas, & Geothermal Resources. 2006. *2005 Annual Report of the State Oil & Gas Supervisor*. Sacramento. Available at: ftp://ftp.consrv.ca.gov/pub/oil/annual_reports/2005/PR06_Annual_2005.pdf

²⁵⁴ 21 May 2005. “Statement by Matrix Oil on May 20, 2005 Oil Well Fire in Whittier, CA.” *PR Newswire Association, LLC*.

²⁵⁵ Trunell, Debbie. 20 April 2005. “Explosion, Fire.” *The Whittier Daily News* (Whittier, CA).

²⁵⁶ Baeder, Ben. 1 July 2005. “Officials: Human Error Caused Explosion.” *The Whittier Daily News* (Whittier, CA).

On May 21, 2005, the *Whittier Daily News* reported that a professional firefighting crew from Texas arrived at the oil well and spent the rest of the day working to gain access to an underground shut-off valve that controls the escape of natural gas, said Inspector Edward Osorio of the Los Angeles County Fire Department.²⁵⁷ Inspector Edward Osorio explained that the fire continued to burn because of escaping natural gas. Crews were forced to dismantle the oil well's tower after it became severely damaged by the fire and in danger of collapsing.

The explosion happened as workers from Pool Well Service, an oil well maintenance and repair company based in Houston, were working on the well.

2. 2009 Leak from Matrix Oil Pipeline (Honolulu Terrace) April 14, 2009

In April of 2009, Matrix experienced a crude oil leak at the oil pipeline that Matrix operates in the Honolulu Terrace area of Whittier, near the site of the oil well explosion in 2005. The discovery of the crude oil leak was published in the *Whittier Daily News*.²⁵⁸ The leak was also the cause of odors that had plagued the neighborhood near Honolulu Terrace for a month according to the *Whittier Daily News*.²⁵⁹

²⁵⁷ Trunell, Debbie. 21 April 2005. "Oil Aflame, Water Line Bursts." *The Whittier Daily News* (Whittier, CA).

²⁵⁸ Sprague, Mike. 14 April 2009. "Whittier Residents Angry over Leak of Oil Pipeline." *The Whittier Daily News* (Whittier, CA).

²⁵⁹ Sprague, Mike. 18 April 2009. "Repair of Oil Pipeline Eliminates Odor Problem on North Whittier Street." *The Whittier Daily News* (Whittier, CA).

XI. Whittier’s Prior Use of Lease Payments for General Fund Purposes and Proposed Use of Proceeds from the Project, Including Royalties, for General Fund Purposes Violates Proposition A and the Project Agreement

Pursuant to Proposition A and the Project Agreement, if a change of use is approved by the District, Whittier is required to expend all proceeds consistent with the provisions of Proposition A.

A. As Confirmed by the Judge, Proposition A and the Project Agreement Require Proceeds from the Project and Lease to be Used for Proposition A Purposes and Not for General Fund Purposes

Proposition A section 16(b) provides certain consequences for a change in use of property acquired using Proposition A funds “to one other than a use permitted under the category from which the funds were provided.” Section 8 of Proposition A provides for multiple categories of funding each designated for specific uses throughout the County.²⁶⁰ Whittier used Proposition A funds designated in Section 8(b)(2QQ) for “acquisition of natural lands and development of related facilities in the Whittier Hills.”²⁶¹ Similarly, MRCA utilized Proposition A Section 8(c)(6) funds designated to “facilitate the preservation of park and open space land” and to facilitate the acquisition of the Chevron Tract.²⁶² Since leasing the land for oil drilling and production is not a use permitted under either of these categories of Proposition A funding, the Project and Lease constitute a “change of use” other than that permitted in Proposition Section 8. The provisions of Section 16(b) are thus applicable to the Project and Lease. Similarly, since the Lease constitutes a disposition of mineral rights to pursue oil, gas and other mineral exploration and drilling, it is clearly a disposition of the Whittier Hills Property making Section 16(b) equally applicable. Proposition A section 16(b) provides that the greater of (1) the amount of the grant, (2) the fair market value of the real property, or (3) *the proceeds* from the portion of such property developed with the grant, shall be expended consistent with Proposition A or provided to the District.

²⁶⁰ TE, Vol . 1, Exh. 7. Proposition A, AR252-57.

²⁶¹ *Id.*, AR257.

²⁶² *Id.*, AR257-58.

The Project Agreement, Section D, Project Administration, Paragraph 4 states:

“9. Applicant hereby agrees that it will not, without the prior written consent of the District, (a) permit the use of any portion of the Project by any private person or entity, other than on such terms as may apply to the public generally; or (b) enter into any contract for the management or operation of the Project or any portion thereof, except with a government agency or a nonprofit corporation that is exempt from federal income taxation...

“10. If the Applicant sells or otherwise disposes of property acquired or developed with grant monies provided under this Agreement, Applicant shall reimburse the District in an amount equal to the greater of 1) the amount of grant monies provided under this Agreement; 2) the fair market value of the real property; or 3) the proceeds from the portion of the property acquired, developed, improved, rehabilitated or restored with grant monies.”²⁶³

The Project Agreement, Section J, Use of Facilities, Paragraph 1:

“1. Applicant agrees to use the property acquired or developed with grant monies under this Agreement only for the purpose of which it requested District grant monies and will not permit any other use of the area, except as allowed by specific act of the Board of Supervisors as governing body of the District under the terms and conditions of the Proposition.”²⁶⁴

The term “proceeds” as used in Section 16(b) is broadly used without any qualifier or limitation, except that it must constitute proceeds from some portion of the property originally acquired with Proposition A funds. Judge Chalfant ruled that the entire amount of Lease payments and royalties must be used for Proposition A purposes.

There is no language in Proposition A or the Project Agreement that supports Whittier’s claim that it can use proceeds from the Project and Lease for general fund purposes. Allowing

²⁶³ TE, Vol. 3, Exh. 21. Project Agreement.

²⁶⁴ *Id.*, Section J. Use of Facilities.

Whittier to use proceeds from the Lease for general fund purposes would be contrary to Proposition A Section 16(b) and to Proposition A Section 24, which require the District to make every effort to distribute revenues “equitably throughout the District.”²⁶⁵ Proposition A Section 24 is consistent with Public Resources Code Section 5539.9(h) and requires that the District's Proposition A assessment be apportioned by a method that fairly distributes the net amount among all assessable lots or parcels in proportion to the benefits to be received from the improvements.

If Whittier is able to spend the proceeds from the Project and Lease for general fund purposes, Whittier residents would receive a significantly greater benefit than other County taxpayers who paid the Proposition A assessment that generated the funds Whittier used to purchase the Whittier Hills Property (which included the mineral rights). It was not the intent of County voters to allow Whittier to gain an unfair windfall from leasing oil rights that it acquired using public taxpayer funds for the specific purpose of preserving open space.

B. Whittier Has Steadfastly Refused to Agree to Use Lease Payments and Royalties in Compliance with Proposition A Section 16 and the Project Agreement

1. Whittier Has Spent Lease Payments for General Fund Purposes in Violation of Proposition A and the Project Agreement

Whittier entered into a legal services agreement with Rutan & Tucker, LLP on December 11, 2012 for legal services related to setting up a mineral extraction endowment.²⁶⁶ According to the agreement, Rutan & Tucker, LLP will provide legal services in connection with the establishment and administration of an endowment, trust, or other structure that would safeguard and invest revenues received from mineral extractions on land owned or leased by the City.²⁶⁷ At its December 11, 2012 meeting, the Whittier City Council approved the legal services agreement with Rutan & Tucker, LLP, related to the Mineral Extraction Endowment Project and

²⁶⁵ Proposition A.

²⁶⁶ TE, Vol. 16, Exh. 174. “City of Whittier Agreement for Professional Services.” City of Whittier and Rutan & Tucker, LLP. 11 December 2012.

²⁶⁷ *Id.* 11 December 2012. Exhibit A: November 20, 2012 letter from Joel D. Kuperberg at Rutan & Tucker, LLP to Mr. Jeffrey W. Collier, City Manager for City of Whittier. Paragraph 2.

authorized the City Manager to execute the agreement.²⁶⁸ An amount of \$268,800 has been accumulated in the general fund from the mineral extraction lease with Matrix, and some of those funds have been used to pay costs associated with the Rutan & Tucker agreement.²⁶⁹ During the trial of the MRCA Lawsuit, Whittier did not dispute that it had spent Lease payments to pay Rutan & Tucker.

2. Whittier Refuses to Provide an Accounting of How All Lease Payments Have Been Spent

On August 5, 2013, the District sent Whittier a letter requesting that Whittier provide an accounting of how all lease revenue received by Whittier from Matrix had been spent. The Project Agreement provides that Whittier agrees to maintain, and make available for District inspection, accurate records of all its costs, disbursements and receipts with respect to its activities under the Project Agreement and allow the District to inspect and make copies of any books, records or reports of the other party pertaining to this Agreement or matters related thereto.²⁷⁰ On August 20, 2013 Whittier responded to the District's request for accounting of Lease payment and disbursements, by refusing to provide any information and claiming that Whittier was not required under the Project Agreement to provide the accounting of revenues the District requested.²⁷¹

C. Habitat Authority Royalty Funding Agreement

The August 24, 2012 Royalty Funding Agreement (Royalty Agreement) between Whittier and the Puente Hills Habitat Preservation Authority (Habitat Authority), a joint powers authority (JPA) previously known as the Puente Hills Landfill Native Habitat Preservation Authority, provides for the Habitat Authority to be paid a portion Whittier's royalties from the

²⁶⁸ TE, Vol. 16, Exh. 175. "Whittier City Council, Whittier Redevelopment Successor Agency, and Whittier Utility Authority Joint Meeting." City Council Chamber, 13230 Penn Street. December 11, 2012. Page 10, Section 10.A: Mineral Extraction Endowment Project Agreement.

²⁶⁹ TE, Vol. 16, Exh. 174. Whittier, "City of Whittier Agreement for Professional Services."

²⁷⁰ TE, Vol. 3, Exh. 21. Project Agreement. Project Execution, Page 4.

²⁷¹ Collier, Jeffrey W. "Re: Request for Accounting of Lease Payments and Disbursements (City of Whittier – Matrix Lease)." Letter sent to Mr. Russ Guiney, Director, Los Angeles County Regional Park and Open Space District. 20 August 2013. Paragraph 2.

Lease in order to maintain its revenue stream for management of the area of the Whittier Lease Property and the Preserve.²⁷²

Under Section 7 of the Lease, Matrix is required to pay Whittier, upon satisfaction of certain conditions, a share of revenues produced (City's Royalty Share).²⁷³ The Royalty Agreement requires that Whittier shall annually pay to the Habitat Authority 4% of the City's Royalty Share, up to an annual maximum of \$2,000,000.00 ("Habitat Royalty Share").²⁷⁴ Whittier's obligation to pay the Habitat Royalty Share is expressly contingent upon Whittier's receipt of the City Royalty Share from Matrix and is not an independent obligation of Whittier. Whittier's obligation to contribute the Habitat Royalty Share to the Habitat Authority will continue until Whittier's right to the City Royalty Share is exhausted or terminated or until the Royalty Agreement is terminated. Whittier shall determine the amount of the Habitat Royalty Share by calculating 4 percent of the amount of the City Royalty Share received by Whittier from Matrix during the preceding calendar year. Whittier shall pay the Habitat Authority the Habitat Royalty Share no later than March 31st of the year following the one for which the calculation was made.²⁷⁵

The Royalty Agreement requires the Habitat Authority to utilize its Habitat Royalty Share to defray the costs of the ongoing operations and activities in Whittier and the Habitat Area, in accordance with the Habitat Authority's purposes as more specifically described in the amended JPA, and for the expansion and enhancement of existing and future access and recreational opportunities and educational and outdoor learning opportunities for the residents of Whittier.²⁷⁶ The Royalty Agreement was agreed to by Whittier without the District's approval and allows the Habitat Authority to spend proceeds from the Lease in violation of Proposition A and the Project Agreement.

²⁷² TE, Vol. 15, Exh. 154. "Royalty Funding Agreement." Puente Hills Landfill Native Habitat Preservation Authority (Habitat Authority). 24 August 2012. Pages 1-2.

²⁷³ *Id.*, Page 1, Recital G.

²⁷⁴ *Id.*, Page 2, Section 1: City's Obligations.

²⁷⁵ *Id.*, Page 2, Section 1: City's Obligations.

²⁷⁶ *Id.*, Page 2, Section 2: Habitat Authority's Obligations.

D. Whittier Certified in Its Application and in the Project Agreement That It Had Sufficient Funds to Maintain the Property in Perpetuity

Pursuant to Section 2 of Whittier Resolution 6416, certified that they have or would have sufficient funds to operate and maintain the Project in perpetuity. Despite the earlier Resolution stating that Whittier had sufficient funds to manage the lands acquired with Proposition A funds, Whittier has relied solely on the revenue-generating potential to override the anticipated significant effects of the Project. Furthermore, Whittier has justified the Lease and Project as a necessary funding source to enable the Habitat Authority to maintain the Whittier Hills Property and other lands acquired with Proposition A funds.

E. Whittier Enters into a Contract with MRCA That Allocates Royalties to MRCA without District Approval and in violation of Proposition A and the Project Agreement

On August 15, 2013, Whittier, Matrix and MRCA entered into a settlement agreement (the “MRCA Settlement Agreement”) that resolved the claims brought by MRCA in the MRCA Action and required MRCA to dismiss the MRCA Lawsuit with prejudice. Pursuant to the MRCA Settlement Agreement, Whittier will share royalties from the Project and Lease with MRCA. As a result, MRCA will receive up to \$11.25 million annually for park, recreation, open space, conservation and educational interpretation purposes.²⁷⁷ The MRCA Settlement Agreement was entered into without approval from, and without consultation with, the District or Board. The MRCA Settlement Agreement does not require the royalties that MRCA may receive from the Lease to be spent in compliance with Proposition A. For example, the MRCA Settlement does not prevent MRCA from using the royalties on salaries and supplies, rather than on the acquisition of open space and wildlife habitat. Indeed, the plain language of the MRCA Settlement Agreement does not even require MRCA to spend the royalties in the County.

²⁷⁷ City of Whittier and the Mountains Recreation and Conservation Authority (MRCA). August 15, 2013. “Exhibit A: Joint Press Release”. MRCA Settlement. Page 1, Paragraph 3. Available at: <http://www.cityofwhittier.org/civicax/filebank/blobdload.aspx?blobid=7027>

F. Whittier's Interpretations of the Requirements of Proposition A and the Project Agreement Have Been Rejected by Judge Chalfant

Whittier claims that its only obligation under Proposition A is to reimburse the District for the fair market value of 22.1 acres of open space.²⁷⁸ On May 9, 2012, Whittier sent the District a \$325,000 check (reflecting Whittier's unsupported calculation of the fair market value of 22.1 acres of surface land) as its purported compliance with Proposition A section 16 and the Project Agreement. Whittier's attempted payment failed to comply with the requirements of Proposition A and the Project Agreement for several reasons. First, Proposition A Section 16(b) provides that the greater of (1) the amount of the grant, (2) the fair market value of the real property, or (3) *the proceeds* from the portion of such property developed with the grant, shall be used for Proposition A purposes or returned to the District's Parks Fund to be spent consistent with Proposition A. Whittier has not disputed that the Project is estimated to provide Whittier with royalty payments of between \$7.5 million and \$115.4 million per year for 20 years.²⁷⁹ The Lease required Matrix to pay Whittier \$182,000 per year in rent (\$140 per acre) for several years, and currently requires payment of \$90,000 per year (\$70 per acre).²⁸⁰ Per the terms of the Lease, Whittier has already received more than \$325,000 in lease payments from Matrix. Thus, the fair market value is not the greater number. Second, the calculation used by Whittier is based on only 22.1 acres, but the Lease is for the entire approximately 1,280 acres. Third, Whittier's calculation is for the surface rights only and does not include the mineral rights. As Judge Chalfant held, the proceeds of the Lease include all payments and royalties. Accordingly, to comply with Proposition A, Whittier must agree that all proceeds of the Lease be spent in compliance with Proposition A. Whittier has consistently, and stubbornly, stated its intention to use proceeds from the Lease for general fund purposes.

²⁷⁸ TE, Vol. 14, Exh 126. May 9, 2012 letter. Letter from City of Whittier to Open Space District Administrator

²⁷⁹ TE, Vol. 15, Exh. 160: Deposition of Michael McCaskey, October 10, 2012, AR2350, 2354; Vol. 16, Exh. 170: Whittier Daily News Article, "Whittier Says Oil Revenues Could Top \$1.5 Billion; Court Challenges Remain," November 17, 2012, AR3649.

²⁸⁰ TE, Vol. 6, Exh. 65: City Council agenda report dated August 26, 2008 related to the proposed Whittier 2008 Mineral Extraction Project, AR1204; Vol. 8, Exh. 88: AR1774, April 12, 2011; Vol. 5, Exh. 60: Habitat Authority Memo from Executive Director to Board Members, March 27, 2008, AR3547.

G. Whittier Has Repeatedly Stated Its Intention to Continue Using Lease/Project Proceeds for General Fund Purposes

During a June 19, 2012, Whittier City Council meeting, Mayor Pro Tem Bob Henderson stated that regarding the concern that the fluctuating income expected from the oil well royalties may result in immediate City spending:

“We hope that, instead, a trust fund could be built for – for the City for future generations and – and so on, although a lot of money would have to flow to the City Council; and at that point it becomes like any other revenue source for the City... Obviously, the schools have been discussed... But the idea at this point would be that the amount of money that would come out annually to the – to the Council would grow and might be as much as \$10 million a year; but, probably, all the rest of that money will be recommended, at least, that it go into a trust fund. That trust fund would build itself up and – and have it so in investments and be run as a – as a large foundation would or a – as any big public trust, and it would continue to grow from those investments.”²⁸¹

During the same Whittier Council Meeting, Council Member Vinatieri agreed with Mr. Henderson’s vision for placing Lease/Project proceeds in a trust fund for Whittier:

“The idea here is that – that if it does do well, that there will be a considerable, considerable amount of money for the people of Whittier to be used for the people of Whittier... we’ve cut our budget a total of about \$5, \$6 million; and there’s some things in Whittier that – that are not taking place in terms of in – infrastructure that we need to be doing... So this could be the kind of seed money that we could utilize to bring us back to where we were five years ago before the – the recession – the recession hit; but at the same time we want to make sure that with the potential amount of money involved, that the money goes into a – a trust fund or endowment so that future generations – as Bob has indicated, future

²⁸¹ TE, Vol. 16, Exh. 169. Guerrero, Laura D. “Reporter’s Transcription of Televised Proceedings”. Whittier City Council Meeting, Whittier Redevelopment Successor Agency, Whittier Utility Authority – Joint Meeting. 13 November 2012. Tuesday, June 19, 2012 City Council Meeting. Page 5, Paragraph 4, Line 25 to Page 6, Paragraph 1, Lines 1-9.

generations of Whittierites will benefit from it, because this is a depleting asset.”²⁸²

Mr. Vinatieri explained the goal of the trust fund would be to serve future generations in Whittier with the royalties from the oil wells:

“So we are not doing the people of Whittier any favor by not being prudent about it, by tying up that money and – and doing it in a way that generations will be able to benefit this way after – long after we’re all gone, so that’s the vision here.”²⁸³

An agenda report from Whittier City Manager Jeffrey W. Collier,²⁸⁴ prepared for the Mineral Extraction Financial Plan Subcommittee, consisting of Mayor Pro Tem Henderson and Councilmember Vinatieri for the development of a “recommendation for the Best Practices to manage any revenues that may be forthcoming from the lease/royalty payments from the Lease,”²⁸⁵ states that the following key issues need to be expanded on by the Subcommittee:

- The conversion of Whittier-owned minerals to a revenue stream is perhaps the most important asset management discussion that the City Council will face for decades.
- Both the oil and natural gas produced under the terms of the Lease are expected to produce revenue for Whittier for a limited period of time. The exact duration cannot be determined at this point in the process.
- The funds must be allocated so that a portion can be used today to benefit the residents of Whittier, and a significant portion is to be preserved in an Endowment/Trust Fund to insure future generations can be afforded both a continuing revenue stream from the investment of the Fund’s corpus – that can be available to meet the needs of Whittier and its residents and to provide a safety net to Whittier in the case of catastrophic disaster losses.

²⁸² *Id.*, Page 10, Paragraph 5, Lines 14-24 and . Page 10, Paragraph 6, Line 25 to Page 11, Paragraph 1, Lines 1-8.

²⁸³ *Id.*, Page 11, Paragraph 2, Lines 17-22.

²⁸⁴ TE, Vol. 16, Exh. 168. Collier, Jeffrey W., City Manager. ”Mineral Extraction Financial Plan Subcommittee Report.” City of Whittier Agenda Report. 13 November 2012.

²⁸⁵ *Id.*, Background, Paragraph 1.

Mr. Collier stated that regarding the fiscal impact: “The Subcommittee will be recommending that all expenses incurred in the creation of this plan and Endowment/Trust be paid by revenues generated from the Mineral Extraction Lease revenue and not be a burden upon existing General Fund operations.”²⁸⁶

An agenda report from Whittier City Manager Jeffrey Collier to the Whittier City Council dated May 14, 2013, states that revenue from Phase 1 of the Project “would be allocated directly to the City General Fund to restore services that have been diminished in recent years as a result of budget reductions.” This same Whittier agenda report further states that revenue from the Lease could be used to aid in the recovery from a potential catastrophic loss like an earthquake, fire or flood.²⁸⁷ This same agenda report discusses using the funds for green energy improvements, modernization of municipal facilities, and renovation of streets, sidewalks, sewers and public landscaping, to cover underfunded long-term liabilities of Whittier such as insurance, claims and liability exposure, asset and technological replacement, and post-employment cost exposure.²⁸⁸

An agenda report from Whittier’s City Manager to the Whittier City Council dated June 4, 2013, states that revenue from the Lease that was deposited into the Trust for Whittier’s Future could be used to pay for unfunded or underfunded liabilities such as claims, lawsuits, PERS costs, post-employment costs, workers compensation costs, and green energy projects.²⁸⁹

On March 25, 2013, Whittier’s Mayor Owen Newcomer wrote a letter to the Opinions Editor of the San Gabriel Valley News Group regarding a *Whittier Daily News* editorial regarding the Project and stated that one of the City’s goals in pursuing the Project is to provide “needed public services to residents.”²⁹⁰

²⁸⁶ *Id.*, Fiscal Impact. Page 2.

²⁸⁷ *Id.*, Page 2.

²⁸⁸ *Id.*, Page 3.

²⁸⁹ Jeffrey Collier, City Manager of Whittier. 4 June 2013. Agenda Report. Subject: Study Session to Review the Trust for Whittier’s Future. Available at: <http://www.cityofwhittier.org/depts/cd/mineralinfo/>

²⁹⁰ Letter on file with County Counsel

An August 15, 2013, press release from Whittier that was an attachment to the MRCA Settlement Agreement states that Whittier’s stated goal “is to maintain the open space assets available to the public while generating a stable income stream which would support City services without tax increases into the future as well as provide funding for infrastructure replacement.”²⁹¹ Whittier made these statements in the Press Release even after the Judge’s Trial Court Decision ruled that proceeds from the Project cannot be used for general fund purposes. Quite simply, Whittier has demonstrated that it is unwilling to comply with the requirements of Proposition A in regards to the proceeds of the Project and Lease. Whittier’s prior breach of the Project Agreement, violation of Proposition A, and stated intention to ignore the requirements of Proposition A if the Lease were approved constitutes sufficient grounds for the District to deny approval of the Lease and to refuse to allow a change of use for the Project (Table 9, *Allowable Use of Proceeds from Change of Use or Disposition versus Whittier Intended Uses*).

TABLE 9
Allowable Use of Proceeds from Change of Use or Disposition versus Whittier's Intended Uses

What Proposition A and the Judge’s Order Require Lease and Project Revenue to be Spent On	What Whittier Intends to Spend Lease and Project Revenue On
Acquisition of Open Space and Parks Consistent with Proposition A Section 16(b)	General Fund purposes
	Restore City Services
	Streets, Sidewalks and Sewers
	Workers Compensation
	Lawsuits and Lawyers
	New Technology
	Infrastructure
	Retirement costs
	Schools

²⁹¹ City of Whittier and the Mountains Recreation and Conservation Authority (MRCA). August 15, 2013. “Exhibit A: Joint Press Release.” MRCA Settlement. Page 2, Paragraph 1. Available at: <http://www.cityofwhittier.org/civicax/filebank/blobdload.aspx?blobid=7027>

XII. Conclusion and Recommendation

Approval of the Lease and Project would allow oil and gas drilling, processing, and associated activities within the Core Habitat Zone of the Whittier Hills Property that will substantially interfere with the use of the Whittier Hills Property as open space and wildlife habitat. Approval of the Lease allows for the potential for drilling to occur throughout the approximately 1,280 acres of the Preserve located within Whittier, sets a precedent of allowing lands that have been set aside as open space for recreation and wilderness habitat in perpetuity through the expenditure of public funds to be developed in an incompatible manner with the intended conservation efforts, and removes motivation for public faith in future conservation efforts. It is the District's responsibility to take all actions necessary and desirable to carry out the purposes of Proposition A.

Approval of the Lease would be inconsistent with the Unocal and Chevron Deed Restrictions that restrict the use of a majority of acres constituting the Whittier Hills Property. The oil and gas exploration and development allowed under the Lease are incompatible with the U.S. Fish and Wildlife Service designation of the Whittier Hills Property as Critical Habitat for the Coastal California gnatcatcher. Oil and gas extraction and development would be incompatible with the National Park Service's proposed designation of the Whittier Hills Property as part of the San Gabriel Unit of National Park Service Proposed Amendment (National Recreation Area) and the County's proposed designation of the property as SEA No. 15, Puente-Chino Hills, currently under consideration under Chapter 9: Conservation and Natural Resources Element of the Los Angeles County General Plan 2035. The entire Whittier Hills Property has been inventoried under the California Protected Areas Database as a City/County-designated protected open space through fee ownerships; the lands mapped within this database are intended to be owned and permanently protected for open space purposes. The SMMC and MRCA have stated in writing that the Project would cause irreparable harm to the Whittier Hills Property and does not comply with Proposition A.

The Project and Lease are inconsistent with the Voters' intended use of the Whittier Hills Property for wildlife habitat, open space, and recreation. The Project and Lease do not contribute to, and are inconsistent with, the benefits discussed in the Engineer's Report,

Proposition A, section 6, and the benefits that the Legislature intended from the creation of the District. As specified by Proposition A and the related Project Agreement, the intended Lease or any future Lease between Whittier and Matrix requires approval by the District and is subject to Section 16b of the Project Agreement that requires any revenues generated by land uses other than those specified by Proposition A be used to achieve the intended purposes of Proposition A at the District's discretion. The Lease allows land uses that are inherently incompatible with the operation and maintenance of the land for open space conservation, wildlife habitat, and recreation purposes. Whittier has already spent lease payments on general fund purposes and seeks to direct revenues and royalties from the Lease to general fund purposes rather than to the required and intended purposes of Proposition A. Denial of the Lease and Project are the only course of action consistent with the intent of Proposition A and supportable in the District's role as Responsible Agency. Denial of the Lease and Project will uphold the intent and purpose of Proposition A to acquire, preserve, and restore open space lands, wildlife habitat, and recreation resources in Los Angeles County. For the reasons stated herein, it is the opinion and recommendation of the authors of this Analysis that the District exercise its discretion to deny the Lease and Project as they are inconsistent with the intent and requirements of Proposition A.

Authors of the Analysis

Ms. Marie Campbell is the president of Sapphos Environmental, Inc. and served as the principal author of this Analysis. Ms. Campbell's resume and the resumes of all contributors to this Analysis are included in the Appendix.

APPENDIX A
CONTRIBUTORS

**MARIE C. CAMPBELL
PRINCIPAL**



Ms. Marie Campbell, principal of Sapphos Environmental, Inc., is an environmental compliance specialist with 30 years of experience in managing public- and private-sector projects requiring strategic planning, environmental compliance documentation, and resource management planning. She began her career as an environmental protection specialist with the U.S. Army Corps of Engineers (USACOE), Los Angeles District, where she oversaw regulatory permit Environmental Impact Statements (EISs) and Corps Civil Works projects, including regional recreational facilities in the five dams in the Los Angeles River Drainage Area. She serves as a member-at-large for the Board of Directors for the National Association of Environmental Professionals, where she chairs the Education Committee.

Recreation and Open Space

Ms. Campbell has worked on over 200 park and open space areas in California. Ms. Campbell has represented Lead and Responsible Agencies in fulfilling their responsibilities pursuant to the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA) for a wide variety of recreation and open space projects on lands involving petroleum extraction, processing, storage, and reclamation of lands previously used for such activities:

- Santa Ana River Restoration Element on the Santa Ana River Project
- Bolsa Chica Wetlands Restoration Project
- Huntington Beach Regional Sports Complex
- Kenneth Hahn Regional Ball Fields Project

While serving as an Environmental Protection Specialist at USACOE, Ms. Campbell developed the conceptual design for the Santa Ana River Marsh Restoration Project, which involved the consolidation and relocation of an active well field to facilitate habitat restoration for the Belding's Savannah sparrow. After leaving USACOE, Ms. Campbell worked on behalf of the landowner on the Bolsa Chica Wetlands Restoration Project, delineating areas proposed for conservation and development. A key consideration in this project was the maintenance of existing petroleum extraction facilities. Ms. Campbell served as the Principal Investigator / Project Manager for the preparation of environmental impact reports (EIRs) for both the Huntington Beach Regional Sports Complex and the Kenneth Hahn Regional Ball Fields projects. The Huntington Beach Regional Sports Complex required the organization of recreation and open space resources immediately adjacent to both decommissioned and extant petroleum extraction facilities. The Kenneth Hahn Regional Ball Fields Project involved redevelopment of lands for regional recreational facilities, including an abandoned oil field.

Habitat Restoration and Management for Responsible Agencies

Ms. Campbell has worked directly with the Santa Monica Mountains Conservancy, the Mountains Restoration Trust, the California Department of Parks and Recreation, the County of Los Angeles Department of Parks and Recreation and Open Space District, and the City of Los Angeles Environmental Management Bureau on the design and implementation of habitat restoration and conservation areas for special status species. Ms. Campbell served as the project manager for the habitat restoration elements and environmental compliance documentation for the Bosque del Rio Hondo Revegetation Plan and Mitigated Negative Declaration / Environmental Assessment (MND/EA), prepared for the Santa Monica Mountains Conservancy. Ms. Campbell served in a similar capacity for the development of a native grass restoration project for Malibu State Park for

the California Department of Parks and Recreation. Ms. Campbell has served as the principal-in-charge for the design and implementation of multiple habitat restoration projects and environmental compliance documents for the County of Los Angeles Departments of Regional Planning and Parks and Recreation and Open Space District. Ms. Campbell served as the Principal-in-Charge for evaluation of seven Significant Ecological Areas for the County of Los Angeles Department of Regional planning, including the Puente Hills Landfill which encompasses the Main Whittier Oil Field. A key consideration in the Puente Hills SEA is habitat conservation for the Federally listed Coastal California gnatcatcher, Ms. Campbell also served as the project manager for the design and implementation of the habitat restoration project for the Palos Verde blue butterfly and the coastal California gnatcatcher at Deane Dana Regional Community park. Ms. Campbell has served as project manager for the environmental evaluation and documentation of multiple projects seeking funding through the use of Proposition A grant monies from the county of Los Angeles Open Space District. Ms. Campbell served as the principal scientist for the development of the long-term habitat conservation plan for El Segundo blue butterfly, the El Segundo Blue Butterfly Habitation Restoration Preserve at the Los Angeles International Airport, prepared for the City of Los Angeles Environmental Management Bureau. Ms. Campbell oversaw the restoration and management of the preserve for 7 years.

Legal Defensibility

As principal of Sapphos Environmental, Inc., Ms. Campbell's responsibilities include strategic oversight to ensure technical and procedural adequacy of work products pursuant to NEPA; CEQA; and a myriad of other federal, state, and local statutes and regulations. Sapphos Environmental, Inc. frequently works on projects involving cutting-edge solutions to issues related to aesthetics, biological resources, cultural resources, and hazards and hazardous materials. The outstanding quality of the solutions and services provided by Sapphos Environmental, Inc. is best demonstrated by the fact that, of the thousands of adopted and certified environmental compliance documents the firm has produced, only 11 projects involving 13 lawsuits (i.e., less than 1 percent) have been the subject of litigation. Furthermore, in each instance involving litigation, the client has prevailed:

- **Acciona Wind Energy Project:** Sapphos Environmental, Inc. represented Acciona Energy USA in a complex negotiation regarding the potential for the project to result in significant impacts to biological resources. A consensus was developed among the applicant, the County of Santa Barbara, regulatory oversight personnel, and special interest representatives that resulted in project approval that was later challenged under CEQA by a neighboring property owner. On February 2, 2012, the court of appeals affirmed the trial court findings that the plaintiff failed to exhaust administrative remedies and found the remaining challenges to be without merit.
- **La Viña Homeowners Association Subdivision Map Act Compliance:** Sapphos Environmental, Inc. (Ms. Marie Campbell) stood as an expert witness for the County of Los Angeles Office of County Counsel and was instrumental in demonstrating that La Viña Homeowners Association had violated the Subdivision Map Act in their failure to complete the development of two trails required by the County of Los Angeles Board of Supervisors as part of the conditions of approval of the project. On June 11, 2008, the superior court ruled in favor of the County of Los Angeles Board of Supervisors. The decision was affirmed in an appellate court decision in 2010.
- **Hollywood Bowl Shell Rehabilitation Project and Acoustical Improvements EIR:** The EIR was prepared for the Los Angeles Philharmonic Orchestra and County of

Los Angeles Chief Executive Office. On August 20, 2002, the appellate court upheld the adequacy of the EIR. The project was completed in 2004 for the new season.

- **Owens Valley PM₁₀ Planning Area Demonstration of Attainment State Implementation Plan EIR:** The EIR was prepared for the Great Basin Unified Air Pollution Control District. On July 28, 1998, the superior court upheld the adequacy of the EIR. The project has been successfully completed.
- **Frank G. Bonelli Regional Park Master Plan EIR:** The EIR was prepared for the County of Los Angeles Department of Parks and Recreation. On February 24, 1998, litigation was withdrawn as a result of a Negotiated Settlement Agreement.
- **Longden Reservoir No. 1, Van Nuys Reservoir, Van Nuys Booster Pump Station and 24-inch Parallel Pipeline Project EIR:** The EIR was prepared for the San Gabriel County Water District. On October 31, 1997, the superior court upheld the adequacy of the EIR. The project has been completed.
- **Deane Dana Friendship Community Regional County Park EIR:** The EIR was prepared for the County of Los Angeles Department of Parks and Recreation. On November 15, 1996, the superior court of the County of Los Angeles ruled to deny writ of mandate.
- **Los Angeles International Airport Master Plan EIR/EIS:** As a subcontractor to CDM and URS, Sapphos Environmental, Inc. prepared the biological resources, threatened and endangered species, and wetlands components of the EIR/EIS. In December 2005, litigation was withdrawn as a result of a Negotiated Settlement Agreement.
- **Symantec Office Development 800–900 Corporate Pointe EIR:** Sapphos Environmental, Inc. worked in concert with Century Housing’s legal team on the CEQA writ of mandate against the City of Culver. Century Housing received their requested mitigation as compensation as a result of a Negotiated Settlement Agreement.
- **EIR for Specific Plan for the Development of State Surplus Property and Amendment to the Redevelopment Plan for the Merged Chino Development Project Area:** The EIR was prepared for the City of Chino and the State Department of Health Services. Litigation was withdrawn as a result of a Negotiated Settlement Agreement. Project construction was initiated in January 2005.
- **Hyundai Annexation, Detachment, Sphere of Influence, Amendment, Redevelopment Area Expansion, General Plan Update for the Automotive Test Course Project EIR:** The EIR was prepared for the City of California City and Hyundai Motor America. Defenders of Wildlife and the Center for Biological Diversity filed a lawsuit against the U.S. Fish and Wildlife Service (USFWS) over permits issued to Hyundai Motor Company and the City of California City to build an automotive test track near the City of California City. On February 27, 2004, the lawsuit was settled in favor of the project applicant as a result of a Settled Arbitration Agreement, Case Number CV04-01073TJH (AJMx).

Public Outreach

Effective communication and public and agency outreach is fully integrated into the technical approach and scope of services for all work efforts undertaken by Sapphos Environmental, Inc. Ms. Campbell has successfully completed the federal government training for negotiating, bargaining, and conflict resolution. In addition, Ms. Campbell has taught at the collegiate level. Ms. Campbell has assisted clients and regulatory oversight personnel in developing strategies to address complex environmental issues and the related public outreach program to ensure that the goals of NEPA and CEQA are fulfilled. Ms. Campbell has extensive experience preparing and delivering oral presentations that effectively convey technical information in a manner that is understandable for the layperson. Ms. Campbell developed the technical training program used to train all technical staff at Sapphos Environmental, Inc. in effective listening and facilitation of community and agency meetings and workshops. Ms. Campbell has made numerous presentations to special district boards, boards of supervisors, city councils, and planning commissions for a variety of high-profile capital projects.

Project Management

Since establishing Sapphos Environmental, Inc., Ms. Campbell has served as project manager on open-end contracts for environmental services, as well as numerous high-profile, complex environmental documents. Under Ms. Campbell's direction, Sapphos Environmental, Inc. has provided open-end environmental services to numerous public agencies, such as: California Department of Transportation (Caltrans), Metropolitan Water District of Southern California, Southgate Recreation and Park District, Great Basin Unified Air Pollution Control District, County of Los Angeles Chief Executive Office, County of Los Angeles Department of Public Works, County of Los Angeles Department of Parks and Recreation, and City of Los Angeles Bureau of Engineering. In the performance of services under these open-end contracts, she has managed multidisciplinary teams consisting of geologists, registered environmental assessors, health risk assessment professionals, biologists, archaeologists, paleontologists, land use planners, air and water quality specialists, acoustical engineers, traffic engineers, and civil engineers. She has managed as many as 15 simultaneous delivery orders (over a 1-month period) during the course of these contract efforts. As project manager, Ms. Campbell's responsibilities included preparation of individual scopes of service for each delivery order (including schedules and estimated costs), client and project team coordination, project staffing, supervision of all work efforts, timely submission of all work products, provision of technical input and graphics for internal and external project briefings, and quality control. Ms. Campbell has managed the preparation of environmental compliance and public outreach efforts for a variety of projects where hazards and hazardous materials were a key issue:

- Long Beach Memorial Medical Center Expansion and 2010 Master Plan EIR
- South Coast Golf Course (at Palos Verdes Landfill EIR)
- Victoria County Golf Course Rehabilitation EIR and Supplemental EIR
- Victoria Cricket Fields Rehabilitation EIR
- Biological Resources Technical Report, Oak Tree Report, and Expert Witness for Puente Hills Landfill EIR
- Huntington Regional Park Complex EIR (closed landfill and active petroleum extraction field)
- Kenneth Hahn Ballfield Complex EIR (closed petroleum extraction and storage field)

Environmental Compliance

National Environmental Protection Agency / California Environmental Quality Act Documents

Ms. Campbell has prepared all types of environmental compliance documents for state and federal lead agencies, including categorical exclusions, negative declarations, mitigated negative declarations, environmental assessments, EIRs, EISs, and joint environmental documents (EIR/EISs). Ms. Campbell served as project manager for the NEPA input to the EIS/EIR in support of the Berth 97-109 Container Terminal Project (China Shipping I, II, and III) project at the Port of Los Angeles.

Ms. Campbell also served as a strategic consultant for the EIS/EIR for the Los Angeles International Airport Expansion for all issues related to biological resources, threatened and endangered species, wetlands, and related regulatory permits. Ms. Campbell served in a similar capacity on the EIR for the 2003 Owens Lake Demonstration of Attainment for PM₁₀ State Implementation Plan that addresses a 38-square-mile study area requiring implementation of a variety of dust control measures. Ms. Campbell completed joint NEPA/CEQA documents for several other projects: Categorical Exclusion / EIR for the Grand Avenue Environs Project; Programmatic Negative Declaration / Environmental Assessment (ND/EA; County of Los Angeles Department of Public Works and USACOE); EA/MND for the R-Line Interstate Transmission Corridor; MND/EA / Finding of No Significant Impact (FONSI) for the Bosque del Rio Hondo Riverfront Park Project (Mountains Recreation and Conservation Authority, Los Angeles County Department of Parks and Recreation, and U.S. Army Corps of Engineers); and joint EA/MND for the Lake Mathews Ecological Reserve (USFWS and Metropolitan Water District of Southern California).

Regulatory Permitting

Regulatory permitting has been undertaken by Ms. Campbell in support of a variety of infrastructure projects. Ms. Campbell served as the principal-in-charge representing the City of Carson in after-the-fact Section 404 permit from the USACOE, water quality certification with the Regional Water Quality Control Board (RWQCB), and Streambed Alteration Agreement (SAA) with the California Department of Fish and Wildlife (CDFW) for the Del Amo Boulevard overcrossing. Ms. Campbell prepared the Mitigation Plan Biological Assessment for the Proposed Erosion Protection Facilities for the Valencia Water Reclamation Plant Solids Processing Plant, County of Los Angeles, California, for the Sanitation Districts of Los Angeles County. Regulatory permitting included documentation for a Pre-discharge Notification for use of Nationwide Permit submitted to the U.S. Army Corps of Engineers (including formal consultation with the USFWS), SAA submitted to the CDFW and Request for Waiver of Water Quality Certification to the Regional Water Quality Control Board. Similar efforts were undertaken for two projects for the Metropolitan Water District of Southern California, emergency pipeline repairs and recurring maintenance for the Box Springs Feeder Project, and emergency debris removal and routing channel maintenance for the Weldon Canyon Creek tributary to Bull Creek at the Jensen Filtration Plant.

Hazards and Hazardous Materials

Ms. Campbell has served as project coordinator for a number of high-profile projects involving redevelopment of a closed landfill and active or closed petroleum extraction fields. Most recently, Ms. Campbell served as the project coordinator representing Memorial Health Services and the City of Long Beach for the proposed redevelopment of the Long Beach Memorial Medical Center Campus. Ms. Campbell worked with the clients and the Department of Toxic Substances Control to negotiate a Voluntary Clean-Up Agreement that provided for assessing the medical campus as three operable units. Assessment of two of the operable units was successfully completed; the investigation of the third operable unit is ongoing. Ms. Campbell served in a similar capacity,

representing Meritage Partners and the County of Los Angeles, in relation to the proposed redevelopment of the closed Palos Verdes Landfill as a public golf course. Ms. Campbell has represented public agencies, including the Mountains Restoration and Conservation Authority, the County of Los Angeles, the Sanitation Districts of Los Angeles County, and the City of Huntington Beach in the redevelopment of brownfield properties to accommodate public benefit land uses, including the Bosque del Rio Hondo community park, Kenneth Hahn Ballfield Complex, Puente Hills Landfill, and Huntington Regional Sports Complex.

Resource Management

Ms. Campbell has extensive experience conducting Section 7 consultations on behalf of federal agencies, including the USACOE, U.S. Department of Agriculture BLM, U.S. Department of Transportation Federal Aviation Administration and Federal Highway Administration, and the USFWS. Similarly, Ms. Campbell has overseen the negotiation and environmental documentation related to federal Section 10(a) permits and State 2081 permits for incidental take of endangered species. All these projects have involved the preparation and implementation of long-term habitat management and conservation plans:

- Long-Term Habitat Management Plan for the Red Tail Golf and Equestrian Project
- Long-Term Habitat Management Plan for Los Angeles Airport / El Segundo Dunes
- Lake Mathews Fire Management Plan, Riverside County, California
- Habitat Restoration Program for Palos Verdes Blue Butterfly at Deane Dana Friendship Community Regional County Park
- Revegetation Plan in Support of the Bosque del Rio Hondo Project
- Habitat Restoration Program in Support of the Valencia Water Reclamation Plant Solids Processing Expansion Project
- Biological Assessment, Negotiated Settlement Agreement, and Biological Resources Evaluation for the East Orange General Plan Amendment EIR

Construction Monitoring

Ms. Campbell has supervised numerous construction monitoring projects to ensure compliance with mitigation programs defined in environmental compliance documentation and as part of regulatory permitting programs. She prepared a construction monitoring and wildlife relocation program for the Cascades Golf Course project. Previously, she served as the in-field supervisor for construction monitoring of the repair and rehabilitation of the Orange County Feeder Extension and Related Protective Improvements, Newport Back Bay, California. Construction monitoring was required to ensure compliance with permit conditions established by the USFWS (California gnatcatcher), USACOE (Nationwide Permit), RWQCB (Water Quality Certification), CDFW (SAA), and California Coastal Commission (Coastal Development Permit).

Professional History

- Sapphos Environmental, Inc., Principal, October 1992–Present
- Michael Brandman Associates, Associate, Manager of Environmental Protection Services, 1989–1992
- U.S. Army Corps of Engineers, Environmental Protection Specialist, 1984–1989
- University of California, Los Angeles, Teaching Assistant / Research Analyst, 1982–1985

Education

- Master of Arts, Geography (Geomorphology/Biogeography), University of California, Los Angeles, 1988
- Bachelor of Arts, Ecosystems: Conservation of Natural Resources, University of California, Los Angeles, 1982
- Certified Wetland Delineator

Professional Affiliations

- National Association of Environmental Professionals, Board Member
- California Wind Energy Association
- American Planning Association
- California Association of Environmental Professionals
- Association of American Geographers
- UCLA Alumni Association

Professional Awards and Recognition

- Governor's Environmental and Economic Leadership Award, 2012
- California Air Resources Board Climate Action Leader, 2012
- Minority Business Development Agency, Green Environmental Firm Award, 2012

Selected Publications

- Campbell, Marie. 1990. *Mitigation Monitoring AB 3780: The NEPA Perspective*. California Chapter of the American Planning Association. AB 3180 Revisited Workshops. March 16, 23, and 30, 1990.
- Campbell, M.C. 1988. "Rill Erosion in a Post-Burn Chaparral Environment." Unpublished master's thesis. Department of Geography, University of California, Los Angeles.
- Campbell, Marie. 2011. "Guidance on Mitigation, Monitoring, and Mitigated Findings of No Significant Impact, and Lessons Learned from the California Environmental Quality Act." Webinar. National Association of Environmental Professionals, Los Angeles, California. April 7, 2011.
- Campbell, Marie. 2012. "Section 404 Nationwide Permits, Section 401 Water Quality Certifications Practitioner's Perspective." Webinar. National Association of Environmental Professionals, Los Angeles, California. September 19, 2012.
- Campbell, Marie. 2013. "Programmatic Environmental Impact Report to Adopt an Ordinance to Ban Plastic Carryout Bags." Presentation. Joint NAEP/AEP Annual Conference, Los Angeles, California. April 2, 2013.
- Mackey, Ellen, R. Green, B. Newby, D. Matis, J. Bradley, D. Karavidas, and M. Campbell. 11 August 1994. *Integrating Fire Management Plans and Conservation of Endangered Species*. Poster session. Ecological Society of America Conference, Knoxville, Tennessee.
- Mackey, Ellen (Metropolitan Water District of Southern California, Los Angeles), and Marie C. Campbell (Sapphos Environmental, Inc., Pasadena, CA). 1995. *Using Integrated Pest Management Approach to Ensure Conservation of Endangered Species*. Ecological Society of America Conference, Snow.

Nancy A. Beresky, P.G., C.E.M.
Managing Principal Hydrogeologist
Waterstone Environmental, Inc.

Ms. Nancy Beresky is licensed in the State of California as a Professional Geologist and in the State of Nevada as a Certified Environmental Manager and has been actively engaged in the practice of geology and hydrogeology for 35 years. In the past 25 years as a hydrogeologist in the environmental field, Ms. Beresky's expert services have been sought by her clients based on her innovative use of science to address environmental issues leading to regulatory agency closure.

Prior to her work in the environmental field, Ms. Beresky worked as an independent petroleum geologist where she evaluations of oil field property and prospectus reports and for the drilling of new oil wells in various oil fields in the Illinois Basin. In her work as a petroleum geologist, Ms. Beresky reviewed thousands of oil field records describing oil and gas production operations that were facilitated by hydraulic fracturing, acidizing, and waterflooding and used these records to evaluate new drilling locations for oil production potential.

Since 1978, as fossil fuels geologist and environmental hydrogeologist, Ms. Beresky has performed data evaluation, data summary, and has prepared recommendations for necessary work including the calculation of associated costs and timelines. Ms. Beresky's special and long-term expertise in the comprehensive evaluation of geologic and chemical data, results in work product that provides multiple lines of strong, scientifically-supported rationale to cost-effectively address or remediate environmental issues, procure agency closure for her clients, and reduce future liability to the property owner, tenant, or buyer.

Ms. Beresky is responsible for reviewing site data, preparing work scopes, calculation of associated costs, and management of projects with budgets ranging from the low thousands to multi-millions of dollars. These projects include the remedial investigation and site closure of properties with soil and groundwater impacted by chemical compounds associated with a variety of brownfields sites including oil fields, industrial manufacturing sites, landfills, and commercial properties including those with underground storage tanks, dry cleaning operations, and a variety of other uses where chemicals are a current or past part of onsite operations.

Ms. Beresky has experience in closing sites that are overseen through local, state, and federal programs. Under State of California Department of Toxic Substances Control Corrective Action Consent Agreements and Voluntary Cleanup Programs, Ms. Beresky has prepared approved workplans, field sampling and remediation or mitigation, and achieved site closure. In addition, Ms. Beresky is familiar with and has closed Solid Waste Management Units and Fixed Treatment Units under RCRA Part B (federal) requirements and Permit by Rule (California) requirements. In addition, Ms. Beresky has successfully prepared workplans and performed investigation and remediation work and successful site closures in compliance with National Contingency Plan and Polanco Act requirements for cost recovery.

Education

- B.S., Geology, University of Illinois, Urbana, IL, 1977
- Graduate Coursework in Geology, University of Illinois, Urbana, IL, 1978-1980

Specialized Training and Certifications

- Professional Geologist, State of California #7965
- Certified Environmental Manager, State of Nevada #1908
- American Institute of Professional Geologists, Certified Professional Geologist #6653
- OSHA 40-HR and 8-hr HAZWOPER Training, 1990 and annual refresher

Technical and Professional Capabilities

- Petroleum Geology and Oil Production
- Regulatory Agency Closure Negotiation
- Risk-Based Agency Closures
- Evaluation of Oil Field Procedures for Determination of Environmental Issues
- RCRA Closure Plans
- Expert Witness Testimony
- Litigation Support
- Brownfield Cleanup and Closure
- Calculation of Remediation Costs
- Accelerated Phase II Site Investigation
- Soil and Groundwater Remediation
- Underground Storage Tank and Clarifier Removals
- Site Decommissioning
- Free Product Recovery
- Phase I Environmental Assessments
- Project Management
- Staff Training
- Phase II and Facility Investigation Workplans
- Clarifier and UST Removal Workplans
- Remedial Action, Corrective Action, and Removal Action Workplans
- Groundwater Monitoring Reports
- Soils Management Plans
- Supervision of Risk Assessment for Cleanup Level Calculation and Remediation Confirmation/Site Closures
- Supervision of Fate and Transport Modeling as Rationale for Closure
- Environmental Closure Reports
- Site Decommissioning Reports

Key Projects and Experience

Oil Field Experience

- Petroleum Geologist in the Illinois Basin for eight years.
- Performed production and records research to evaluate leases for oil and gas production potential.
- Included evaluation of hydraulic fracturing, acidizing, and waterflooding records for enhanced oil production.
- Reviewed well logs, cuttings, production records, scout tickets, well test records, subsurface geology, structure, etc. to choose drilling locations for 100+ clients for oil production in Illinois, Indiana, and Kentucky.
- Weekly usage of records library at Illinois State Geological Survey for lease evaluation.
- Wrote prospectus reports recommending drilling locations, depths of potential production and recommended perforation depths based on geological data.

Litigation Support Services

- As Project Manager, provided expert witness deposition and jury trial testimony for a confidential property owner/developer. Ms. Beresky's responsibilities included managing a team of Waterstone professionals in the assessment and definition of soil and groundwater contamination at a 600-acre commercial/light industrial park by releases of jet fuel, leaded gasoline, unleaded gasoline, and various refinery intermediates. Possible sources included two pipeline companies and 2 large oil refineries. The study of the property revealed six groundwater plumes which were

commingled in various locations on the property. Ms. Beresky was responsible for reviewing existing site characterization data produced by a variety of consultants for various industrial park tenants, integrating all site characterization data into a single database, developing and implementing an expedited sampling program which allowed for determination of the extent of contamination and an allocation to the responsible parties. In addition, Ms. Beresky was responsible for preparing and defending in court a model of the hydrogeology of the area and the potential transport pathways that contamination followed to create groundwater plumes. Based on the testimony of an expert team that included Ms. Beresky's testimony, the defendant, in a two-month jury trial, was found to be responsible for contamination on the plaintiff's site.

- For various different litigated matters, retained by several law firms to provide litigation support for mediation, settlement conference, and/or trial where environmental issues were part of disputed responsibility, cost, or other legal concerns. Ms. Beresky's responsibilities included the review of available data, providing information on what is necessary to clean up and/or achieve regulatory closure, researching environmental insurance policy needs and negotiating terms and price. In addition, Ms. Beresky has provided information and worked with other experts to prepare them for mediation and/or trial testimony.
- Ms. Beresky was retained to provide expert witness services for a private property owner in a lawsuit involving damages from the past use of underground storage tanks on the property. Ms. Beresky was responsible for the characterization of the site, the evaluation of potential impact from the tanks during the previous 10-year timeframe, and the interpretation of data and calculation of potential damages.
- As Project Manager for a banking institution, provided Phase II sampling and site closure (or timelines for site closure) for properties in a 30-day escrow timeline situation. Performed Phase II investigations including soil vapor survey, geophysical survey, soil and groundwater sampling, and risk assessment on several properties leading to the issuance of closure letters for the sites. The work performed in the 30-day timeline allowed escrow to be closed on schedule.

RCRA Waste Management

- Have prepared closure plans for treatment, storage, disposal (TSD) facilities compliant with the requirements of 40 C.F.R. §264 —Standards For Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, Subpart G—Closure And Post-Closure. Have used existing data and designed sampling plans to identify Solid Waste Management Units (SWMUs) and Areas of Concern (AOCs).
- Project Manager and Principal-In-Charge of the feasibility study, site characterization, risk assessment, remedial action planning, and remediation of two small town lots that had been used by a drum recycler in the 1970's. All work was performed in compliance with the National Contingency Plan for the purposes of cost recovery under the Polanco Act. Ms Beresky was responsible for preparation of a schedule to be used in a negotiated "Environmental Oversight Agreement" with the State of California EPA Department of Toxic Substances Control. Responsible for estimating remediation costs and schedule, designing and costing Phase II, remediation, and risk assessment activities, remedial action planning, agency negotiation, and performing cleanup and risk assessment of confirmation samples for approximately 80 chemicals impacting soil to a depth of about 30 feet. Eleven different waste streams were identified during remediation planning. Ms. Beresky designed an excavation and site staging plan that allowed for separation of all the waste streams which ranged from non-hazardous to several categories of

RCRA hazardous waste requiring various treatments. The remediation was completed in 4 months in the field and approximately 28,000 tons of impacted soil was removed.

- Project Manager and Principal-in-Charge for the remedial investigation, site characterization, risk assessment and remedial action planning of a 5-acre former gun range for a local municipality. The facility had operated at the site for 30 years. Soils were found to be impacted with RCRA hazardous levels of lead up to a depth of 12 feet. Telephone poles coated with coal-tar were used as a backstop and are also targeted for remediation. Ms. Beresky was responsible for review and critique of prior site characterization and remediation estimates prepared by others, estimating volume and remediation costs for excavation and disposal of lead-impacted soils, preparation of a remedial action plan and agency negotiation. Site remediation and final risk assessment are pending. Following cleanup, the property is slated for redevelopment as parks and open space.

Removal Action under National Contingency Plan Requirements

- As Project Manager, prepared and implemented a Removal Action at a storm water collection pond located at a tire-to-energy generation plant where a tire fire destroyed several million automobile and heavy equipment tires. The storm water pond became the primary collection point for thousands of tons of sludge originating from the burned/melted tires and fire fighting chemicals. The project involved the review of the environmental damage the fire had caused and the identification of the major source of potential contamination to groundwater. This project was overseen by the Department of Toxic Substances Control (lead agency), State of California Attorney General, the Regional Water Quality Control Board, and the Integrated Waste Management Board. Ms. Beresky was responsible for preparing a Characterization Plan and Removal Action Workplan that was compliant with the National Contingency Plan and interfacing with all oversight agencies to remove 7,000 tons of sludge material from the collection pond. A large number of confirmation sample analysis results were coordinated to ensure compliance with very low cleanup levels. Ms. Beresky supervised all aspects of the project including characterization sampling, the removal action, confirmation sampling, data interpretation, compliance, and validation and preparation of the final report which was approved by the oversight agencies.

Brownfield Cleanup

- Project Manager and Principal-In-Charge of the feasibility study, site characterization, risk assessment, remedial action planning, and remediation of a 54-acre oil field property for the City of Santa Fe Springs and other parties including the oil company and home developer. Responsible for estimating remediation costs and schedule, designing, costing, and performing soil, soil vapor, and groundwater assessment activities. Responsible for remedial action design and use of risk assessment for calculation of cleanup levels, agency negotiation, and performing cleanup of approximately 40 separate sump and tank farm areas. The remediation was completed in 6 months in the field and approximately 80,000 tons of impacted soil was removed. The site is currently being developed with approximately 500 homes and townhomes.

- As Project Manager for a Southern California-based oil company, designed a Phase II investigation, supervised risk assessment activities, prepared a remedial action plan and implemented that plan to remove 1100 cubic yards of soil from a site where oil production activities had been performed since the 1920's. First sampling through final closure report was performed in less than 3 months to meet a client-mandated deadline for marketing the property. Risk assessment was used to demonstrate that residual chemicals remaining onsite did not present an issue for residential re-development of the property.

Site Closure under the DTSC Voluntary Cleanup Program

- As Project Manager, characterized lateral and vertical extent of chemically-affected soil that was caused by previous site use of the former owner. Negotiated with the California EPA, Department of Toxic Substances Control (DTSC) to enter its Voluntary Cleanup Program. Upon completion of site characterization activities and risk assessment, a closure letter was procured from the DTSC as one of the first sites closed under its Voluntary Cleanup Program in 12 days using the mayor's office from that city to intervene with DTSC to accelerate its timeline.
- As Project Manager, supervised and oversaw site investigation for a facility which mixed and formulated electroplating solutions. Identified 18 areas of the site impacted with heavy metals and solvents. Oversaw fast-track remediation of soil, which consisted of excavation, transportation, and disposal of several thousand cubic yards. Project responsibilities included negotiating with regulatory agencies for property transaction and facility closure, and overseeing general building decontamination activities, including concrete shot blasting and vacuuming of metal-contaminated dust throughout the facility. Entered the facility into the DTSC Voluntary Cleanup Program. Prepared one report for the site consisting of results of Phase I assessment, Phase II sampling, remediation, risk assessment, and closure/decontamination activities. A closure letter was received in 2 months, meeting the client's deadline for return of the property to the owners following its tenancy of the site.

Site Closure under the RWQCB

- As Project Manager, designed Phase II sampling to support recommendations made during the Phase I assessment of a 144 property portfolio. Sixteen of the 144 sites were required to be evaluated through subsurface soil and/or groundwater sampling. Designed a sampling plan for all sites which were former paint stores with underground storage tanks. Field work indicated impact at seven of the sites. Negotiated closure with North Coast and Los Angeles Regional Water Quality Control Board (RWQCB), Arizona Dept of Environmental Quality, and several city and county Fire Departments for closure of all sites.
- As Project Manager, designed a sampling plan to characterize lateral and vertical extent of chemically-affected soil and groundwater for a former paint factory. Defined subsurface impact from over 60 aboveground and 12 underground tanks and hundreds of linear feet of underground product piping. Prior to site characterization, conducted a meeting with the chief of the California EPA, Los Angeles Region of the Regional Water Quality Control Board to set-up a six month deadline for receipt of a closure letter. All work performed onsite was completed with verbal approval of the RWQCB during several interim meetings. Responsible for the complete site characterization, remediation, risk assessment, and negotiation for final steps to closure within six months. This met a deadline mandated by the client for listing the property for sale.

Agency Negotiation

- As Project Manager for a property held in trust in Orange County, provided environmental consulting oversight for the closure of environmental issues on a property leased by a tenant that had impacted the site with petroleum hydrocarbon chemicals. Met with the Santa Ana Region of the Regional Water Quality Control Board to discuss issues which led to the RWQCB issuing an order that the tenant perform additional sampling. After evaluation of the additional sampling indicating that groundwater impact was caused by an upgradient neighbor, negotiated with the RWQCB to issue a “comfort” letter for groundwater issues. This letter was then used by the client to provide a full-value property for potential sale to a new owner.

Due Diligence Assessment

- For a major oil company client’s purchase of existing facilities, designed and implemented a Phase II investigation for the purpose of preparing a rough order-of-magnitude remediation cost estimate for 14 separate oil field facilities (including 4 offshore islands with 400+ oil wells each). Ms. Beresky managed the Phase II investigation, performed calculation of remediation costs, and prepared the final report within a 4-week timeframe to meet the client’s required escrow deadline.
- For a major land developer, designed Phase II sampling to close potential environmental issues at a former oil production site in Goleta. The site included 42 mud pits/sumps, 23 oil wells, 84 aboveground tanks, subsurface pipelines, and a processing plant used to refine crude oil. Sampling and agency interaction was designed to prepare the former oil field site for the building of residential homes on portions of the site. Former oil field features for the site, currently in use as a golf course, were identified from aerial photographs dating back to 1929 and other data supplied by the former operator.
- As Project Manager for a Southern California-based oil company, prepared a Phase I Environmental Assessment and designed and implemented Phase II sampling on a 33 acre parcel where gas plant operations, oil production, and crude oil storage have been performed since 1902. The purpose of this work was to prepare the property for sale to a home builder for residential development. Completed Phase II activities for 14 areas of concern on the property and received a letter that Phase II activities were complete from the Orange County Health Care Agency. Prepared a remedial action plan subsequently approved by the agency. Prepared remediation cost calculations for the purposes of procuring environmental cost cap insurance.
- Have negotiated the issuance of “comfort” letters for sites which appear to be impacted by neighboring properties by the Los Angeles, Santa Ana, and San Diego Regional Water Quality Control Boards. The “comfort” letters indicate that the agency is aware of a potential problem in the area, is aware of the potential source of the problem and acknowledges that a new site owner would not be held responsible for the problem. Have negotiated language for these letters which is pre-approved by the buyer and seller. These letters have been used with great success to complete stalled negotiations for sale of a property with potential impact from a neighboring site.

Publications

Wald, D. 2002: *The Benefits of Recent Federal Brownfield Legislation: A Developer’s Current Perspective*; prepared for D. Wald for December 2002 issue *Commercial Investment Real Estate* magazine.

Beresky, N.; 2002: *Converting Oilfields to Residential/Commercial Properties and Associated*

Environmental Concerns presented at and published in program for National Association of Land and Title Analysts (NALTA) National Conference, Lake Tahoe, CA; October 2002

Schmidt, C.E., Nancy Beresky, Steve Hoyt, “*Subsurface Flux Technology Used for Site Assessment*,” Paper No. 68, Air and Waste Management Association Symposium on Air Quality Measurement Methods and Technology, San Francisco, California, November 13-15, 2002.

Schmidt, C.E., Nancy Beresky, Steve Hoyt, and Jeff Dagdigian, “*Differentiating Multiple Sources of Subsurface Contamination by Similar Petroleum Products- Air Pathway Analysis Used in Conjunction with Routine Multimedia Site Assessment Technologies*,” Paper No. 42785, 95th Annual Meeting of the Air and Waste Management Association, Baltimore, MD, June, 2002.

Stewart, E; Berger, T.; Beresky, N.; 1992: *Service Station Remedial Investigations: An Aggressive Assessment Approach*, in “Groundwater Management, Book 13 of the Series, Proceedings of the Focus Conference on Eastern Regional Groundwater Issues.”

Ehleringer, B.; Acore, C.; Beresky, N.; Bubier, T., 1992: *Recovery of a Floating Hydrocarbon Plume Without Groundwater Withdrawal: A Pilot Study Utilizing Daily Tidal Fluctuations to Promote Free Product Recovery*; “Proceedings of the 1992 Hydrocarbon Contaminated Soils and Groundwater Conference” produced by the Associate for the Environmental Health of Soils and published in 1993 by Lewis Publications.

André Anderson, REA, CEC, CES

MS, Environmental Engineering, University of Southern California, 1979

Senior Environmental Compliance Specialist

Years of Experience: 32

Relevant Experience

- *Project manager of the production of several EIRs requiring coordination of numerous technical subconsultants*
- *Conduct Phase I and II Environmental Site Assessments*
- *Conduct subsurface investigations including soil and groundwater sampling and remediation*
- *Conduct air quality studies*
- *Conduct asbestos, lead-based paint, and radon gas surveys*
- *Supervise storage, transportation and disposal of hazardous materials*
- *Perform regulatory compliance evaluations*
- *Developed Brownfields Property Utilization Policy and Guidance Manual for the Los Angeles County*
- *Conducted peer review of Port of Los Angeles EIR/EIS*
- *Development of the County of Los Angeles Strategic Asset Management Plan*
- *Provided managerial oversight, coordination and document review of Remedial Investigation / Feasibility Studies*

Mr. André Anderson was one of the first Registered Environmental Assessors in the State of California. He has managed production of numerous controversial environmental impact reports that have been well received by clients. Mr. Anderson has provided oversight and coordination of several comprehensive Remedial Investigations/Feasibility Studies (RI/FS) to determine the extent and potential sources of contamination and assess the potential human and ecological health risks. Mr. Anderson participated in the peer review of the Human Health Risk Assessments (HHRA) and Screening Level Ecological Risk Assessments (SLERA) that addressed health risks of employees, construction and utility workers, and residents living near hazardous waste sites. Mr. Anderson reviewed the design and coordinated the implementation of remediation systems to clean up petroleum hydrocarbon contamination of soil and groundwater at several sites in Los Angeles County.

Mr. Anderson is currently managing the preparation of a Brownfields Property Utilization Policy and its associated Brownfields Guidance Manual for the County of Los Angeles. Mr. Anderson also played a significant role in the development of the County of Los Angeles Strategic Asset Management Program for the County park system.

Mr. Andre Anderson provides environmental consulting services to various clients including property management companies, governmental agencies, financial institutions, and engineering firms. Services provided include Phase I and II environmental site assessments, underground storage tank system installation and removal, soil and groundwater sampling and remediation, indoor air quality studies, asbestos surveys, radon gas surveys, lead-based paint surveys, hazardous materials management, and regulatory compliance.

Mr. Anderson has managed environmental project departments and coordinated environmental projects in accordance with established schedules, budgets, and regulatory requirements. He has produced in-house procedures for conducting all phases of environmental assessments, prepared and reviewed work plans and final reports, supervised subsurface investigations, and was responsible for hazardous materials regulatory compliance of all projects.

Mr. Anderson has prepared industrial waste discharge permits, conducted noise and traffic analyses, and generated air-quality computer models.

Mr. Anderson has designed remedial action plans and supervised packaging, transportation, and disposal of hazardous materials. He has performed regulatory compliance evaluations for fossil, nuclear, and alternative energy power plants; conducted engineering cost analyses for hazardous waste management, storage and disposal systems; and designed mechanical systems for gaseous, liquid, and solid hazardous waste processing.

Mr. Anderson has generated environmental qualification calculation; prepared and administered bid evaluations and specifications for radioactive waste systems equipment; revised and maintained system descriptions and design manuals; and conducted field verification of mechanical systems design for nuclear power generating stations.

Mr. Anderson has designed sewers, storm drains, and wastewater treatment systems, and he has conducted infiltration/inflow analyses and septic tank-leach field evaluations.

Eric Charlton, BA, GISP, AICP

American Institute of Certified Planners (AICP)

American Planning Association 2007

Certified GIS Professional (GISP), URISA, 2005

Certificate in GIS, University of California, Riverside, 1998

Bachelor of Arts, Geography, University of California, Riverside, 1985

senior resources specialist

- *Project coordination and management*
- *Alternative Energy Planning and Entitlement project management and Coordination*
- *CEQA/NEPA compliance*

Years of Experience: 20

Relevant Experience:

- *Pacific Wind solar and wind energy project*
- *PdV Wind Energy Project*
- *Hoffman Summit Wind Energy Project*
- *2003 and 2008 Owens Valley PM₁₀ Planning Area Demonstration of Attainment SIP Project EIRs*
- *Long Beach Memorial Medical Center Voluntary Clean-up Agreement (VCA)*
- *Altadena Crest Trail Planning Project*
- *Los Angeles World Airports Master Plan*
- *Rancho Los Amigos Specific Plan*

Mr. Eric Charlton, senior resources specialist for Sapphos Environmental, Inc., has more than 20 years of experience in environmental compliance, urban planning, and GIS. He brings an expansive and detailed knowledge of many areas related to environmental compliance, planning, alternative energy, and GIS, unique to his experience. Mr. Charlton provides project management and coordination for a wide array of Planning and Environmental Compliance projects at the company. He is skilled at building and maintaining client relationships and ensuring that projects stay on schedule and within budget. At Sapphos Environmental, Inc., Mr. Charlton has been responsible for the development of innovative applications of GIS for a myriad of projects, including alternative energy, environmental hazards, planning, environmental compliance, biological resources, and cultural resources projects. Mr. Charlton has also been responsible for the development of innovative applications of GIS to wind energy projects, including constraints analysis, visibility analysis, and large- and small-scale impact analysis and avoidance for cultural and biological resources and wind energy project spatial database development. These innovative applications have provided Sapphos Environmental, Inc. with the ability to provide environmental analysis, cultural, and biological resource surveys much more efficiently than would otherwise be possible.

At Sapphos Environmental, Inc., Mr. Charlton has worked on an extensive array of diverse projects covering all aspects of alternative energy, GIS, planning, and environmental compliance. Mr. Charlton has extensive experience on the Manzana Wind Energy Project, Lompoc Wind Energy Project, and Hoffman Summit Wind Energy Project, and the Pacific Wind and photovoltaic solar projects. Other projects to which Mr. Charlton has contributed a substantial role include the Los Angeles County Ben K. Kazarian (BKK) landfill, Long Beach Memorial Medical Center Voluntary Clean-up Agreement (VCA), and several Phase I environmental hazards projects; The Los Angeles County Altadena Crest Trail, Los Angeles County Rancho Los Amigos Specific Plan and EIR, Los Angeles County Parks Needs Assessment and Facility Inventory, Los Angeles County Vasquez Rocks Nature Center, Long Beach Memorial Medical Center Master Plan, Los Angeles County Fire District Headquarters, and the Los Angeles County Fire Station 108 planning and environmental compliance projects; the Great Basin Unified Air Pollution Control District 2003 and 2008 Owens Valley PM₁₀ Planning Area Demonstration of Attainment SIP Project EIRs air quality projects; the Los Angeles World Airports and Caltrans biological resources projects; and the Los Angeles County Vasquez Rocks, PdV, Padoma Hoffman Summit, Pacific Wind, Great Basin Unified Air Pollution Control District Owens Lake cultural resource survey projects, and data modeling updates for the Southern California Association of Governments (SCAG) for the Malibu / Las Virgenes subregion.

Laura A. Male, MLA, BArch

*Master of Landscape
Architecture, California
State Polytechnic
University, Pomona, 2012*

*Bachelor of Architecture,
California Polytechnic
State University, San Luis
Obispo, 2010*

*Environmental Compliance
Coordinator*

Years of Experience: 1.5

Relevant Experience:

- *Preparation of graphics, analytic GIS maps, and PowerPoint presentations*
- *Thesis project on fire management strategies in Southern California*
- *“Bright spot” analysis of past successful projects, potential sites, and community group clients for Tree People projects*
- *Design of alternative strategy for processing waste in Southern California*

Laura Male, environmental compliance coordinator for Sapphos Environmental, Inc., recently earned her Master of Landscape Architecture degree from California State Polytechnic University, Pomona, within a program with a focus in environmental planning, where she completed a thesis project on fire management for the Metropolitan Water District of Southern California. For her thesis project, she was the point of contact for the client, one of two internal editors, and deeply involved in the geographic information system (GIS) analysis of fire risk to ecologically sensitive and human-occupied areas within the wildland-urban interface of the greater Los Angeles metropolitan area, communities immediately surrounding three sites bordered by natural fire breaks, and three sites for the client. She researched fire management policy in Africa, Australia, and the United States to evaluate potential improvements to Southern California’s fire management policies before assembling GIS information from CAL FIRE’s FRAP database; the U.S. Geological Survey (USGS); Los Angeles, San Bernardino, and Riverside Counties’ census data; and the client’s site map files. Details at the community level were digitized from aerial imagery to locate trails, electrical lines, fence lines, and structures on-site before the team worked with a professional biologist to survey the plant communities and sensitive plants and wildlife observed on-site. The resultant report acted as an initial study for the Metropolitan Water District to evaluate the significant impacts of several pre-fire, during-fire, and post-fire defense strategies.

Prior to completion of her thesis project, Ms. Male geocoded addresses of past project sites and prior community group clients for Tree People as part of their effort towards targeted community outreach. The information derived from this analysis of “bright spots,” or successful community outreach areas, will be utilized to identify models for further community-based projects and complement previous correlative analyses of the economic status of neighborhoods and tree cover percentage.

Ms. Male has a professional degree in Architecture from California Polytechnic State University, San Luis Obispo, where she was trained in critically analyzing the surrounding environment before producing a design response, culminating in her thesis project: an analysis and potential design solution related to the future of landfills. For this theoretical project, Ms. Male and her partner researched the mechanical and financial feasibility of mining Scholl Canyon Landfill in Glendale, California, and processing a combination of mined and incoming waste into reusable products including compost, aggregate, and electricity as an alternative to the current strategy of capping the landfill and constructing a rail line to Imperial County exclusively for the transport of waste to this distant landfill site. The mined canyon could then be transitioned, over a period of approximately 50 years, into a public recreation park showcasing the native plant communities of Glendale.

Ms. Male is a member of the American Society of Landscape Architects and the Theodore Payne Foundation, and a volunteer at Descanso Gardens.

Adam M. Furman, M.S.

*Master of Science,
Environmental Studies;
California State University,
Fullerton, 2013*

*Bachelor of Science,
Environmental Economics &
Policy; University of
California, Berkeley, 2010*

*Environmental Compliance
Coordinator*

Years of Experience: 3

Relevant Experience:

- *Water quality management of urban and natural watersheds*
- *Storm water analysis for urban runoff pollution*
- *Trash surveying and monitoring of marine pollution*
- *Preparation of Phase I and Phase II Environmental Site Assessments*
- *Coordination of partnership building for environmental business endeavors*
- *Carbon footprint and life cycle assessment research*
- *Sustainability training and education*

Mr. Adam Furman, environmental compliance coordinator for Sapphos Environmental, Inc., recently earned his Master of Science in Environmental Studies from the California State University, Fullerton, with a concentration in Environmental Planning & Policy. Prior to his graduate studies, Mr. Furman attended the University of California, Berkeley, where he earned a Bachelor of Science in Environmental Economics & Policy. Mr. Furman's interdisciplinary approach to his academics has provided him with a unique perspective on environmental issues and resource management. This perspective has led him to many experiences across the environmental field.

While attending the University of California, Berkeley, Mr. Furman committed a large portion of his time to working as a Climate Action Coordinator for the Ecology Center in Berkeley. At the Ecology Center, Mr. Furman developed an environmental curriculum for the Berkeley community that addressed issues in relation to sustainable lifestyles, work environments, and urban communities. Through his curriculum, Mr. Furman led several sustainability workshops with local businesses and organizations as a way to both educate and develop action plans for reducing the Berkeley community's carbon footprint.

Upon graduating, Mr. Furman traveled to Cape Town, South Africa, where he worked and lived for 4 months. While in Cape Town, Mr. Furman interned for the Green House, where he conducted carbon footprint and life cycle assessment research for local South African businesses and government agencies. In addition to the Green House, Mr. Furman committed time to the non-profit Greenpop, where he worked long, laborious days, planting native trees in the extremely impoverished townships of Cape Town.

Mr. Furman also has international experience working with environmental business leaders in Israel, where he played an integral part in developing business partnerships with Israeli green-tech companies to find them markets in the United States.

Mr. Furman has experience conducting Phase I and Phase II environmental site assessments. He was responsible for all aspects associated with environmental site assessments including, but not limited to, historical records searches, environmental database management, property inspections, technical report writing, and sampling for environmental contaminations.

Mr. Furman monitored water quality and storm water pollution for regional water quality standards at Orange County Watersheds. Mr. Furman also led a comprehensive project to assess the impact of waste in urban watersheds and develop action plans for improvement.

Jeff C. Michelsen, MA

*Master of Arts,
Management,
University of Redlands,
Redlands, CA 2008*

Mr. Jeff Michelsen, GIS Manager for Sapphos Environmental, Inc., has more than 23 years of experience in the field of geographic information systems (GIS), including system design, systems management, database design, data creation, data conversion, application development, and project management.

*Bachelor of Science,
College of Engineering,
Brigham Young University,
Provo, UT 1991*

Mr. Michelsen managed the creation, conversion, and maintenance of a nationwide GIS database containing vector and raster Federal Emergency Management Agency (FEMA) flood insurance rate maps (FIRMs) for LERETA, LLC| Tax and Flood Services. This data was used to increase the daily automation of flood zone determination requests from 70 percent to 85 percent while maintaining an accuracy rate of 99.9 percent.

*Geographic Information
Systems (GIS) Manager*

- *System design*
- *Database design*
- *Data creation*
- *Data conversion*
- *Application development*
- *Project management*
- *Systems management*
- *Database management*

Mr. Michelsen managed the GIS mapping of the Lower Rio Grande Hydrographic Survey performed for the State of New Mexico by Parsons Engineering Science, Inc. Managing this project involved daily coordination with GIS analysts processing infrared and orthographic imagery, GIS technicians creating field survey maps, and global positioning system (GPS) field technicians gathering GPS data. He programmed a GIS application to create working, preliminary, and final maps containing property ownership, water rights, crop types, and irrigation sources to be used to mitigate water right issues and claims. Mr. Michelsen participated in weekly and monthly meetings with state project personnel, project engineers, county, and city personnel.

GIS software:

*ArcGIS Desktop Basic,
Standard, and
Advanced, ArcGIS
Server*

Mr. Michelsen updated a legacy GIS parcel creation and mapping application for the Utah County Government Assessor and Recorder as a GIS programmer. He also worked to integrate the County's Computer Assisted Mass Appraisal (CAMA) software and the GIS parcel boundaries generated by coordinate geometry (COGO).

Relational databases:

*Oracle, Informix, MS
SQL Server*

Mr. Michelsen created, developed, implemented, and maintained a regional GIS system and GIS database for the Mountainland Association of Governments to support the mapping needs of 3 counties and 33 cities. This effort included creating general plans and transportation plans with pedestrian, bicycle, and equestrian components. Mr. Michelsen converted paper parcel, zoning, and land use maps to GIS datasets.

Operating systems:

*MS Windows, UNIX,
Solaris*

-

Mr. Michelsen, researched, evaluated, and recommended a GIS system to be used citywide while employed with the Community Development Department in the city of Provo, Utah. He trained and mentored city employees in GIS technology. He prepared illustrations, maps, and presentations for the planning commission and board of adjustment.

Mr. Michelsen is a member of the Urban and Regional Information Systems Association (URISA) and the University of Redlands Whitehead Leadership Society (WLS).

Eugene Ng

*Bachelor of Arts, Graphic Design,
California State Polytechnic
University of Pomona, 2001*

Senior Graphics Designer

- *Graphics preparation, photography and illustrations in support of environmental documents*
- *Web graphics*
- *Habitat maps*
- *HABS Documentation*
- *Photography*
- *Corporate identity*
- *Marketing material*
- *DVD Production*
- *Videography*

Years of Experience: 10

Relevant Experience:

- *Hollywood Bowl Design Guidelines, Nominations Package, and Technical Report*
 - *Graphics lead*
 - *Layout design*
- *La Vina Trails Analysis*
 - *Graphics lead*
 - *Prepared presentation material and maps*
- *Rancho Los Amigos*
 - *Lead Videographer and editor*
 - *Produced virtual campus video for Los Angeles County*
- *Owens Lake / Great Basin*
 - *Graphics lead*
 - *Prepared presentation material and maps*
- *Long Beach Memorial Medical Center*
 - *Graphics lead*
 - *Prepared presentation material and maps*
 - *Designed master plan layout*

Mr. Eugene Ng, senior graphics designer for Sapphos Environmental, Inc., has more than ten years of experience. His role at Sapphos Environmental, Inc. is to provide graphics support for various environmental documents, including Initial Studies and Environmental Impact Reports. Mr. Ng is also responsible for preparing oversized graphics presentation boards, PowerPoint presentations, and Web-related graphics.

Mr. Ng is experienced with both PC and Mac platforms. He is proficient in Adobe Illustrator, Photoshop, InDesign, Dreamweaver, Flash, Premier, AfterEffects, Encore, and Soundbooth. He has excellent photography and Videography skills and has ten years of experience as a freelance photographer and videographer.

Mr. Ng has worked on numerous projects with the Hollywood Bowl, including the project formulation document, the Design Guidelines, and the National Register of Historic Places Nominations and Historic Resources Technical Report. He has developed various detailed graphics for the Owens Lake / Great Basin Project, Rancho Los Amigos, and La Vina Trails Analysis. His graphics skills also were employed in the Plaza de Cultura y Arte project. He has developed maps, electronic presentations, manuals, and presentation booklets, and oversized boards used in various meetings. He has provided a variety of graphics, including the Master Plan for the Long Beach Memorial Medical Center, Historic American Buildings Survey (HABS) submission for the Rancho Los Amigos Project, and numerous maps and a detailed timeline for a major port in Southern California. He is the lead designer on all Sapphos Environmental, Inc. documents.

Along with print and web design, Mr. Ng has produced various DVD and video productions for Sapphos Environmental, Inc. including voice narration on the Workers Education Awareness Program (WEAP) that educates field workers on Sapphos related wind energy projects. Mr. Ng has also recorded, edited, and produced all video work corresponding with the Rancho Los Amigos Project in Downey, California. Mr. Ng also has worked on the company's internal and external communications material by developing graphics that are in alignment within brand standards. He is also responsible for updating the company's Web site. He works in a shared services area, and his role is to create graphics abiding by the company standards for clients as well as the company's marketing outreach material.

Prior to working at Sapphos Environmental, Inc., Mr. Ng worked as a graphic designer and a production assistant with Warner Brothers Feature Animation, where he organized footage and prepared logos and character design and created marketing material and promotional items. He has worked on animated features, such as *Osmosis Jones*, *Scooby Doo*, and Adam Sandler's *Eight Crazy Nights*.

Grace A Ok, BA

Bachelor of Arts, Linguistics and English, University of California, Los Angeles, 2009

Technical Editor

- *Review, proof, and edit environmental compliance documents, proposals, and internal documents*
- *Participate in preparation of CEQA and NEPA documents*
- *Ensure accuracy, consistency, and readability in all documentation*

Years of Experience: 1

Relevant Experience:

- *Technical editor of environmental documents*
- *Freelance writer and editor*

Ms. Grace Ok, technical editor for Sapphos Environmental, Inc., reviews, edits, and proofs all written materials for accuracy, consistency, and readability to the general public. She works with all teams at Sapphos Environmental, Inc. to ensure that the standards of quality established by the firm's practice are maintained in every written product.

At Sapphos Environmental, Inc., Ms. Ok has served as lead editor for various projects, including the Solar Element of the Catalina Renewable Energy Project, Keeler Dunes Dust Control Project, Santa Susana Mountains Trails Master Plan Project, and Community Recycling and Resource Recovery project, Whites Channel and Mint Canyon Project in the Santa Clarita Valley, City of Long Beach 2013–2021 Housing Element, State Route 18 Widening Project, Runway 6L-24R and 6R-24L Safety Area and Associated Improvements Project at LAX, and LEED Certification for the Southern California Gas Company Yucca Valley Sub-Base.

In relation to Environmental Impact Reports / Environmental Assessments, Ms. OK is involved in all the stages of the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) processes prior to project approval, including the review of the environmental documentation and appropriate notices, development of a mailing list in support of public facilitation and community outreach, and distribution of environmental documents.

Ms. Ok is responsible for maintaining various File Transfer Protocol sites and associated compliance binders for the Catalina Renewable Energy Project. She also provides invoicing support by maintaining the permitting documents on the project's FirmEx site.

Currently, Ms. Ok is working on editing various environmental technical reports, including air quality, biological resources, cultural resources, noise, and visibility studies, in support of proposed and approved wind energy projects in California.

She is familiar with the AP, MLA, and Chicago style guides.

Matthew Adams

*Bachelor of Arts, History,
University of
California, Los
Angeles*

Senior Technical Editor

- *Review, proof, and edit environmental compliance documents, proposals, and internal documents*
- *Participate in preparation of CEQA and NEPA documents*
- *Ensure accuracy, consistency, and readability in all documentation*

Years of Experience: 14

Relevant Experience:

- *Technical editor of environmental documents*

Mr. Matthew Adams, senior technical editor for Sapphos Environmental, Inc., reviews, edits, and proofs written materials for accuracy, consistency, and readability to the general public. He works with all teams at Sapphos Environmental, Inc. to ensure that the standards of quality established by the firm's practice are maintained in every written product.

At Sapphos Environmental, Inc., Mr. Adams has served as lead editor for a variety of projects involving entitlements and regulatory permitting, including the Avalon Wind Energy Project, Pacific Wind Energy Project, and Catalina Solar Project, all located in Kern County and together comprising 700 megawatts of renewable energy. He has served as the lead editor on numerous technical reports dealing with air quality, noise, hazardous materials, and biological and cultural resources. He has edited and produced permitting documents including environmental impact reports, applications for lake or streambed alteration agreements, and phase I environmental site assessments. He is experienced in projects involving federal and state regulation pursuant to the National Environmental Policy Act and the California Environmental Quality Act. In addition, Mr. Adams is the technical editor for Sapphos Environmental, Inc.'s efforts as subcontractor to CH2M Hill for the SR-710 Gap Alternatives Project for the Los Angeles County Metropolitan Authority.

Prior to joining Sapphos Environmental, Inc., Mr. Adams was a senior editor at Sage Publications, a leading publisher of academic books and journals. Mr. Adams has also performed editorial work for CQ Press, Penguin Books, Corwin Press, Pine Forge Press, and the California Center for Civic Education, in addition to proofreading quarterly and annual corporate statements for an undisclosed Fortune 500 company. Mr. Adams has extensive experience with online publishing and is a lead editor for the academic resources website eNotes.

Mr. Adams is responsible for maintaining the Sapphos Environmental, Inc. style guide and master reference list, coordinating the production of documents, and interfacing with existing print vendors. He is well versed in most of the major editorial styles, including AP, AHA, APA, ASA, Bluebook, CBE, MLA, MLS, Chicago, and Government Printing Office.