

DOCKETED

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| Docket Number: | 19-SPPE-04 |
| Project Title: | SJ2 |
| TN #: | 238428 |
| Document Title: | Report of Conversation- K Garrison, USFWS and C Watson, CEC- March 25, 2021 |
| Description: | N/A |
| Filer: | Lisa Worrall |
| Organization: | California Energy Commission |
| Submitter Role: | Commission Staff |
| Submission Date: | 6/22/2021 2:58:37 PM |
| Docketed Date: | 6/22/2021 |



Siting, Transmission and Environmental Protection Division

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|---------------------------------------------------------------------------------------|---------------------------------------|-------------------------------------------------------------------------------------------|
| PROJECT TITLE: San Jose Data Center | | Docket: 19-SPPE-04 |
| TECHNICAL AREA(S): Biological Resources | | |
| <input checked="" type="checkbox"/> Telephone 916-237-2542\private # | <input type="checkbox"/> Email | <input type="checkbox"/> Meeting Location: Telephonic/(email follow up on 4-23-21) |
| NAME: Carol Watson, Biologist | DATE: 3-25-2021 | TIME: 1:00pm |
| WITH: Kristin Garrison, California Department of Fish and Wildlife (CDFW) | | |
| SUBJECT: CDFW Notice of Preparation Comment Letter and other Biological Issues | | |

COMMENTS:

We discussed the written CDFW response to the Notice of Preparation (NOP Comment Letter) as follows:

NOP Point 1: Burrowing Owl (BUOW): amend BUOW mitigation measures (APM BIO 2.1-2.4) to reflect CDFW (2012), as well as the Santa Clara Valley Habitat Plan (SCVHP) (SCVHP 2012), while paying particular attention to buffer distance (and as otherwise stated in the NOP Comment Letter).

NOP Point 2: Nesting bird measures: reconcile APMs BIO 1, BIO 1.2 with the SCVHP (SCVHP 2012).

General Points:

Golden eagle: CDFW staff (Ms. Garrison) was unaware of golden eagle nesting outside of documented California Natural Diversity Database (CNDDDB) listings, and not familiar with a contact at the Don Edwards San Francisco Bay National Wildlife Refuge (Don Edwards NWR). CEC staff to investigate further as well as continue to pursue contact with appropriate personnel at Don Edwards NWR.

Salt marsh harvest mouse: this species was dismissed from further consideration within the SPPE application. CNDDDB shows salt marsh harvest mouse occurrences in two distinct salt marsh habitats to the north of the site (see map below; salt marsh outlined in yellow). Potentially suitable habitat for salt marsh harvest mouse may exist between these CNDDDB locations and wetlands (detention ponds) immediately adjacent to the northern end of the project site (general approximation of the southern end of the project site in pink), according to CDFW. It may be possible that, if present within these wetlands to the north of the project area, salt marsh harvest mouse could enter the project site or access route; as a fully protected species, no impacts may occur. CEC staff to investigate further and develop draft mitigation as necessary.

Congdon’s tarplant: CEC staff proposed the following new draft mitigation measure (MM) for Congdon’s tarplant: “MM-BIO-1A. Prior to any disturbance of the wetland, the authorized biologist



will perform protocol-level surveys for the Congdon's tarplant, during appropriate blooming season. If found, a report will be prepared and provided to CDFW for review and comment 30 days prior to any disturbance."

Nitrogen deposition: CEC staff introduced the conceptual mitigation approach for a CEC-staff-proposed one-time payment of fees for impacts on serpentine habitat/most beautiful jewelflower as identified by the SCVHP (SCVHP 2012, Figure 3-4; CNDDDB 2021). This fee payment would be in addition to non-point source emissions, such as vehicle emissions, which are already covered by the SCVHP (2012). CEC staff to investigate further.

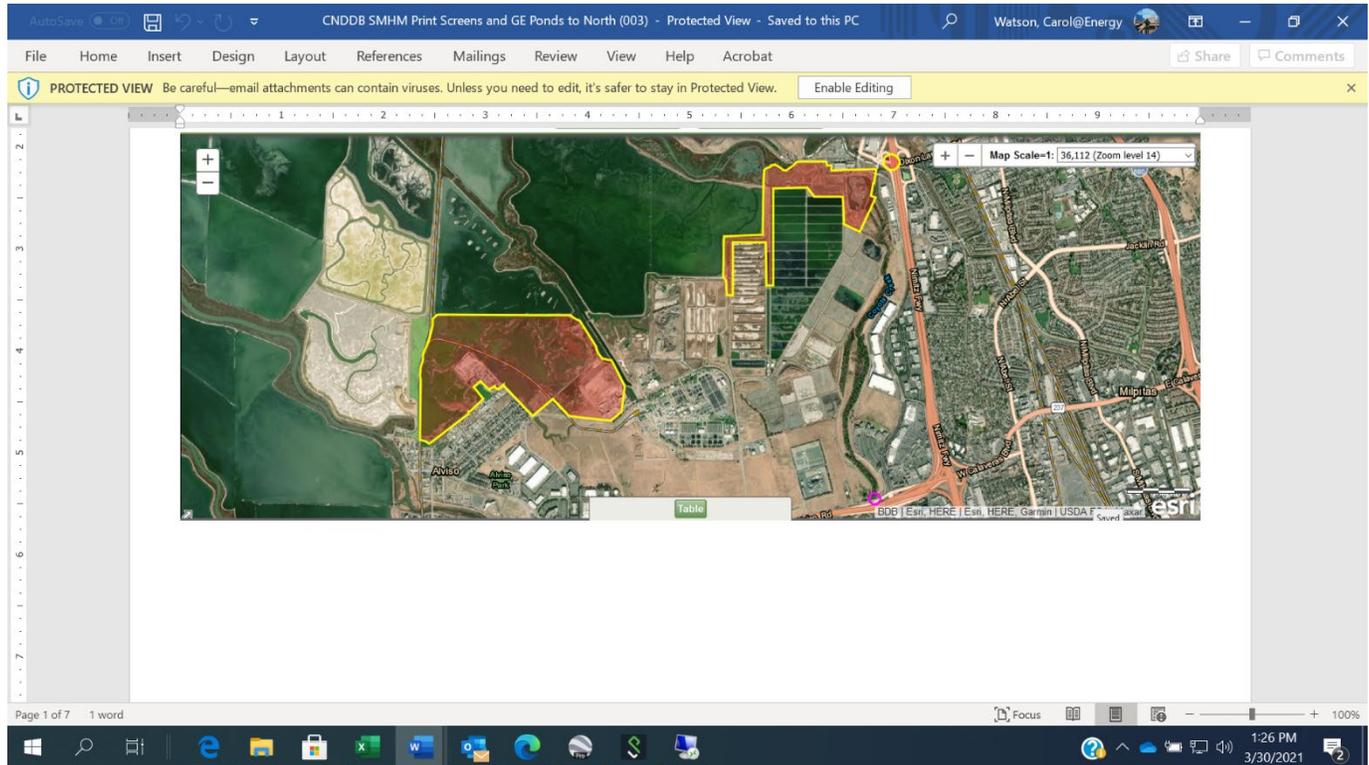
Information provided by Kristen Garrison via email is attached below.

| | |
|------------|------------------------------------|
| cc: | Prepared by: |
| | /S/ Carol Watson, CEC Biologist |



Information provided by Kristin Garrison (3/25/21)

Map of Potential Salt Marsh Harvest Mouse Habitat, as provided by CDFW:



From: Garrison, Kristin@Wildlife <Kristin.Garrison@wildlife.ca.gov>
Sent: Friday, April 23, 2021 12:14 PM
To: Watson, Carol@Energy <Carol.Watson@energy.ca.gov>
Subject: RE: draft record of conversation

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Carol,

It is important to note that CNDDDB is a positive occurrence database. If surveys are conducted and special status species are not detected, this information is not recorded in CNDDDB. If areas are not surveyed at all, then there is not data in CNDDDB. This does not mean that habitat and the species are not present if there is not an occurrence in any given area. Occurrences in CNDDDB can help support a proper habitat assessment and assessment of potential species presence.



Regarding SMHM, this species is known to be present in tidal bay habitats (the presence of the CNDDDB occurrences support this) and also seasonal diked wetlands. Between those known habitats and CNDDDB occurrences and the project site, there are many, as you call them, "treatment ponds" that are contiguous with bay habitats from south San Francisco Bay to the northern border of the project site (see attached with a print screen of the CNDDDB occurrences and diked seasonal wetlands polygon I made using the measure tool). In looking at Google Earth aerials through time, it looks like the wetlands north of the project site have vegetation growth and other times they are mowed or maybe graded (print screens in the attached document). SMHM are not found in only pickleweed. There was an old study that had said this, but we now know that they are found in variable types of vegetation (see attached studies).

I am not saying this is highly suitable habitat. It may be marginal at best. However, we do need to be careful since they are fully protected and CESA endangered (and also ESA endangered). Maybe SMHM habitat is present to the north of the project site, maybe it is not. That is why a habitat survey is recommended, per my NOP letter. If habitat is not found, then avoidance measures are not needed.

Thank you for your coordination.

Sincerely,

Kristin Garrison

(she/her/hers)

Environmental Scientist

California Department of Fish and Wildlife

Bay Delta Region

Habitat Conservation Program

~~(707)944-5534 office~~ Due to COVID-19 stay at home orders, I will be working from home and do not know when I will begin working in office again. If you need to communicate with me verbally, please email me a request and I will call you.

Mailing Address:

2825 Cordelia Road, Suite 100, Fairfield, CA 94534

<http://www.wildlife.ca.gov/Conservation/Environmental-Review>

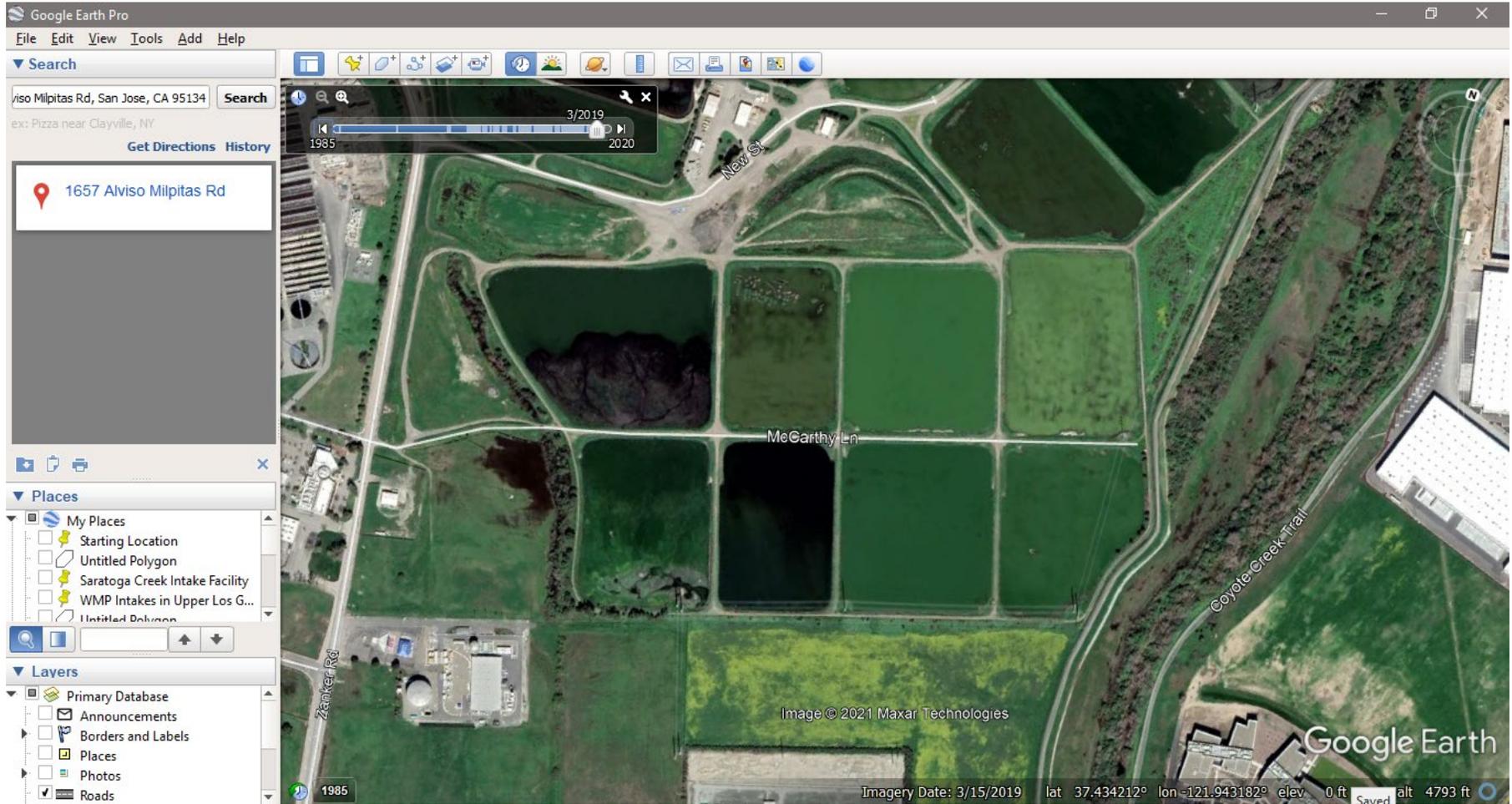


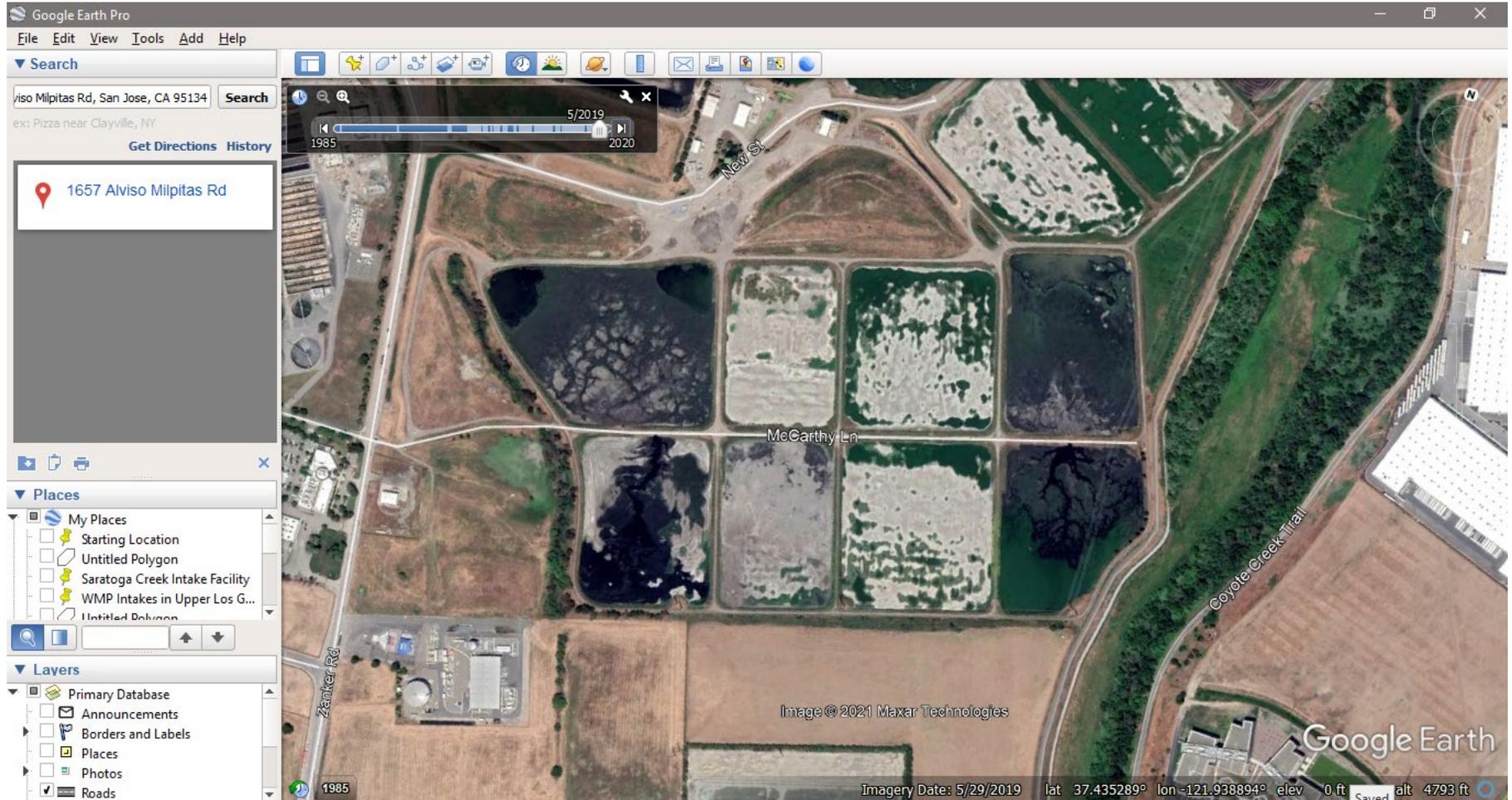
The screenshot displays the BIOS viewer web application interface. At the top, there is a menu bar with options: File, Edit, View, History, Bookmarks, Tools, Help. Below the menu is a browser window showing the URL: <https://apps.wildlife.ca.gov/bios/?bookmark=326>. The main header area includes the BIOS logo, a search bar with the text "Add Data: BIOS" and a search button, and a user greeting: "Hello, Kristin.Garrison@wildlife.ca.gov Log off".

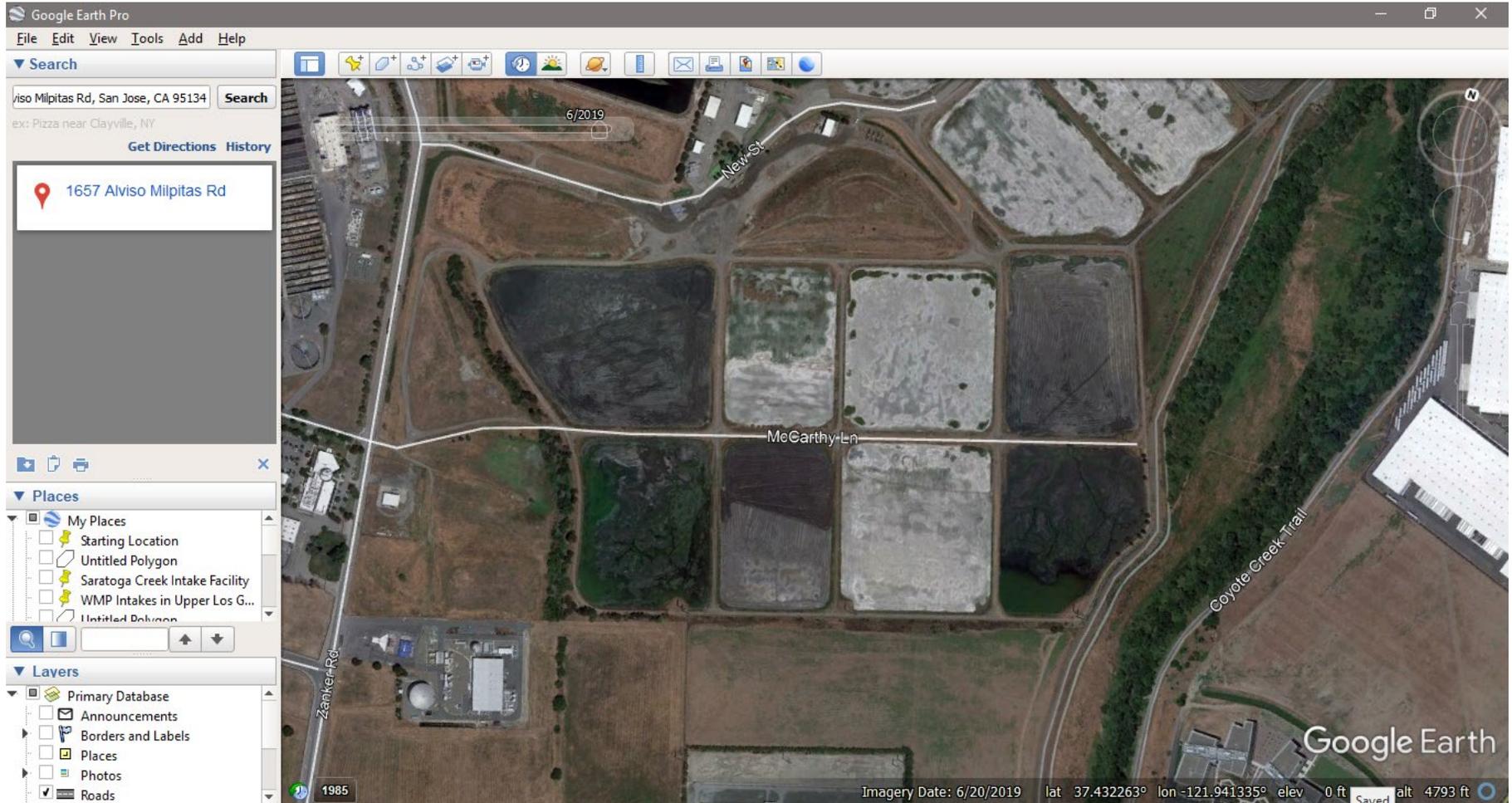
The interface is divided into several sections:

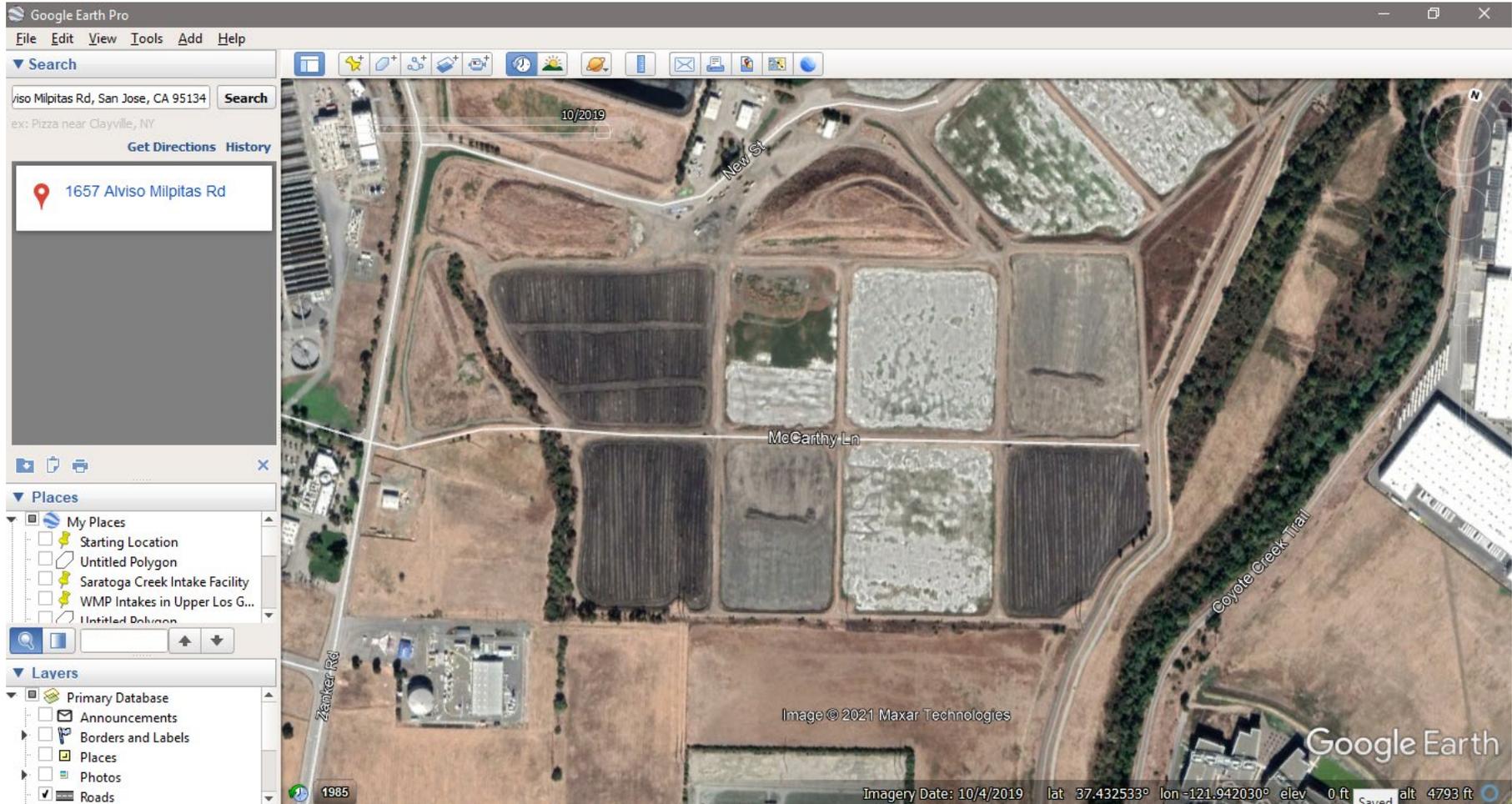
- Basemaps and Layers:** A sidebar on the left contains a "Graphics and Selections" section with a checked box for "California Natural Diversity Database (CNDDDB) Government [ds45] Selection" and a "BIOS Layers" section with several unchecked items: "Spotted Owl Observations [ds704]", "Spotted Owl Observations Spider Diagram [ds705]", "Unprocessed Data from CNDDDB Online Field Survey Form [ds1002]", "Northern Spotted Owl - Final Critical Habitat - USFWS [ds156]", and "California Natural Diversity Database (CNDDDB) Government [ds45]".
- Map:** The central map shows an aerial view of the Alameda/Santa Clara area. A red polygon is drawn on the map, and a yellow circle highlights a specific point within it. The map scale is indicated as "Map Scale=1: 72,224 (Zoom level 13)".
- Measure Tool Menu:** A floating window on the right side of the map contains the "Measure Tool Menu" with instructions: "Select one of the tools below and interact with the map." It includes a "Return measure in:" dropdown set to "acres", and buttons for "Draw Line", "Draw Polygon", "Area : 702.4 acre(s)", and "Clear".

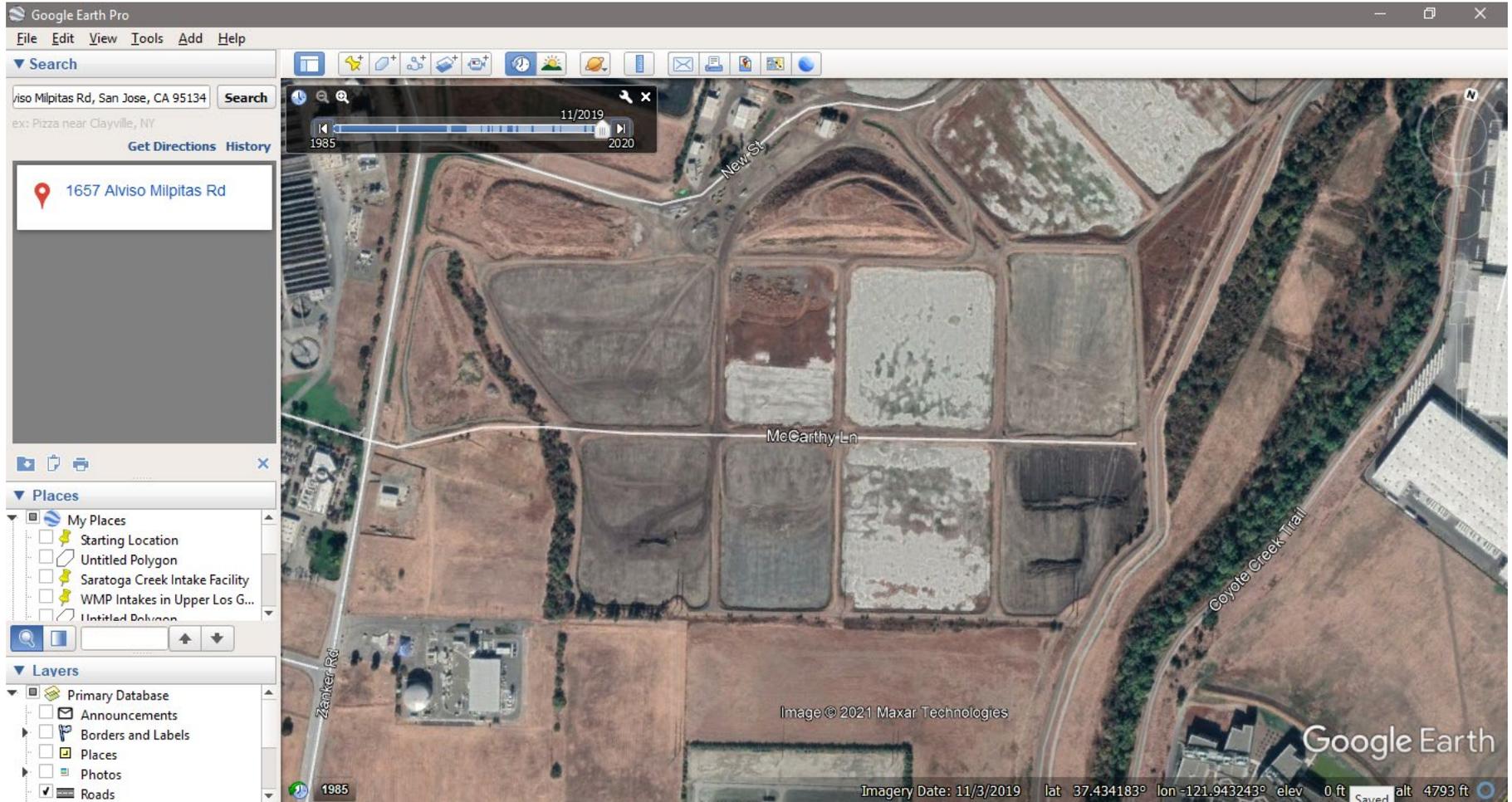
At the bottom of the map, there is a "Table" button and a copyright notice: "BDB | Esri, HERE | Earthstar Geographics | Esri, HERE, Garmin esri".

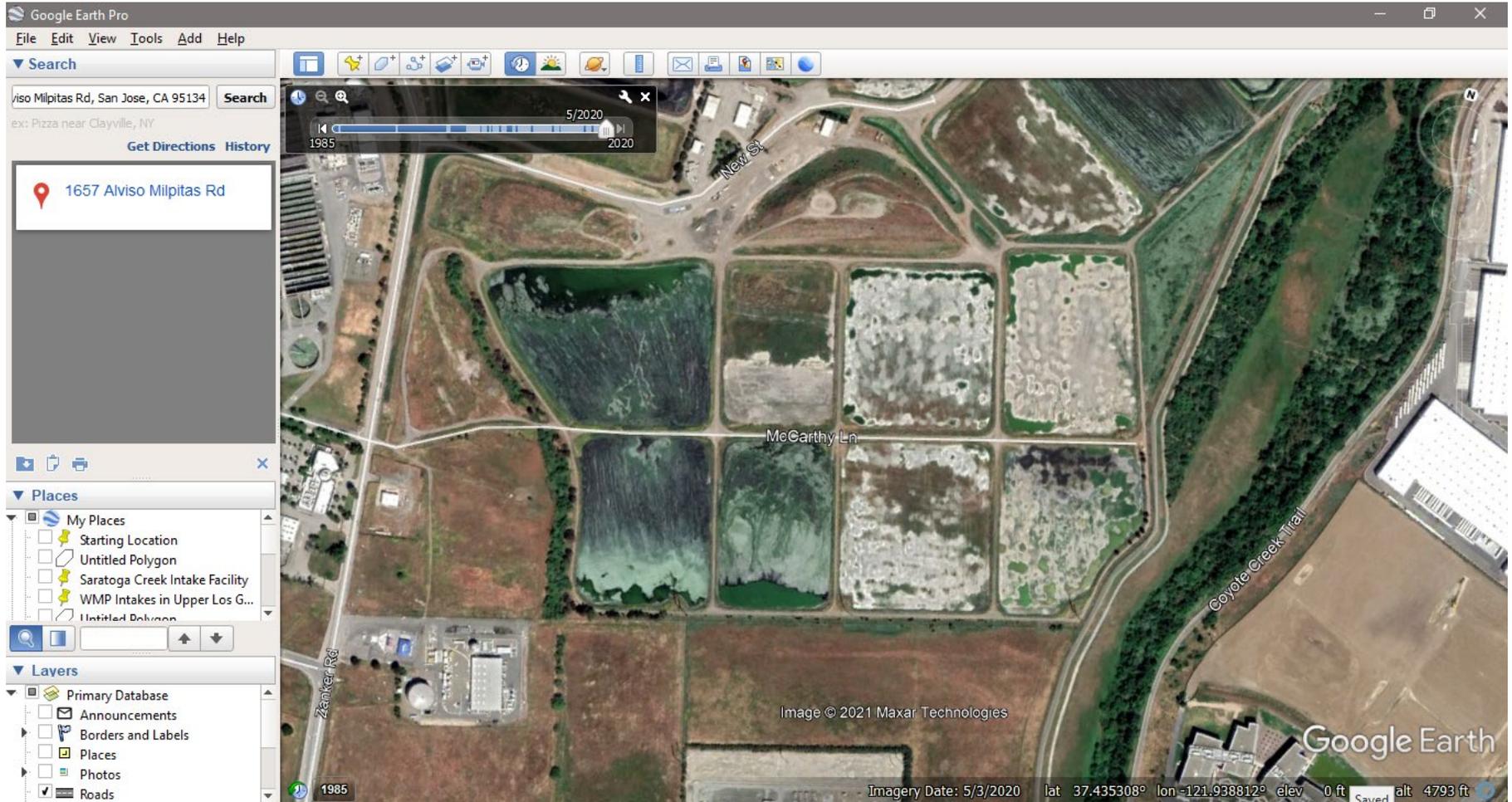














References

- CDFG 2012 – California Department of Fish and Game (CDFG). Staff Report on Burrowing Owl Mitigation. Available online at:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline=true>
- CNDDDB 2021 – California Natural Diversity Database (CNDDDB). RareFind 5. California Department of Fish and Wildlife [Version 5.12.14].
- SCVHP 2012 – Santa Clara Valley Habitat Plan (SCVHP). Santa Clara Valley Habitat Plan. Available online at: <https://www.scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan>