# Table of Contents

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Appendix L

# Supplemental Biological Resources Information

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Appendix L.1

# Response to CDFW Comments Regarding Swainson's Hawk

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McCORMICK
BIOLOGICAL, INC.
Biological Sciences – Inventory, Permitting, and Planning

July 23, 2021

Ms. Cindi Hoover, Supervising Planner
Kern County Planning and Natural Resources
2700 "M" Street, Suite 100
Bakersfield, CA 93301

Subject: Lost Hills Composting and Bioenergy Project – Lost Hills Environmental, LLC (Project)
Response to CDFW comments regarding Swainson's Hawk (*Buteo swainsoni*)

Ms. Hoover,

McCormick Biological, Inc. (MBI) is providing this response at the request of Kern County Planning and Natural Resources to California Department of Fish and Wildlife (CDFW) Comment 3: Swainson's Hawk (*Buteo swainsoni*; SWHA) in the CDFW comment letter dated July 1, 2021. MBI prepared a report titled *Reconnaissance Level Biological Evaluation for the Lost Hill Composting and Waste to Energy Project, Kern County, California* (August 2020; Biological Evaluation) that was included in the Draft EIR for the Project as a technical appendix. This report evaluated the potential presence of special-status species, including SWHA. The following paragraphs address the CDFW comments regarding SWHA.

**Issue Response**: Although CDFW states that "Multiple SWHA nest have been documented to occur between 4 and 10 miles from the project site….", in fact, there are 2 records within the 10-mile radius of the Project. The nearest documented occurrence was from a record of egg collection in 1932. This record goes on to state that the exact location is unknown and was only stated as "south of Lost Hills, Kern County" on the collection record. The record was updated in 2013 to include a statement that "No visible trees suitable for nesting visible on arials [sic] (1994-2013)." The placement of this record at approximately 1 mile south of the town of Lost Hills is apparently somewhat arbitrary. The second record within the 10-mile radius is 6.5 miles east-southeast of the Project and was active in 2020. This record was reported in the spring of 2020, while the original record search was performed by MBI in February 2020. This single nest record in the 10-mile radius does not change the overall conclusion of the report regarding SWHA.

CDFW states that SWHA was not analyzed. Please see Table A-3 in Appendix A for survey results and conclusion that marginal foraging habitat is present but no potential nest trees are present on the project site. The table further states that "No impacts are anticipated given the distance to likely nesting."

**Specific Impact Response:** The specific impacts stated by CDFW include 1) nest abandonment; 2) loss of nest trees; 3) loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young), and 4) direct mortality. Overall, there were no findings in the Biological Evaluation that would lead to this conclusion. These impacts identified by CDFW are addressed below:

1) Nest abandonment: no suitable nest trees were found onsite, and the nearest extant nest is over 6 miles away with intervening towns, commercial development, and oil and gas extraction activities. The Project would have no impact on existing SWHA resources given these conditions.
2) Loss of nest trees: As stated in the Biological Evaluation, no trees are present onsite; therefore, no nest trees would be lost as a result of the Project.
3) Loss of foraging habitat that would reduce nesting success: The Biological Evaluation states that marginal foraging habitat for SWHA is present onsite. The annual grassland and scrub habitat cover approximately 120.73 acres and are within an active landfill with daily heavy equipment activity. Given the existing activity, ongoing landfill operations, and lack of evidence that nesting SWHA are present, this loss of habitat would not reduce nesting success of any known breeding pairs of SWHA.
4) Direct mortality: there is no evidence that SWHA are present on the Project or are likely to be in a position where direct mortality would be possible, given the nature of the proposed activities.

**Evidence Impact Would be Significant Response:** CDFW states that, "SWHA exhibit high nest-site fidelity year after year and lack of suitable nesting habitat limits their local distribution and abundance". Given that no trees are present on the Project, the Project would not reduce the available suitable nesting habitat in the region. The nearest extant nest location is over 6 miles from the Project. Given that distance, breeding SWHA that return to that nest site would experience no impacts from the Project. It is likely that there are ample foraging opportunities present in the vicinity of that nest site since proximity to quality foraging habitat is a factor in nest site selection. Due to the marginal quality of the Project foraging habitat for SWHA, SWHA pairs nesting at that location would be highly unlikely to seek out the potential foraging at the Project over the available foraging habitat closer to the nest.

In conclusion, the comments do not provide any substantial new information or evidence that would change the Biological Evaluation conclusion of "no impacts" to SWHA.

Please let me know if you have any questions or need further information.

Randi McCormick

Randi McCormick
Principal Biologist

Appendix L.2

# Results of Biological Assessment of Current Site Conditions

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August 2, 2021

Jeremy Bowman
HM Holloway
2019 Westwind Drive, Suite B
Bakersfield, CA 93301
Via email: jbowman@hmholloway.com

**Re: RESULTS OF BIOLOGICAL ASSESSMENT OF CURRENT SITE CONDITIONS FOR PHASE 1 OF THE LOST HILLS COMPOSTING PROJECT, LOST HILLS, CALIFORNIA.**

Dear Mr. Bowman:

West Kern Environmental Consulting, LLC (WKEC) conducted a reconnaissance-level site assessment for Phase 1 of the Lost Hills Composting Project by Lost Hills Environmental, LLC. The project site is located west of Holloway Road, approximately 1.5 miles north of Highway 46, approximately 3.5 miles northwest of Lost Hills, California. The Phase 1 project site occurs within an existing class III non-hazardous industrial waste landfill facility that was historically operated as an open pit gypsum mine for over 70 years. Phase 1 of the project is composed of 47.3 acres and would include the conversion of existing landfill Pit "E" to an extended aerated static pile composting operation. The Phase 1 site occurs within the boundaries of a larger proposed project within Sections 24 and 25, Township 26 South, Range 20 East, (MDB&M) **(Figures 1 and 2)**.

While two other phases are proposed for this project to be completed by 2030, this survey was restricted to the Phase 1 project boundary. Prior to the site visit, the following supporting documents were reviewed, *Reconnaissance Level Biological Evaluation for Lost Hills Composting Facility and Waste to Energy Project* (Revised 2020) and *Kern County Planning and Natural Resources Department Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) for the Lost Hills Composting and Waste to Energy Project* (2019).

To comply with the recommendations made in the *Biological Evaluation* (Revised 2020), HM Holloway Company contacted WKEC to perform protocol level blunt-nosed leopard lizard (BNLL, *Gambelia sila*) surveys over the Project area. With the other Phases planned in 5-year intervals. Phase 1 was originally planned for the fall of 2020 but was delayed to the fall of 2021 through 2022. Upon further consultation with the Kern County Planning Department, based on project timing it was determined that only Phase 1 of the Project needed to be assessed at that time. WKEC conducted a reconnaissance-level field survey to assess current site conditions and habitat suitability for State and Federally Endangered and State fully protected blunt-nosed leopard lizard and State Threatened San Joaquin antelope squirrel (SJAS, *Ammospermophilus nelsoni*) on Phase 1 and surrounding buffer (where feasible) on June 8, 2020 (Appendix A). Due to the delay in construction, HM Holloway Company requested WKEC to reassess the current site conditions for BNLL and SJAS in preparation for construction in late 2021/early 2022.

On May 21, 2021, Principal Biologist Maria Myers and Senior Biologist Kim Fiehler conducted pedestrian transect surveys over the entire Phase 1 site, such to achieve 100% visual coverage. Both biologists are Level II BNLL surveyors who have extensive knowledge surveying

for the species in the southern San Joaquin Valley. Weather conditions at the time of the survey were appropriate to detect the targeted wildlife species. The field survey focused on assessing current site conditions and identifying suitable habitat for the BNLL and SJAS within the Phase 1 project area. The planned project area of Phase 1 is a heavily disturbed and currently developed active landfill pit. During the site visit, heavy equipment was unloading refuse material adjacent to the project area and refuse material was stored on the west end of Phase 1 project area. As described in the *Kern County Planning and Natural Resources Department Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) for the Lost Hills Composting and Waste to Energy Project*, Pit E is "at grade and is approved to receive treated auto shredder waste, fly ash, and lime filter cake". Periodic grading of the surface of the pit occurs as part of ongoing landfill operations No small mammal burrows were observed within the Phase 1 project area or within the 50-foot buffer. An approximate 10-foot-high earthen berm exists along the southern and western boundary of the Phase 1 project site. A barbed wire fence separates the project site from the surrounding non-native grassland habitat to the south and west. Wire mesh is attached to the lower portion of that barbed wire fence and buried below surface. Land use to the north and east is part of the ongoing landfill operations. Representative photographs that illustrate the current conditions of the Phase 1 project area are provided in the Photo Exhibit. No wildlife was observed during the May 21, 2021, field visit.

In summary, the field survey was conducted to assess current habitat conditions for BNLL and SJAS for Phase 1 project area. The project area is predominantly devoid of suitable habitat that could support BNLL or SJAS. There was no sign or indication of these species within the proposed Phase 1 Project area. No small mammal burrows that could support these species were identified within the survey area. As such, planned project activities for Phase 1 are not expected to result in take to BNLL and SJAS. Although the Phase 1 Project area is within range of BNLL and SJAS, the project site does not support suitable habitat at this time and is unlikely to return to habitat before the planned construction start date in late 2021/early 2022. Based on our survey results and current site conditions, protocol level BNLL and SJAS surveys are not needed for Phase 1. Additionally, survey results and site conditions are consistent with the June 8, 2020, biological reconnaissance level survey.

If you have any questions regarding this report or require additional information, please do not hesitate to call our office (661) 805-6991.

Sincerely,

Maria Myers

Maria Myers
Principal Biologist

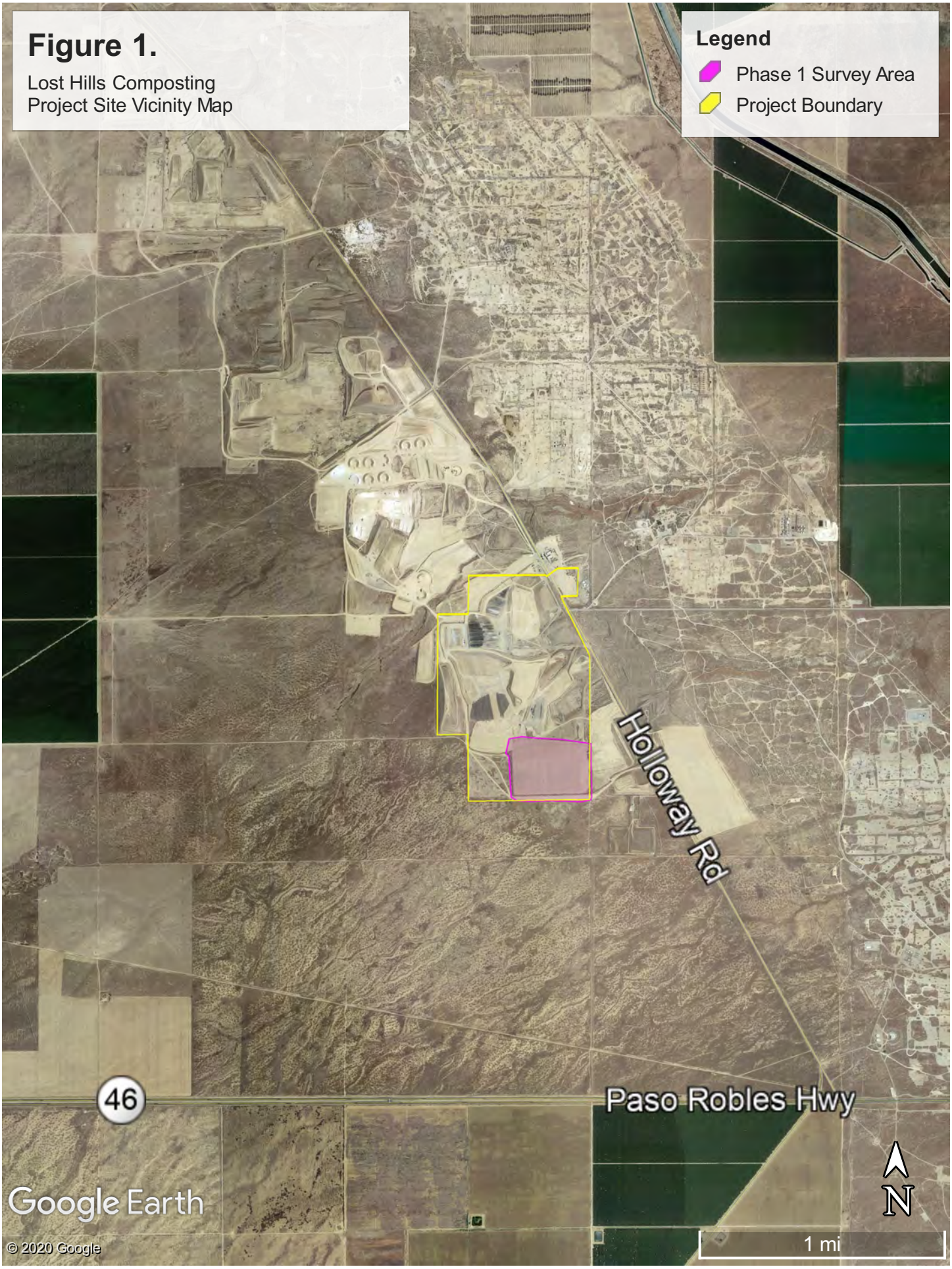
Figure 1.
Lost Hills Composting
Project Site Vicinity Map
Legend
Phase 1 Survey Area
Project Boundary
Holloway Rd
46
Paso Robles Hwy
Google Earth
© 2020 Google
N
1 mi

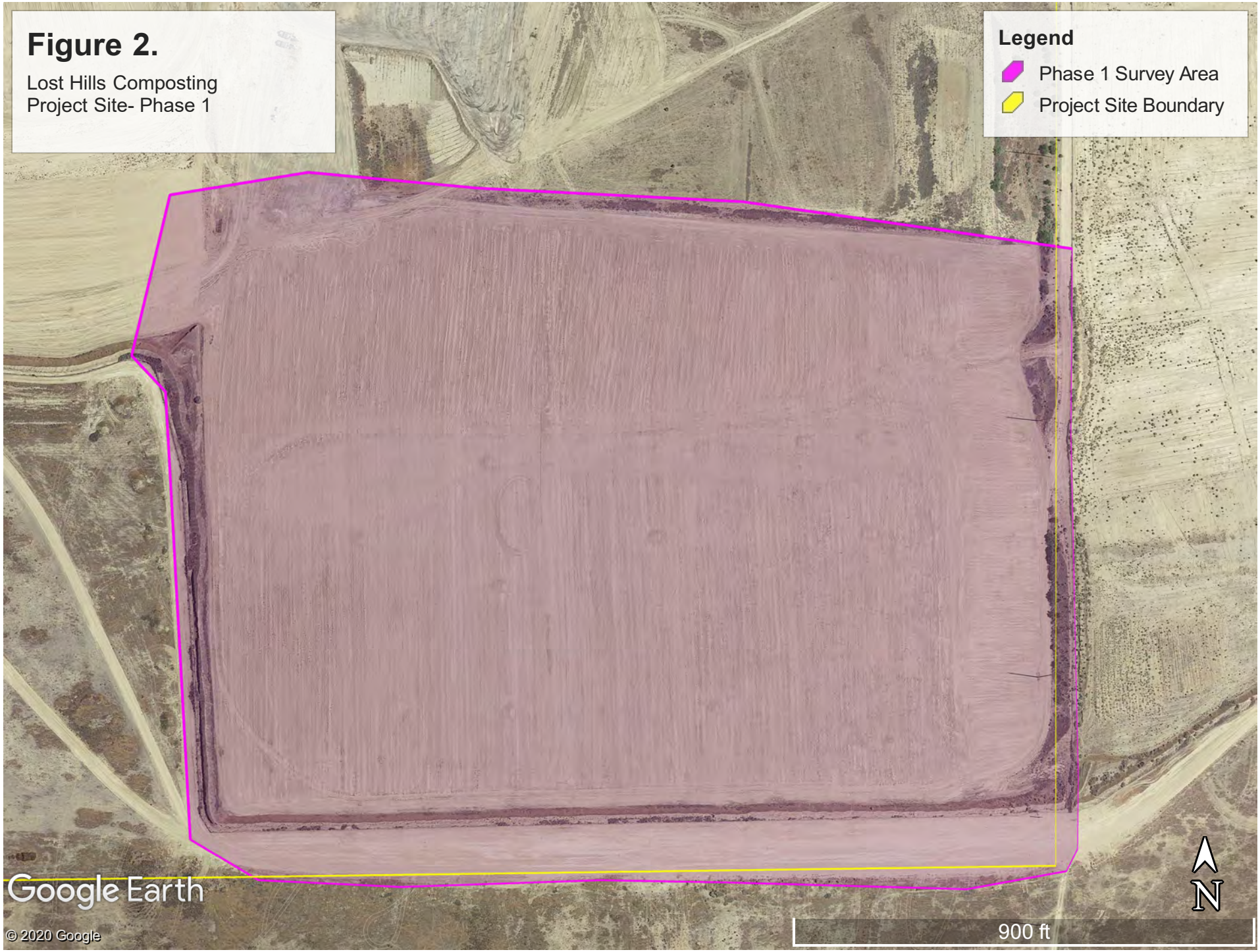
Figure 2.
Lost Hills Composting
Project Site- Phase 1
Legend
Phase 1 Survey Area
Project Site Boundary
Google Earth
© 2020 Google
900 ft
N

# Photo Exhibit

**Photo 1.** Representative photo of existing site conditions within Phase 1 of the project area and earthen berm. (05/21/21)

**Photo 2.** Representative photo of existing site conditions within Phase 1 of the project area. (05/21/21)

**Photo 3.** Representative photo of existing site conditions within Phase 1 of the project area. (05/21/21)

**Photo 4.** Representative photo of existing site conditions and waste materials within Phase 1 of the project area. (05/21/21)

# APPENDIX A

RESULTS OF BIOLOGICAL ASSESSMENT OF CURRENT SITE CONDITIONS FOR PHASE 1 OF THE LOST HILLS COMPOSTING AND WASTE TO ENERGY PROJECT, LOST HILLS, CALIFORNIA (JUNE 2020)

June 11, 2020

Jeremy Bowman
HM Holloway
2019 Westwind Drive, Suite B
Bakersfield, CA 93301
Via email: jbowman@hmholloway.com

**Re: RESULTS OF BIOLOGICAL ASSESSMENT OF CURRENT SITE CONDITIONS FOR PHASE 1 OF THE LOST HILLS COMPOSTING AND WASTE TO ENERGY PROJECT, LOST HILLS, CALIFORNIA.**

Dear Mr. Bowman:

West Kern Environmental Consulting, LLC (WKEC) conducted a reconnaissance-level site assessment for Phase 1 of the Lost Hills Composting and Waste to Energy Project by Lost Hills Environmental LLC Composting. The project site is located west of Holloway Road, approximately 1.5 miles north of Highway 46, approximately 3.5 miles northwest of Lost Hills, California. The Phase 1 project site occurs within an existing class III non-hazardous industrial waste landfill facility that was historically operated as an open pit gypsum mine for over 70 years. Phase 1 of the project is composed of 47.3 acres and would include the conversion of existing landfill Pit "E" to an extended aerated static pile composting operation. The proposed project occurs within Sections 24 and 25, Township 26 South, Range 20 East, (MDB&M) **(Figures 1 and 2)**.

WKEC Principal Biologist Maria Myers and Senior Biologist Kim Fiehler conducted a reconnaissance-level field survey on June 8, 2020, to assess current site conditions and habitat suitability for State and Federally Endangered and State fully protected blunt-nosed leopard lizard (BNLL, *Gambelia sila*) and State Threatened San Joaquin antelope squirrel (SJAS, *Ammospermophilus nelsoni*), on Phase 1 and surrounding buffer (where feasible). Pedestrian transects were walked over the entire Phase 1 site and 50-foot buffer area, such to achieve 100% visual coverage. Weather conditions at the time of the survey were appropriate to detect both species. While two other phases are proposed for this project to be completed by 2030, this survey was restricted to the Phase 1 project boundary. Prior to the site visit, the following supporting documents were reviewed, *Reconnaissance Level Biological Evaluation for Lost Hills Composting Facility and Waste to Energy Project* (Revised 2020) and *Kern County Planning and Natural Resources Department Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) for the Lost Hills Composting and Waste to Energy Project* (2019).

The field survey focused on assessing current site conditions and identifying suitable habitat for the BNLL and SJAS within the Phase 1 project area. The planned project area is a heavily disturbed and currently developed active landfill pit. As described in the *Kern County Planning and Natural Resources Department Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) for the Lost Hills Composting and Waste to Energy Project*, Pit E is "at grade and is approved to receive treated auto shredder waste, fly ash, and lime filter cake". Periodic grading of the surface of the pit occurs as part of ongoing landfill operations. Residual patches of ruderal vegetation were observed on site during the survey. No small mammal burrows were observed within the Phase 1 project area or within the 50-foot buffer. An approximate 10-foot high earthen berm exists along the

southern and western boundary of the Phase 1 project site. A barbed wire fence separates the project site from the surrounding non-native grassland habitat to the south and west. Wire mesh is attached to the lower portion of that barbed wire fence and buried below surface. Land use to the north and east is part of the ongoing landfill operations. Representative photographs that illustrate the current conditions of the Phase 1 project area are provided in the Photo Exhibit. One side-blotched lizard (*Uta stansburiana*) and one black tailed jack rabbit *(Lepus californicus*) were observed during the field visit.

In summary, the field survey was conducted to assess current habitat conditions for BNLL and SJAS for Phase 1 project area. The project area is predominantly devoid of suitable habitat that could support BNLL or SJAS. There was no sign or indication of these species within the proposed project area or within the 50-foot wide buffer. No small mammal burrows that could support BNLL or SJAS were identified on the project area or with the 50-foot wide survey area. As such, planned project activities for Phase 1 are not expected to result in take to BNLL and SJAS. Additionally, WKEC supports the recommended mitigation measures detailed in the *Reconnaissance Level Biological Evaluation for Lost Hills Composting Facility and Waste to Energy Project* intended to reduce potential effects to special-status species as a result of the Project.

If you have any questions regarding this report or require additional information, please do not hesitate to call our office (661) 805-6991.

Sincerely,

Maria Myers

Maria Myers
Principal Biologist

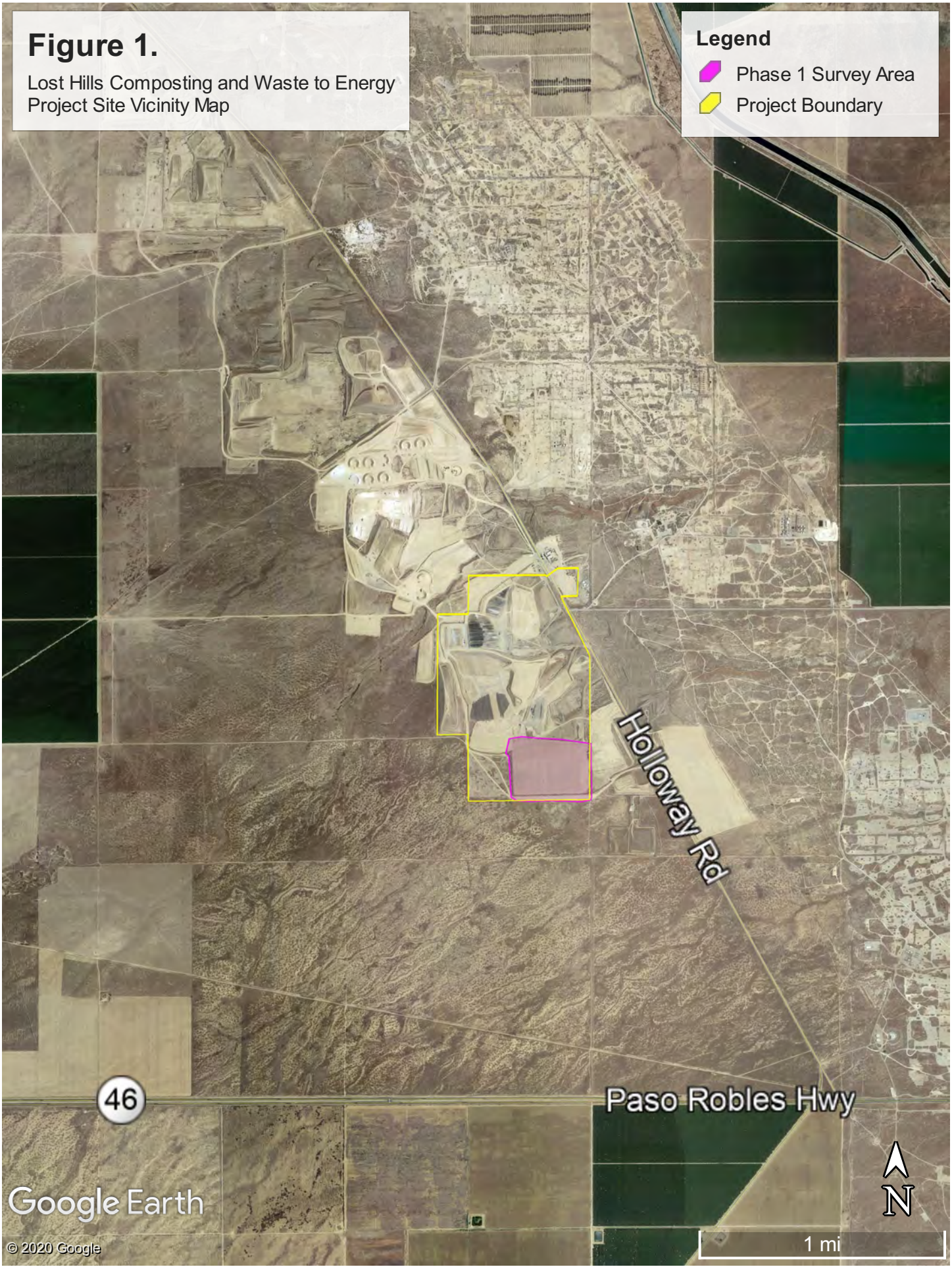
Figure 1.
Lost Hills Composting and Waste to Energy Project Site Vicinity Map
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Phase 1 Survey Area
Project Boundary
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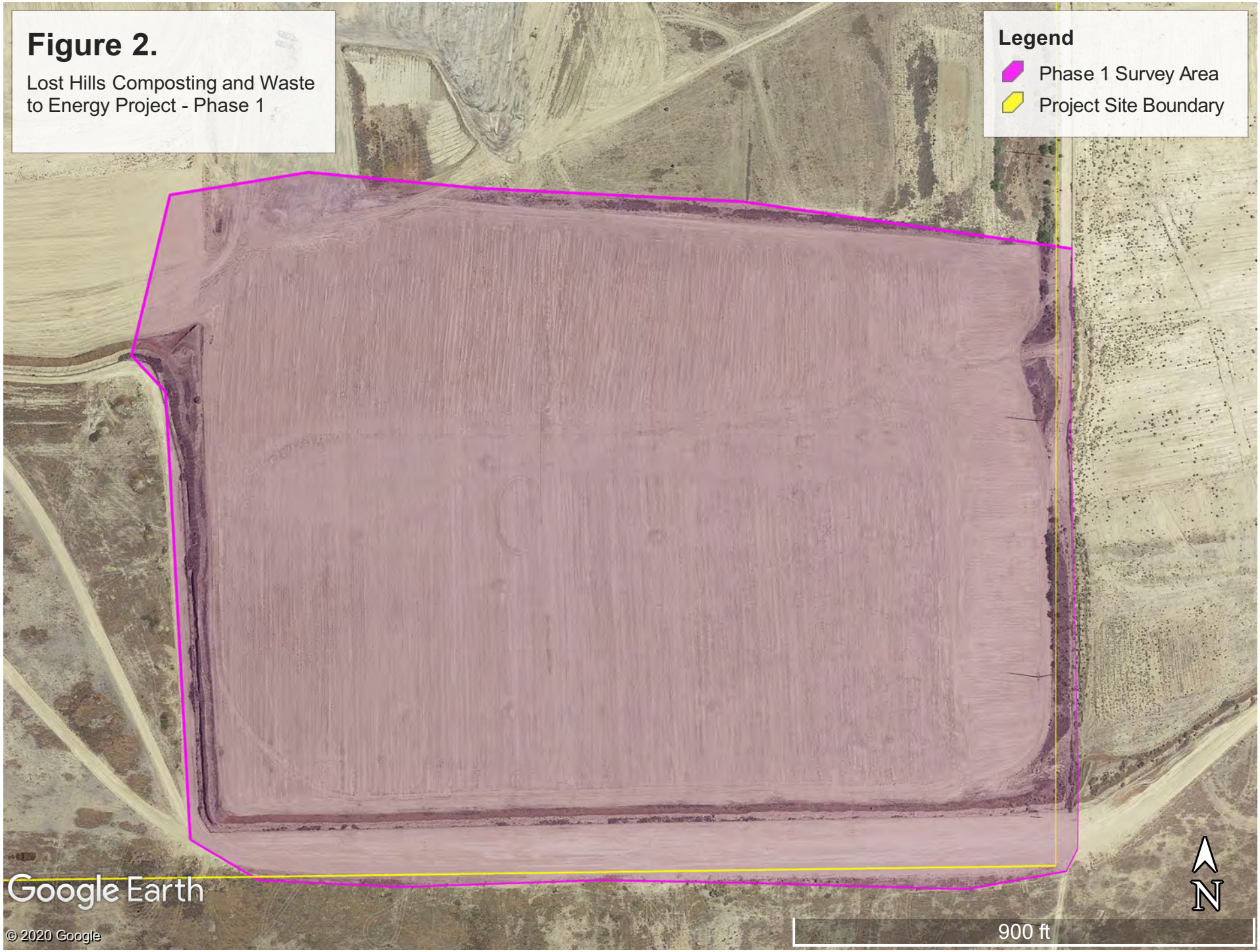
Figure 2.
Lost Hills Composting and Waste to Energy Project - Phase 1
Legend
Phase 1 Survey Area
Project Site Boundary
Google Earth
© 2020 Google
900 ft
N

# Photo Exhibit

**Photo 1.** Representative photo of existing site conditions on Phase 1 of the project area. (06/08/2020)

**Photo 2.** Looking southwest at existing waste materials within Phase 1 of the proposed project area. (06/08/2020)

**Photo 3.** Representative photo of existing site conditions on Phase 1 of the project area, looking northeast. (06/08/2020)

**Photo 4.** Representative photo of Phase 1 project area, earthen berm and barbed wire perimeter fence, looking east. (06/08/2020)

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