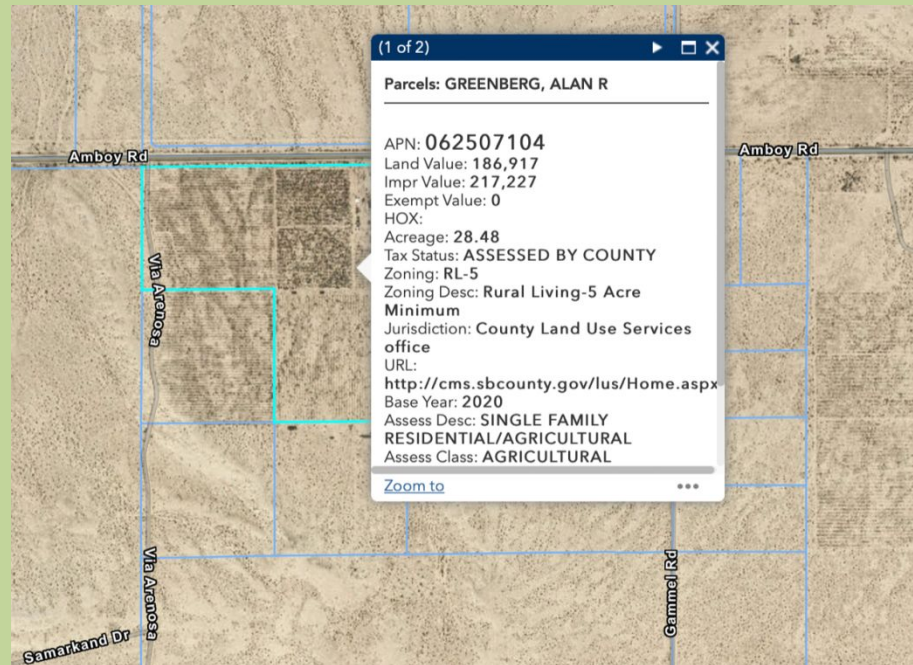


CEQA 101

Introduction to the CA Environmental Quality Act



Overview

- What is the purpose of CEQA?
- When does CEQA apply?
- What are a lead agency's duties?
- What document(s) must the agency prepare?
- What are the main elements of an Environmental Impact Report? (EIR)
- Are there tools for streamlining the process?
- How can/does the public participate?

Purposes

- Prevent significant, avoidable damage to the environment
- Foster informed public decision making
- Ensure transparency in governmental decision making process
- Encourage public participation

CEQA Includes a Substantive Mandate

Public agencies must refrain from approving projects with significant environmental effects if there are feasible alternatives or mitigation measures that can substantially lessen or avoid those effects.

When does CEQA apply?

CEQA applies to projects. What is a Project

The CEQA Guidelines define a project under CEQA as **“the whole of the action”** that may result either directly or indirectly in physical changes to the environment. **This broad definition is intended to provide the maximum protection of the environment.**

Piecemealing or segmenting means dividing a project into two or more pieces and evaluating each piece in a separate environmental document, rather than evaluating the whole of the project in one environmental document. **This is explicitly forbidden by CEQA**, because dividing a project into a number of pieces would allow a Lead Agency to minimize the apparent environmental impacts of a project by evaluating individual pieces separately, each of which may have a less-than significant impact on the environment, but which together may result in a significant impact. **Segmenting a project may also hinder developing comprehensive mitigation strategies.**

When does CEQA NOT apply?

CEQA does not apply to a project where

- There is no real decision for the agency to make (ministerial action)
- **There is no possibility of a significant environmental effect** or
- The project will not be approved.

Lead Agency Duties

Agency determines that it is making a decision on a project.

Now what?

Some projects are exempt but not Wonder Inn so we move on.

Significant or not?

Significant effect on the environment is a substantial or potentially substantial adverse change in the physical conditions of the area.

- Determination calls for agency judgment
- ironclad definition not always possible
- Must consider context and setting
- Effects can be direct or indirect
- Effects can be incremental or cumulative
- Determination must be based on substantial evidence in the record scientific and factual data

Significant or Not?

Significance normally measured against existing physical environmental conditions that will normally constitute the baseline.

What is an EIR?

The Environmental Impact Report is the heart of CEQA.

Used by lead and responsible agencies (those with some discretionary authority to approve or carry out a portion of the project) to evaluate environmental impacts of their approvals

What is an EIR?

Required elements of EIR include

- Project description
- Discussion of significant environmental impacts
- Impacts to be measured against the baseline
- Alternatives to the project
- Mitigation measures
- Discussion of cumulative impacts (including Green House Gas-related)

Mitigation and Alternatives

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.

Mitigation

Mitigation Measure is an action or change to the project that reduces or avoids some impact on the environment (including actions that completely avoid an impact), actions that reduce or minimize an impact, actions that correct an impact, or actions that compensate for an impact by providing substantive resources.

Mitigation

Mitigation measures must be

- Devised for each significant impact identified in EIR
- Enforceable
- Constitutional
- Essential nexus (connection) between measure and legitimate governmental interest
- Roughly proportional to the impact of the project
- In general, it is improper to defer the formulation of mitigation measures until after project approval.
- Recognized exception is compliance with standardized agency requirements

Mitigation

An EIR shall describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy.

Alternatives

An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.

Alternatives

In the range of alternatives, lead agency must include

- Only feasible alternatives (economic, practical, legal)
- Alternatives that would achieve most of the projects basic objectives and fundamental goals
- Alternatives that would reduce at least one impact
- No project alternative (can be different from the baseline)
- Range of alternatives governed by rule of reason

Streamlining

Subsequent change to the project does not necessarily require new EIR or Negative Declaration

Only if

- A new significant impact is caused by a substantial change in the project or substantial changed circumstances that requires major revisions to EIR
- New information not known at the time of project approval becomes available
- Proposed change never analyzed in original EIR

Tiering

- Using analysis of environmental impacts contained in a previously certified EIR (e.g., for a general plan, regional wastewater project) on later projects
- Incorporating by reference the general discussions from the previously certified EIR
and
- Focusing the later document solely on the issues specific to the later project

Approving the Project

After circulating draft EIR, agency must

- Evaluate and respond to comments
- Prepare final EIR
- Certify final EIR
- Make findings concerning significant impacts
- Approve (or reject) the project
- Impose a mitigation monitoring/reporting program
- If necessary, issue a Statement of Overriding Considerations

Public Participation

Opportunities for public participation at every stage of process.

- Commenters can provide recommendations and submit data/information, where available.
- Two main opportunities for comments during comment period on environmental document and before the close of the hearing on project.
- Administrative appeal may be available (e.g., to Board of Supervisors).
- Legal challenges governed by strict time limits and criteria in Pub. Res. Code 21167, et seq. and Guidelines 15112.
- **Exhaustion of administrative remedies prerequisite to lawsuit.**

Resources

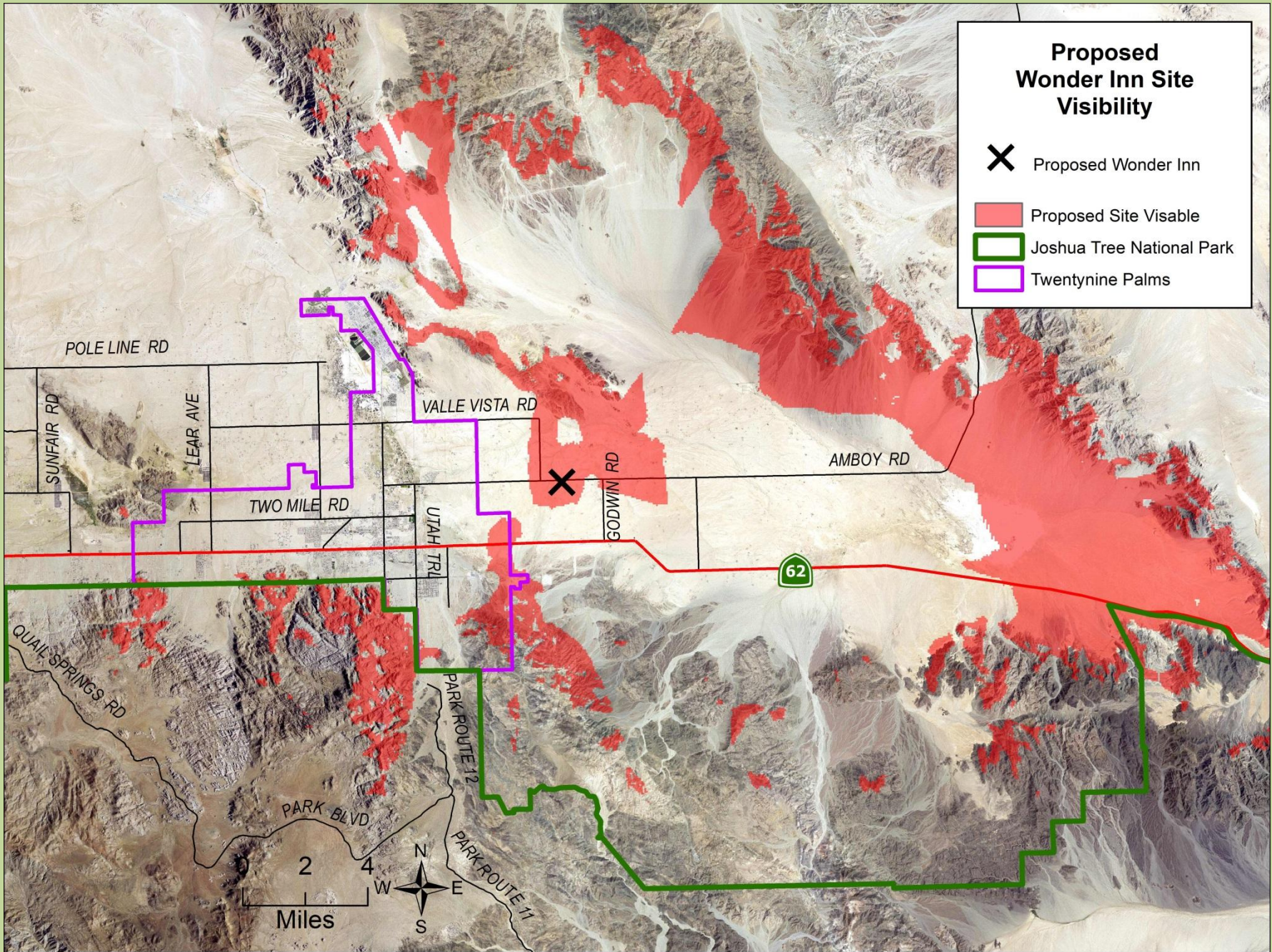
- California Environmental Quality Act (CEQA), Pub. Res. Code, 21000, et seq. (available at <http://ceres.ca.gov/ceqa/>)
- Guidelines for the Implementation of CEQA (CEQA Guidelines) (available at <http://ceres.ca.gov/ceqa/>)
- CEQA Frequently Asked Questions (<http://ceres.ca.gov/ceqa/more/faq.html>)
- CEQA map (free database of CEQA documents) (<http://www.ceqamap.com/>)
- Governors Office of Planning and Research, State Clearinghouse (<http://opr.ca.gov/index.php?asch/sch.html>)
- Recent Updates re CEQA and Climate Change (Senate Bill 97) (<http://ceres.ca.gov/ceqa/guidelines/>)

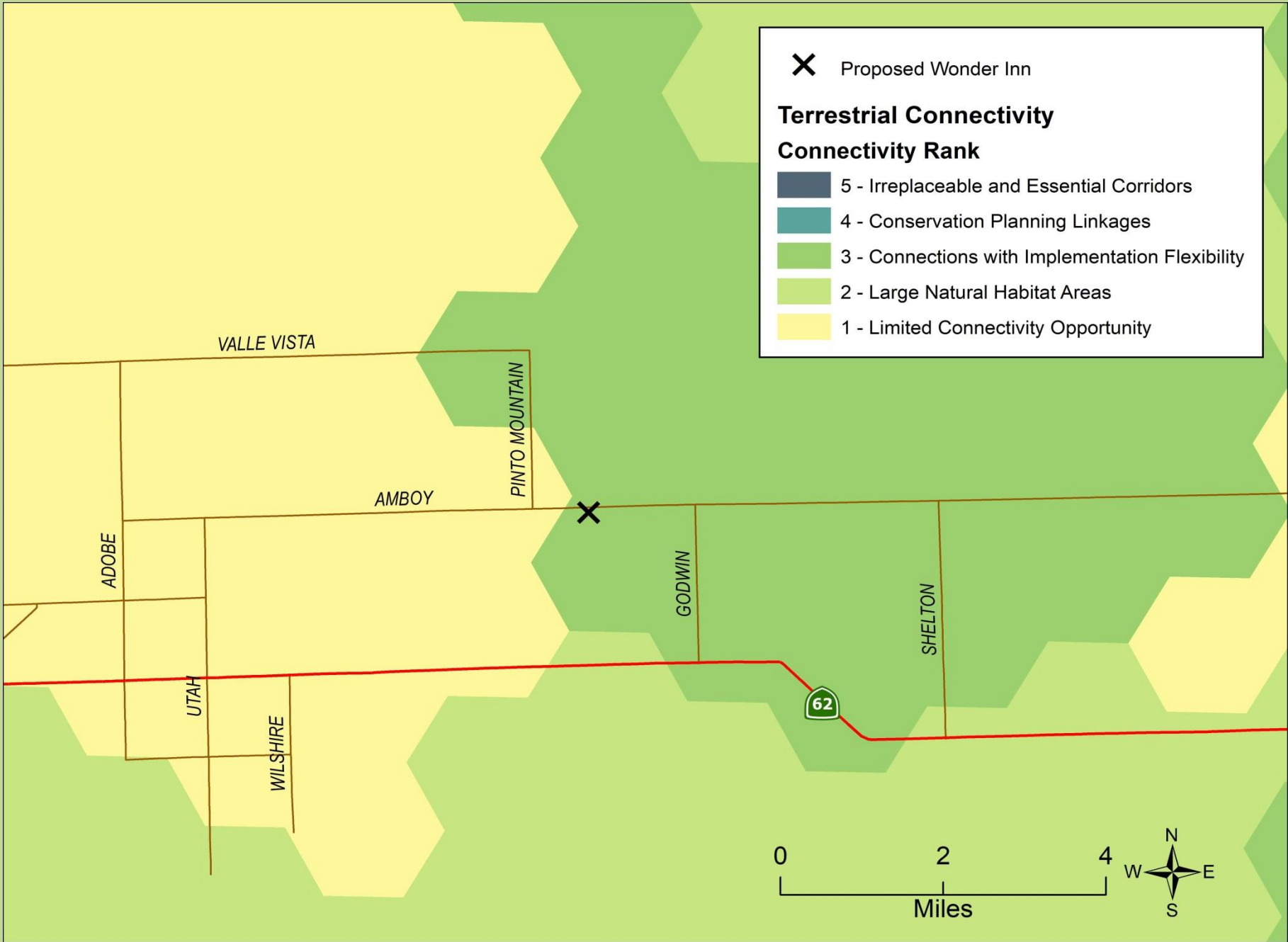
Reference for 2018 Environmental Checklist Form that has updates for non-urbanized areas and energy expenditure on the job. The Form is Appendix G, page 50.

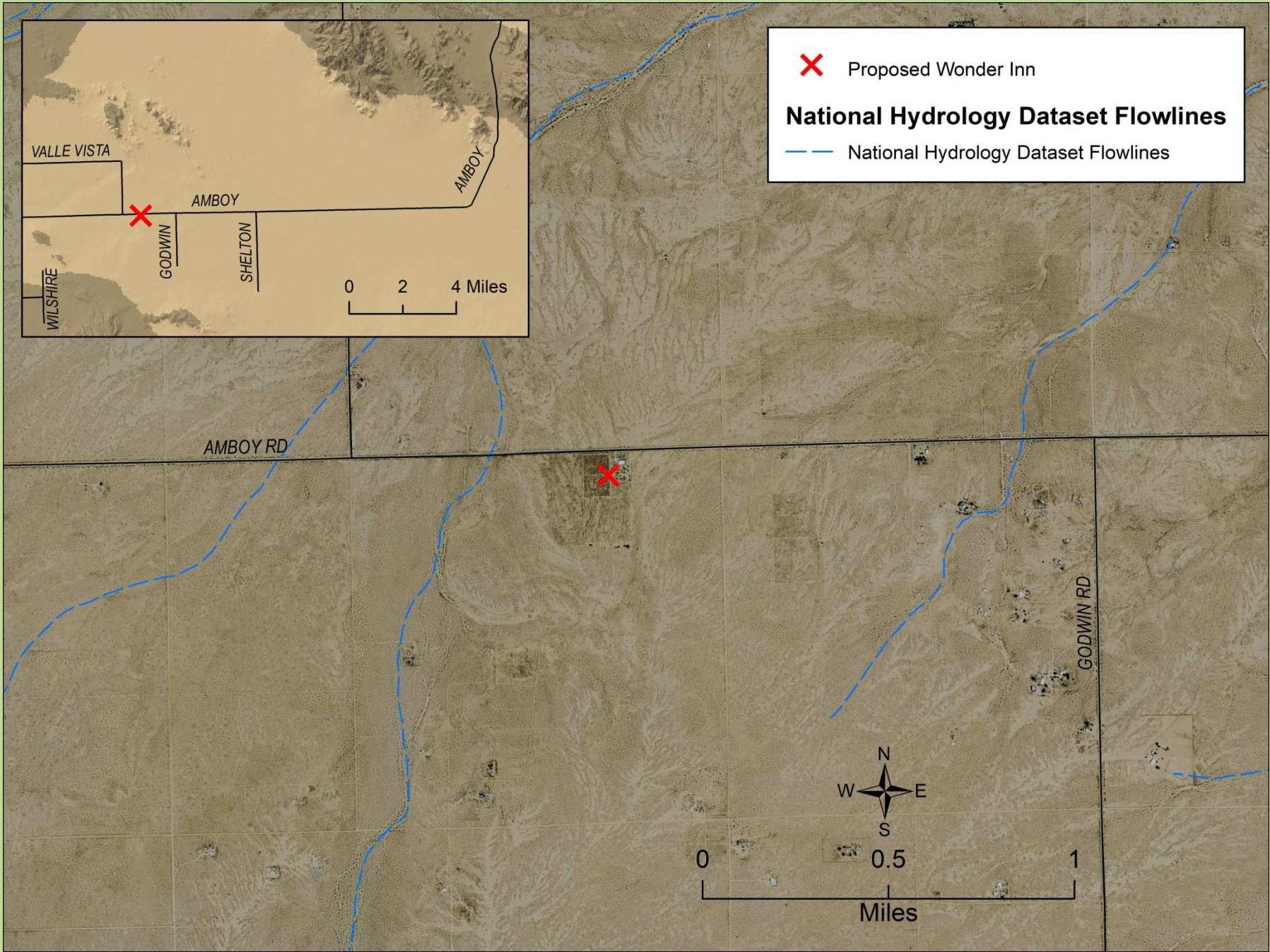
https://resources.ca.gov/CNRALegacyFiles/ceqa/docs/2018_CEQA_FINAL_TEXT_122818.pdf

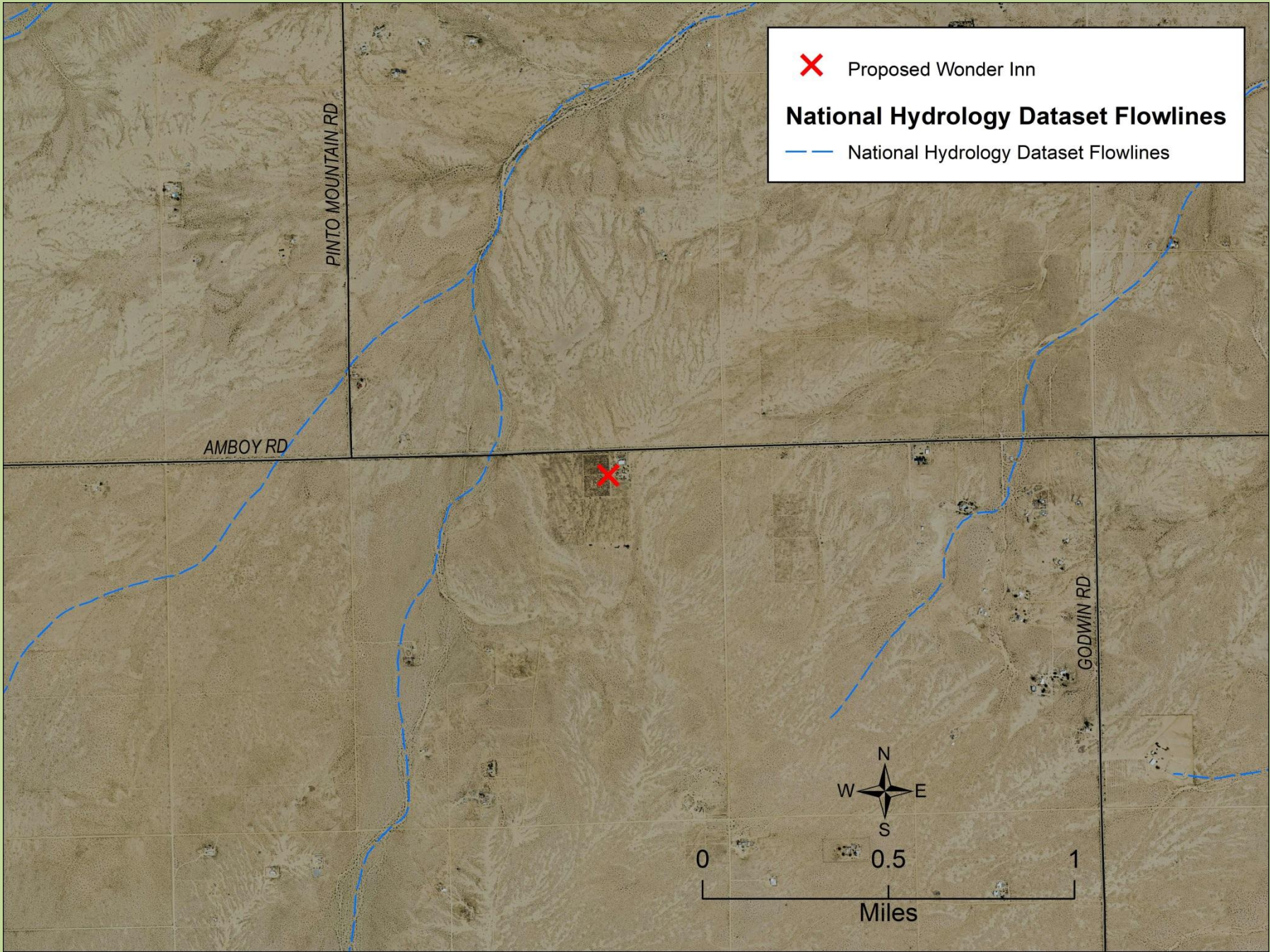
Proposed Wonder Inn Site Visibility

- ✕ Proposed Wonder Inn
- Proposed Site Visible
- ▭ Joshua Tree National Park
- ▭ Twentynine Palms





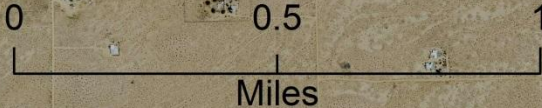




Proposed Wonder Inn

National Hydrology Dataset Flowlines

— National Hydrology Dataset Flowlines



Miles

Dale Basin Aquifer

- water primarily fed from west
- highly mineralized fossil water
- no contamination a la Erin Brockovich (no cooties!)

