

## **APPENDIX B**

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HABITAT ASSESSMENT AND WESTERN RIVERSIDE COUNTY MSHCP CONSISTENCY ANALYSIS



July 20, 2023

**KIMLEY-HORN**

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**SUBJECT: Habitat Assessment and Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) Consistency Analysis Update for the Proposed Lowe's Expansion Project Located in the City of Perris, Riverside County, California.**

**Introduction**

This report contains the findings of ELMT Consulting's (ELMT) habitat assessment and Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) consistency analysis for the proposed Lowe's Expansion Project (project site or site) located in the City of Perris, Riverside County, California. The initial habitat assessment was conducted by biologist Travis J. McGill on March 11, 2021 to document baseline conditions and assess the potential for special-status<sup>1</sup> plant and wildlife species to occur within the proposed project site that could pose a constraint to implementation of the proposed project. A second survey was conducted by biologists Jacob H. Lloyd Davies and Megan E. Peukert on June 8, 2023 to reconfirm existing site conditions previously documented onsite. Special attention was given to the suitability of the on-site habitat to support burrowing owl (*Athene cunicularia*) and several other special-status species identified by the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB) and other electronic databases as potentially occurring on or within the general vicinity of the project site.

The Western Riverside County Regional Conservation Authority (RCA) MSHCP Information Map was queried to determine if the MSHCP identifies any potential survey requirements for the project. Further, the project site was reviewed against the MSHCP to determine if the site is located within any MSHCP areas including Criteria Cells (core habitat and wildlife movement corridors) or areas proposed for conservation. Based on the RCA MSHCP Information Map query and review of the MSHCP, it was determined that the project site is located within the Mead Valley Area Plan of the MSHCP but is not located within any Criteria Cells or MSHCP Conservation Areas. Further, it was determined that the project site is only located within the designated survey area for burrowing owl (*Athene cunicularia*).

Additionally, the proposed project is located within the boundaries of the Perris Valley Commerce Center Specific Plan (PVCCSP). The Final Environmental Impact Report (EIR) for the PVCC was adopted in 2012. The PVCCSP includes both developed and undeveloped land encompassing a patchwork of residential, commercial, and industrial development interspersed with agricultural fields and vacant land.

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<sup>1</sup> As used in this report, "special-status" refers to plant and wildlife species that are federally, State, and MSHCP listed, proposed, or candidates; plant species that have been designated with a California Native Plant Society Rare Plant Rank; wildlife species that are designated by the CDFW as fully protected, species of special concern, or watch list species; and specially protected natural vegetation communities as designated by the CDFW.

Section 4.3, Biological Resources, of the PVCCSP EIR (January 2012) includes an assessment of potential impacts to biological resources resulting from development of land uses allowed under the PVCCSP, including the proposed project. Section 4.3 of the PVCCSP EIR includes a discussion of the setting (existing biological resources) and related regulations that remain applicable to this project and are discussed in detail in this report.

### **Project Location**

The project site is generally located east of Interstate 215, south of State Route 60, west of Lake Perris, and north of State Route 74 in the City of Perris, Riverside County, California. The site is depicted on the Perris quadrangle of the United States Geological Survey's (USGS) 7.5-minute topographic map within Section 7 of Township 4 South, Range 3 West. Specifically, the approximately 11.08-acre project site is located at 3984 Indian Avenue within Assessor Parcel Numbers (APNs) 303-030-109, 303-060-016, and 303-070-007. Refer to Exhibits 1-3 in Attachment A.

### **Project Description**

The proposed parking lot expansion is located within an existing Lowe's Distribution Center and storage lot at the northeast corner of Morgan Street and Brennan Avenue. The existing total site area consists of 107.71 acres, with a 1,227,366-square-foot warehouse building and surface lot accommodations for 1,076 truck parking stalls. The proposed project would develop additional paved areas for truck parking and storage, as well as the reorienting of existing angled truck parking stalls on site. With the addition of 11.08 acres of proposed parking lot surfaces, the net total parking stalls upon project completion will amount to 1,530 stalls. This would be an increase of 454 additional truck parking stalls from the existing condition. Access to the truck parking stalls is facilitated by a single unsignalized driveway off Indian Avenue. Trucks entering this site driveway are required to pass through a staffed gate before entering the premises. Refer to Attachment B, *Conceptual Site Plan*.

### **Methodology**

#### *Literature Review*

The first step in determining if a project is consistent with the above listed sections of the MSHCP is to conduct a literature review and records search for special-status biological resources potentially occurring on or within the vicinity of the project site. Previously recorded occurrences of special-status plant and wildlife species and their proximity to the project were determined through a query of the CDFW's CNDDDB Rarefind 5, the California Native Plant Society (CNPS) Electronic Inventory of Rare and Endangered Vascular Plants of California, Calflora Database, compendia of special-status species published by CDFW, United States Fish and Wildlife Service (USFWS) species listings, and species covered within the MSHCP and associated technical documents.

All available reports, survey results, and literature detailing the biological resources previously observed on or within the vicinity of the project site were reviewed to understand existing site conditions and note the extent of any disturbances that have occurred on the project site that would otherwise limit the distribution of special-status biological resources. Standard field guides and texts were reviewed for specific habitat requirements of special-status and non-special-status biological resources, as well as the following resources:

- Environmental Protection Agency (EPA) Water Program “My Waters” data layers
- Google Earth Pro historic aerial imagery (1994-2018);
- United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS), Soil Survey<sup>2</sup>;
- USFWS Critical Habitat designations for Threatened and Endangered Species;
- USFWS National Wetlands Inventory (NWI);
- Stephen’s Kangaroo Rat Habitat Conservation Plan;
- Western Riverside County Regional Conservation Authority (RCA) MSHCP Information Map; and
- 2006 Burrowing Owl Survey Instructions for the Western Riverside Multiple Species Habitat Conservation Plan Area.

The literature review provided a baseline from which to inventory the biological resources potentially occurring on the project site. The CNDDDB database was used, in conjunction with ArcGIS software, to locate the nearest recorded occurrences of special-status species and determine the distance from the project.

### Field Investigation

Following the literature review, biologist Travis J. McGill initially inventoried and evaluated the condition of the habitat within the project site on March 11, 2021. A second field investigation was conducted by biologists Jacob H. Lloyd Davies and Megan E. Peukert on June 8, 2023 to reconfirm existing site conditions previously documented onsite.

Plant communities identified on aerial photographs during the literature review were verified by walking meandering transects through the plant communities and along boundaries between plant communities. In addition, aerial photography was reviewed prior to the site investigation to locate potential natural corridors and linkages that may support the movement of wildlife through the area. These areas identified on aerial photography were then walked during the field survey.

All plant and wildlife species observed, as well as dominant plant species within each plant community, were recorded. Plant species observed during the field survey were identified by visual characteristics and morphology in the field. Unusual and less familiar plant species were photographed during the field survey and identified in the laboratory using taxonomical guides. Wildlife detections were made through observation of scat, trails, tracks, burrows, nests, and/or visual and aural observation. In addition, site characteristics such as soil condition, topography, hydrology, anthropogenic disturbances, indicator species, condition of on-site plant communities, and presence of potential jurisdictional drainage and/or wetland features were noted.

### Soil Series Assessment

On-site and adjoining soils were researched prior to the field survey using the USDA NRCS Soil Survey for Western Riverside Area, California. In addition, a review of the local geological conditions and

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2 A soil series is defined as a group of soils with similar profiles developed from similar parent materials under comparable climatic and vegetation conditions. These profiles include major horizons with similar thickness, arrangement, and other important characteristics, which may promote favorable conditions for certain biological resources.

historical aerial photographs was conducted to assess the ecological changes that the project site has undergone.

### Plant Communities

Plant communities were mapped using 7.5-minute USGS topographic base maps and aerial photography. The plant communities were delineated on an aerial photograph, classified in accordance with those described in the MSHCP, and then digitized into GIS Arcview. The Arcview application was used to compute the area of each plant community in acres.

### Plants

Common plant species observed during the field survey were identified by visual characteristics and morphology in the field and recorded in a field notebook. Unusual and less-familiar plants were photographed in the field and identified in the laboratory using taxonomic guides. Taxonomic nomenclature used in this study follows the 2012 Jepson Manual (Hickman 2012). In this report, scientific names are provided immediately following common names of plant species (first reference only).

### Wildlife

Wildlife species detected during field surveys by sight, calls, tracks, scat, or other sign were recorded during surveys in a field notebook. Field guides were used to assist with identification of wildlife species during the survey included The Sibley Field Guide to the Birds of Western North America (Sibley 2003), A Field Guide to Western Reptiles and Amphibians (Stebbins 2003), and A Field Guide to Mammals of North America (Reid 2006). Although common names of wildlife species are fairly well standardized, scientific names are provided immediately following common names in this report (first reference only).

### Jurisdictional Drainages and Wetlands

Aerial photography was reviewed prior to conducting a field investigation in order to locate and inspect any potential natural drainage features, ponded areas, or water bodies that may fall under the jurisdiction of the United States Army Corps of Engineers (Corps), Regional Water Quality Control Board (Regional Board), or CDFW. In general, surface drainage features indicated as blue-line streams on USGS maps that are observed or expected to exhibit evidence of flow are considered potential riparian/riverine habitat and are also subject to state and federal regulatory jurisdiction. In addition, ELMT reviewed jurisdictional waters information through examining historical aerial photographs to gain an understanding of the impact of land-use on natural drainage patterns in the area. The USFWS National Wetland Inventory (NWI) and Environmental Protection Agency (EPA) Water Program “My Waters” data layers were also reviewed to determine whether any hydrologic features and wetland areas have been documented on or within the vicinity of the project site.

### Existing Site Condition

The project site is surrounded by the existing Lowe’s distribution center to the north and west, a water detention basin to the north east, Indian Avenue and industrial development to the east, and Morgan Street and industrial development to the south. The site itself primarily supports an empty lot composed of compacted dirt and gravel that is used for truck storage.

## **Topography and Soils**

The project site is located at an approximate elevation of 1,465 to 1,471 feet above mean sea level. On-site topography is generally flat with no areas of significant topographic relief and the gently slopes from south to north. Based on the NRCS USDA Web Soil Survey, the project site is underlain by the following soil units: Greenfield sandy loam (0 to 2 percent slopes), Hanford fine sandy loam (0 to 2 percent slopes), and Ramona sandy loam (0 to 2 percent slopes, MLRA). Refer to Exhibit 4, *Soils*, in Attachment A. Soils on-site have been mechanically disturbed and heavily compacted from historic land uses (i.e., agricultural activities, grading activities and on-site surrounding development).

## **Vegetation**

Due to existing land uses, no native plant communities or natural communities of special concern were observed on or adjacent to the project site. The site consists of vacant, undeveloped land that has been subject to a variety of anthropogenic disturbances that was historically used for agricultural land uses. The project site was graded during development of the surrounding industrial developments and streets, and is subjected to weed abatement activities, trailer parking, and disturbance associated with surrounding development. These disturbances have eliminated the natural plant communities that were once present on and surrounding the project site. Refer to Attachment C, *Site Photographs*, for representative site photographs. No native plant communities will be impacted from implementation of the proposed project.

The project site, as previously documented in 2021, continues to supports one (1) land cover type that would be classified as disturbed (refer to Exhibit 5, *Vegetation*, in Attachment A). This land cover type is generally devoid of vegetation or support primarily non-native weedy/early successional plant species. Common plant species observed in the disturbed areas of the site include London rocket (*Sisymbrium irio*), stinknet (*Oncosiphon pilulifer*), red-stemmed filaree (*Erodium cicutarium*), mouse barley (*Hordeum murinum*), riggut brome (*Bromus diandrus*), red brome (*Bromus madritensis rubens*), fiddleneck (*Amsinckia* sp.), knotweed (*Polygonum aviculare*), cheeseweed (*Malva parviflora*), Russian thistle (*Salsola tragus*), alyssum (*Alyssum* sp.), and tumbling pigweed (*Amaranthus albus*). Additionally, a small strip of ornamental/landscaped plant species were observed along the eastern boundary of the project site, bordering Indian Avenue.

## **Wildlife**

Plant communities provide foraging habitat, nesting/denning sites, and shelter from adverse weather or predation. This section provides a discussion of those wildlife species that were observed or are expected to occur within the project site. The discussion is to be used a general reference and is limited by the season, time of day, and weather conditions in which the field survey was conducted. Wildlife detections were based on calls, songs, scat, tracks, burrows, and direct observation.

## **Fish**

The MSHCP does not identify any covered or special-status fish species as potentially occurring within the project site. Further, no fish or hydrogeomorphic features (e.g., perennial creeks, ponds, lakes, reservoirs) that would provide suitable habitat for fish were observed on or within the vicinity of the site. Therefore, no fish are expected to occur and are presumed absent.

### Amphibians

The MSHCP does not identify any covered or special-status amphibian species as potentially occurring within the project site. Further, no amphibians or hydrogeomorphic features (e.g., perennial creeks, ponds, lakes, reservoirs) that would provide suitable habitat for amphibian species were observed on or within the vicinity of the site. Therefore, no amphibians are expected to occur.

### Reptiles

The MSHCP does not identify any covered or special-status reptilian species as potentially occurring within the project site. The site provides a limited amount of habitat for reptile species adapted to a high degree of human disturbance associated with the on-site weed abatement activities and development. The only reptilian species observed on site was Great Basin fence lizard (*Sceloporus occidentalis longipes*). Additional common reptilian species that could be expected to occur on-site include common side-blotched lizard (*Uta stansburiana elegans*). Due to the high level of anthropogenic disturbances and surrounding development, no special-status reptilian species are expected to occur within project site.

### Birds

The project site provides moderate foraging habitat for bird species adapted to a high degree of human disturbance. Bird species detected during the field survey include house finch (*Haemorhouse mexicanus*), Say's phoebe (*Sayornis saya*), horned lark (*Eremophila alpestris*), lesser goldfinch (*Spinus psaltria*), European starling (*Sturnus vulgaris*), American crow (*Corvus brachyrhynchos*), northern rough-winged swallow (*Stelgidopteryx serripennis*), northern mockingbird (*Mimus polyglottos*), Cassin's kingbird (*Tyrannus vociferans*), Bewick's wren (*Thryomanes bewickii*), and common raven (*Corvus corax*).

### Mammals

The MSHCP does not identify any covered or special-status mammalian species as potentially occurring within the project site. The only mammalian species detected was coyote (*Canis latrans*). Other common mammalian species that could be expected to occur include possum (*Didelphis virginiana*) and raccoon (*Procyon lotor*). No bat species are expected to occur due to a lack of suitable roosting habitat (i.e., trees, crevices).

### Nesting Birds and Raptors

No active nests or birds displaying nesting behavior were observed during the field survey, which was conducted during breeding season. Although subjected to routine disturbance, the ornamental vegetation found on-site, that borders Indian Avenue, has the potential to provide suitable nesting habitat for year-round and seasonal avian residents, as well as migrating songbirds that could occur in the area that area adapted to urban environments. Additionally, the disturbed portions of the site have to potential to support ground-nesting birds such as killdeer (*Charadrius vociferus*). No raptors are expected to nest on-site due to lack of suitable nesting opportunities.

A pre-construction nesting bird clearance survey shall be conducted for active avian nests of species protected by the Migratory Bird Treaty Act (MBTA) and/or the California Fish and Game Code per PVCCSP mitigation measure MM BIO 1. With implementation of PVCCSP mitigation measure MM BIO 1, impacts would be less than significant, and no additional mitigation is required.

### **Migratory Corridors and Linkages**

Habitat linkages provide connections between larger habitat areas that are separated by development. Wildlife corridors are similar to linkages but provide specific opportunities for animals to disperse or migrate between areas. A corridor can be defined as a linear landscape feature of sufficient width to allow animal movement between two comparatively undisturbed habitat fragments. Adequate cover is essential for a corridor to function as a wildlife movement area. It is possible for a habitat corridor to be adequate for one species yet still inadequate for others. Wildlife corridors are features that allow for the dispersal, seasonal migration, breeding, and foraging of a variety of wildlife species. Additionally, open space can provide a buffer against both human disturbance and natural fluctuations in resources.

The project site has not been identified as occurring in a wildlife corridor or linkage. The proposed project will be confined to existing areas that have been heavily disturbed and are isolated from regional wildlife corridors and linkages. In addition, there are no riparian corridors, creeks, or useful patches of steppingstone habitat (natural areas) within or connecting the site to a recognized wildlife corridor or linkage. As such, implementation of the proposed project is not expected to impact wildlife movement opportunities. Therefore, impacts to wildlife corridors or linkages are not expected to occur.

### **Jurisdictional Areas**

There are three key agencies that regulate activities within inland streams, wetlands, and riparian areas in California. The Corps Regulatory Branch regulates discharge of dredge or fill materials into “waters of the United States” pursuant to Section 404 of the Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act. Of the State agencies, the CDFW regulates alterations to streambed and bank under Fish and Wildlife Code Sections 1600 et seq., and the Regional Board regulates discharges into surface waters pursuant to Section 401 of the CWA and the California Porter-Cologne Water Quality Control Act.

No jurisdictional drainage and/or wetland features were observed on the project site or within the during the field investigation. Further, no blueline streams have been recorded on the project site. A riser was observed on the northeast corner of the project site that conveys stormwater into an adjacent water detention basin to the north. The riser only receives water, although infrequent, from the project site, from direct precipitation during storm events. Normal stormflows within the site are expected to dissipate/infiltrate quickly, with stormwater only reaching the off-site basin during large storm events. Further, the basin does not exhibit a surface hydrological connection to any downstream waters. Therefore, development of the project will not result in impacts to Corps, Regional Board, or CDFW jurisdiction and regulatory approvals will not be required.

### **Special-Status Biological Resources**

The CNDDDB was queried for reported locations of special-status plant and wildlife species as well as natural communities of special concern in the Perris USGS 7.5-minute quadrangle. A search of published records within this quadrangle was conducted using the CNDDDB Rarefind 5 online software and the CDFW BIOS database and the CNPS Inventory of Rare and Endangered Plants of California that supplied information regarding the distribution and habitats of vascular plants in the vicinity of the project site. The habitat assessment evaluated the conditions of the habitat(s) within the boundaries of the project site to determine if the existing plant communities, at the time of the survey, have the potential to provide suitable habitat(s) for special-status plant and wildlife species.

The literature search identified fifteen (15) special-status plant species and seventy-three (73) special-status wildlife species Perris quadrangle. No special-status habitats were identified as having potential to occur. Special-status plant and wildlife species were evaluated for their potential to occur within the project site based on habitat requirements, availability and quality of suitable habitat, and known distributions. Species determined to have the potential to occur within the general vicinity are presented in *Table D-1: Potentially Occurring Special-Status Biological Resources*, provided in Attachment D. Refer to Table D-1 for a determination regarding the potential occurrence of special-status plant and wildlife species within the project site.

### Special-Status Plants

According to the CNDDDB and CNPS, fifteen (15) special-status plant species have been recorded in the Perris quadrangle (refer to Attachment D). No special-status plants were observed on the project site during the field investigation. The project site is heavily disturbed and no longer support native plant communities that have the potential to provide suitable habitat for special-status plant species. Based on habitat requirements for specific species and the availability and quality of on-site habitats, it was determined no special-status plant species have potential to occur on-site due to the lack of native habitats and routine on-site disturbances and all are presumed absent.

### Special-Status Wildlife

According to the CNDDDB, seventy-three (75) special-status wildlife species have been reported in the Perris quadrangle (refer to Attachment D). No special-status wildlife species were observed on-site during the field investigation. Based on habitat requirements for specific species and the availability and quality of on-site habitats, it was determined that the project site has a low potential to provide minimal foraging opportunities for California horned lark (*Eremophila alpestris actia*), Cooper's hawk (*Accipiter cooperii*) and sharp-shinned hawk (*Accipiter striatus*). The project site does not provide suitable nesting opportunities for the three aforementioned species. All remaining special-status wildlife species were presumed to be absent from the project site.

To ensure no impacts to Coopers' hawk, sharp-shinned hawk, and California horned lark do not occur from implementation of the proposed project, a pre-construction nesting bird clearance survey shall be conducted prior to ground disturbance. With implementation of the pre-construction nesting bird clearance survey, impacts to Coopers' hawk, sharp-shinned hawk, and California horned lark will be less than significant and no mitigation will be required.

### **Critical Habitat**

Under the federal Endangered Species Act, "Critical Habitat" is designated at the time of listing of a species or within one year of listing. Critical Habitat refers to specific areas within the geographical range of a species at the time it is listed that include the physical or biological features that are essential to the survival and eventual recovery of that species. Maintenance of these physical and biological features requires special management considerations or protection, regardless of whether individuals or the species are present or not. All federal agencies are required to consult with the United States Fish and Wildlife Service (USFWS) regarding activities they authorize, fund, or permit which may affect a federally listed species or its designated Critical Habitat. The purpose of the consultation is to ensure that projects will not jeopardize the continued existence of the listed species or adversely modify or destroy its designated Critical Habitat.

The designation of Critical Habitat does not affect private landowners, unless a project they are proposing is on federal lands, uses federal funds, or requires federal authorization or permits (e.g., funding from the Federal Highways Administration or a CWA Permit from the Corps). If there is a federal nexus, then the federal agency that is responsible for providing the funding or permit would consult with the USFWS.

The project site is not located with federally designated Critical Habitat (refer to Exhibit 6, *Critical Habitat*, in Attachment A). The closest designated Critical Habitat is located approximately 4.16 miles southeast of the site for spreading navarretia (*Navarretia fossalis*) along the San Jacinto River. Therefore, the loss or adverse modification of Critical Habitat will not occur as a result of the proposed project and consultation with the USFWS will not be required for implementation of the proposed project.

### **Western Riverside County MSHCP**

The project site is located within the Mead Valley Area Plan of the MSHCP but are not located within any Criteria Cells or MSHCP Conservation Areas (refer to Exhibit 7, *MSHCP Criteria Area*, in Attachment A). Additionally, the project site is only located within the designated survey area for burrowing owl as depicted in Figures 6-4 within Section 6.3.2 of the MSHCP.

Since the City is a permittee under the MSHCP and, while the project is not specifically identified as a Covered Activity under Section 7.1 of the MSHCP, public and private development that are outside of Criteria Areas and Public/Quasi-Public (PQP) Lands are permitted under the MSHCP, subject to consistency with MSHCP policies that apply to area outside of Criteria Areas. As such, to achieve coverage, the project must be consistent with the following policies of the MSHCP:

- The policies for the protection of species associated with Riparian/Riverine areas and vernal pools as set forth in Section 6.1.2 of the MSHCP;
- The policies for the protection of Narrow Endemic Plant Species as set forth in Section 6.1.3 of the MSHCP;
- The requirements for conducting additional surveys as set forth in Section 6.3.2 of the MSHCP;
- Guidelines pertaining to the Urban/Wildlands Interface intended to address indirect effects associated with locating Development in proximity to the MSHCP Conservation Area as detailed in Section 6.1.4 of the MSHCP.

### **Riparian/Riverine Areas**

As identified in Section 6.1.2 of the MSHCP, *Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools*, riparian/riverine areas are defined as areas dominated by trees, shrubs, persistent emergent plants, or emergent mosses and lichens which occur close to or are dependent upon nearby freshwater, or areas with freshwater flowing during all or a portion of the year. Conservation of these areas is intended to protect habitat that is essential to a number of listed or special-status water-dependent fish, amphibian, avian, and plant species. If impacts to riparian/riverine habitat cannot be avoided, a Determination of Biologically Equivalent or Superior Preservation (DBESP) must be developed to address the replacement of lost functions of habitats in regard to the listed species. This assessment is independent from considerations given to “waters of the U.S.” and “waters of the State” under the CWA and the California Fish and Game Code.

No jurisdictional drainages, riparian/riverine and/or wetland features were observed within the project site during the field investigation. Development of the proposed project will not result in impacts to riparian/riverine habitats and a DBESP will not be required for the loss of riparian/riverine habitat from development of the proposed project. Therefore, the project is consistent with Section 6.1.2 of the MSHCP.

#### *Vernal Pools and Fairy Shrimp Habitat*

One of the factors for determining the suitability of the habitat for fairy shrimp would be demonstrable evidence of seasonal ponding in an area of topographic depression that is not subject to flowing waters. These astatic pools are typically characterized as vernal pools. More specifically, vernal pools are seasonal wetlands that occur in depression areas without a continual source of water. They have wetland indicators of all 3 parameters (soils, vegetation, and hydrology) during the wetter portion of the growing season but normally lack wetland indicators of hydrology and/or vegetation during the drier portion of the growing season. Obligate hydrophytes and facultative wetlands plant species are normally dominant during the wetter portion of the growing season. The determination that an area exhibits vernal pool characteristics and the definition of the watershed supporting vernal pool hydrology is made on a case-by-case basis. Such determinations should be considered the length of time the areas exhibit upland and wetland characteristics and the manner in which the area fits into the overall ecological system as a wetland. The seasonal hydrology of vernal pools provides for a unique environment, which supports plants and invertebrates specifically adapted to a regime of winter inundation, followed by an extended period when the pool soils are dry.

Vernal pools are seasonally inundated, ponded areas that only form in regions where specialized soil and climatic conditions exist. During fall and winter rains typical of Mediterranean climates, water collects in shallow depressions where downward percolation of water is prevented by the presence of a hard pan or clay pan layer (duripan) below the soil surface. Later in the spring when rains decrease and the weather warms, the water evaporates and the pools generally disappear by May. The shallow depressions remain relatively dry until late fall and early winter with the advent of greater precipitation and cooler temperatures. Vernal pools provide unusual "flood and drought" habitat conditions to which certain plant and wildlife species have specifically adapted as well as invertebrate species such as fairy shrimp.

The MSHCP lists two general classes of soils known to be associated with listed and special-status plant species; clay soils and Traver-Domino Willow association soils. The specific clay soils known to be associated with listed and special-status species within the MSHCP plan area include Bosanko, Auld, Altamont, and Porterville series soils, whereas Traver-Domino Willows association includes saline-alkali soils largely located along floodplain areas of the San Jacinto River and Salt Creek. Without the appropriate soils to create the impermeable restrictive layer, none of the special-status plant or wildlife species associated with vernal pools can occur on the project site. None of these soils have been documented within the project site.

A review of recent and historic aerial photographs (1994-2018) of the project site did not provide visual evidence of an astatic or vernal pool conditions within the project site. No ponding was observed, further supporting the fact that the drainage patterns currently occurring on the project site do not follow hydrologic regimes needed for vernal pools. From this review of historic aerial photographs and observations during the field investigations, it can be concluded that there is no indication of vernal pools or suitable fairy shrimp habitat occurring within the proposed project site. Therefore, the project is consistent with Section

## 6.1.2 of the MSHCP.

### Narrow Endemic Plant Species

Section 6.1.3 of the MSHCP, *Protection of Narrow Endemic Plant Species*, states that the MSHCP database does not provide sufficient detail to determine the extent of the presence/distribution of Narrow Endemic Plant Species within the MSHCP Plan Area. Additional surveys may be needed to gather information to determine the presence/absence of these species to ensure that appropriate conservation of these species occurs. Based on the RCA MSHCP Information Map query and review of the MSHCP, it was determined that the project site is not located within the designated survey area for Narrow Endemic Plant Species. Through the field investigation, it was determined that the project site does not provide suitable habitat for any of the Narrow Endemic Plant Species listed under Section 6.1.3 of the MSHCP, and, therefore, the project is consistent with Section 6.1.3 of the MSHCP. No additional surveys or analysis is required.

### Additional Survey Needs and Procedures

In accordance with Section 6.3.2 of the MSHCP, *Additional Survey Needs and Procedures*, additional surveys may be needed for certain species in order to achieve coverage for these species. The query of the RCA MSHCP Information Map and review of the MSHCP determined that the project site is located within the designated survey area for burrowing owl as depicted in Figure 6-4 within Section 6.3.2 of the MSHCP. No other special-status wildlife species surveys were identified.

### Burrowing Owl

Burrowing owl is currently designated as a California Species of Special Concern. The burrowing owl is a grassland specialist distributed throughout western North America where it occupies open areas with short vegetation and bare ground within shrub, desert, and grassland environments. Burrowing owls use a wide variety of arid and semi-arid environments with level to gently-sloping areas characterized by open vegetation and bare ground. The western burrowing owl (*A.c. hypugaea*), which occurs throughout the western United States including California, rarely digs its own burrows and is instead dependent upon the presence of burrowing mammals (i.e., California ground squirrels, coyotes, and badgers) whose burrows are often used for roosting and nesting. The presence or absence of colonial mammal burrows is often a major factor that limits the presence or absence of burrowing owls. Where mammal burrows are scarce, burrowing owls have been found occupying man-made cavities, such as buried and non-functioning drain pipes, stand-pipes, and dry culverts. They also require low growth or open vegetation allowing line-of-sight observation of the surrounding habitat to forage and watch for predators. In California, the burrowing owl breeding season extends from the beginning of February through the end of August.

Under the MSHCP burrowing owl is considered an adequately conserved covered species that may still require focused surveys in certain areas as designated in Figure 6-4 of the MSHCP. The project site occurs within the MSHCP burrowing owl survey area and a habitat assessment was conducted for the species to ensure compliance with MSHCP guidelines for the species. In accordance with the MSHCP Burrowing Owl Survey Instructions (2006), survey protocol consists of two steps, Step I – Habitat Assessment and Step II – Locating Burrows and Burrowing Owls. The following section describes the methodology followed during the burrowing owl habitat assessment conducted for this project.

- Step I – Habitat Assessment: Step 1 of the MSHCP habitat assessment for burrowing owl consists of a walking survey to determine if suitable habitat is present onsite. An initial habitat assessment was conducted on March 11, 2021, and a follow up habitat assessment was conducted on June 8, 2023. Upon arrival at the project site, and prior to initiating the assessment survey, binoculars were used to scan all suitable habitats on and adjacent to the property, including perch locations, to establish owl presence.

All suitable areas of the project site were surveyed on foot by walking slowly and methodically while recording/mapping areas that may represent suitable owl habitat onsite. Primary indicators of suitable burrowing owl habitat in western Riverside County include, but are not limited to, native and non-native grassland, interstitial grassland within shrub lands, shrub lands with low density shrub cover, golf courses, drainage ditches, earthen berms, unpaved airfields, pastureland, dairies, fallow fields, and agricultural use areas. Burrowing owls typically use burrows made by fossorial mammals, but they often utilize man-made structures, such as earthen berms, cement culverts, cement, asphalt, rock, wood debris piles, openings beneath cement or asphalt pavement. Burrowing owls are often found within, under, or in close proximity to man-made structures.

According to the MSHCP guidelines, if suitable habitat is present, the biologist should also walk the perimeter of the property, which consists of a 150-meter (approximately 500 feet) buffer zone around the project site boundary. If permission to access the buffer area cannot be obtained, the biologist shall not trespass, but visually inspect adjacent habitats with binoculars. In addition to surveying the entire Project Site all bordering natural habitats located immediately adjacent to the Project Site were assessed. Results from the habitat assessment indicate that suitable resources for burrowing owl are present throughout the Project Site. Accordingly, if suitable habitat is documented onsite or within adjacent habitats, both Step II, focused surveys and the 30-day preconstruction surveys are required in order to comply with the MSHCP guidelines.

- Step II – Locating Burrows and Burrowing Owls: Concurrent with the initial habitat assessment, a detailed focused burrow survey was conducted and included documentation of appropriately sized natural burrows or suitable man-made structures that may be utilized by burrowing owl - as part of the MSHCP protocol, which is described below under Part A, Focused Burrow Survey. The MSHCP protocol indicates that no more than 100 acres should be surveyed per day/per biologist.
  - Part A – Focused Burrow Survey: A systematic survey for burrows, including burrowing owl sign, was initially conducted by walking across all suitable habitats mapped within the project site on March 11, 2021. A follow up survey was conducted on June 8, 2023. Pedestrian survey transects were spaced to allow 100% visual coverage of the ground surface. The distances between transect centerlines were no more than 30 meters (approximately 100 feet) apart, and owing to the terrain, often much smaller. Transect routes were also adjusted to account for topography and in general ground surface visibility. Areas providing potential habitat for burrowing owls were surveyed for suitable burrows, consisting of natural and non-natural substrates in areas with low, open vegetation. All burrows encountered were examined for shape, scat, pellets, white-wash, feathers, tracks, and prey remains. Suitable burrows/sites, including rock piles and non-natural substrates, were thoroughly examined for signs of presence.

Despite a systematic search of the project site, no burrowing owls or sign (i.e., pellets, feathers, castings, or whitewash) were observed during the field investigation. Portions of the project site are vegetated with a variety of low-growing plant species that allow for minimal line-of-sight observation favored by burrowing owls. However, no small mammal burrows that have the potential to provide suitable burrowing owl nesting habitat (>4 inches in diameter) were observed within the boundaries of the site. Additionally, the site supports and is surrounded by tall trees and power poles that provide perching opportunities for large raptors (i.e., red-tailed hawk) that can prey on burrowing owls. Being that no appropriate burrows or burrowing owl habitat was found, Part B-Focused Burrowing Owl surveys are not required. Therefore, the project is consistent with Section 6.3.2.

A 30-day pre-construction survey for burrowing owls is required prior to initial ground-disturbing activities (e.g. vegetation clearing, clearing and grubbing, tree removal, site watering) to ensure that no owls have colonized the site in the days or weeks preceding the ground-disturbing activities. If burrowing owls have colonized the project site prior to the initiation of ground-disturbing activities, the project proponent will immediately inform the Wildlife Agencies and the Regional Conservation Authority (RCA), and will need to coordinate further with RCA and the Wildlife Agencies, including the possibility of preparing a Burrowing Owl Protection and Relocation Plan, prior to initiating ground disturbance. If ground-disturbing activities occur, but the site is left undisturbed for more than 30 days, a pre-construction survey will again be necessary to ensure burrowing owl has not colonized the site since it was last disturbed. If burrow owl is found, the same coordination described above will be necessary.

#### Urban/Wildlands Interface Guidelines

Section 6.1.4 of the MSHCP, *Guidelines Pertaining to Urban/Wildlands Interface*, is intended to address indirect effects associated with development in proximity to MSHCP Conservation Areas. The Urban/Wildlife Interface Guidelines are intended to ensure that indirect project-related impacts to the MSHCP Conservation Area, including drainage, toxics, lighting, noise, invasive plant species, barriers, and grading/land development, are avoided or minimized. The project site is not located within or immediately adjacent to any Criteria Cells, corridors, or linkages. The urban/Wildlands Interface Guidelines do not apply to this project, and, therefore, the project is consistent with Section 6.1.4 of the MSHCP.

#### **Specific Plan Compliance**

The proposed project is located within the boundaries of the PVCCSP. Section 4.3, Biological Resources, of the PVCCSP EIR (adopted January 2012) included an assessment of potential impacts to biological resources resulting from development of land uses allowed under the PVCCSP, including the proposed project. Since the proposed project site is located within the PVCCSP, development of the proposed project will need to comply with BIO Mitigation Measures 1-5 detailed in the PVCC EIR as summarized below:

*MM Bio 1: In order to avoid violation of the MBTA and the California Fish and Game Code, site preparation activities (removal of trees and vegetation) for all PVCC implementing development and infrastructure projects shall be avoided, to the greatest extent possible, during the nesting season (generally February 1 to August 31) of potentially occurring native and migratory bird species.*

*If site preparation activities for an implementing project are proposed during the nesting/breeding*

*season (February 1 to August 31), a pre-activity field survey shall be conducted by a qualified biologist prior to the issuance of grading permits for such project, to determine if active nests or species protected by the MBTA or the California Fish and Game Code are present in the construction zone. If active nests are not located within the implementing project site and an appropriate buffer of 500 feet of an active listed species or raptor nest, 300 feet of other sensitive or protected bird nests (non-listed), or 100 feet of sensitive or protected songbird nests, construction may be conducted during the nesting season/breeding season. However, if active nests are located during the pre-activity field survey, no grading or heavy equipment activity shall take place within at least 500 feet of a active listed species or raptor nests, 300 feet of other sensitive or protected (under MBTA or California Fish and Game Code) bird nests (non-listed), or within 100 feet of sensitive or protected songbird nets until the nest is no longer active.*

The project site has the potential to provide avian nesting opportunities. Prior to ground disturbing activities, a pre-activity field survey (pre-construction nesting bird clearance survey) shall be conducted in accordance with PVCCSP EIR MM Bio 1.

*MM Bio 2: Project specific habitat assessments and focused surveys for burrowing owls will be conducted for implementing development or infrastructure projects within burrowing owl survey areas. A pre-construction survey for resident burrowing owls will also be conducted by qualified biologist within 30 days prior to commencement of grading and construction activities within those portions of implementing project sites containing suitable burrowing owl habitat and for those properties within an implementing project site where the biologist could not gain access. If ground disturbing activities in these areas are delayed or suspended from more than 30 days after the pre-construction survey, the area shall be resurveyed for owls. The pre-construction survey and relocation activity will be conducted in accordance with the current Burrowing Owl Instruction for the Western Riverside MSHCP.*

*If active nests are identified on an implementing project site during the pre-construction survey, the nests shall be avoided, or the owls actively or passively relocated. To adequately avoid active nests, no grading or heavy equipment activity shall take place within at least 250 feet of an active nest during the breeding season (February 1 through August 31), and 160 feet during the non-breeding season.*

A burrowing owl habitat assessment was initially conducted during the 2021 breeding season and a follow up survey was conducted during the 2023 breeding season, and no suitable burrowing owl habitat was observed on or within 500 feet of the project site. Prior to the commencement of ground disturbing activities, a 30-day burrowing owl pre-construction clearance survey will need to be conducted to ensure burrowing owl remain absent from the project site, and shall be conducted in accordance with PVCCSP EIR MM Bio 2.

*MM Bio 3: Project specific delineations will be required to determine the limits of Corps, Regional Board, and CDFW jurisdiction for implementing projects that may contain jurisdictional features. Impacts to jurisdictional waters will require authorization by the corresponding regulatory agency. If impacts are indicated in an implementing project specific delineation, prior to the issuance of a grading permit, such implementing projects will obtain the necessary authorizations from the*

*regulatory agencies for proposed impacts to jurisdictional waters. Authorizations may include, but are not limited to, a Section 404 permit from the Corps, a Section 401 Water Quality Certification from the Regional Board, and a Section 1602 Streambed Alteration Agreement from CDFW.*

As previously noted, the project site does not support any discernible drainage courses, inundated areas, wetland features, or hydric soils that would be considered jurisdictional by the Corps, Regional Board, or CDFW. Therefore, project activities will not result in impacts to Corps, Regional Board, or CDFW jurisdictional areas and regulatory approvals will not be required. Therefore, compliance with PVCCSP EIR MM Bio 3 is not applicable.

*MM Bio 4: Project specific mapping of riparian and unvegetated riverine features will be required for implementing projects pursuant to Section 6.1.2 of the MSHCP. For areas not excluded as artificially created, the MSHCP requires 100 percent avoidance of riparian/riverine areas. If for any implementing project avoidance is not feasible, then such implementing projects will require the approval of a DBESP including appropriate mitigation to offset the loss of functions and values as they pertain to the MSHCP covered species. Riparian vegetation will also need to be evaluated for the least Bell's vireo, southwestern willow flycatcher, and western yellow-billed cuckoo.*

As previously noted, no jurisdictional drainage features, riparian/riverine areas, or vernal pools were observed within the project site during the field survey. Therefore, development of the proposed project will not result in impacts to riparian/riverine habitats and a DBESP will not be required for the loss of riparian/riverine habitat from development of the proposed project. Additionally, the project site and immediately surrounding area does not support riparian vegetation with the potential to support least Bell's vireo, southwestern willow flycatcher, and western yellow-billed cuckoo. Therefore, compliance with PVCCSP EIR MM Bio 4 is not applicable.

*MM Bio 5: Project specific mapping of vernal pools for implementing projects will be required pursuant to Section 6.1.2 of the MSHCP. For areas not excluded as artificially created, the MSHCP requires 100 percent avoidance of vernal pools. If for any implementing project avoidance is not feasible, then such implementing projects will require the approval of a DBESP including appropriate mitigation to offset the loss of functions and values as they pertain to the MSHCP and covered species. Vernal pools and other seasonal ponding depressions will also need to be evaluated for listed fairy shrimp.*

None of the clay soils known to support vernal pools or be associated with listed and special-status species within the MSHCP have been documented within the project site. Further, a review of aerial photographs of the project site and its immediate vicinity did not provide visual evidence of an astatic or vernal pool conditions within the project site. Therefore, it was concluded that there is no indication of vernal pools or suitable fairy shrimp habitat occurring within the proposed project site. Therefore, compliance with PVCCSP EIR MM Bio 5 is not applicable.

*MM Bio 6: Within areas of suitable habitat associated with Narrow Endemic Plant Species Survey Areas (NEPSSA) and Criteria Area Plant Species Survey Area (CAPSSA), focused plant surveys will be required for implementing projects. The MSHCP requires at least 90 percent avoidance of areas providing long-term conservation value for the NEPSSA and CAPSSA target species. If*

*avoidance is not feasible, then such implementing projects will require approval of a DBESP including appropriate mitigation.*

The project site is not located within a NEPSSA or CAPSSA designated survey area. Further, on-site disturbances have resulted in a majority of the project site being dominated by early successional and non-native vegetation, which has reduced, if not eliminated, the ability of the project site to provide suitable habitat for special-status plant species. Based on habitat requirements for specific species and the availability and quality of on-site habitat, it was determined that the project site does not provide suitable habitat for NEPSSA or CAPSSA plant species. Therefore, compliance with PVCCSP EIR MM Bio 6 is not applicable.

### **Stephen's Kangaroo Rat Habitat Conservation Plan**

Separate from the consistency review against the policies of the MSHCP, Riverside County established a boundary in 1996 for protecting the Stephens' kangaroo rat (*Dipodomys stephensi*), a federally endangered and state threatened species. The Stephens' kangaroo rat is protected under the Stephens' Kangaroo Rat Habitat Conservation Plan (County Ordinance No. 663.10; SKR HCP). As described in the MSHCP Implementation Agreement, a Section 10(a) Permit, and California Fish and Game Code Section 2081 Management Authorization were issued to the Riverside County Habitat Conservation Agency (RCHCA) for the Long-Term SKR HCP and was approved by the USFWS and CDFW in August 1990 (RCHCA 1996). Relevant terms of the SKR HCP have been incorporated into the MSHCP and its Implementation Agreement. The SKR HCP will continue to be implemented as a separate HCP; however, to provide the greatest conservation for the largest number of Covered Species, the Core Reserves established by the SKR HCP are managed as part of the MSHCP Conservation Area consistent with the SKR HCP. Actions shall not be taken as part of the implementation of the SKR HCP that will significantly affect other Covered Species. Take of Stephens' kangaroo rat outside of the boundaries but within the MSHCP area is authorized under the MSHCP and the associated permits.

The project site is located within the Mitigation Fee Area of the SKR HCP. Therefore, the applicant will be required to pay the SKR HCP Mitigation Fee prior to development of the project site.

### **Conclusion**

Based on the literature review and field survey, implementation of the project will have no significant impacts on federally, State, or MSHCP listed species known to occur in the general vicinity of the project site. Additionally, the project will have no effect on designated Critical Habitat because none exists within the area. No jurisdictional drainage and/or wetland features were observed on the project site during the field investigation. Additionally, the project site is not located within or adjacent to any criteria cell, and no riparian/riverine resources or vernal pools were found onsite. Therefore, the proposed project is consistent with Section 6.1.2 of the MSHCP. Additionally, compliance with the above mitigation measures from the PVCCSP EIR will also ensure compliance with the MSHCP and no further surveys are recommended. With completion of recommendations, and payment of the MSHCP Local Development Mitigation Fee, and Stephen's kangaroo rat mitigation fee, development of the project site is fully consistent with the MSHCP.

Please do not hesitate to contact Tom McGill at (951) 285-6014 or [tmcgill@elmtconsulting.com](mailto:tmcgill@elmtconsulting.com) or Travis McGill at (909) 816-1646 or [travismcgill@elmtconsulting.com](mailto:travismcgill@elmtconsulting.com) should you have any questions regarding

this report.

Sincerely,



Thomas J. McGill, Ph.D.  
Managing Director



Travis J. McGill  
Director

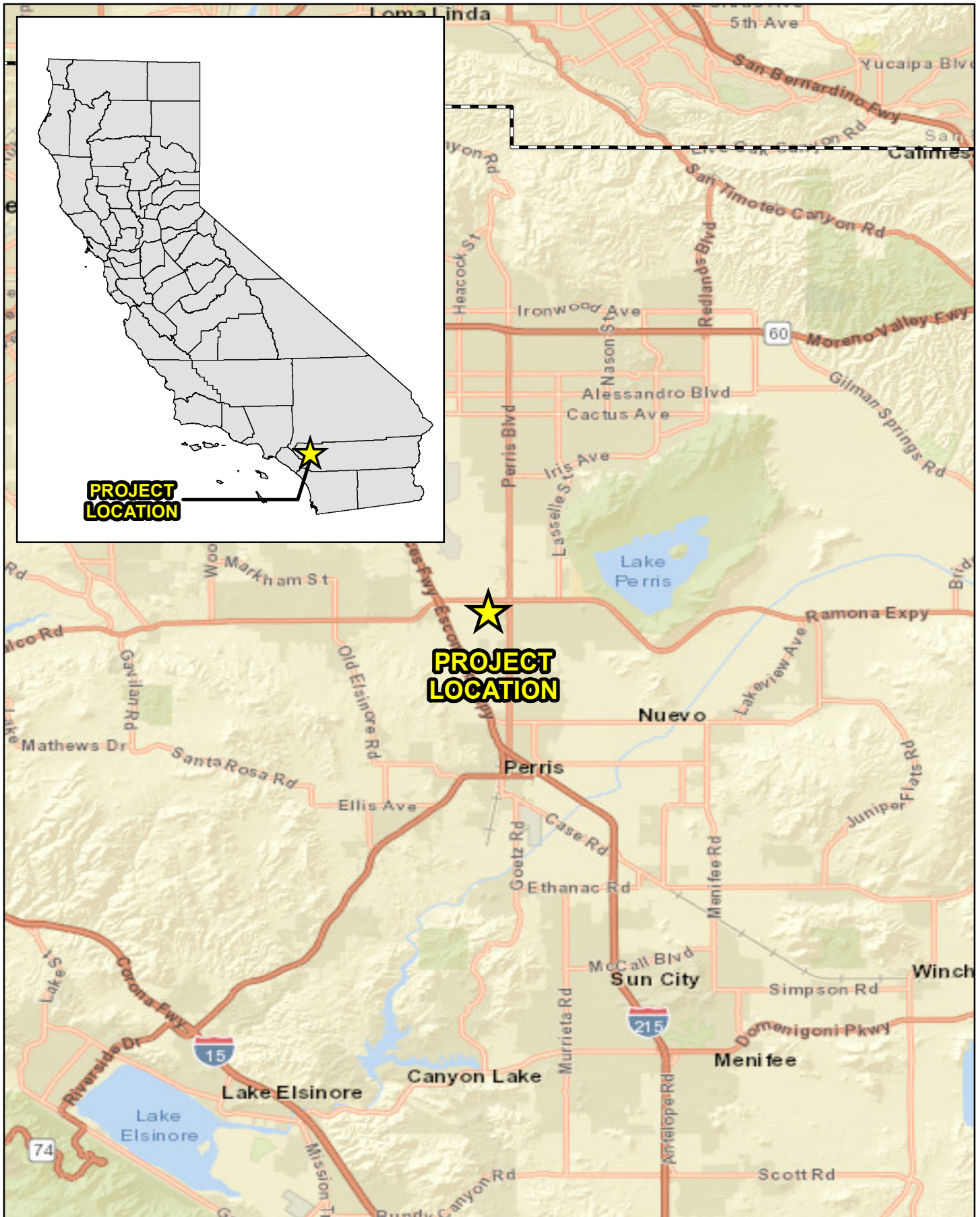
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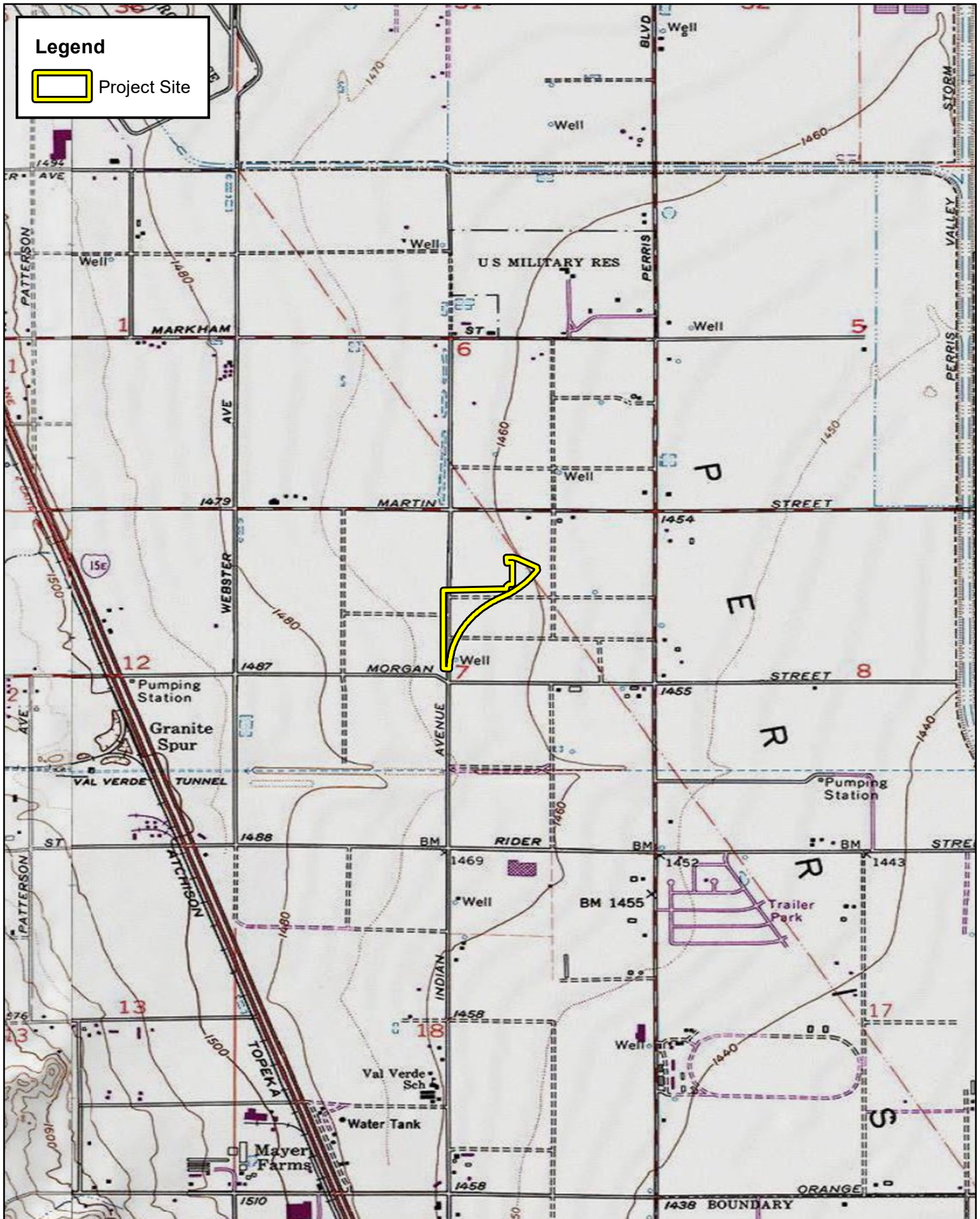
- A. *Project Exhibits*
- B. *Conceptual Site Plan*
- C. *Site Photographs*
- D. *Potentially Occurring Special-Status Biological Resources*
- E. *Regulations*

## **Attachment A**

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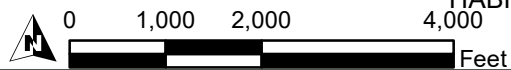
Project Exhibits





LOWE'S EXPANSION PROJECT  
HABITAT ASSESSMENT AND MSHCP CONSISTENCY ANALYSIS

Site Vicinity



Source: USA Topographic Map, Riverside County

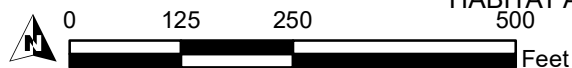






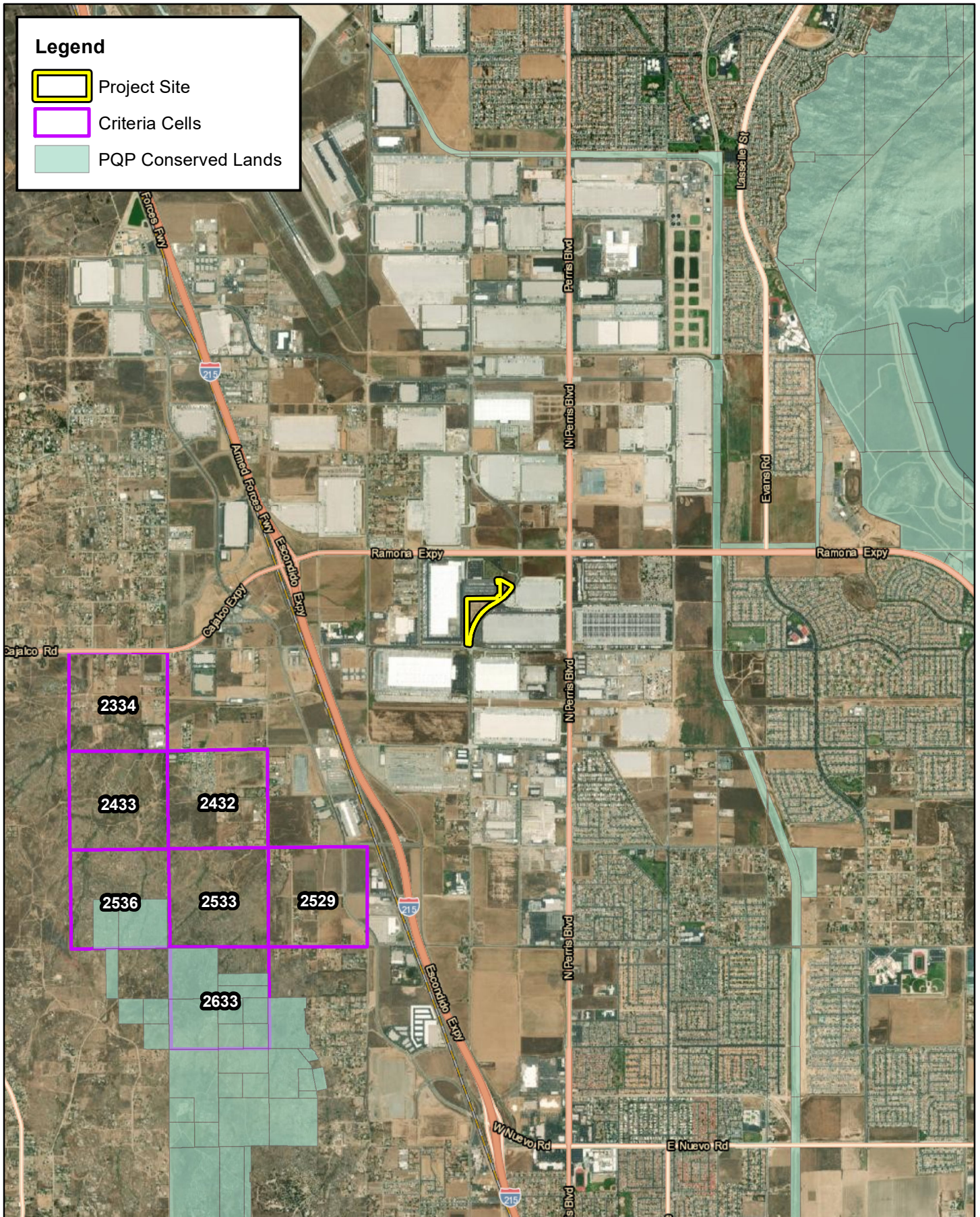
LOWE'S EXPANSION PROEJCT  
 HABITAT ASSESSMENT AND MSHCP CONSISTENCY ANALYSIS

Vegetation



Source: ESRI Aerial Imagery, Riverside County





**Legend**

- Project Site
- Criteria Cells
- PQP Conserved Lands

## **Attachment B**

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Conceptual Site Plan



### LEGEND

	PROPERTY LINE
	SETBACK LINE
	PROPOSED STORM DRAIN LINE
	AMENDED PARKING SPACE COUNT
	ASPHALT PAVING
	CONCRETE SIDEWALK

### PARKING SUMMARY

PARKING TABLE:	EXISTING	PROPOSED
STANDARD	1076	1620
ACCESSIBLE	0	0
TOTAL:	1076	1620

### DATA SUMMARY

ZONING DISTRICT:	LIGHT INDUSTRIAL (L)		
APN:	303-060-016, 303-070-007, AND 303-030-019		
LAND USE:	INDUSTRIAL		
SCHOOL DISTRICT:	VAN VERDE UNIFIED SCHOOL DISTRICT		
FLOOD ZONE:	ZONE X - AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE (FEMA MAP NO: 06085C14304)		
TOTAL DISTURBED AREA:	482,432 S.F.	(11.08 AC)	
LOT COVERAGE:			
TOTAL SITE AREA:	4,691,848 S.F.	(107.71 AC)	100%
BUILDING AREA:	±1,227,366 S.F.	(28.18 AC)	26.2%
NEW LANDSCAPE AREA:	35,526 S.F.	(0.81 AC)	0.8%
FLOOR AREA RATIO:			26.2%
SETBACKS:			
FRONT:	10.0'		
REAR:	0'		
SIDE:	0'		

### DRAINAGE STATEMENT

STORMWATER RUNOFF GENERATED WITHIN THE ADDITIONAL PARKING FIELD AREA WILL BE CAPTURED BY THE PROPOSED GRATE INLETS, AND ROUTED VIA PROPOSED STORM DRAIN PIPE INTO THE EXISTING DETENTION BASIN TO THE EAST OF THE EXISTING LOWE'S DISTRIBUTION CENTER.

### NOTES

ADDITIONAL SITE LIGHTING TO BE PROVIDED WITHIN ADDITIONAL PARKING FIELD AREA.

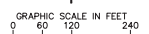
### OWNER

LOWE'S  
1000 LOWES BOULEVARD  
MOORESVILLE, NC 28117  
(704) 788-4765

### APPLICANT

THOMAS KIM, P.E. REG. 90376  
765 THE CITY DRIVE SOUTH, SUITE 200  
ORANGE, CA 92668  
(714) 786-6297

LOWE'S DISTRIBUTION CENTER TI - PERRIS  
3984 INDIAN AVENUE, PERRIS, CA 92571  
CONCEPTUAL SITE PLAN - 09/16/2020



SCALE: 1" = 120'  
WHEN PRINTED AT FULL  
SIZE 24"x36"

## **Attachment C**

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Site Photographs



**Photograph 1:** From the southern boundary of the project site looking north.



**Photograph 2:** From the western boundary of the project site looking northeast across the southern portion.



**Photograph 3:** From the eastern boundary of the project site looking east across the middle portion.



**Photograph 4:** Looking south across the middle of the project site.



**Photograph 5:** Looking west across the northern portion of the project site.



**Photograph 6:** Looking south across the northern portion of the western boundary of the project site.



**Photograph 7:** Looking north across the northern portion of the project site.

## **Attachment D**

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Potentially Occurring Special-Status Biological Resources

Table D-1: Potentially Occurring Special-Status Biological Resources

Scientific Name Common Name	Status	Habitat	Covered by MSHCP	Observed On-site	Potential to Occur
<b>WILDLIFE SPECIES</b>					
<i>Accipiter cooperii</i> Cooper's hawk	Fed: None CA: WL	Generally found in forested areas up to 3,000 feet in elevation, especially near edges and rivers. Prefers hardwood stands and mature forests, but can be found in urban and suburban areas where there are tall trees for nesting. Common in open areas during nesting season.	Yes	No	<b>Low.</b> Minimal foraging habitat is present on-site. This species is adapted to urban environments and occurs commonly. The project site does not provide suitable nesting opportunities.
<i>Accipiter striatus</i> sharp-shinned hawk	Fed: None CA: WL	Found in pine, fir and aspen forests. They can be found hunting in forest interior and edges from sea level to near alpine areas. Can also be found in rural, suburban and agricultural areas, where they often hunt at bird feeders. Typically found in southern California in the winter months.	Yes	No	<b>Low.</b> Minimal foraging habitat is present on-site. This species is adapted to urban environments and occurs commonly. The project site does not provide suitable nesting opportunities.
<i>Agelaius tricolor</i> tricolored blackbird	Fed: None CA: THR/SSC	Range is limited to the coastal areas of the Pacific coast of North America, from Northern California to upper Baja California. Can be found in a wide variety of habitat including annual grasslands, wet and dry vernal pools and other seasonal wetlands, agricultural fields, cattle feedlots, and dairies. Occasionally forage in riparian scrub habitats along marsh borders. Basic habitat requirements for breeding include open accessible water, protected nesting substrate (freshwater marsh dominated by cattails, willows, and bulrushes [ <i>Schoenoplectus</i> sp.]), and either flooded or thorny or spiny vegetation and suitable foraging space providing adequate insect prey.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Aimophila ruficeps canescens</i> southern California rufous-crowned sparrow	Fed: None CA: WL	Typically found between 3,000 and 6,000 feet in elevation. Breed in sparsely vegetated scrubland on hillsides and canyons. Prefers coastal sage scrub dominated by California sagebrush ( <i>Artemisia californica</i> ), but they can also be found breeding in coastal bluff scrub, low-growing serpentine chaparral, and along the edges of tall chaparral habitats.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.

Scientific Name Common Name	Status	Habitat	Covered by MSHCP	Observed On-site	Potential to Occur
<i>Ammodramus savannarum</i> grasshopper sparrow	Fed: None CA: SSC	Occurs in grassland, upland meadow, pasture, hayfield, and old field habitats. Optimal habitat contains short- to medium-height bunch grasses interspersed with patches of bare ground, a shallow litter layer, scattered forbs, and few shrubs. May inhabit thickets, weedy lawns, vegetated landfills, fence rows, open fields, or grasslands.	Yes (e)	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Anniella stebbinsi</i> southern California legless lizard	Fed: None CA: SSC	Occurs in sparsely vegetated habitat types including coastal sand dunes, chaparral, pine-oak woodland, desert scrub, open grassland, and riparian areas. Requires sandy or loose loamy substrates conducive to burrowing.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Aquila chrysaetos</i> golden eagle	Fed: None CA: FP; WL	Occupies nearly all terrestrial habitats of the western states except densely forested areas. Favors secluded cliffs with overhanging ledges and large trees for nesting and cover. Hilly or mountainous country where takeoff and soaring are supported by updrafts is generally preferred to flat habitats. Deeply cut canyons rising to open mountain slopes and crags are ideal habitat.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Ardea alba</i> great egret	Fed: None CA: None	Yearlong resident throughout California, except for the high mountains and deserts. Feeds and rests in fresh, and saline emergent wetlands, along the margins of estuaries, lakes, and slow-moving streams, on mudflats and salt ponds, and in irrigated croplands and pastures.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Ardea herodias</i> great blue heron	Fed: None CA: None	Forages along streams, marshes, lakes, and meadows. Nests colonially in tall trees (typically Eucalyptus sp.), on cliffsides, or in isolated spots in marshes.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Arizona elegans occidentalis</i> California glossy snake	Fed: None CA: SSC	Inhabits arid scrub, rocky washes, grasslands, and chaparral habitats.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Artemisospiza belli belli</i> Bell's sparrow	Fed: None CA: WL	Generally prefers semi-open habitats with evenly spaced shrubs 1 – 2 meters in height. Dry chaparral and coastal sage scrub. Less common in tall dense, old chaparral.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.

<i>Scientific Name</i> Common Name	Status	Habitat	Covered by MSHCP	Observed On-site	Potential to Occur
<i>Asio otus</i> long-eared owl	Fed: None CA: SSC	Hunts mostly at night over grasslands and other open habitats. Nesting occurs in dense trees such as oaks and willows where it occupies stick nests of other species, particularly raptors or corvids.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Aspidoscelis hyperythra</i> orangethroat whiptail	Fed: None CA: WL	Semi-arid brushy areas typically with loose soil and rocks, including washes, streamsides, rocky hillsides, and coastal chaparral.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Aspidoscelis tigris stejnegeri</i> coastal whiptail	Fed: None CA: SCC	Found in a variety of ecosystems, primarily hot and dry open areas with sparse foliage - chaparral, woodland, and riparian areas.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Athene cunicularia</i> burrowing owl	Fed: None CA: SSC	Occurs in open, annual or perennial grasslands, deserts, and scrublands characterized by low-growing vegetation. Dependent upon fossorial mammals for burrows, most notable ground squirrels.	Yes (c)	No	<b>Presumed absent.</b> The project site provides line-of-sight opportunities favored by burrowing owls; however, no suitable burrows (>4 inches in diameter) were observed. Further, the site supports and is surrounded by tall structures and poles that provide perching opportunities for predators of burrowing owl.
<i>Aythya americana</i> redhead	Fed: None CA: SSC	Typically found in shallow freshwater lakes, ponds, and marshes.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Bombus crotchii</i> Crotch bumblebee	Fed: None CA: CE	Exclusive to coastal California east towards the Sierra-Cascade Crest; less common in western Nevada.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Bombus pensylvanicus</i> American bumble bee	Fed: None CA: None	Typical habitat is farmlands and open fields, where they nest below the grass or underground.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.

Scientific Name Common Name	Status	Habitat	Covered by MSHCP	Observed On-site	Potential to Occur
<i>Buteo regalis</i> ferruginous hawk	Fed: None CA: WL	Occurs primarily in open grasslands and fields, but may be found in sagebrush flats, desert scrub, low foothills, or along the edges of pinyon-juniper woodland. Feeds primarily on small mammals and typically found in agricultural or open fields.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Buteo swainsoni</i> Swainson's hawk	Fed: None CA: <b>THR</b>	Typical habitat is open desert, grassland, or cropland containing scattered, large trees or small groves. Breeds in stands with few trees in juniper-sage flats, riparian areas, and in oak savannah in the Central Valley. Forages in adjacent grassland or suitable grain or alfalfa fields or livestock pastures.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Calypte costae</i> Costa's hummingbird	Fed: None CA: None	Desert and semi-desert, arid brushy foothills and chaparral. A desert hummingbird that breeds in the Sonoran and Mojave Deserts. Departs desert heat moving into chaparral, scrub, and woodland habitats.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Chaetodipus californicus femoralis</i> Dulzura pocket mouse	Fed: None CA: SSC	Occurs in desert and coastal habitats in southern California, Mexico, and northern Baja California, from sea level to at least 1,400 meters. Found in a variety of temperate habitats ranging from chaparral and grasslands to scrub forests and deserts. Requires low growing vegetation or rocky outcroppings, as well as sandy soils for burrowing.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Chaetodipus fallax fallax</i> northwestern San Diego pocket mouse	Fed: None CA: SSC	Occurs in desert and coastal habitats in southern California, Mexico, and northern Baja California, from sea level to at least 1,400 meters. Found in a variety of temperate habitats ranging from chaparral and grasslands to scrub forests and deserts. Requires low growing vegetation or rocky outcroppings, as well as sandy soils for burrowing.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Chaetura vauxi</i> Vaux's swift	Fed: None CA: SSC	Prefers redwood and Douglas-fir habitats with nest-sites in large hollow trees and snags, especially tall, burned-out snags. Fairly common migrant throughout most of the state in April and May, and August and September.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Charadrius montanus</i> mountain plover	Fed: None CA: SSC	Found in short grasslands, freshly-plowed fields, newly-sprouting grain fields, and sometimes in sod farms. Prefers short vegetation or bare ground with flat topography, particularly grazed areas or areas with fossorial rodents.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.

<i>Scientific Name</i> Common Name	Status	Habitat	Covered by MSHCP	Observed On-site	Potential to Occur
<i>Circus hudsonius</i> northern harrier	Fed: None CA: SSC	Frequents meadows, grasslands, open rangelands, desert sinks, fresh and saltwater emergent wetlands; seldom found in wooded areas. Mostly found in flat, or hummocky, open areas of tall, dense grasses moist or dry shrubs, and edges for nesting, cover, and feeding.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Coleonyx variegatus abbotti</i> San Diego banded gecko	Fed: None CA: SCC	Occurs in coastal and cismontane southern California from interior Ventura County south, although it is absent from the extreme outer coast. It is uncommon in coastal scrub and chaparral, most often occurring in granite or rocky outcrops in these habitats.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Crotalus ruber</i> red-diamond rattlesnake	Fed: None CA: SSC	It can be found from the desert, through dense chaparral in the foothills (it avoids the mountains above around 4,000 feet), to warm inland mesas and valleys, all the way to the cool ocean shore. It is most commonly associated with heavy brush with large rocks or boulders. Dense chaparral in the foothills, cactus or boulder associated coastal sage scrub, oak and pine woodlands, and desert slope scrub associations are known to carry populations of the northern red-diamond rattlesnake; however, chamise and red shank associations may offer better structural habitat for refuges and food resources for this species than other habitats.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Diadophis punctatus modestus</i> San Bernardino ringneck snake	Fed: None CA: None	Common in open, relatively rocky areas within valley-foothill, mixed chaparral, and annual grass habitats.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Diadophis punctatus similis</i> San Diego ringneck snake	Fed: None CA: None	Prefers moist habitats, including wet meadows, rocky hillsides, gardens, farmland, grassland, chaparral, mixed coniferous forests, and woodlands.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Dipodomys simulans</i> Dulzura kangaroo rat	Fed: None CA: None	Typical habitat is open desert, grassland, or cropland containing scattered, large trees or small groves. Breeds in stands with few trees in juniper-sage flats, riparian areas, and in oak savannah in the Central Valley. Forages in adjacent grassland or suitable grain or alfalfa fields or livestock pastures.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.

Scientific Name Common Name	Status	Habitat	Covered by MSHCP	Observed On-site	Potential to Occur
<i>Dipodomys stephensi</i> Stephens' kangaroo rat	Fed: <b>END</b> CA: <b>THR</b>	Occur in arid and semi-arid habitats with some grass or brush. Prefer open habitats with less than 50% protective cover. Require soft, well-drained substrate for building burrows and are typically found in areas with sandy soil.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Egretta thula</i> snowy egret	Fed: None CA: None	Widespread in California along shores of coastal estuaries, fresh and saline emergent wetlands, ponds, slow-moving rivers, irrigation ditches, and wet fields. In southern California, common yearlong in the Imperial Valley and along the Colorado River.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Elanus leucurus</i> white-tailed kite	Fed: None CA: FP	Occurs in low elevation, open grasslands, savannah-like habitats, agricultural areas, wetlands, and oak woodlands. Uses trees with dense canopies for cover.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Empidonax traillii</i> willow flycatcher	Fed: None CA: <b>END</b>	Occurs in riparian woodlands in southern California. Typically requires large areas of willow thickets in broad valleys, canyon bottoms, or around ponds and lakes. These areas typically have standing or running water, or are at least moist.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Empidonax traillii extimus</i> southwestern willow flycatcher	Fed: <b>END</b> CA: <b>END</b>	Occurs in riparian woodlands in southern California. Typically requires large areas of willow thickets in broad valleys, canyon bottoms, or around ponds and lakes. These areas typically have standing or running water, or are at least moist.	Yes (a)	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Emys marmorata</i> western pond turtle	Fed: None CA: SSC	Found in ponds, lakes, rivers, streams, creeks, marshes, and irrigation ditches, with abundant vegetation, either rocky or muddy bottoms, in woodland, forest, and grassland. In streams, prefers pools to shallower areas. Logs, rocks, cattail mats, and exposed banks are required for basking. May enter brackish water and even seawater. Found at elevations from sea level to over 5,900 feet (1,800 m).	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Eremophila alpestris actia</i> California horned lark	Fed: None CA: WL	Generally found in shortgrass prairies, grasslands, disturbed fields, or similar habitat types along the coast or in deserts. Trees and shrubs are usually scarce or absent. Generally rare in montane, coniferous, or chaparral habitats. Forms large flocks outside of the breeding season.	Yes	Yes	<b>Low</b> Vegetation on site provides foraging opportunities but no nesting habitat is present.

Scientific Name Common Name	Status	Habitat	Covered by MSHCP	Observed On-site	Potential to Occur
<i>Eumops perotis californicus</i> western mastiff bat	Fed: None CA: SSC	Primarily a cliff-dwelling species, roost generally under exfoliating rock slabs. Roosts are generally high above the ground, usually allowing a clear vertical drop of at least 3 meters below the entrance for flight. In California, it is most frequently encountered in broad open areas. Its foraging habitat includes dry desert washes, flood plains, chaparral, oak woodland, open ponderosa pine forest, grassland, and agricultural areas.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Falco columbarius</i> merlin	Fed: None CA: WL	Nest in forested openings, edges, and along rivers across northern North America. Found in open forests, grasslands, and especially coastal areas with flocks of small songbirds or shorebirds.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Falco mexicanus</i> prairie falcon	Fed: None CA: WL	Commonly occur in arid and semiarid shrubland and grassland community types. Also occasionally found in open parklands within coniferous forests. During the breeding season, they are found commonly in foothills and mountains which provide cliffs and escarpments suitable for nest sites.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Falco peregrinus anatum</i> American peregrine falcon	Fed: DL CA: DL; FP	Uncommon winter resident of the inland region of southern California. Active nesting sites are known along the coast north of Santa Barbara, in the Sierra Nevada, and in other mountains of northern California. Breeds mostly in woodland, forest, and coastal habitats. Riparian areas and coastal and inland wetlands are important habitats yearlong, especially in nonbreeding seasons.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Haliaeetus leucocephalus</i> bald eagle	Fed: DL CA: <b>END</b> ; FP	Occur primarily at or near seacoasts, rivers, swamps, and large lakes. Need ample foraging opportunities, typically near a large water source.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Hydroprogne caspia</i> Caspian tern	Fed: None CA: None	Occurs near large lakes, coastal waters, beaches, and bays. Found on both fresh and salt water, favoring protected waters such as bays and lagoons, rivers, not usually foraging over open sea. Nests on open ground on islands, coasts.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.

<i>Scientific Name</i> Common Name	Status	Habitat	Covered by MSHCP	Observed On-site	Potential to Occur
<i>Icteria virens</i> yellow-breasted chat	Fed: None CA: SSC	Primarily found in tall, dense, relatively wide riparian woodlands and thickets of willows, vine tangles, and dense brush with well-developed understories. Nesting areas are associated with streams, swampy ground, and the borders of small ponds. Breeding habitat must be dense to provide shade and concealment. It winters south the Central America.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Lanius ludovicianus</i> loggerhead shrike	Fed: None CA: SSC	Often found in broken woodlands, shrublands, and other habitats. Prefers open country with scattered perches for hunting and fairly dense brush for nesting.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Larus californicus</i> California gull	Fed: None CA: WL	Require isolated islands in rivers, reservoirs and natural lakes for nesting, where predations pressures from terrestrial mammals are diminished. Uses both fresh and saline aquatic habitats at variable elevations and degrees of aridity for nesting and for opportunistic foraging.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Lasiurus xanthinus</i> western yellow bat	Fed: None CA: SSC	Roosts in palm trees in foothill riparian, desert wash, and palm oasis habitats with access to water for foraging.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Lepus californicus bennettii</i> San Diego black-tailed jackrabbit	Fed: None CA: None	Occurs in diverse habitats, but primarily is found in arid regions supporting shortgrass habitats. Openness of open scrub habitat is preferred over dense chaparral.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Lynx rufus pallescens</i> pallid bobcat	Fed: None CA: None	Found on the western edge of the great basin habitat in extreme northeast California. Live in a variety of habitats including forests, deserts, mountains, swamps and farmland.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Myotis yumanensis</i> Yuma myotis	Fed: None CA: None	Found in forests and woodlands near water. Roosts in caves, buildings, mines, and crevices.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Nannopterum auritum</i> double-crested cormorant	Fed: None CA: WL	Common yearlong resident in southern California. Occurs widely in freshwater and marine habitats along coastlines. Require open water where they can forage for schooling fish.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.

<i>Scientific Name</i> Common Name	Status	Habitat	Covered by MSHCP	Observed On-site	Potential to Occur
<i>Neolarra alba</i> white cuckoo bee	Fed: None CA: None	Found in dry, sandy areas (particularly deserts) in the American southwest near the host plants for <i>Perdita</i> bee species, of which it is a nest parasite.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Neotoma lepida intermedia</i> San Diego desert woodrat	Fed: None CA: SSC	Occurs in coastal scrub communities between San Luis Obispo and San Diego Counties. Prefers moderate to dense canopies, and especially rocky outcrops.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Numenius americanus</i> long-billed curlew	Fed: None CA: WL	Preferred winter habitats include large coastal estuaries, upland herbaceous areas, and croplands. On estuaries, feeding occurs mostly on intertidal mudflats.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Nycticorax nycticorax</i> black-crowned night heron	Fed: None CA: None	Fairly common, yearlong resident in lowlands and foothills throughout most of California, including the Salton Sea and Colorado River areas, and very common locally in large nesting colonies. Feeds along the margins of lacustrine, large riverine, and fresh and saline emergent habitats and rarely, on kelp beds in marine sub tidal habitats. Nests and roosts in dense-foliaged trees and dense emergent wetlands.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Nyctinomops femorosaccus</i> pocketed free-tailed bat	Fed: None CA: SSC	Often found in pinyon-juniper woodlands, desert scrub, desert succulent shrub, desert riparian, desert wash, alkali desert scrub, Joshua tree, and palm oasis.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Onychomys torridus ramona</i> southern grasshopper mouse	Fed: None CA: SSC	Inhabits alkali desert scrub and other desert scrub habitats, and to a lesser extent succulent shrubs, desert washes, desert riparian, coastal scrub, mixed chaparral, and sagebrush habitats. Generally rare in valley foothill and montane riparian habitats. Prefers low to moderate shrub cover and requires friable soils.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Pandion haliaetus</i> osprey	Fed: None CA: WL	Remain close to still or slow-moving bodies of water including oceans, rivers, lakes, mangroves, coastal wetlands, lagoons, reefs, estuaries and marshes. Generally nest in high places, such as trees, power poles, or cliffs.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.

Scientific Name Common Name	Status	Habitat	Covered by MSHCP	Observed On-site	Potential to Occur
<i>Pelecanus erythrorhynchos</i> American white pelican	Fed: None CA: SSC	Locally common winter resident of southern California. Typically forage in shallow inland waters, such as open areas in marshes and along lake or river edges. Also occur in shallow coastal marine habitats.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Pelecanus occidentalis californicus</i> California brown pelican	Fed: DL CA: DL; FP	Coastal areas, with nesting occurring on islands. Species found occasionally along Arizona's lakes and rivers. This species inhabits shallow inshore waters, estuaries and bays, avoiding the open sea. Its diet is comprised mostly of fish, causing great congregations in areas with abundant prey. Prey species include sardines and anchovies, but has been seen to take shrimps and carrion, and even nestling egrets. It regularly feeds by plunge-diving and is often the victim of kleptoparasites.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Perognathus longinervis brevinasus</i> Los Angeles pocket mouse	Fed: None CA: SSC	Occurs in lower elevation grasslands and coastal sage scrub communities in and around the Los Angeles Basin. Prefers open ground with fine sandy soils. May not dig extensive burrows, but instead will seek refuge under weeds and dead leaves instead.	Yes (c)	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Phrynosoma blainvillii</i> coast horned lizard	Fed: None CA: SSC	Occurs in a wide variety of vegetation types including coastal sage scrub, annual grassland, chaparral, oak woodland, riparian woodland and coniferous forest. In inland areas, this species is restricted to areas with pockets of open microhabitat, created by disturbance (i.e. fire, floods, roads, grazing, fire breaks). The key elements of such habitats are loose, fine soils with a high sand fraction; an abundance of native ants or other insects; and open areas with limited overstory for basking and low, but relatively dense shrubs for refuge.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Plegadis chihi</i> white-faced ibis	Fed: None CA: WL	Prefers to feed in fresh emergent wetland, shallow lacustrine waters, muddy ground of wet meadows, and irrigated or flooded pastures and croplands. Nests in dense, fresh emergent wetland.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.

Scientific Name Common Name	Status	Habitat	Covered by MSHCP	Observed On-site	Potential to Occur
<i>Poliophtila californica californica</i> coastal California gnatcatcher	Fed: <b>THR</b> CA: <b>SSC</b>	Obligate resident of sage scrub habitats that are dominated by California sagebrush ( <i>Artemisia californica</i> ). This species generally occurs below 750 feet elevation in coastal regions and below 1,500 feet inland. Ranges from the Ventura County, south to San Diego County and northern Baja California and it is less common in sage scrub with a high percentage of tall shrubs. Prefers habitat with more low-growing vegetation.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Pyrocephalus rubinus</i> vermillion flycatcher	Fed: None CA: <b>SSC</b>	Occupies desert riparian habitat, particularly cottonwoods, willows, mesquite, and other large desert riparian trees, in habitat adjacent to irrigated fields, irrigation ditches, pastures, and other open, mesic areas where it can forage.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Salvadora hexalepis virgultea</i> coast patch-nosed snake	Fed: None CA: <b>SSC</b>	Found in brushy or shrubby vegetation along the coast and requires small mammal burrows for refuge and overwintering.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Setophaga petechia</i> yellow warbler	Fed: None CA: <b>SSC</b>	Nests over all of California except the Central Valley, the Mojave Desert region, and high altitudes and the eastern side of the Sierra Nevada. Winters along the Colorado River and in parts of Imperial and Riverside Counties. Nests in riparian areas dominated by willows, cottonwoods, sycamores, or alders or in mature chaparral. May also use oaks, conifers, and urban areas near stream courses.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Spea hammondi</i> western spadefoot	Fed: None CA: <b>SSC</b>	Prefers open areas with sandy or gravelly soils, in a variety of habitats including mixed woodlands, grasslands, coastal sage scrub, chaparral, sandy washed, lowlands, river floodplains, alluvial fans, playas, alkali flats, foothills, and mountains. Rainpools which do not contain bullfrogs, fish, or crayfish are necessary for breeding.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Spinus lawrencei</i> Lawrence's goldfinch	Fed: None CA: None	Open woodlands, chaparral, and weedy fields. Closely associated with oaks. Nests in open oak or other arid woodland and chaparral near water.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.

Scientific Name Common Name	Status	Habitat	Covered by MSHCP	Observed On-site	Potential to Occur
<i>Spizella breweri</i> Brewer's sparrow	Fed: None CA: None	Nests and forages in shrublands, but also found foraging in shrubs, low vegetation, and on the ground.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Streptocephalus woottoni</i> Riverside fairy shrimp	Fed: <b>END</b> CA: None	Freshwater crustacean that is found in vernal pools in the coastal California area.	Yes (a)	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Taxidea taxus</i> American badger	Fed: None CA: SSC	Primarily occupy grasslands, parklands, farms, tallgrass and shortgrass prairies, meadows, shrub-steppe communities and other treeless areas with sandy loam soils where it can dig more easily for its prey. Occasionally found in open chaparral (with less than 50% plant cover) and riparian zones.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Vireo bellii pusillus</i> least Bell's vireo	Fed: <b>END</b> CA: <b>END</b>	Primarily occupy Riverine riparian habitat that typically feature dense cover within 1 -2 meters of the ground and a dense, stratified canopy. Typically it is associated with southern willow scrub, cottonwood-willow forest, mule fat scrub, sycamore alluvial woodlands, coast live oak riparian forest, arroyo willow riparian forest, or mesquite in desert localities. It uses habitat which is limited to the immediate vicinity of water courses, 2,000 feet elevation in the interior.	Yes (a)	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Xanthocephalus xanthocephalus</i> yellow-headed blackbird	Fed: None CA: SSC	Occurs in freshwater emergent wetlands, and moist, open areas along croplands and mud flats of lacustrine habitats. Prefers to nest in dense wetland vegetation characterized by tules, cattails, or other similar plant species along the border of lakes and ponds.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<b>PLANT SPECIES</b>					
<i>Abronia villosa</i> var. <i>aurita</i> chaparral sand-verbena	Fed: None CA: None CNPS: 1B.1	Grows in sandy soils in coastal sage scrub and in chaparral habitats. Grows in elevation from 262 to 5,249 feet. Blooming period ranges from January to September.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Atriplex coronata</i> var. <i>notatior</i> San Jacinto Valley crownscale	Fed: None CA: None CNPS: 1B.1	Grows in alkaline conditions within playas, mesic valley and foothill grasslands, and vernal pools. Found at elevations ranging from 456 to 1,640 feet. Blooming period is from April to August.	Yes (d)	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.

Scientific Name Common Name	Status	Habitat	Covered by MSHCP	Observed On-site	Potential to Occur
<i>Atriplex parishii</i> Parish's brittle scale	Fed: None CA: None CNPS: 1B.1	Habitat types include chenopod scrub, playas, and vernal pools. Found at elevations ranging from 82 to 6,234 feet. Blooming period is from June to October.	Yes (d)	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Atriplex serenana</i> var. <i>davidsonii</i> Davidson's salt scale	Fed: None CA: None CNPS: 1B.2	Grows in alkaline soils within coastal bluff scrub and coastal scrub. Found at elevations ranging from 33 to 656 feet. Blooming period is from April to October.	Yes (d)	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Brodiaea filifolia</i> thread-leaved brodiaea	Fed: <b>THR</b> CA: <b>END</b> CNPS: 1B.1	Grows in chaparral openings, cismontane woodland, coastal scrub, playas, valley and foothill grassland, and vernal pools, often in clay soils. Found at elevations ranging from 82 to 3,675 feet. Blooming period is from March to June.	Yes (d)	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Caulanthus simulans</i> Payson's jewelflower	Fed: None CA: None CNPS: 4.2	Occurs on granitic sandy soils in chaparral and coastal scrub habitats. Found at elevations ranging from 295 to 7,218 feet. Blooming period is from February to June.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Centromadia pungens</i> <i>ssp. laevis</i> smooth tarplant	Fed: None CA: None CNPS: 1B.1	Found in alkaline soils within chenopod scrub, meadows and seeps, playas, riparian woodland, valley and foothill grassland habitats. Found at elevations ranging from 0 to 2,100 feet. Blooming period is from April to September.	Yes (d)	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Chorizanthe polygonoides</i> var. <i>longispina</i> long-spined spineflower	Fed: None CA: None CNPS: 1B.2	Typically found on clay lenses which are largely devoid of shrubs. Can be found on the periphery of vernal pool habitat and even on the periphery of montane meadows near vernal seeps. Found at elevations ranging from 98 to 5,020 feet. Blooming period is from April to July.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Deinandra paniculata</i> paniculate tarplant	Fed: None CA: None CNPS: 4.2	Typically found in vernal mesic, sometimes sandy soils in coastal scrub, valley and foothill grasslands, and vernal pools. Found at elevations ranging from 82 to 3,084 feet. Blooming period is from April to November.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Hordeum intercedens</i> vernal barley	Fed: None CA: None CNPS: 3.2	Found in coastal dunes, coastal scrub, vernal pools, and valley and foothill grassland habitats. Found at elevations ranging from 16 to 3,281 feet. Blooming period is from March to June.	Yes	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.

Scientific Name Common Name	Status	Habitat	Covered by MSHCP	Observed On-site	Potential to Occur
<i>Lasthenia glabrata</i> <i>ssp. coulteri</i> Coulter's goldfields	Fed: None CA: None CNPS: 1B.1	Prefers playas, vernal pools, and coastal salt marshes and swamps. Found at elevations ranging from 3 to 4,003 feet. Blooming period is from February to June.	Yes (d)	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Myosurus minimus</i> <i>ssp. Apus</i> little mousetail	Fed: None CA: None CNPS: 3.1	Occurs in alkaline soils in valley and foothill grassland and vernal pools. Found at elevations ranging from 66 to 2,100 feet. Blooming period is from March to June.	Yes(d)	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Navarretia fossalis</i> spreading navarretia	Fed: <b>THR</b> CA: None CNPS: 1B.1	Grows in chenopod scrub, assorted shallow freshwater marshes and swamps, playas, and vernal pools. Found at elevations ranging from 98 to 2,149 feet. Blooming period is from April to June.	Yes (b)	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Tortula californica</i> California screw moss	Fed: None CA: None CNPS: 1B.2	Found in chenopod scrub and valley and foothill grassland. Grows on sandy soil. Found at elevations ranging from 33 to 4,790 feet.	No	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.
<i>Trichocoronis wrightii</i> <i>var. wrightii</i> Wright's trichocoronis	Fed: None CA: None CNPS: 2B.1	Grows in alkaline soils in meadows and seeps, marshes and swamps, riparian forest, and vernal pools. Found at elevations ranging from 16 to 1,427 feet. Blooming period is from May to September.	Yes (b)	No	<b>Presumed absent.</b> No suitable habitat is present within or adjacent to the project site.

**U.S. Fish and Wildlife Service (Fed) - Federal**  
END- Federal Endangered  
THR- Federal Threatened

**California Department of Fish and Wildlife (CA) - California**  
END- California Endangered  
THR- California Threatened  
Candidate- Candidate for listing under the California Endangered Species Act  
FP- California Fully Protected  
SSC- Species of Special Concern  
WL- Watch List

**California Native Plant Society (CNPS) California Rare Plant Rank**  
1B Plants Rare, Threatened, or Endangered in California and Elsewhere  
2B Plants Rare, Threatened, or Endangered in California, But More Common Elsewhere  
3 Plants About Which More Information is Needed – A Review List  
4 Plants of Limited Distribution – A Watch List

**CNPS Threat Ranks**  
0.1- Seriously threatened in California  
0.2- Moderately threatened in California  
0.3- Not very threatened in California

**Western Riverside County MSHCP**  
Yes- Fully covered  
No- Not covered  
Yes (a)- May require surveys under MSHCP Section 6.1.2  
Yes (b)- May require surveys under MSHCP Section 6.1.3  
Yes (c)- May require surveys under MSHCP Section 6.3.2  
Yes (d)- May require surveys under MSHCP Section 6.3.2  
Yes (e)- Conditionally covered pending the achievement of species-specific conservation measures

## **Attachment E**

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Regulations

*Special status species are native species that have been afforded special legal or management protection because of concern for their continued existence. There are several categories of protection at both federal and state levels, depending on the magnitude of threat to continued existence and existing knowledge of population levels.*

## **Federal Regulations**

### ***Endangered Species Act of 1973***

Federally listed threatened and endangered species and their habitats are protected under provisions of the Federal Endangered Species Act (ESA). Section 9 of the ESA prohibits “take” of threatened or endangered species. “Take” under the ESA is defined as to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any of the specifically enumerated conduct.” The presence of any federally threatened or endangered species that are in a project area generally imposes severe constraints on development, particularly if development would result in “take” of the species or its habitat. Under the regulations of the ESA, the United States Fish and Wildlife Service (USFWS) may authorize “take” when it is incidental to, but not the purpose of, an otherwise lawful act.

Critical Habitat is designated for the survival and recovery of species listed as threatened or endangered under the ESA. Critical Habitat includes those areas occupied by the species, in which are found physical and biological features that are essential to the conservation of an ESA listed species and which may require special management considerations or protection. Critical Habitat may also include unoccupied habitat if it is determined that the unoccupied habitat is essential for the conservation of the species.

Whenever federal agencies authorize, fund, or carry out actions that may adversely modify or destroy Critical Habitat, they must consult with USFWS under Section 7 of the ESA. The designation of Critical Habitat does not affect private landowners, unless a project they are proposing uses federal funds, or requires federal authorization or permits (e.g., funding from the Federal Highway Administration or a permit from the U.S. Army Corps of Engineers (Corps)).

If USFWS determines that Critical Habitat will be adversely modified or destroyed from a proposed action, the USFWS will develop reasonable and prudent alternatives in cooperation with the federal institution to ensure the purpose of the proposed action can be achieved without loss of Critical Habitat. If the action is not likely to adversely modify or destroy Critical Habitat, USFWS will include a statement in its biological opinion concerning any incidental take that may be authorized and specify terms and conditions to ensure the agency is in compliance with the opinion.

### ***Migratory Bird Treaty Act***

The Migratory Bird Treaty Act (MBTA) (16 U.S. Government Code [USC] 703) makes it unlawful to pursue, capture, kill, possess, or attempt to do the same to any migratory bird or part, nest, or egg of any such bird listed in wildlife protection treaties between the United States, Great Britain, Mexico, Japan, and the countries of the former Soviet Union, and authorizes the U.S. Secretary of the Interior to protect and regulate the taking of migratory birds. It establishes seasons and bag limits for hunted species and protects migratory birds, their occupied nests, and their eggs (16 USC 703; 50 CFR 10, 21).

The MBTA covers the taking of any nests or eggs of migratory birds, except as allowed by permit pursuant to 50 CFR, Part 21. Disturbances causing nest abandonment and/or loss of reproductive effort (i.e., killing or abandonment of eggs or young) may also be considered “take.” This regulation seeks to protect migratory birds and active nests.

In 1972, the MBTA was amended to include protection for migratory birds of prey (e.g., raptors). Six families of raptors occurring in North America were included in the amendment: Accipitridae (kites, hawks, and eagles); Cathartidae (New World vultures); Falconidae (falcons and caracaras); Pandionidae (ospreys); Strigidae (typical owls); and Tytonidae (barn owls). The provisions of the 1972 amendment to the MBTA protects all species and subspecies of the families listed above. The MBTA protects over 800 species including geese, ducks, shorebirds, raptors, songbirds and many relatively common species.

## **State Regulations**

### ***California Environmental Quality Act (CEQA)***

The California Environmental Quality Act (CEQA) provides for the protection of the environment within the State of California by establishing State policy to prevent significant, avoidable damage to the environment through the use of alternatives or mitigation measures for projects. It applies to actions directly undertaken, financed, or permitted by State lead agencies. If a project is determined to be subject to CEQA, the lead agency will be required to conduct an Initial Study (IS); if the IS determines that the project may have significant impacts on the environment, the lead agency will subsequently be required to write an Environmental Impact Report (EIR). A finding of non-significant effects will require either a Negative Declaration or a Mitigated Negative Declaration instead of an EIR. Section 15380 of the CEQA Guidelines independently defines “endangered” and “rare” species separately from the definitions of the California Endangered Species Act (CESA). Under CEQA, “endangered” species of plants or animals are defined as those whose survival and reproduction in the wild are in immediate jeopardy, while “rare” species are defined as those who are in such low numbers that they could become endangered if their environment worsens.

### ***California Endangered Species Act (CESA)***

In addition to federal laws, the state of California implements the CESA which is enforced by CDFW. The CESA program maintains a separate listing of species beyond the FESA, although the provisions of each act are similar.

State-listed threatened and endangered species are protected under provisions of the CESA. Activities that may result in “take” of individuals (defined in CESA as; “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”) are regulated by CDFW. Habitat degradation or modification is not included in the definition of “take” under CESA. Nonetheless, CDFW has interpreted “take” to include the destruction of nesting, denning, or foraging habitat necessary to maintain a viable breeding population of protected species.

The State of California considers an endangered species as one whose prospects of survival and reproduction are in immediate jeopardy. A threatened species is considered as one present in such small numbers throughout its range that it is likely to become an endangered species in the near future in the

absence of special protection or management. A rare species is one that is considered present in such small numbers throughout its range that it may become endangered if its present environment worsens. State threatened and endangered species are fully protected against take, as defined above.

The CDFW has also produced a species of special concern list to serve as a species watch list. Species on this list are either of limited distribution or their habitats have been reduced substantially, such that a threat to their populations may be imminent. Species of special concern may receive special attention during environmental review, but they do not have formal statutory protection. At the federal level, USFWS also uses the label species of concern, as an informal term that refers to species which might be in need of concentrated conservation actions. As the Species of Concern designated by USFWS do not receive formal legal protection, the use of the term does not necessarily ensure that the species will be proposed for listing as a threatened or endangered species.

### ***Fish and Game Code***

Fish and Game Code Sections 3503, 3503.5, 3511, and 3513 are applicable to natural resource management. For example, Section 3503 of the Code makes it unlawful to destroy any birds' nest or any birds' eggs that are protected under the MBTA. Further, any birds in the orders Falconiformes or Strigiformes (Birds of Prey, such as hawks, eagles, and owls) are protected under Section 3503.5 of the Fish and Game Code which makes it unlawful to take, possess, or destroy their nest or eggs. A consultation with CDFW may be required prior to the removal of any bird of prey nest that may occur on a project site. Section 3511 of the Fish and Game Code lists fully protected bird species, where the CDFW is unable to authorize the issuance of permits or licenses to take these species. Pertinent species that are State fully protected by the State include golden eagle (*Aquila chrysaetos*) and white-tailed kite (*Elanus leucurus*). Section 3513 of the Fish and Game Code makes it unlawful to take or possess any migratory nongame bird as designated in the MBTA or any part of such migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the MBTA.

### ***Native Plant Protection Act***

Sections 1900–1913 of the Fish and Game Code were developed to preserve, protect, and enhance Rare and Endangered plants in the state of California. The act requires all state agencies to use their authority to carry out programs to conserve Endangered and Rare native plants. Provisions of the Native Plant Protection Act prohibit the taking of listed plants from the wild and require notification of the CDFW at least ten days in advance of any change in land use which would adversely impact listed plants. This allows the CDFW to salvage listed plant species that would otherwise be destroyed.

### ***California Native Plant Society Rare and Endangered Plant Species***

Vascular plants listed as rare or endangered by the CNPS, but which have no designated status under FESA or CESA are defined as follows:

#### California Rare Plant Rank

- 1A- Plants Presumed Extirpated in California and either Rare or Extinct Elsewhere
- 1B- Plants Rare, Threatened, or Endangered in California and Elsewhere

- 2A- Plants Presumed Extirpated in California, But More Common Elsewhere
- 2B- Plants Rare, Threatened, or Endangered in California, But More Common Elsewhere
- 3- Plants about Which More Information is Needed - A Review List
- 4- Plants of Limited Distribution - A Watch List

#### Threat Ranks

- .1- Seriously threatened in California (over 80% of occurrences threatened / high degree and immediacy of threat)
- .2- Moderately threatened in California (20-80% occurrences threatened / moderate degree and immediacy of threat)
- .3- Not very threatened in California (<20% of occurrences threatened / low degree and immediacy of threat or no current threats known).

#### **Local Policies**

##### ***Western Riverside County MSHCP***

The MSHCP is a comprehensive, multi-jurisdictional HCP focusing on conservation of species and their associated habitats in western Riverside County. The goal of the MSHCP is to maintain biological and ecological diversity within a rapidly urbanizing region.

The approval of the MSHCP and execution of the Implementing Agreement (IA) by the wildlife agencies allows signatories of the IA to issue “take” authorizations for all species covered by the MSHCP, including state- and federal-listed species as well as other identified sensitive species and/or their habitats. Each city or local jurisdiction will impose a Development Mitigation Fee for projects within their jurisdiction. With payment of the mitigation fee to the County and compliance with the survey requirements of the MSHCP where required, full mitigation in compliance with the California Environmental Quality Act (CEQA), National Environmental Policy Act (NEPA), CESA, and FESA will be granted. The Development Mitigation Fee varies according to project size and project description. The fee for industrial development is \$7,382 per acre (County Ordinance 810.2). Payment of the mitigation fee and compliance with the requirements of Section 6.0 of the MSHCP are intended to provide full mitigation under CEQA, NEPA, CESA, and FESA for impacts to the species and habitats covered by the MSHCP pursuant to agreements with the USFWS, the CDFW, and/or any other appropriate participating regulatory agencies and as set forth in the IA for the MSHCP.

*There are three key agencies that regulate activities within inland streams, wetlands, and riparian areas in California. The Corps Regulatory Branch regulates activities pursuant to Section 404 of the Federal Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act. Of the State agencies, the CDFG regulates activities under the Fish and Game Code Section 1600-1616, and the Regional Board regulates activities pursuant to Section 401 of the CWA and the California Porter-Cologne Water Quality Control Act.*

## **Federal Regulations**

### ***Section 404 of the Clean Water Act***

In accordance with the Revised Definition of “Waters of the United States” (March 20, 2023), “waters of the United States” are defined as follows:

The “waters of the United States” are defined in paragraph (a) of this rule:

- (1) traditional navigable waters, the territorial seas, and interstate waters;
- (2) impoundments of “waters of the United States”;
- (3) tributaries to traditional navigable waters, the territorial seas, interstate waters, or impoundments when the tributaries meet either the relatively permanent standard or the significant nexus standard (“jurisdictional tributaries”);
- (4) wetlands adjacent to traditional navigable waters; wetlands adjacent to and with a continuous surface connection to relatively permanent paragraph impoundments or to jurisdictional tributaries when the jurisdictional tributaries meet the relatively permanent standard; and wetlands adjacent to impoundments or jurisdictional tributaries when the wetlands meet the significant nexus standard (“jurisdictional adjacent wetlands”); and
- (5) intrastate lakes and ponds, streams, or wetlands not identified in (1) through (4) above that meet either the relatively permanent standard or the significant nexus standard.

The “relatively permanent standard” means relatively permanent, standing or continuously flowing waters connected to traditional navigable waters, and waters with a continuous surface connection to such relatively permanent waters or to traditional navigable waters. The “significant nexus standard” means waters that, either alone or in combination with similarly situated waters in the region, significantly affect the chemical, physical, or biological integrity of traditional navigable waters, the territorial seas, or interstate waters.

### ***Section 401 of the Clean Water Act***

Pursuant to Section 401 of the CWA, any applicant for a federal license or permit to conduct any activity which may result in any discharge to waters of the United States must provide certification from the State or Indian tribe in which the discharge originates. This certification provides for the protection of the physical, chemical, and biological integrity of waters, addresses impacts to water quality that may result from issuance of federal permits, and helps insure that federal actions will not violate water quality standards of the State or Indian tribe. In California, there are nine Regional Water Quality Control Boards (Regional Board) that issue or deny certification for discharges to waters of the United States and waters of the State, including wetlands, within their geographical jurisdiction. The State Water Resources Control

Board assumed this responsibility when a project has the potential to result in the discharge to waters within multiple Regional Boards.

## **State Regulations**

### ***Fish and Game Code***

Fish and Game Code Sections 1600 et. seq. establishes a fee-based process to ensure that projects conducted in and around lakes, rivers, or streams do not adversely impact fish and wildlife resources, or, when adverse impacts cannot be avoided, ensures that adequate mitigation and/or compensation is provided.

Fish and Game Code Section 1602 requires any person, state, or local governmental agency or public utility to notify the CDFW before beginning any activity that will do one or more of the following:

- (1) substantially obstruct or divert the natural flow of a river, stream, or lake;
- (2) substantially change or use any material from the bed, channel, or bank of a river, stream, or lake;  
or
- (3) deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it can pass into a river, stream, or lake.

Fish and Game Code Section 1602 applies to all perennial, intermittent, and ephemeral rivers, streams, and lakes in the State. CDFW’s regulatory authority extends to include riparian habitat (including wetlands) supported by a river, stream, or lake regardless of the presence or absence of hydric soils and saturated soil conditions. Generally, the CDFW takes jurisdiction to the top of bank of the stream or to the outer limit of the adjacent riparian vegetation (outer drip line), whichever is greater. Notification is generally required for any project that will take place in or in the vicinity of a river, stream, lake, or their tributaries. This includes rivers or streams that flow at least periodically or permanently through a bed or channel with banks that support fish or other aquatic life and watercourses having a surface or subsurface flow that support or have supported riparian vegetation. A Section 1602 Streambed Alteration Agreement would be required if impacts to identified CDFW jurisdictional areas occur.

### ***Porter Cologne Act***

The California *Porter-Cologne Water Quality Control Act* gives the State very broad authority to regulate waters of the State, which are defined as any surface water or groundwater, including saline waters. The Porter-Cologne Act has become an important tool in the post SWANCC and Rapanos regulatory environment, with respect to the state’s authority over isolated and insignificant waters. Generally, any person proposing to discharge waste into a water body that could affect its water quality must file a Report of Waste Discharge in the event that there is no Section 404/401 nexus. Although “waste” is partially defined as any waste substance associated with human habitation, the Regional Board also interprets this to include fill discharged into water bodies.