Brew Enterprises Industrial Warehouse
SPA 22-05375 and DPR 22-00036
State Clearinghouse Number 2024020738

Final Mitigated Negative Declaration

Lead Agency:

City of Perris
101 North D Street
Perris, California 92570

Applicant:

Brew Enterprises II, LLC
3535 Inland Empire Blvd.
Ontario, CA 91764

Prepared By:

MIG, Inc.
1650 Spruce Street, Suite 106
Riverside, California 92507

December 2024

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   The circulated Initial Study/Mitigated Negative Declaration and associated appendices may be viewed and/or downloaded via the link here: https://ceqanet.opr.ca.gov/2024020738.

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1 Introduction

An Initial Study and Mitigated Negative Declaration (MND) for the proposed Brew Enterprises Industrial Warehouse Project [Specific Plan Amendment (SPA) 22-05375 and Development Plan Review (DPR) 22-00036, herein collectively referred to as the proposed project or project] has been prepared in accordance with the California Environmental Quality Act (CEQA), the Guidelines for Implementation of the California Environmental Quality Act (State CEQA Guidelines), and the City of Perris policies and practices for implementing CEQA.

On April 5, 2024, the City of Perris issued a Notice of Intent to Adopt a Mitigated Negative Declaration (SCH # 2024020738) for the proposed project. The Notice of Intent indicated that the City, acting as the lead agency for the project under CEQA, was notifying public agencies and interested parties that the City plans to adopt an MND for the project.

The Notice of Intent for the proposed project was sent to trustee and responsible agencies, members of the public, other interested parties, and the California Office of Planning and Research, State Clearinghouse for the 30-day public review period required under CEQA. The public review period ended on May 6, 2024.

During the review period, public agencies and members of the public had the opportunity to respond to the Notice of Intent and provide comments on the Initial Study/MND. Public comments were received by the City of Perris Planning Division and have been responded to herein by the City in accordance with CEQA requirements. The City received six (7) letters or emails from the following agencies or organizations commenting on the Initial Study/MND:

A. Lozeau Drury representing Supporters Alliance for Environmental Responsibility (SAFER) dated March 11, 2024
B. Lozeau Drury representing Supporters Alliance for Environmental Responsibility (SAFER) dated March 18, 2024
C. Lozeau Drury representing Supporters Alliance for Environmental Responsibility (SAFER) dated March 18, 2024
D. Agua Caliente Band of Cahuilla Indians dated March 19, 2024
E. Riverside County Flood Control and Water Conservation District (RCFlood) dated March 12, 2024
F. Tito Howell, IDS Real Estate dated May 7, 2024
G. Lozeau Drury representing Supporters Alliance for Environmental Responsibility (SAFER) dated May 7, 2024

Section 2.0, Comments and Responses, of this Final MND, includes the comment letter and emails received by the City of Perris in response to the circulated Initial Study/MND. Copies of these comment letters and emails, as well as the City's responses to the individual comments, are included in Section 2.0. Pursuant to Article 6, Negative Declaration Process, of the State CEQA Guidelines, the City is not required to respond to comments received on an MND. However, the City has chosen to respond to the comments received on the Initial Study/MND and provide those responses to the commenters.

It should be noted that the City's responses to comments also resulted in minor editorial clarifications and edits to the original text of the Initial Study/MND. Added or modified text is shown in Section 3.0, Errata. The additional information, corrections, and clarifications are not considered to substantively affect the conclusions within the IS/MND. None of the comments

resulted in changes to the data, analysis, conclusions, or mitigation measures present in this Initial Study/MND. The comments and information provided by these agencies and organizations do not constitute significant new information that would trigger a need to recirculate the Initial Study/MND for additional public review and comments.

CEQA was amended in 1989 to add Section 21081.6, which requires a public agency to adopt a mitigation monitoring and reporting program for assessing and ensuring compliance with any required mitigation measures applied to a proposed development. Section 4.0 contains the Mitigation Monitoring and Reporting Program for the project.

Comment Letter A

Lozeau Drury representing Supporters Alliance for Environmental Responsibility (SAFER) dated March 11, 2024.

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Via Email

March 11, 2024

Alfredo Garcia, Associate Planner
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LETTER A

Re: CEQA and Land Use Notice Request for Brew Harley Knox Warehouse Project (SPA 22-05375, DPR 22-00036, MND No. 2396)

Dear Mr. Garcia, Mr. Phung, Ms. Salazar:

I am writing on behalf of Supporters Alliance for Environmental Responsibility ("SAFER") regarding the Brew Harley Knox Warehouse Project (SPA 22-05375, DPR 22-00036), including all actions related or referring to the proposed construction of a 58,974-square-foot industrial warehouse building, located south of Harley Knox Boulevard and west of Perris Boulevard in the City of Perris ("Project").

We hereby request that the City of Perris ("City") send by electronic mail, if possible or U.S. mail to our firm at the address below notice of any and all actions or hearings related to activities undertaken, authorized, approved, permitted, licensed, or certified by the City and any of its subdivisions, and/or supported, in whole or in part, through contracts, grants, subsidies, loans or other forms of assistance from the City, including, but not limited to the following: A1

- Notice of any public hearing in connection with the Project as required by California Planning and Zoning Law pursuant to Government Code Section 65091.
- Any and all notices prepared for the Project pursuant to the California Environmental Quality Act ("CEQA"), including, but not limited to:
  - Notices of any public hearing held pursuant to CEQA.
  - Notices of determination that an Environmental Impact Report ("EIR") is required for the Project, prepared pursuant to Public Resources Code Section 21080.4.
  - Notices of any scoping meeting held pursuant to Public Resources Code Section 21083.9.
  - Notices of preparation of an EIR or a negative declaration for the Project, prepared pursuant to Public Resources Code Section 21092.

- Notices of availability of an EIR or a negative declaration for the Project, prepared pursuant to Public Resources Code Section 21152 and Section 15087 of Title 14 of the California Code of Regulations.
- Notices of approval and/or determination to carry out the Project, prepared pursuant to Public Resources Code Section 21152 or any other provision of law.
- Notices of any addenda prepared to a previously certified or approved EIR.
- Notices of approval or certification of any EIR or negative declaration, prepared pursuant to Public Resources Code Section 21152 or any other provision of law.
- Notices of determination that the Project is exempt from CEQA, prepared pursuant to Public Resources Code section 21152 or any other provision of law.
- Notice of any Final EIR prepared pursuant to CEQA.
- Notice of determination, prepared pursuant to Public Resources Code Section 21108 or Section 21152.

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Please note that we are requesting notices of CEQA actions and notices of any public hearings to be held under any provision of Title 7 of the California Government Code governing California Planning and Zoning Law. **This request is filed pursuant to Public Resources Code Sections 21092.2 and 21167(1), and Government Code Section 65092,** which require local counties to mail such notices to any person who has filed a written request for them with the clerk of the agency's governing body.

Please send notice by electronic mail or U.S. Mail

to: Richard Drury
Madeline
Dawson Layne
Fajeau Chase
Preciado Lozeau
Drury LLP
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Chase@lozeaudrury.com

Please call if you have any questions. Thank you for your attention to this matter.

Sincerely,

Madeline Dawson
Lozeau ı Drury LLP

Comment A-1: The commenter requests that they receive all public and CEQA notices regarding this project.

Response A-1: The City will provide all of the requested notices to the commenter for this project.

Comment Letter B

Lozeau Drury representing Supporters Alliance for Environmental Responsibility (SAFER) dated March 18. 2024

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VIA EMAIL ONLY

March 18, 2024

LETTER B

Alfredo Garcia
City of Perris Planning Division
135 North D Street
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algarcia@cityofperris.org

Re: Brew Harley Knox Warehouse Project (SPA 22-05375/DPR 22-00036)
SAFER Comment - Proposed Mitigated Negative Declaration

Dear Mr. Garcia:

I am writing on behalf of the Supporters Alliance For Environmental Responsibility ("SAFER") and its members living in and around the City of Perris ("City") to comment on the Initial Study and Mitigated Negative Declaration ("MND") prepared for the Operon HKI Project ("Project") (DPR 20-00019; ~~TPM~~ 38061).

SAFER's review of the MND was assisted by expert wildlife biologist Dr. Shawn Smallwood, Ph.D. The written comments of Dr. Smallwood and SWAPE are attached hereto as Exhibit A. Based on his review, it appears that several of the MND's conclusions are not supported by substantial evidence and, moreover, there is a "fair argument" that the Project may have unmitigated adverse environmental impacts. As required by CEQA, SAFER requests that the City prepare an environmental impact report ("EIR") rather than an MND prior to approving the Project.

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PROJECT DESCRIPTION

The Project sits on a 4.01-acre site. The Applicant, Brew Enterprises II, LLC, is seeking a Specific Plan Amendment and Development Plan Review for the development of an approximately 59,000-square-foot warehouse building with supporting parking and landscaping. The Project is located within the Perris Valley Commerce Center Specific Plan in the City's General Plan. The Specific Plan does not permit warehouses under the location's commercial designation.

LEGAL STANDARD

As the California Supreme Court has held "[i]f no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an

EIR." (*Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319-320 [citing *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 88; *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491, 504–505].) "Significant environmental effect" is defined very broadly as "a substantial or potentially substantial adverse change in the environment." (Pub. Res. Code § 21068; *see also* 14 CCR § 15382.)

The EIR is the very heart of CEQA. *Bakersfield Citizens for Local Control v. City of Bakersfield (*2004) 124 Cal.App.4th 1184, 1214 (*Bakersfield Citizens*); *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927. The EIR is an "environmental 'alarm bell' whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return." *Bakersfield Citizens*, 124 Cal.App.4th at 1220. The EIR also functions as a "document of accountability," intended to "demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action." *Laurel Heights Improvements Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 392. The EIR process "protects not only the environment but also informed self-government." *Pocket Protectors*, 124 Cal.App.4th at 927.

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Where an initial study shows that the project may have a significant effect on the environment, a mitigated negative declaration may be appropriate. However, a mitigated negative declaration is proper *only* if the project revisions would avoid or mitigate the potentially significant effects identified in the initial study "to a point where clearly no significant effect on the environment would occur, and…there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment." PRC §§ 21064.5 and 21080(c)(2); *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 331. In that context, "may" means a reasonable possibility of a significant effect on the environment. PRC §§ 21082.2(a), 21100, 21151(a); *Pocket Protectors*, 124 Cal.App.4th at 927; *League for Protection of Oakland's etc. Historic Res. v. City of Oakland* (1997) 52 Cal.App.4th 896, 904–05.

Under the "fair argument" standard, an EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency's decision. 14 CCR § 15064(f)(1); *Pocket Protectors,* 124 Cal.App.4th at 931; *Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-51; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602. The "fair argument" standard creates a "low threshold" favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. *Pocket Protectors*, 124 Cal.App.4th at 928. The "fair argument" standard is virtually the opposite of the typical deferential standard accorded to agencies. As a leading CEQA treatise explains:

> This 'fair argument' standard is very different from the standard normally followed by public agencies in making administrative determinations. Ordinarily, public agencies weigh the evidence in the record before them and reach a decision based on a preponderance of the evidence. [Citations]. The fair argument standard, by contrast,

> prevents the lead agency from weighing competing evidence to determine who has a better argument concerning the likelihood or extent of a potential environmental impact. The lead agency's decision is thus largely legal rather than factual; it does not resolve conflicts in the evidence but determines only whether substantial evidence exists in the record to support the prescribed fair argument.
>
> Kostka & Zischke, *Practice Under CEQA*, §6.29, pp. 273–74.

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The Courts have explained that "it is a question of law, not fact, whether a fair argument exists, and the courts owe no deference to the lead agency's determination. Review is de novo, with *a preference for resolving doubts in favor of environmental review*." *Pocket Protectors*, 124 Cal.App.4th at 928 (emphasis in original).

DISCUSSION

I. An EIR Is Required to Disclose and Mitigate the Project's Impacts to Biological Resources.

Expert wildlife biologist Dr. Shawn Smallwood, Ph.D., found several deficiencies in the MND's analysis of the Project's impacts on wildlife species. Dr. Smallwood's comment and CV are attached as Exhibit A. As discussed below, Dr. Smallwood concluded: (1) the MND's biological report underestimated the diversity of species and the Project's likely impacts to those species; (2) the MND failed to assess or mitigate the Project's impacts to species from habitat fragmentation, movement restriction, and collisions with vehicles; (3) the MND failed to accurately evaluate the Project's cumulative impacts; and (4) the MND's mitigation measures were inadequate to reduce the Project's impacts to biological resources.

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It is important to note that the Project site had been previously surveyed by Dr. Smallwood's associate, Noriko Smallwood, M.S., before, once on November 21, 2021 in relation to a prior project proposal on the site, and again in December 9, 2022 for independent research purposes. Dr. Smallwood's prior comments are attached as Exhibit B.

II. The IS/MND Fails to Identify the Presence of Sensitive and Other Wildlife Species at the Project Site.

Dr. Smallwood's associate, Noriko Smallwood, conducted a site visit for approximately 3 hours on March 5, 2024. (Ex. A, p. 1.) Ms. Smallwood had previously performed site visits twice before, once on November 21, 2021, and again on December 9, 2022. (*Id.*) During the most recent visit, Ms. Smallwood "detected 35 species of vertebrate wildlife at or adjacent to the project site, including eight species with special status." (*Id.* at p. 2.) The site and surrounding airspace were very active with grassland-associated birds including California gull, Double-breasted cormorant, Great egret, and the Peregrine falcon. (*Id.* at p. 3.) Despite the disturbed nature of the site, such that it had apparently been disked, Noriko observed numerous animals making use of its soil, vegetation and airspace during the time she surveyed it. (*Id.*) The Turkey vulture, Northern harrier, Red-tailed hawk, American kestrel, and California horned lark, are

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identified as either protected Birds of Prey, Birds and Species of Conservation Concern, and/or identified on the Taxa to Watch List. (*Id.* at pp. 3-4.)

Based on a single, inadequate and vaguely defined survey, the MND concludes that "[b]ased on results of the habitat suitability analysis and survey conducted on April 11, 2023, none of the 48 plant species are expected to occur within the project site, primarily due to the level of discing evident at the project site. Therefore, potential impacts to sensitive plants are less than significant and no mitigation is required." (MND, p. 65.) While the MND acknowledges potential impacts to burrowing owls and the Cooper's hawk based on site conditions, the MND dismisses the potential for any other impacts to biological resources. As Ms. Smallwood's results demonstrate, however, the conclusion reached by the MND is incorrect, and the Project site is flourishing with wildlife that the MND does not adequately evaluate.

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First, while the details are not provided, the survey conducted by the City's consultant MIG appears to have been deficient. Despite numerous requests to obtain the appendices, which are referenced throughout the biological resources assessment, and which is essential for comprehensive public review of the MND, the City did not provide the complete set of appendices until April 18, 2024, the date of the MND comment deadline. "Without Appendices A, B and C, the reader of the IS/MND cannot assess the reasons for MIG's expectations, at least some of which do not comport with Noriko Smallwood's findings nor of my own analysis of occurrence likelihoods." (Ex. A, pp. 17-18.)[1] Courts have not supported conclusions that impacts

[1] The City has violated CEQA by failing to timely provide the public with the appendices which are relied upon in the negative declaration and which are required to review the IS/MND. CEQA section 21092(b)(1) requires that the CEQA notice for a negative declaration must include "the address where copies of the proposed [MND] and all documents referenced therein are available for review and readily accessible during the agency's normal working hours." As noted by leading CEQA commentators:

> The above-referenced section [21092(b)(1)] requires the agency to notify the public of the address at which "all documents referenced in a draft EIR" can be found (and presumably read) . . . seems to require agencies to make available for public review all documents on which agency staff or consultants expressly rely in preparing an MND. In light of case law emphasizing the importance of ensuring that the public can obtain and review documents on which agencies rely for the environmental conclusions (see, e.g., *Emmington v. Solano County Redevel. Agency*, 195 Cal.App.3d 491, 502-503 (1987)), agencies should ensure that they comply literally with this requirement.

Remy, Thomas, Moose & Manley, *Guide to the California Environmental Quality Act*, p. 300 (Solano Press, 11th Ed. 2007). The courts have held that the failure to provide even a few pages of a CEQA documents for a portion of the CEQA review period invalidates the entire CEQA process. *Ultramar v. South Coast Air Quality Man. Dist.*, 17 Cal.App.4th 689 (1993).

CEQA requires that information or data cited by a negative declaration, "as the source of conclusions stated therein . . . shall be reasonably available for inspection at a public place or building." Pub. Resources Code § 21061. Thus, while a CEQA document may properly rely on third-party studies, it may do so only if it either appends the study in question or notifies the public of its location at the time it makes the CEQA document available for public review. *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1987) 193 Cal.App.3d 1544, 1549; *San Francisco Ecology Center v. City and County of San Francisco* (1975) 48 Cal.App.3d 584, 595; Pub. Resources Code § 21092(b) (1) (notice of preparation shall specify address where copies of all referenced documents are available for review); see also CEQA Guidelines § 15087(c)(5).

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are mitigable when essential studies, and therefore impact assessments, are incomplete (*Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d. 296; *Gentry v. City of Murrieta* (1995) 36 Cal. App. 4th 1359; *Endangered Habitat League, Inc. v. County of Orange* (2005) 131 Cal. App. 4th 777). The City has made an attempt to remedy this issue by providing a one week extension to provide comments for biological resources. However, such comment period is insufficient in comparison to the twenty days required by statute. B-1

Even assuming the appendices were provided in time for adequate public review, the biological analysis conducted by MIG erroneously concluded that none of the special-status wildlife species are expected to occur. While the length of MIG's survey is not reported, in just a three-hour period, Dr. Smallwood's associate Noriko observed 35 species, eight of which are special-status species. Based on Ms. Smallwood's survey, there is substantial evidence now in the record proving that the existing environmental setting of the project site contradicts MIG's inadequate reporting. (Ex. A, p. 15.) B-1 B-1

(Picture of the Project site, November 2020, Ex. B, p. 2.)

Second, MIG's focus on two wildlife species as having the potential to be present on the site is unsupported by evidence and factually inaccurate because Ms. Smallwood identified numerous species, including several special-status species, on or near the Project site. (Ex. A, p. 3.) MIG's conclusions regarding its analysis of the Project site's potential to support other protected wildlife species are misleading. The analysis focuses on the Project site's quality, such that mowing and discing operations had occurred, rendering the Project site poor in terms of supporting wildlife. MIG also notes that the site has been historically disturbed for agriculture, implying without evidence that agriculture operations would prevent any use of the Project site by wildlife species, including special-status species. (*Id.* at p. 17.) Furthermore, as shown in the picture above, Ms. Smallwood observed numerous special-status species during her first site visit on November 21, 2020, despite the Project site being in an objectively worse condition than that observed by both MIG and Ms. Smallwood during her March 2024 visit. (Ex. B, p. 2.) B-1

In addition, MIG's literature and database review were inadequate. For example, MIG improperly characterizes the site as a vacant lot, when it is an annual grassland. (Ex. A, p. 16.) In fact, despite discing and mowing operations on the Project site, Dr. Smallwood explains that B-1

plants and wildlife continue to use the Project site. (*Id.*) In Dr. Smallwood's assessment, based on database reviews and site visits, the Project site is "predicted to support at least 133 species of vertebrate wildlife, including at least 19 special-status species." (*Id.* at p. 15.)

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Establishing an accurate baseline is the *sine qua non* of an adequate CEQA document and is necessary to adequately analyze and mitigate the significant environmental impacts of the Project. *See* CEQA Guidelines, § 15125(a); *Save Our Peninsula*, 87 Cal.App.4th at 121-123. The MND's failure to adequately investigate and identify the occurrences of sensitive biological resources at the Project site results in a skewed baseline. Such misrepresentation ultimately "mislead(s) the public" by engendering inaccurate analyses of environmental impacts, mitigation measures and cumulative impacts for biological resources. *See San Joaquin Raptor Rescue Center,* 149 Cal.App.4th at 656; *Woodward Park Homeowners,* 150 Cal.App.4th at 708-711. By failing to conduct sufficient surveys, disregarding the absence of key species from the project site, and ignoring numerous other species likely to be present, the MND fails to establish and otherwise dilutes the entire biological resources baseline for the Project.

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III. The MND Inadequately Discloses and Mitigates Project Impacts on Habitat Loss, Wildlife Movement, Traffic Collisions, and Cumulative Impacts.

Dr. Smallwood found that the MND failed to discuss numerous significant impacts that the Project may have on biological resources, including habitat loss, wildlife movement, collisions with vehicles, and cumulative impacts. (Ex. A, pp. 18-29.) Dr. Smallwood's analysis constitutes a fair argument that the Project may have significant unmitigated impacts and, as such, an EIR is required prior to approval of the Project.

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1. Habitat Loss and Fragmentation.

The MND does not analyze and disclose the impact to wildlife due to habitat loss. As Dr. Smallwood explains, the MND does not evaluate the Project impact on habitat even though "habitat loss results in a reduced productive capacity of affected wildlife species." (Ex. A, p. 18.) Dr. Smallwood calculated that the Project would result in a reduction of approximately 12 nest sites and 39 births annually. (*Id.* at p. 24.) Nonetheless, the MND failed to address or analyze this potentially significant impact. (*Id.*) An EIR is necessary to ensure the impact to wildlife from habitat loss is mitigated to the fullest extent.

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2. Wildlife Movement.

The MND's analysis of the Project's impacts to wildlife movement is flawed. The MND claims that the "Project Area does not act as a wildlife movement corridor due to the current built environment as well as the presence of urban/suburban development surrounding the site." (Biological Resources Study, p. 14.) However, the proper standard under CEQA is whether the Project will "[i]nterfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors." (MND, p. 64.) As Dr. Smallwood explains, "the conclusion reached in one portion of the Biological

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Resources Study is inconsistent with its own description of how a wildlife corridor can be constructed." (Ex. A, p. 25.)

The MND also relies on the conclusion that the Project site is not located in any wildlife corridor. Such finding is inconclusive of whether the Project site will substantially interfere with wildlife movement. As Dr. Smallwood notes, "[t]he primary phrase of the CEQA standard goes to wildlife movement regardless of whether the movement is channeled by a corridor. In fact, a site such as the project site is critically important for wildlife movement because it composes an increasingly diminishing area of open space within a growing expanse of anthropogenic uses, forcing more species of volant wildlife to use the site for stopover and staging during migration, dispersal, and home range patrol [citations omitted]." (Ex. A, p. 25.) B-1

Lastly, Dr. Smallwood explains that the conclusions drawn up by the MND and related biological resources study are unsubstantiated. Specifically, the biological resources assessment does not include any survey methodology, sampling regime, or any program of observation to record wildlife patterns, assessments, and detailed analysis. (Ex. A, p. 25.) Conversely, Ms. Smallwood's in-person site visit yielded completely contradictory conclusions, as evidenced by photographic and data-driven observations and findings. Whereas the MND's conclusions are speculative and conclusory, Dr. Smallwood's expert findings constitute substantial evidence of a fair argument that the Project will lead to potentially significant biological impacts related to wildlife movement. An MND is clearly inappropriate and the City must instead proceed with preparing an EIR.

3. Traffic Collisions and Wildlife Mortality.

The impacts to wildlife from collisions with traffic generated by the Project were not addressed in the MND. According to the MND, the Project is projected to have 103 daily trips and 17 daily vehicle miles traveled ("VMT") per employee, resulting in approximately 22,242,187.5 VMT annually. (Ex. A, p. 27.) Dr. Smallwood estimates that collisions with vehicles as a result of the Project would kill approximately 174 animals. (*Id.*) Especially due to the special-status species likely to occur at or near the Project, these collisions represent a significant impact to wildlife that has not been addressed, discussed, or mitigated in the MND. Dr. Smallwood's calculations constitute a fair argument that an EIR is necessary to address and mitigate this impact. B-1

IV. The MND Fails to Adequately Address the Project's Cumulative Impacts on Biological Resources.

An EIR must be prepared to discuss significant cumulative impacts. Dr. Smallwood found the MND's discussion of cumulative impacts to wildlife to be flawed. (Ex. A, p. 27.) CEQA Guidelines section 15130(a). This requirement flows from CEQA section 21083, which requires a finding that a project may have a significant effect on the environment if "the possible effects of a project are individually limited but cumulatively considerable. . . . 'Cumulatively considerable' means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and B-1

the effects of probable future projects." "Cumulative impacts" are defined as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." CEQA Guidelines section 15355(a). "[I]ndividual effects may be changes resulting from a single project or a number of separate projects." CEQA Guidelines section 15355(a).

"The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." *Communities for a Better Environment v. Cal. Resources Agency* ("CBE v. CRA"), (2002) 103 Cal.App.4th 98, 117. A legally adequate cumulative impacts analysis views a particular project over time and in conjunction with other related past, present, and reasonably foreseeable probable future projects whose impacts might compound or interrelate with those of the project at hand. "Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." CEQA Guidelines § 15355(b).

> As the court stated in *CBE v. CRA*, 103 Cal. App. 4th at 114:
> Cumulative impact analysis is necessary because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.
> (Citations omitted).

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In *Kings County Farm Bureau v. City of Hanford,* 221 Cal.App.3d at 718, the court concluded that an EIR inadequately considered an air pollution (ozone) cumulative impact. The court said: "The [ ] EIR concludes the project's contributions to ozone levels in the area would be immeasurable and, therefore, insignificant because the [cogeneration] plant would emit relatively minor amounts of [ozone] precursors compared to the total volume of [ozone] precursors emitted in Kings County. The EIR's analysis uses the magnitude of the current ozone problem in the air basin in order to trivialize the project's impact." The court concluded: "The relevant question to be addressed in the EIR is not the relative amount of precursors emitted by the project when compared with preexisting emissions, but whether any additional amount of precursor emissions should be considered significant in light of the serious nature of the ozone problems in this air basin."[2] The Kings County case was recently reaffirmed in CBE v. CRA, 103 Cal.App.4th at 116, where the court rejected cases with a narrower construction of "cumulative impacts."

[2] *Los Angeles Unified v. City of Los Angeles*, 58 Cal.App.4th at 1024-1026 found an EIR inadequate for concluding that a project's additional increase in noise level of another 2.8 to 3.3 dBA was insignificant given that the existing noise level of 72 dBA already exceeded the regulatory recommended maximum of 70 dBA. The court concluded that this "ratio theory" trivialized the project's noise impact by focusing on individual inputs rather than their collective significance. The relevant issue was not the relative amount of traffic noise resulting from the project when compared to existing traffic noise, but whether any additional amount of traffic noise should be considered

Similarly, in *Friends of Eel River v. Sonoma County Water Agency*, (2003) 108 Cal. App. 4th 859, the court recently held that the EIR for a project that would divert water from the Eel River had to consider the cumulative impacts of the project together with other past, present and reasonably foreseeable future projects that also divert water from the same river system. The court held that the EIR even had to disclose and analyze projects that were merely proposed, but not yet approved. The court stated, CEQA requires "the Agency to consider 'past, present, and probable future projects producing related or cumulative impacts . . . .' (Guidelines, § 15130, subd. (b)(1)(A).) The Agency must interpret this requirement in such a way as to 'afford the fullest possible protection of the environment.'" *Id.*, at 867, 869. The court held that the failure of the EIR to analyze the impacts of the project together with other proposed projects rendered the document invalid. "The absence of this analysis makes the EIR an inadequate informational document." *Id.*, at 872.

The court in *Citizens to Preserve Ojai v. Bd. of Supervisors*, 176 Cal.App.3d 421 (1985), held that an EIR prepared to consider the expansion and modification of an oil refinery was inadequate because it failed to consider the cumulative air quality impacts of other oil refining and extraction activities combined with the project. The court held that the EIR's use of an Air District Air Emissions Inventory did not constitute an adequate cumulative impacts analysis. The court ordered the agency to prepare a new EIR analyzing the combined impacts of the proposed refinery expansion together with the other oil extraction projects.

B-1

Here, the MND falsely assumes that cumulative impacts would be less than significant under the false understanding that a given impact "is cumulatively considerable only when it is a significant project-level direct impact that has not yet been fully mitigated, hence leaving no residual impact." (Ex. A, p. 28.) However, that is not the standard under CEQA. Under CEQA, individually insignificant impacts can nevertheless be cumulatively considerable. As shown in Table 3, Dr. Smallwood has identified numerous projects with varying amounts of acreage and predicted annual VMTs in and around the City of Perris. Such information is not included in the MND, and the MND fails to provide an adequate analysis of cumulative impacts and its relationship to biological resources. Dr. Smallwood has explained the wildlife impacts associated with the Project, but the MND fails to provide an adequate analysis and how such cumulative impacts can be mitigated. Thus, the MND's conclusion that the cumulative impacts would be less than significant is unfounded and should be revised.

V. The MND's Proposed Mitigation Measures are Neither Enforceable nor Feasible.

CEQA requires that policies and mitigation measures be enforceable and feasible. (CEQA Guidelines, § 15126.4(a)(1) & (2).) Policies that have no standards cannot be enforced. Mitigation measures must be feasible. In *Sundstrom v County of Mendocino* (1988) 202 Cal.App.3d 296, 308-309, mitigation calling for a permit for sludge disposal was improperly

B-1

significant given the nature of the existing traffic noise problem.

deferred because there was no evidence of feasibility: "the record discloses that the applicant presented no plans for sludge disposal and that no solution was readily available." (*Id.* at 308.)

It is unclear whether the Project's mitigation measures for biological resources will reduce Project-related impacts to a level below significance. For instance, Mitigation Measure BR-2 only discusses protections for burrowing owls, and only applies to a single breeding season of nesters. This means that the measure's protections will not extend to future breeding seasons and would likely lead to the permanent destruction of the site's productive capacity for burrowing owls. (Ex. A, pp. 29-31.) Also, Dr. Smallwood's comments prove that the site is being used by many species in addition to burrowing owls. This mitigation measure does nothing to protect the other species identified on the Project site.

In addition, Dr. Smallwood concludes that the burrowing owl mitigation measure is inadequate. Dr. Smallwood explains that "the proposed relocation of burrowing owls consistent with the Burrowing Owl Survey Instructions for the Western Riverside MSHCP would perpetuate a practice that has not proven effective. In fact, the Western Riverside County Regional Conservation Authority (2021) has acknowledged that the burrowing owl conservation plan is not working. Burrowing owls are rapidly declining in western Riverside County, which is one of the reasons that a petition to list the burrowing owl in California has been submitted to the California Fish and Game Commission (Miller 2024)." (*Id.*) As such, the proposed mitigation measure will not adequately mitigate significant impacts on biological resources. B-1

Mitigation Measure BR-1 allows unfettered control for a biologist to make critical determinations. In particular, the language of this mitigation measure allows a single individual (qualified biologist) to make a subjective decision, outside the public's view, to determine whether the no-disturbance buffer zone around active nests is sufficient. (Ex. A, p. 30.) This measure lacks objective criteria and is therefore unenforceable. Dr. Smallwood notes, "it is highly likely that the proposed preconstruction survey would fail to find any of the nests of ground-nesting birds that truly occur on the project site. The IS/MND's implication that preconstruction survey would reduce potential impacts to nesting birds to less-than-significant is unsubstantiated by evidence in the IS/MND. It would help to cite examples of the success of this measure applied elsewhere." (Ex. A, p. 29). As a result of the absence of objective enforcement mechanisms, this mitigation measure is insufficient and cannot be relied on to adequately bring the potentially significant impacts to a level below significance.

An EIR is required to analyze the feasibility, enforceability and effectiveness of such proposed mitigation measures. Dr. Smallwood suggests multiple mitigation measures related to protecting wildlife from traffic, funding wildlife rehabilitation facilities, and applying native landscaping on the Project site. (Ex. A, p. 31.)

VI. The Project Has Significant Impacts Because it is Inconsistent with the Specific Plan for the Area.

B-1

The Project is located within the Perris Valley Commerce Center Specific Plan ("PVCCSP") in the City's General Plan. The Specific Plan does not permit warehouses under the

location's commercial designation. This inconsistency constitutes a significant impact that must be analyzed under CEQA. Where a local or regional policy of general applicability, such as an ordinance, is adopted in order to avoid or mitigate environmental effects, a conflict with that policy in itself indicates a potentially significant impact on the environment. (*Pocket Protectors v. Sacramento* (2005) 124 Cal.App.4th 903.) Indeed, any inconsistencies between a proposed project and applicable plans must be discussed in an EIR. (14 CCR § 15125(d); *City of Long Beach v. Los Angeles Unif. School Dist.* (2009) 176 Cal. App. 4th 889, 918; *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal. App. 4th 859, 874 (EIR inadequate when Lead Agency failed to identify relationship of project to relevant local plans).) A Project's inconsistencies with local plans and policies constitute significant impacts under CEQA. (*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 783-4.) B-1

The case of *Georgetown Preservation Society v. County of El Dorado* (2018) 30 Cal.App.5th 358 echoes *Pocket Protectors*. These both apply the fair argument standard to a potential inconsistency with a plan adopted for environmental protection. (*Kutzke v. City of San Diego* (2017) 11 Cal.5th 1034 (City determined a proposed project was incompatible with conserving the character of the existing neighborhood and therefore inconsistent with local community plan in violation of CEQA).) The Project will have significant impacts not analyzed in the PVCCSP since the Project includes warehouse uses that were not analyzed in the specific plan. The proposed Project and the industrial uses, including increased truck traffic, diesel emissions and related impacts, must be analyzed in an EIR.

CONCLUSION

There is a fair argument that the Project may have significant impacts on biological resources. Furthermore, the MND's analyses of impacts to biological resources are not supported by substantial evidence. Therefore, SAFER respectfully requests that the City prepare and circulate an EIR for the Project prior to approval. B-1

Sincerely,

Marjan R. Abubo
LOZEAU DRURY LLP

Response B-1: Letter B was submitted to the City of Perris on March 18, 2024, by the law firm Lozeau Drury representing Supporters Alliance for Environmental Responsibility (SAFER) – this letter is referred to as SAFER 2. However, Lozeau Drury sent a third letter that stated that it superseded SAFER 2 so the comments in the SAFER 2 letter are not addressed here. It should be noted that the comments made in the SAFER 2 letter were duplicated and expanded upon in the SAFER 4 letter sent on May 6, 2024. See LETTER G - SAFER 4 at the end of this Final EIR section for detailed responses to detailed comments made by Lozeau Drury on the proposed project.

Comment Letter C

Lozeau Drury representing Supporters Alliance for Environmental Responsibility (SAFER) dated March 18, 2024

LOZEAU DRURY LLP
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VIA EMAIL ONLY

March 18, 2024

LETTER C

Alfredo Garcia
City of Perris Planning Division
135 North D Street
Perris, California 92570
algarcia@cityofperris.org

Re: Request for Extension of Comment Period Deadline for Brew Enterprise Warehouse Project (SPA 22-05375/DPR 22-00036) SAFER Comment - Proposed Mitigated Negative Declaration

Dear Mr. Garcia:

This letter supersedes our letter submitted earlier today. I am writing on behalf of the Supporters Alliance For Environmental Responsibility ("SAFER") and its members living in and around the City of Perris ("City") to request that the City extend the public comment period for the Brew Enterprise Warehouse Project ("Project") draft Mitigated Negative Declaration ("MND") until twenty days from today's date (Monday, April 8, 2024) due to the failure of the City to have all supporting documents for the MND available for review until today. This request is made pursuant to the California Public Records Act ("CPRA"), Government Code Section 7920 et seq. and the California Environmental Quality Act ("CEQA"), Section 21092(b)(1) which requires that "all documents referenced in the … negative declaration" be available for review and "readily accessible" during the entire comment period. C1

On behalf of our clients, we requested the supporting documents referenced in the MND by email on March 11, 2024. We followed up again on March 12 and March 15, 2024. Mr. Garcia responded to our email after work hours on the evening of March 15, 2024 stating that he would coordinate with the Applicant's consultant, MIG, to obtain the documents. In a follow-up email, Mr. Garcia shared a link to the Project, but did not fulfill our request of sharing the appendices related to the Project's biological resources assessment. On March 18, 2024, the following Monday, Mr. Garcia emailed us with the updated biological report, including the appendices. We have therefore received the documents from the City today, totaling approximately 50 pages of information.

Shortly after receiving the appendices, we sought to invoke the extension due to the City's failure to provide all necessary documents for public review. Mr. Garcia allowed for a one-week extension on the issues related to biological resources but did not otherwise grant any additional review for the remainder of the Project. We have still not been able to

fully review the documents to determine if all the supporting documents have been provided and what information is included.

CEQA section 21092(b)(l) requires that the CEQA notice for an MND must include "the address where copies of the proposed MND and *all documents referenced therein* are available for review and readily accessible during the agency's normal working hours." As noted by leading CEQA commentators, Remy and Thomas:

> The above-referenced section [21092(b)(1)] requires the agency to notify the public of the address at which "all documents referenced in a draft [MND]" can be found (and presumably read) ... seems to require agencies to make available for public review all documents on which agency staff or consultants expressly rely in preparing a draft MND. In light of case law emphasizing the importance of ensuring that the public can obtain and review documents on which agencies rely for the environmental conclusions (see, e.g., *Emmington v. Solano County Redevel. Agency*, 195 Cal.App.3d 491, 502-503 (1987)), agencies should ensure that they comply literally with this requirement.

C1 cont'd

Remy, Thomas and Moose, *Guide to the California Environmental Quality Act*, p. 293 (Solano Press, 1999). The courts have held that the failure to provide even a few pages of a CEQA documents for a portion of the CEQA review period invalidates the entire CEQA process. *Ultramar v. South Coast Air Quality Man. Dist.*, 17 Cal.App.4th 689 (1993).

If the comment period is not extended pursuant to CEQA, we will have only one week to review the relevant documents - much less than the twenty days required by statute. This is simply insufficient to allow adequate review of the technical documents at issue. By failing to provide "all documents referenced" in the MND for public review for the minimum twenty day review period, the City would be violating the procedural mandates of CEQA. Since the requested documents were made available only today, the day all comments for the MND are due, the twenty day review period should begin today and be extended to at least April 8, 2024.

Therefore, we request that the comment period for this Project be extended to at least April 8, 2024. Given the shortness of time before the current comment deadline, please contact me as soon as possible with your response to this request. Feel free to call me at (510) 607-8238 should you have any questions.

Sincerely,

LOZEAU DRURY LLP

Comment C-1: The comment states that this letter supersedes the previous letter submitted by Lozeau Drury representing Supporters Alliance for Environmental Responsibility (SAFER) dated March 18 (SAFER 2) and requests additional time to review the biological report appendices to possibly make additional comments.

Response C-1: As noted in the comment letter, it was determined at the close of the public review period that the appendices to the General Biological Resources Assessment, Burrowing Owl Survey, and Western Riverside County MSHCP Consistency Analysis (Appendix C to the Initial Study/MND) were not included on the City's website for posting CEQA documents. The City then decided to extend the Initial Study/MND review period to May 8, 2024.

Comment Letter D

AGUA CALIENTE BAND OF CAHUILLA INDIANS

TRIBAL HISTORIC PRESERVATION

03-041-2024-001

March 19, 2024

[VIA EMAIL TO:algarcia@cityofperris.org]
City of Perris
Mr. Alfredo Garcia
135 N. D Street
Perris, California 92570-2200

LETTER D

Re: Notice of Intent to Adopt Mitigated Negative Declaration (MND No. 2396) for the City of Perris, California

Dear Mr. Alfredo Garcia,

The Agua Caliente Band of Cahuilla Indians (ACBCI) appreciates your efforts to include the Tribal Historic Preservation Office (THPO) in the Brew Harley Knox Warehouse Project project. We have reviewed the documents and have the following comments:

*The presence of an approved Cultural Resource Monitor(s) during any ground disturbing activities (including archaeological testing and surveys). Should buried cultural deposits be encountered, the Monitor may request that destructive construction halt and the Monitor shall notify a Qualified Archaeologist (Secretary of the Interior's Standards and Guidelines) to investigate and, if necessary, prepare a mitigation plan for submission to the State Historic Preservation Officer.

*The presence of an archaeologist that meets the Secretary of Interior's standards during any ground disturbing activities.

* Need to change verbiage for this part in page 79, "However, it is understood that all artifacts, with the exception of human remains and related grave goods or sacred/ceremonial/religious objects, belong to the property owner." The sentence seems confusing as if the property owner has ownership on "all" artifacts if someone were to read it and miss the "exception" part.

* The MM needs to include that the Tribal Monitor can also halt all activities if they encountered TCR's.

D1

Again, the Agua Caliente appreciates your interest in our cultural heritage. If you have questions or require additional information, please call me at (760) 883-1137. You may also email me at ACBCI-THPO@aguacaliente.net.

Cordially,

5401 DINAH SHORE DRIVE, PALM SPRINGS, CA 92264
T 760/699/6800 F 760/699/6924 WWW.AGUACALIENTE-NSN.GOV

AGUA CALIENTE BAND OF CAHUILLA INDIANS

TRIBAL HISTORIC PRESERVATION

03-041-2024-001

Luz Salazar
Cultural Resources Analyst
Tribal Historic Preservation Office
AGUA CALIENTE BAND
OF CAHUILLA INDIANS

5401 DINAH SHORE DRIVE, PALM SPRINGS, CA 92264
T 760/699/6800 F 760/699/6924 WWW.AGUACALIENTE-NSN.GOV

Comment D-1: The presence of an approved Cultural Resource Monitor(s) during any ground disturbing activities (including archaeological testing and surveys). Should buried cultural deposits be encountered, the Monitor may request that destructive construction halt and the Monitor shall notify a Qualified Archaeologist (Secretary of the Interior's Standards and Guidelines) to investigate and, if necessary, prepare a mitigation plan for submission to the State Historic Preservation Officer.

Response D-1: In response to this comment, mitigation measure MM-CR-1 has been revised to reflect the City's standard mitigation for cultural resources and tribal cultural resources when Native American monitoring is recommended. Added or modified text is shown by underlining (example) while deleted text is shown by striking (~~example~~).

MM-CR-1 Prior to the issuance of grading permits, the project proponent/developer shall retain a professional archaeologist meeting the Secretary of the Interior's Professional Standards for Archaeology (U.S. Department of Interior, 2012; Registered Professional Archaeologist preferred). The primary task of the consulting archaeologist shall be to monitor the initial ground-disturbing activities at both the project site and off-site improvement areas for the identification of any previously unknown archaeological and/or cultural resources. Selection of the archaeologist shall be subject to the approval of the City of Perris Director of Development Services and no ground-disturbing activities shall occur at the site or within the off-site project improvement areas until the archaeologist has been approved by the City.

The archaeologist shall be responsible for monitoring ground-disturbing activities, maintaining daily field notes and a photographic record, and for reporting all finds to the developer and the City of Perris in a timely manner. The archaeologist shall be prepared and equipped to record and salvage cultural resources that may be unearthed during ground-disturbing activities and shall be empowered to temporarily halt or divert ground-disturbing equipment to allow time for the recording and removal of the resources.

The project proponent/developer shall also enter into an agreement with either the Soboba Band of Luiseño Indians, the Pechanga Band of Indians, or the Agua Caliente Band of Cahuilla Indians for a Native American tribal representative (observer/monitor) to work along with the consulting archaeologist. This tribal representative will assist in the identification of Native American resources and will act as a representative between the City, the project proponent/developer, and Native American Tribal Cultural Resources Department. The Native American tribal representative shall be on-site during all ground-disturbing of each portion of the project site including clearing, grubbing, tree removals, grading, trenching, etc. The Native American tribal representative should be on-site any time the consulting archaeologist is required to be on-site. Working with the consulting archaeologist, the Native American representative shall have the authority to halt, redirect, or divert any activities in areas where the identification, recording, or recovery of Native American resources are on-going.

The agreement between the project proponent/developer and the Native American tribe shall include, but not be limited to:

- An agreement that artifacts will be reburied on-site and in an area of permanent protection;
- Reburial shall not occur until all cataloging and basic recordation have been

completed by the consulting archaeologist;

- Native American artifacts that cannot be avoided or relocated at the project site shall be Prepared for curation at an accredited curation facility in Riverside County that meets federal standards (per 36 CFR Part 79) and available to archaeologists/researchers for further study; and
- The project archaeologist shall deliver the Native American artifacts, including title, to the identified curation facility within a reasonable amount of time, along with applicable fees for permanent curation.

The project proponent/developer shall submit a fully executed copy of the agreement to the City of Perris Planning Division to ensure compliance with this condition of approval. Upon verification, the City of Perris Planning Division shall clear this condition. This agreement shall not modify any condition of approval or mitigation measure.

In the event that archaeological resources are discovered at the project site or within the off-site project improvement areas, the handling of the discovered resource(s) will differ, depending on the nature of the find. Consistent with California Public Resources Code Section 21083.2(b) and Assembly Bill 52 (Chapter 532, Statutes of 2014), avoidance shall be the preferred method of preservation for Native American/tribal cultural/archaeological resources. However, it is understood that all artifacts, with the exception of human remains and related grave goods or sacred/ceremonial/religious objects, belong to the property owner. The property owner will commit to the relinquishing and curation of all artifacts identified as being of Native American origin. All artifacts, Native American or otherwise, discovered during the monitoring program shall be recorded and inventoried by the consulting archaeologist.

~~If any artifacts of Native American origin are discovered, all activities in the immediate vicinity of the find (within a 50-foot radius) shall stop and the project proponent and project archaeologist shall notify the City of Perris Planning Division and the Soboba Band of Luiseño Indians and the Pechanga Band of Luiseño Indians. A designated Native American representative from either the Soboba Band of Luiseño Indians or the Pechanga Band of Luiseño Indians shall be retained to assist the project archaeologist in the significance determination of the Native American as deemed possible. The designated Luiseño tribal representative will be given ample time to examine the find. The significance of Native American resources shall be evaluated in accordance with the provisions of CEQA and shall consider the religious beliefs, customs, and practices of the Luiseño tribe. If the find is determined to be of sacred or religious value, the Luiseño tribal representative will work with the City and consulting archaeologist to protect the resource in accordance with tribal requirements. All analysis will be undertaken in a manner that avoids destruction or other adverse impacts.~~

If any Native American artifacts are identified when the Native American tribal representative is not present, all reasonable measures will be taken to protect the resource(s) in situ and the City Planning Division and Native American tribal representative will be notified. The designated Native American tribal representative will be given ample time to examine the find. If the find is determined to be of sacred or religious value, the Native American tribal representative will work with the City and project archaeologist to protect the resource in accordance with tribal requirements. All analysis will be undertaking in a manner that avoids destruction or other adverse impacts.

In the event that human remains are discovered at the project site or within the off-site

project improvement areas, mitigation measure **MM-CR-2** shall immediately apply and all items found in association with Native American human remains shall be considered grave goods or sacred in origin and subject to special handling.

~~Native American artifacts that are relocated/reburied at the project site shall be subject to a fully executed relocation/reburial agreement with the assisting Luiseño tribe. This shall include, but not be limited to, an agreement that artifacts will be reburied on-site and in an area of permanent protection, and that reburial shall not occur until all cataloging and basic recordation have been completed by the consulting archaeologist.~~
~~Native American artifacts that cannot be avoided or relocated at the project site shall be prepared for curation at an accredited curation facility in Riverside County that meets federal standards (per 36 CFR Part 79) and available to archaeologists/researchers for further study. The project archaeologist shall deliver the Native American artifacts, including title, to the identified curation facility within a reasonable amount of time, along with applicable fees for permanent curation.~~

Non-Native American artifacts shall be inventoried, assessed, and analyzed for cultural affiliation, personal affiliation (prior ownership), function, and temporal placement. Subsequent to analysis and reporting, these artifacts will be subjected to curation, as deemed appropriate, or returned to the property owner.
Once grading activities have ceased and/or the archaeologist, in consultation with the designated ~~Luiseño~~ Native American representative, determines that monitoring is no longer warranted, monitoring activities can be discontinued following notification to the City of Perris Planning Division.

A report of findings, including an itemized inventory of artifacts, shall be prepared upon completion of the tasks outlined above. The report shall include all data outlined by the Office of Historic Preservation guidelines, including a conclusion of the significance of all recovered, relocated, and reburied artifacts. A copy of the report shall also be filed with the City of Perris Planning Division, the University of California, Riverside, Eastern Information Center (EIC) and the ~~Luiseño~~ Native American tribe(s) involved with the project.

The revisions to this measure does not constitute significant new information and the Initial Study/MND does not need to be recirculated for additional public review.

Comment D-2: The presence of an archaeologist that meets the Secretary of Interior's standards during any ground disturbing activities.

Response D-2: This is covered in the text of mitigation measure MM-CR-1 which states…

> *"Prior to the issuance of grading permits, the project proponent/developer shall retain a professional archaeologist meeting the Secretary of the Interior's Professional Standards for Archaeology (U.S. Department of Interior, 2012; Registered Professional Archaeologist preferred)."*

Comment D-3: Need to change verbiage for this part in page 79, "However, it is understood that all artifacts, with the exception of human remains and related grave goods or sacred/ceremonial/religious objects, belong to the property owner." The sentence seems confusing as if the property owner has ownership on "all" artifacts if someone were to read it and miss the "exception" part.

Response D-3: This cited text is actually on page 74 of the Initial Study/MND. However, the City of Perris is the lead agency for the project under CEQA and is the agency responsible for monitoring the implementation of the mitigation measures that are adopted for the project. While someone in the general public might be confused if they miss the “exception” part of this mitigation measure, the City is well aware of this exception and would enforce it as necessary. No changes to mitigation measure MM_CR-1 are necessary

Comment D-4: The MM needs to include that the Tribal Monitor can also halt all activities if they encounter TCR's.

Response D-4: See the added text to mitigation measure MM-CR-1 above for this language.

Comment Letter E

Riverside County Flood Control and Water Conservation District (RCFlood) dated March 12, 2024.

JASON E. UHLEY
General Manager-Chief Engineer

1995 MARKET STREET
RIVERSIDE, CA 92501
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RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

255197

March 12, 2024

LETTER E

** SEE PAGE 2 **

City of Perris
Planning Department
135 North D Street
Perris, CA 92570

Attention: Alfredo Garcia

Re: SPA 22-05375, DPR 22-00036
APN 302-090-021

The Riverside County Flood Control and Water Conservation District (District) does not normally recommend conditions for land divisions or other land use cases in incorporated cities. The District also does not plan check City land use cases or provide State Division of Real Estate letters or other flood hazard reports for such cases. District comments/recommendations for such cases are normally limited to items of specific interest to the District including District Master Drainage Plan facilities, other regional flood control and drainage facilities which could be considered a logical component or extension of a master plan system, and District Area Drainage Plan fees (development mitigation fees). In addition, information of a general nature is provided.

The District's review is based on the above-referenced project transmittal, received February 16, 2024. The District **has not** reviewed the proposed project in detail, and the following comments do not in any way constitute or imply District approval or endorsement of the proposed project with respect to flood hazard, public health and safety, or any other such issue:

☐ This project would not be impacted by District Master Drainage Plan facilities, nor are other facilities of regional interest proposed.

☐ This project involves District proposed Master Drainage Plan facilities, namely, _____. The District will accept ownership of such facilities on written request by the City. The Project Applicant shall enter into a cooperative agreement establishing the terms and conditions of inspection, operation, and maintenance with the District and any other maintenance partners. Facilities must be constructed to District standards, and District plan check and inspection will be required for District acceptance. Plan check, inspection, and administrative fees will be required. All regulatory permits (and all documents pertaining thereto, e.g., Habitat Mitigation and Monitoring Plans, Conservation Plans/Easements) that are to be secured by the Applicant for both facility construction and maintenance shall be submitted to the District for review. The regulatory permits' terms and conditions shall be approved by the District prior to improvement plan approval, map recordation, or finalization of the regulatory permits. There shall be no unreasonable constraint upon the District's ability to operate and maintain the flood control facility(ies) to protect public health and safety.

☐ This project proposes channels, storm drains larger than 36 inches in diameter, or other facilities that could be considered regional in nature and/or a logical extension a District's facility, the District would consider accepting ownership of such facilities on written request by the City. The Project Applicant shall enter into a cooperative agreement establishing the terms and conditions of inspection, operation, and maintenance with the District and any other maintenance partners. Facilities must be constructed to District standards, and District plan check and inspection will be required for District acceptance. Plan check, inspection, and administrative fees will be required. The regulatory permits' terms and conditions shall be approved by the District prior to improvement plan approval, map recordation, or finalization of the regulatory permits. There shall be no unreasonable constraint upon the District's ability to operate and maintain the flood control facility(ies) to protect public health and safety.

☒ This project is located within the limits of the District's ☒Perris Valley ☐San Jacinto River ☐Homeland/Romoland Line A ☐Homeland/Romoland Line B Area Drainage Plan for which drainage fees have been adopted. If the project is proposing to create additional impervious surface area, applicable fees should be paid (in accordance with the Rules and Regulations for Administration of Area Drainage Plans) to the Flood Control District or City prior to issuance of grading or building permits. Fees to be paid should be at the rate in effect at the time of issuance of the actual permit. E1

☐ An encroachment permit shall be obtained for any construction related activities occurring within District right of way or facilities, namely, _____. If a proposed storm drain connection exceeds the hydraulic performance of the existing drainage facilities, mitigation will be required. For further information, contact the District's Encroachment Permit Section at 951.955.1266.

☐ The District's previous comments are still valid.

GENERAL INFORMATION

This project may require a National Pollutant Discharge Elimination System (NPDES) permit from the State Water Resources Control Board. Clearance for grading, recordation, or other final approval should not be given until the City has determined that the project has been granted a permit or is shown to be exempt. E2

If this project involves a Federal Emergency Management Agency (FEMA) mapped floodplain, then the City should require the applicant to provide all studies, calculations, plans, and other information required to meet FEMA requirements, and should further require the applicant obtain a Conditional Letter of Map Revision (CLOMR) prior to grading, recordation, or other final approval of the project and a Letter of Map Revision (LOMR) prior to occupancy. E3

The project proponent shall bear the responsibility for complying with all applicable mitigation measures defined in the California Environmental Quality Act (CEQA) document (i.e., Negative Declaration, Mitigated Negative Declaration, Environmental Impact Report) and/or Mitigation Monitoring and Reporting Program, if a CEQA document was prepared for the project. The project proponent shall also bear the responsibility for complying with all other federal, state, and local environmental rules and regulations that may apply. E4

If a natural watercourse or mapped floodplain is impacted by this project, the City should require the applicant to obtain a Section 1602 Agreement from the California Department of Fish and Wildlife and a Clean Water Act Section 404 Permit from the U.S. Army Corps of Engineers, or written correspondence from these agencies indicating the project is exempt from these requirements. A Clean Water Act Section 401 Water Quality Certification may be required from the local California Regional Water Quality Control Board prior to issuance of the Corps 404 permit. E5

Very truly yours,

Amy McNeill

AMY MCNEILL
Engineering Project Manager

EM:blj

Comment E-1: This project is located within the limits of the District's Perris Valley Area Drainage Plan for which drainage fees have been adopted. If the project is proposing to create additional impervious surface area, applicable fees should be paid (in accordance with the Rules and Regulations for Administration of Area Drainage Plans) to the Flood Control District or City prior to issuance of grading or building permits. Fees to be paid should be at the rate in effect at the time of issuance of the actual permit.

Response E-1: The project proponent/developer would pay applicable Riverside County Flood fees based on the characteristics of the project and the fees in place at the time of application.

Comment E-2: This project may require a National Pollutant Discharge Elimination System (NPDES) permit from the State Water Resources Control Board. Clearance for grading, recordation, or other final approval should not be given until the City has determined that the project has been granted a permit or is shown to be exempt.

Response E-2: The Initial Study/MND evaluated potential water quality impacts of the project relative to permitting by various local, regional, and state agencies. The project would be required to comply with all applicable water quality regulations and requirements, including preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP) for construction activities and a Water Quality Management Plan (WQMP) for operational activities.

Comment E-3: If this project involves a Federal Emergency Management Agency (FEMA) mapped floodplain, then the City should require the applicant to provide all studies, calculations, plans, and other information required to meet FEMA requirements, and should further require the applicant obtain a Conditional Letter of Map Revision (CLOMR) prior to grading, recordation, or other final approval of the project and a Letter of Map Revision (LOMR) prior to occupancy.

Response E-3: The Initial Study/MND and project plans evaluated the flood protection and control requirements of the site based on a hydrology study based on RCFlood guidelines. The project would not require preparation of a CLOMR or LOMR for occupancy.

Comment E-4: The project proponent shall bear the responsibility for complying with all applicable mitigation measures defined in the California Environmental Quality Act (CEQA) document (i.e., Negative Declaration, Mitigated Negative Declaration, Environmental Impact Report) and/or Mitigation Monitoring and Reporting Program, if a CEQA document was prepared for the project. The project proponent shall also bear the responsibility for complying with all other federal, state, and local environmental rules and regulations that may apply.

Response E-4: The City determined that an MND is the appropriate CEQA compliance document for the project and recommended appropriate mitigation for: biological resources (nesting bird and burrowing owl surveys); cultural resources and tribal cultural resources (monitoring of grading by an archaeologist and tribal representative); geology and soils/paleontological resources (monitoring of grading by a paleontologist); and air quality, greenhouse gas emissions, and energy use (15 dust and emission control measures from the Perris Valley Commerce Center Specific Plan EIR).

Comment E-5: If a natural watercourse or mapped floodplain is impacted by this project, the

City should require the applicant to obtain a Section 1602 Agreement from the California Department of Fish and Wildlife and a Clean Water Act Section 404 Permit from the U.S. Army Corps of Engineers, or written correspondence from these agencies indicating the project is exempt from these requirements. A Clean Water Act Section 401 Water Quality. Certification may be required from the local California Regional Water Quality Control Board prior to issuance of the Corps 404 permit.

Response E-5: The Initial Study/MND and attendant biological report determined that the site contains no jurisdictional drainages or any conditions that require subsequent permitting through any regulatory agency. Summary. Based on the responses to these comments, the information in the Riverside County Flood letter does not require text or other informational changes to the Initial Study/MND or any technical studies and does not change their conclusions or recommended mitigation measures.

Comment Letter F

Tito Howell, JDS Real Estate dated May 7, 2024

Fwd: Brew Harley Knox - Warehouse Project Concern LETTER F

---------- Forwarded message ---------
From: **Deirdre McCollister** <[redacted]@migcom.com>
Date: Tue, May 7, 2024 at 1:53 PM
Subject: Fwd: FW: Brew Harley Knox - Warehouse Project Concern
To: Perrie Ilercil <[redacted]@ganddini.com>
Cc: Mike Wolfe <[redacted]@lee-assoc.com>, Mike Fine <[redacted]@lee-assoc.com>, Kent Norton <[redacted]@migcom.com>

Hi Perrie,

We received this email from Planning for the Public Noticing period that ended yesterday for the Brew Harley Knox project in Perris. Since the person is interested in traffic turns and you are the expert, I'm asking for your responses to the email below. Plans are attached. F-1

Thanks,
Deirdre
--
Deirdre McCollister
Principal

PLANNING | DESIGN | COMMUNICATIONS | MANAGEMENT | SCIENCE | TECHNOLOGY

1650 Spruce Street, Suite 106
Riverside, California 92507 | USA
Cell# [redacted]
[redacted]@migcom.com

---------- Forwarded message ---------
From: **Alfredo Garcia** <[redacted]@cityofperris.org>
Date: Tue, May 7, 2024 at 1:01 PM
Subject: FW: Brew Harley Knox - Warehouse Project Concern
To: Deirdre McCollister <[redacted]@migcom.com>

Good afternoon, Deidre,

We received this comment. One day after the public period. Id like to provide clarification, but before, I do . I wanted to make sure that the semi trucks will lonely access right in and exit right out. Correct?

From: Tito Howell <[redacted]@idsrealestate.com>
Sent: Tuesday, May 7, 2024 12:33 PM
To: Alfredo Garcia <[redacted]@cityofperris.org>
Cc: Eric Mitchell <[redacted]@idsrealestate.com>
Subject: Brew Harley Knox - Warehouse Project Concern

Hello Alfredo,

Thank you for sharing the drawings for the proposed Brew Harley Knox Warehouse Project.

After our initial review, the Property Owner is concerned with the following:

1. West Bound traffic attempting to make an illegal left-hand turn south across the designated median turn pocket for 400 Harley Knox to the proposed project; and,
2. Traffic leaving the site attempting to go West bound across the median turn pocket and onto Harley Knox going west.

F-2

What protective action is the city taking or requiring the developer to ensure illegal turns aren't possible?

Thanks,
Tito

Comment F-1: I wanted to make sure that the semi-trucks will lonely [sic] access right in and exit right out. Correct?

Response F-1: Both project driveways are proposed as right- turn in and right-turn out. For truck driveway distribution, see Attached Figures 5 & 6 of the Transportation Study Screening Assessment).

Comment F-2: Thank you for sharing the drawings for the proposed Brew Harley Knox Warehouse Project. After our initial review, the Property Owner is concerned with the following:

1. West Bound traffic attempting to make an illegal left-hand turn south across the designated median turn pocket for 400 Harley Knox to the proposed project; and,
2. Traffic leaving the site attempting to go West bound across the median turn pocket and onto Harley Knox going west.

What protective action is the city taking or requiring the developer to ensure illegal turns aren't possible?

Response F-2: Both project driveways are right-turn in and right-turn out. For truck driveway distribution, see attached Figures 5 & 6 of the Transportation Study Screening Assessment. If necessary, the City may also request the developer to install pylons to highlight the correct access direction for truck drivers.

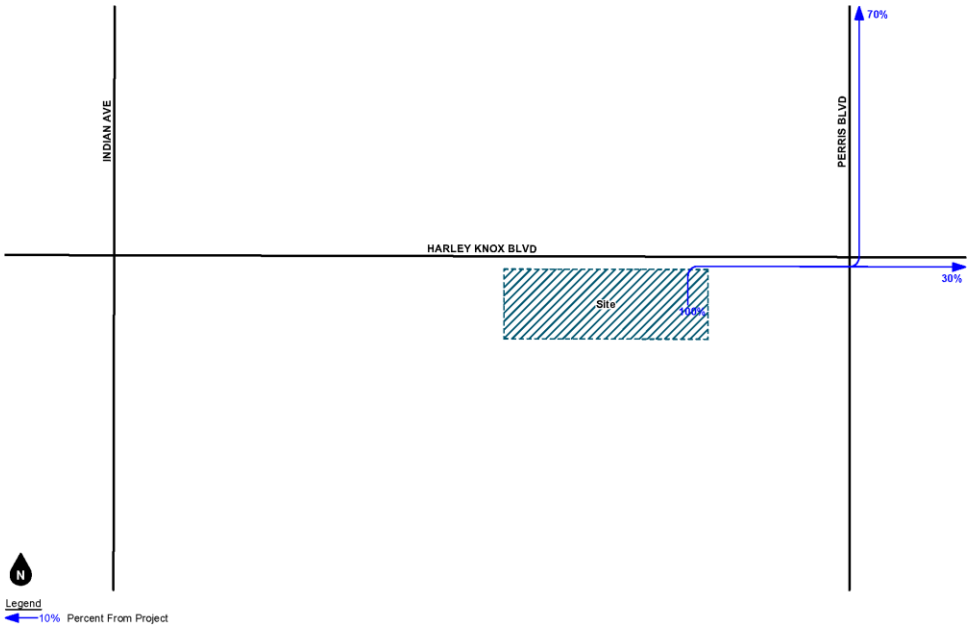

Figure 5
Project Trucks Trip Distribution (Outbound)

gandbfri

Brew Harley Knox Industrial Project
Traffic Impact Analysis
19619

13

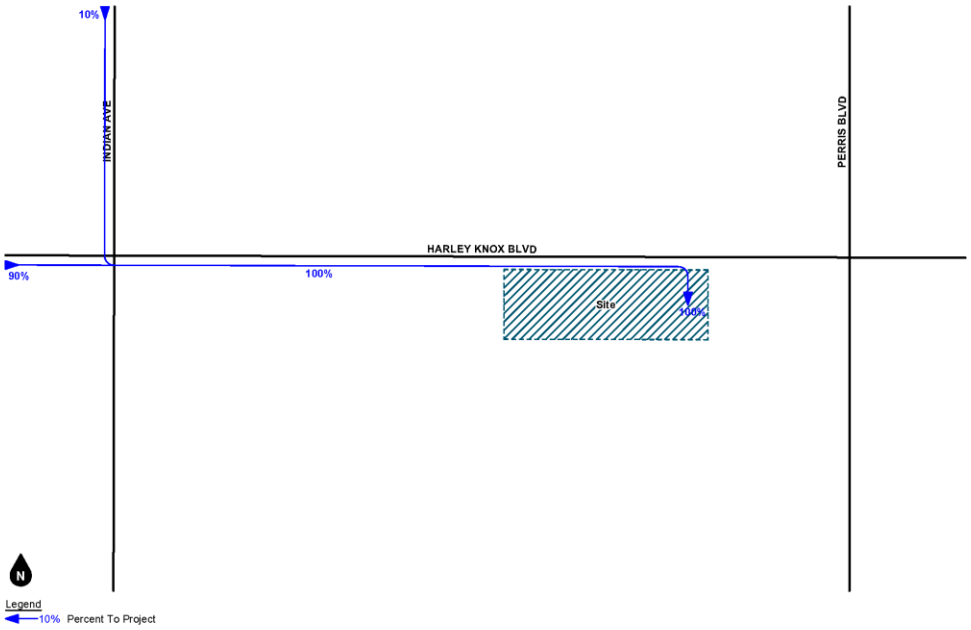

Figure 6
Project Trucks Trip Distribution (Inbound)

gandbfri

Brew Harley Knox Industrial Project
Traffic Impact Analysis
19619

14

Comment Letter G

Lozeau Drury representing Supporters Alliance for Environmental Responsibility ("SAFER") dated May 7th, 2024

LOZEAU DRURY LLP
T 510.836.4200
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1939 Harrison Street, Ste. 150
Oakland, CA 94612
www.lozeaudrury.com
Marjan@lozeaudrury.com

VIA EMAIL ONLY

May 6, 2024

LETTER G

Alfredo Garcia
City of Perris Planning Division
135 North D Street
Perris, California 92570
algarcia@cityofperris.org
CC: Kenneth Phung, Director of Development Services

Re: Brew Harley Knox Warehouse Project (SPA 22-05375/DPR 22-00036)
SAFER Supplemental Comment - Proposed Mitigated Negative Declaration

Dear Mr. Garcia:

I am writing on behalf of the Supporters Alliance For Environmental Responsibility ("SAFER") and its members living and/or working in and around the City of Perris ("City"). SAFER's comment is with regard to the Initial Study and Mitigated Negative Declaration ("MND") prepared for the Brew Enterprise Project ("Project") (DPR 20-00019; TPM 38061). G-1

SAFER's review of the MND is assisted by expert wildlife biologist Dr. Shawn Smallwood, Ph.D. The supplemental comments of Dr. Smallwood are attached hereto as Exhibit A. SAFER additionally incorporates our prior comment hereto as Exhibit B. Dr. Smallwood's review is supported by a site visit by his associate, Noriko Smallwood. Ms. Smallwood is an expert biologist with a master's degree in avian wildlife ecology and conservation. Based on the site visit and review of the Project, SAFER maintains our position that several of the MND's conclusions are not supported by substantial evidence and, moreover, there is a fair argument that the Project may have unmitigated adverse environmental impacts. SAFER requests that the City prepare an environmental impact report ("EIR") rather than an MND prior to approving the Project. G-2

PROJECT DESCRIPTION

The Project sits on a 4.01-acre site. The Applicant, Brew Enterprises II, LLC, is seeking a Specific Plan Amendment and Development Plan Review for the development of an approximately 59,000-square-foot warehouse building with supporting parking and landscaping. The Project is located within the Perris Valley Commerce Center Specific Plan in the City's General Plan. The Specific Plan does not permit warehouses under the location's commercial designation. G-3

LEGAL STANDARD

As the California Supreme Court has held "[i]f no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR." (*Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319-320 [citing *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 88; *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491, 504–505].) "Significant environmental effect" is defined very broadly as "a substantial or potentially substantial adverse change in the environment." (Pub. Res. Code (PRC) § 21068; *see also* 14 Cal. Code Regs. (CCR), § 15382.)

The EIR is the very heart of CEQA. (*Bakersfield Citizens for Local Control v. City of Bakersfield (*2004) 124 Cal.App.4th 1184, 1214 (*Bakersfield Citizens*); *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927.) The EIR is an "environmental 'alarm bell' whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return." (*Bakersfield Citizens*, 124 Cal.App.4th at 1220.) The EIR also functions as a "document of accountability," intended to "demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action." (*Laurel Heights Improvements Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 392.) The EIR process "protects not only the environment but also informed self-government." (*Pocket Protectors*, 124 Cal.App.4th at 927.)

G-4

Where an initial study shows that the project may have a significant effect on the environment, a mitigated negative declaration may be appropriate. However, a mitigated negative declaration is proper *only* if the project revisions would avoid or mitigate the potentially significant effects identified in the initial study "to a point where clearly no significant effect on the environment would occur, and…there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment." (PRC §§ 21064.5 and 21080(c)(2); *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 331.) In that context, "may" means a reasonable possibility of a significant effect on the environment. (PRC §§ 21082.2(a), 21100, 21151(a); *Pocket Protectors*, 124 Cal.App.4th at 927; *League for Protection of Oakland's etc. Historic Res. v. City of Oakland* (1997) 52 Cal.App.4th 896, 904–05.)

Under the "fair argument" standard, an EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency's decision. (14 CCR § 15064(f)(1); *Pocket Protectors,* 124 Cal.App.4th at 931; *Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-51; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602.) The "fair argument" standard creates a "low threshold" favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. (*Pocket Protectors*, 124 Cal.App.4th at 928.) The "fair argument"

standard is virtually the opposite of the typical deferential standard accorded to agencies. As a leading CEQA treatise explains:

> This 'fair argument' standard is very different from the standard normally followed by public agencies in making administrative determinations. Ordinarily, public agencies weigh the evidence in the record before them and reach a decision based on a preponderance of the evidence. [Citations]. The fair argument standard, by contrast, prevents the lead agency from weighing competing evidence to determine who has a better argument concerning the likelihood or extent of a potential environmental impact. The lead agency's decision is thus largely legal rather than factual; it does not resolve conflicts in the evidence but determines only whether substantial evidence exists in the record to support the prescribed fair argument.
>
> (Kostka & Zischke, *Practice Under CEQA*, §6.29, pp. 273–74.)

G-4 cont'd

The Courts have explained that "it is a question of law, not fact, whether a fair argument exists, and the courts owe no deference to the lead agency's determination. Review is de novo, with *a preference for resolving doubts in favor of environmental review*." (*Pocket Protectors*, 124 Cal.App.4th at 928 (emphasis in original).)

DISCUSSION

I. The MND Fails to Adequately Describe the Project's Environmental Setting.

The City inadequately characterized the existing environmental setting and the site's ability to provide habitat for special-status species. Every CEQA document must start from a "baseline" assumption. The CEQA "baseline" is the set of environmental conditions against which to compare a project's anticipated impacts. (*Communities for a Better Envt. v. So. Coast Air Qual. Mgmt. Dist.* (2010) 48 Cal. 4th 310, 321.) Section 15125(a) of the CEQA Guidelines (14 C.C.R., § 15125(a)) states in pertinent part that a lead agency's environmental review under CEQA:

> "…must include a description of the physical environmental conditions in the vicinity of the project, ***as they exist at the time [environmental analysis] is commenced***, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant." (Emphasis added.)

G-5

(See, *Save Our Peninsula Committee v. County of Monterey* (2001) 87 Cal.App.4th 99, 124-125) ("*Save our Peninsula*"). As the court of appeal has explained, "the impacts of the project must be measured against the 'real conditions on the ground,'" and not against hypothetical permitted levels. (*Save Our Peninsula, supra*, 87 Cal.App.4th 99, 121-123.)

Here, the MND's biological resources analysis is supported by a technical report prepared by environmental consulting firm, MIG, Inc. ("MIG"). Dr. Smallwood concludes that MIG failed to prepare an adequate survey identifying the plant and wildlife species that may rely

on the Project site, errors that render the survey inadequate and unreliable. The environmental setting is further deficient because MIG's survey was performed shortly after the site had been disced, meaning that the results taken from the survey "can yield a false negative result." (Ex. A, p. 22.) Discing is when one uses a disc harrow, which is a type of cultivator with two rows of vertical dishes, to cut up and bury organic matter on the surface of the soil. This "false negative" is best exemplified by MIG's conclusion that "none of the 48 plant species are expected to occur within the Project Area, primarily due to the level of discing event within the Project Area." (MND, p. 65.)

G-5 (cont.)

The Project site has been surveyed at least four times by Dr. Smallwood's associate, Noriko Smallwood, M.S.: once on November 21, 2021 in relation to a prior project proposal on the site; again on December 9, 2022 for independent research purposes; on March 5, 2024 prior to the MND comment deadline; and most recently on March 21, 2024. (Ex. A, p. 1.) Dr. Smallwood's four reports demonstrate that the Project site has habitat value for several special status species.

Dr. Smallwood notes that the MIG report fails to meet the California Department of Fish and Wildlife's ("CDFW") recommended minimum standards. Specifically, MIG's study used only a single breeding-season survey and failed to summarize the qualifications of the biologists who performed the survey. MIG's failure to include the methodological details that shaped the survey findings render the analysis of the Project baseline unreliable. Dr. Smallwood concludes that "the minimum scientific standards needed to support an absence determination were not achieved." Therefore, the MIG study does not provide substantial evidence to establish the Project baseline. (Ex. A, p. 23.)

G-6

48

Ms. Smallwood identified two special status species on the Project site during the most recent site visit, California gull (Larus californicus) and Red-tailed hawk (Buteo jamaicensis). The Prior site visits identified eight special status species on or near the Project site. These species are the California gull (*Larus californicus*), Double-breasted cormorant (*Nannopterum auritum*), Turkey vulture (*Cathartes aura*), Northern harrier (*Circus cyaneus*), Red-tailed hawk (*Buteo jamaicensis*), American kestrel (*Falco sparverius*), California horned lark (*Eremophilia alpestris actia*), and the Peregrine falcon (*Falco peregrinus*). (Ex. A, pp. 4-5.) Noriko Smallwood visited the site for approximately 3 hours on March 21, 2024, detecting 29 species of vertebrate wildlife at or adjacent to the project site, including two special status species. (Ex. A, p. 2.). Despite the disturbed nature of the site, Noriko observed special status species making use of its soil, vegetation, and airspace during the time she surveyed it. (*Id.*, p. 3.)

G-7

In addition, Ms. Smallwood performed three prior visits to the Project site. (March 11, 2024 Comment Letter; Exhibit B, p. 3.) She walked the site's perimeter, using binoculars and a camera to scan for wildlife. (*Id.*) From all four visits, Ms. Smallwood identified the numerous special status species at or near the Project site: The occurrence of special-status species, including those identified as either protected Birds of Prey, Birds and Species of Conservation Concern, and/or identified on the Taxa to Watch List, throughout all four site visits emphasizes the fact that these sightings are not chance occurrences. (*Id.*) Rather, they are indicative of the

Project site's importance to wildlife communities and the potentially significant impacts that remain unanalyzed and unmitigated. G-7 (cont.)

This eye-witness information demonstrates that the MND's environmental setting discussion is inadequate because it wrongly states that these special status species are not present. MIG's determination that 56 of the 58 special-status species would not occur on the Project site is incorrect. In fact, separate from the two special status species Ms. Smallwood identified on her most recent site visit, "seven more have been documented within 1.5 miles of the site, and another 16 have been documented within 1.5 and 4 miles of the site." (Ex. A, p. 24.) Taking into account the site visits, Dr. Smallwood posits that "the site therefore supports multiple special-status species of wildlife and carries the potential for supporting many more special-status species of wildlife based on proximity of recorded occurrences." (Ex. A, p. 22.) The MND's resulting conclusion is thereby incorrect because there are documented special status species on and around the Project site. G-8

II. The Project May Have Significant Adverse Effects on Special Status Species.

An EIR is required because there is substantial evidence establishing a fair argument that the Project will have significant adverse impacts on special status species. An EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency's decision. (CEQA Guidelines § 15064(f)(1); Stanislaus Audubon v. Stanislaus (1995) 33 Cal.App.4th 144, 150-151 (1995)). Dr. Smallwood concluded that the Project site has habitat value for special status species and therefore the Project may have adverse impacts on biological resources. (Ex. A, p. 1.) G-9

Type text h

The MND concluded that the Project will not have a substantial adverse effect on candidate, sensitive, or special status species, supported in part by MIG's report indicating that special status species are not expected to occur due to lack of a suitable habitat. (MND, p. 68.) As discussed above, that conclusion is in error since special status species have been positively identified on and near the Project site. G-10

Dr. Smallwood concludes that the Project may have a substantial adverse effect on these special status species, either directly due to traffic collisions or through the habitat modifications stemming from the Project. Dr. Smallwood also concludes that the Project may fragment the few remaining habitat for special status species, disturb their reproductive capacity, increase mortality due to traffic collisions, and overall impede their movement. (Ex. A, pp. 28-30.) Dr. Smallwood's findings constitute substantial evidence of a fair argument that the Project may have an adverse effect on special status species. G-11

III. The Project May Have Adverse Impacts on Wildlife Movement.

The Project may have adverse impacts because of its substantial interference with the movement of wildlife species. Dr. Smallwood concludes that the Project may have potentially significant and unabated impacts related to traffic, habitat loss, and fragmentation, not just on special status species specifically but on wildlife generally. (Ex. A, pp. 28-30.) G-12

1. Wildlife Movement.

The MND's analysis of the Project's impacts to wildlife movement is flawed. The MND claims that the "Project Area does not act as a wildlife movement corridor due to the current built environment as well as the presence of urban/suburban development surrounding the site." (Biological Resources Study, p. 14.) However, the proper standard under CEQA is whether the Project would "[i]nterfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors." (MND, p. 64.) As Dr. Smallwood notes, the conclusion reached in one portion of the Biological Resources Study is "inconsistent with its own description of how a wildlife corridor can be constructed" because the MND also acknowledges that wildlife corridors can also constitute "discontinuous areas of habitat" much like the Project site's relationship to the area (Ex. A, p. 29.)

The MND relies on the conclusion that the Project site is not located in any wildlife corridor, but such finding is inconclusive of whether the Project site would substantially interfere with wildlife movement. As Dr. Smallwood notes, "[t]he primary phrase of the CEQA standard goes to wildlife movement regardless of whether the movement is channeled by a corridor. In fact, a site such as the project site is critically important for wildlife movement because it composes an increasingly diminishing area of open space within a growing expanse of anthropogenic uses, forcing more species of volant wildlife to use the site for stopover and staging during migration, dispersal, and home range patrol [citations omitted]." (Ex. A, p. 30.) Conversely, Ms. Smallwood's in-person site visit yielded completely contradictory conclusions, as evidenced by the wildlife species she photographed perching on and flying over the Project site.

G-12 (cont.)

Given the documented use by wildlife species of the Project site and aerosphere for movement, Dr. Smallwood concludes that the Project may have adverse impacts on wildlife movement. An EIR is required to analyze and mitigate this impact.

2. Habitat Loss and Fragmentation.

The Project will adversely affect the special status species identified due to the fact that the Project will result in direct loss of habitat. Habitat loss and fragmentation impede the movement of wildlife species. The MND neither analyzes nor discloses the impact to wildlife as a result of the Project's removal of existing wildlife habitat. In particular, the MND does not evaluate the Project impacts on habitat even though "habitat loss results in a reduced productive capacity of affected wildlife species." (Ex. A, p. 28.) Dr. Smallwood calculated that the Project would result in a reduction of approximately 12 nest sites and 39 births annually. (*Id.* at p. 29.)

G-13

Given that the area has already undergone severe habitat fragmentation, proceeding with this Project would only further exacerbate the habitat loss and the area's productive capacity for wildlife species. As such, an EIR is necessary to ensure the wildlife impacts from habitat loss and fragmentation is mitigated to the fullest extent.

3. Traffic Collisions and Wildlife Mortality.

The Project may have an adverse effect on wildlife species movement due to traffic collisions. According to the MND, the Project is projected to have 103 daily trips and 17 daily vehicle miles traveled ("VMT") per employee, resulting in approximately 22,242,187.5 VMT annually. (Ex. A, p. 27.) As a result, Dr. Smallwood estimates that collisions with vehicles as a result of the Project would kill approximately 174 vertebrate wildlife fatalities per year. (*Id.* at 32) Especially due to the special-status species likely to occur at or near the Project, these collisions represent an adverse impact to wildlife that has not been addressed, discussed, or mitigated in the MND. Dr. Smallwood's calculations constitute a fair argument that an EIR is necessary to address and mitigate this impact.

G-14

Since there is substantial evidence of a fair argument that the Project may have adverse biological impacts, as it relates to movement, habitat loss/fragmentation, and wildlife collisions/mortalities, an EIR is required to analyze these impacts and propose feasible mitigation measures. Dr. Smallwood suggests multiple mitigation measures related to protecting wildlife from traffic, funding wildlife rehabilitation facilities, and applying native landscaping on the Project site. (Ex. A, p. 36.) These mitigation measures should be analyzed in an EIR and incorporated where feasible. Unless and until such impacts are addressed and mitigated, the City cannot proceed with any further approvals.

CONCLUSION

G-15

For the reasons set forth above, the MND is improper for this Project. SAFER respectfully requests that the City prepare and circulate an EIR for the Project prior to approval.

Sincerely,

Marjan R. Abubo
LOZEAU DRURY LLP

It should be noted that SAFER's second March 18 letter indicated that its detailed comments were superseded and so SAFER's detailed comments on the Project are addressed in this comment letter. These responses incorporate by reference those comments from the earlier letter. All the comments from the previous March 18 letter are included in this May 6 letter so no additional separate response is necessary regarding the March 18 letter.

Comment G-1: This comment introduces the commenter and the group it represents (SAFER).

Response G-1: The City is familiar with this organization as it has previously submitted comment letters on CEQA documents for other projects in Perris using supporting research from hired consultants. This comment does not question to the content of conclusions of the Initial Study/MND.

Comment G-2: This comment introduces consulting wildlife biologist Dr. Shawn Smallwood, Ph.D. who is associated with a firm Soil/Water/Air Protection Enterprises also referred to as "SWAPE". The comment references attached reports and states that, based on Dr. Smallwood's review, there is a fair argument that the project may significantly impact biological resources, so an EIR should be prepared.

Response G-2: The City has reviewed the materials provided by SWAPE and finds that they inaccurately characterize conditions of the project site and do not make a fair argument that the project would have a significant impact on biological resources. These materials do not raise a reasonable or accurate fair argument in this regard as explained in the following specific responses to comments in the SAFER 4 Letter and the accompanying SWAPE materials.

Comment G-3: This comment provides a brief overview of the project description, states that the project location is within the Perris Valley Commerce Center Specific Plan in the City's General Plan, and states that the Specific Plan does not permit warehouses in parcels with a "Commercial" designation.

Response G-3: The project description and location are accurate, although it leaves out that the project applicant is requesting a Specific Plan Amendment to change the PVCCSP land use designation of the project site to Light Industrial which allows warehousing.

Comment G-4: This comment presents legal information on CEQA documents and the CEQA process, mainly about when to prepare an EIR vs. an MND, the definition of environmental baseline, and the requirements for mitigation.

Response G-4: This comment provides background information on CEQA and does not make a specific comment on the project MND, so no further specific response is required.

Section I. The MND Fails to Adequately Describe the Project's Environmental Setting, p. 3-5

Comment G-5: The commenter claims that the City inadequately characterized the environmental setting and the site's ability to provide habitat for special-status species. The commenter then provides a short summary of case law examples regarding the requirements of CEQA to provide an adequate description of the environmental baseline and an appropriate analysis of project impacts. They further state that the technical report prepared by MIG did not provide an adequate survey, citing that because the site was disced prior to the survey the results could yield a false negative result. They support this statement by providing the example that was outlined in MIG report, that none of the rare plant species are expected to occur based on the level of discing.

The commenter also refers to biological assessments performed by Dr. Shawn Smallwood and Ms. Noriko Smallwood, which includes their assessment of the site as garnered from four site visits and which are provided in Appendices A and B attached to the letter.

Response G-5: The legal background regarding adequate characterization of the environmental baseline and appropriate evaluation of the project's impacts has been recorded in the Initial Study/MND and associated technical reports for the administrative record and does not require response.

As shown in Appendix B of the General Biological Resources Assessment, Burrowing Owl Survey, and Western Riverside County MSHCP Consistency Analysis (collectively referred to as the MSHCP Report) prepared by MIG, entitled "Special Status Plant Species with Potential to Occur at the Project", thorough evaluations of the potential for each species to occur were provided. The MSHCP Report contained more evaluations than were indicated in the quote provided by the commenter (i.e., "none of the 48 plant species are expected to occur within the project site, primarily due to the level of discing event within the project site." (Initial Study/MND, p. 65.). However, damage to the soils due to the level of discing (including historically for agricultural operations) is believed to be a primary reason that many special-status plants are not expected on the project site. Further, the conclusion that the project site was unsuitable for many special-status plant species after historical agricultural production and repeated discing is reasonable, especially considering that most rare plants will only grow under highly specific vegetation, soil, and/or hydrologic regimes.

Statements regarding evaluating the site after discing are also recorded for the record; however, the habitat assessment also includes a review of aerial photos and other records pertaining to the site (including previous reports prepared for the project), and examinations of remnants of plants within the disced site along with comparisons with immediately adjacent undisced sites allowed for characterization of the vegetation on-site, despite being recently disced. From the literature review included in the MSHCP Report it was determined that the project site is routinely disced typically annually and hence is part of the environmental baseline for maintenance and not a new activity. The project site required discing at that time to comply with the Fire Code, and the site required abatement—discing is legally allowed for vegetation maintenance in Riverside County (see Attachments 1 and 2, weed abatement notices).

The habitat assessment conducted by MIG is not intended to be interpreted as a presence/absence survey that could reasonably interpreted as a "false negative" survey—a habitat assessment is a characterization of the potential for the site to support special-status rare species. A habitat assessment consists of an evaluation of ecological factors that can be used to determine if focused surveys are required. Soils, vegetation communities, and hydrological conditions are features that were evaluated during a typical habitat assessment rather than the presence or absence of sensitive species.

Also, please note that the Western Riverside Multiple Species Habitat Conservation Plan (MSHCP) covers this project site. The project site is not within a Narrow Endemic Plant species or Criteria Species survey area that requires rare plant surveys. Focused surveys for plant species are only required if there is the potential for a sensitive species to occur and would only be required for species that are not covered by the MSHCP due to the project site's location.

The reports provided in Exhibits A and B have been reviewed in their entirety and considered for the administrative record. The content presented in Exhibits A and B is incorporated and reviewed concurrently with the letter in the responses below only where necessary to explain

CEQA-relevant issues. Non-CEQA issues and extensive evaluations of the scientific methods used by Dr. Shawn Smallwood and Ms. Noriko Smallwood (collectively referred to as Smallwood) for their analysis are not included in the Responses herein unless deemed relevant.

Comment G-6: The commenter states that the report fails to meet the California Department of Fish and Wildlife (CDFW) recommended minimum standards for preparing such studies, that a single breeding-season survey is insufficient, and also states that a summary of the biologists' qualifications should have been included. The commenter also states that the method details are not included and, therefore, the analysis is unreliable. The commenter also quotes Dr. Smallwood, stating that the minimum scientific standards were not met to support an absence determination. The commenter indicates their opinion that, based on those reasons, the MSHCP Report doesn't establish a project baseline.

Response G-6: The CDFW does not have "recommended minimum standards," and we assume that the commenter is referring to the general discretion that Lead Agencies should apply while choosing preparers and methodologies for technical studies used for CEQA analyses as substantial evidence, which is based on a combination of case law, state agency guidance, and public input. CEQA requires scientifically acceptable and current analyses prepared by qualified professionals (i.e., they have the educational and professional training to prepare the involved studies). While the requirements of such studies are not specifically identified in the CEQA Statute or Guidelines, they should follow the general parameters for CEQA documents include Writing (Guidelines Section 15140, Degree of Specificity (Guidelines Section 15146), Technical Detail (Guidelines Section 15147, and Citations (State CEQA Guidelines Section 15148).

No avian breeding-season surveys are required at the project site by the MSHCP other than those for burrowing owls, which are included in the MSHCP Report. Within the MSHCP area, only some avian species require protocol surveys, none of which were determined to be expected to occur at the site other than burrowing owl. Within the MSHCP area, there is no requirement by the CDFW for multiple avian breeding-season surveys for projects of similar scope within the type of habitat of the project site.

The CDFW does not require a resume to be provided in this type of report and the biologists conducting the survey are well-qualified. Elizabeth Kempton, Ph. D., and Todd Easley, M.S., were among the biologists conducting the survey; both surveyors have advanced degrees and have been conducting biological surveys for over two decades.

The statement that 'methodological details' are not provided is inaccurate. Methods are provided for burrowing owl surveys in Section 5.5.3.1 (page 20) of the MSHCP Report. Methods for the general biological survey were included in Section 3.0 (pages 9-11) of the MSHCP Report.

In summary, the commenter did not provide any support for the opinion that the project baseline is not established because (1) multiple seasons of breeding surveys are not required for this type of project within this type of habitat and within the MSHCP area, (2) the biologists' qualifications in terms of academic degrees and years of experience were provided h although no resume or summary is required, and (3) the methods of the surveys were provided in the MSHCP Report and locations of text were provided in this response.

Comment G-7: The commenter states and provides details that two special-status species were observed on the most recent survey (California gull and red-tailed hawk), eight special-

status species were observed on previous visits, and 29 species were detected on the most recent visit utilizing the site. The commenter further notes the prior visits and general methods used by Ms. Smallwood and indicates that the sightings of the species observed during her surveys are not chance occurrences.

Response G-7: According to the statements in the comment letter, the Smallwood report found different results regarding the number of species and species composition present on the site. It is not scientifically sound to compare the results of surveys performed on different dates and expect them to yield the exact same results. Of crucial importance is the fact that the surveys for the MSHCP Report were conducted in April 2023, while Ms. Noriko Smallwood's wildlife surveys were conducted in November 2021, December 2022, March 5, 2024, and March 21, 2024. There will be different results whenever studies are done at different times, especially with species like transitory and mobile birds. Nonetheless, the results of Smallwood's additional surveys can be incorporated into the administrative record for this project. Mitigation measure MM-BR-1 (survey for nesting birds) would mitigate potential impacts to nesting birds, including any reported by Ms. Smallwood during her survey.

Wildlife presence does not in and of itself indicate that suitable habitat is present. The CEQA checklist questions pertain to the impacts of the project directly on special-status species or through habitat modification. In reviewing the special-status species documented by Smallwood, not one of the special- status species detected during their surveys is using the site in a way that would warrant additional surveys or mitigation measures for the project. It appears that several species characterized as being on- site or adjacent in the Smallwood report would not use the site for significant portions of their lifespan. "Flyovers" of species are not considered to be uses of a site, and loss of a temporary foraging or roosting site does not constitute an impact, according to CEQA—please see Response G-8 (below) for more discussion concerning habitat use.

Smallwood's analysis broadly includes species that are classified under organizations or protocols that do not necessarily meet CEQA's requirements for special status considerations. For example, Birds of Conservation Concern (BCC), Taxa to Watch List (TWL), Birds of Prey (BOP) are not specifically used by the CDFW to generate their "species of special concern" list although many of these species were already evaluated in the MSHCP Report and species protected under the Migratory Bird Treaty Act (i.e., BOP, BCC, and other avian species). These statuses (i.e., BCC, TWL, BOP) are not evaluated in CEQA biological assessments because they do not meet the documentation and report preparation requirements of the CDFW; they are acknowledged but were not discussed in further detail.

Only one special-status taxon observed by Smallwood during their surveys warrants consideration herein because it was not evaluated in the MSHCP Report — the northern harrier (*Circus hudsonius*, California Species of Special Concern). Based on the notes provided in the report dated March 21, 2024, it appears that this observation was a flyover, but even considering the possibility that it perched or foraged on site, this species would not be expected to nest on site. The northern harrier nests at or adjacent to more mesic habitats such as marshes, ponds, and wet tall-grass prairies, and occasionally may nest in human- made structures that provide similar cover. The project site does not have the habitats that this species requires to persist, as the vegetation on site is managed routinely in compliance with the fire code, and there are no wetlands or ponds at or immediately adjacent to the site. In the unexpected event that a northern harrier precariously nests at the site, despite the lack of high-quality nesting habitat, this species would be protected under mitigation measure MM-BR-1 which is the avoidance of site preparation activities during the nesting season of potentially occurring native and migratory bird species or the implementation of a nesting bird survey prior

to site preparation activities at the site.

Comment G-8: The commenter states that observations in Smallwood's study demonstrate that the environmental setting for the MND is inadequate because it states that special-status species are not present. The commenter states that "MIG's determination that 56 of the 58 special-status species would not occur on the Project site is incorrect." They go on say that additional special-status species have been observed by Smallwood and 16 additional species have been documented near the site. The commenter then concludes that the MND's conclusion is incorrect because there are special-status species occurrences on and around the project site.

Response G-8: The MND states that two special-status species, including the burrowing owl and Cooper's hawk, have the potential to occur and it does not state that "special-status species are not present" in the context used by the commenter.

Despite Smallwood's indication that they have identified more avian species by onsite observations or through a database search, it does not support the claim that the MSHCP Report is inadequate or fails to evaluate impacts on special-status species. Minor variances are expected in the number of species that different biologists may generate in desktop research and during field surveys; however, even if Smallwood generated a more extensive list, this would not invalidate the results of the MSHCP Report or other previous biological studies on the site. MIG used the databases maintained and recommended by the CDFW for such studies, and as mentioned above, none of the species Smallwood identified warrant additional mitigation measures to avoid impacts. That said, the purpose of a habitat assessment is to determine if the project may have a substantial adverse effect on candidate, sensitive, or special-status species, e.g., certain species identified as at significant risk of becoming endangered or extinct. As noted in Response G-7 above, Smallwood's analysis refers to some species with special statuses made by other organizations that are not typically considered under CEQA relative to the CDFW's official list of "species of special concern".

While CEQA requires consideration of potential impacts on the environment, it doesn't directly protect all types of habitat. Instead, it focuses on a project's potential impacts on special-status species that rely on those habitats. It is common knowledge that some special-status species may use certain habitats seasonally (i.e., natal site, overwintering burrows, etc.). Many species, especially avian species, are habitat-specific in selecting roosting, foraging, and nesting locations, and occurrences nearby do not alone indicate potential impacts to the species or habitat loss.

The conclusion that the project site is occupied by special-status species in the Smallwood study is based on documentation of these species using the site by flying over it or temporarily perching within it (as shown in column 8 of Table 1, page 4 of Appendix A) and considers these to be uses of the site that require mitigation for habitat loss, which is atypical for a habitat assessment. The fact that a species flies over the project site does not necessarily constitute a substantial adverse effect and foraging and perching/roosting locations are not, by themselves, protected by the laws that protect sensitive species unless they are known to breed in them. The State CEQA Guidelines Appendix G checklist questions regarding biological resources indicate what requires analysis. A substantial adverse effect could occur if the project directly impacted certain species or habitats and caused a reduction in population levels, such that the species would face further decline. The fact that they may fly over, perch, or forage at the project site does not necessarily constitute a substantial adverse effect related to development of the project. For example, if the project were to remove a breeding colony of a rare species,

that would have a substantial effect. The MSHCP Report presents adequate information to determine the likelihood of substantial adverse impacts to biological resources as specified in the State CEQA Guidelines Appendix G checklist questions. While the additional surveys and analyses in Smallwood add to the biological setting information, they do not demonstrate the need for additional surveys or provide substantial evidence of a potential significant biological impact not addressed in the MSHCP Report.

Section II. The Project May Have Significant Adverse Effects on Special Status Species, p. 5

Comment G-9: The commenter reiterates the "fair argument" standard and states that the project will significantly impact special status species, and therefore, an EIR is required. The commenter states that Dr. Smallwood concluded that the project site has habitat value for special-status species and may impact biological resources.

Response G-9: Please see Responses G-7 and G-8 regarding which species and habitat uses require consideration under CEQA.

Comment G-10: The commenter reiterates that the MND concludes that there are no special-status species due to lack of suitable habitat and says that is an error because Smallwood identified some in their field surveys.

Response G-10: As mentioned above, the Smallwood study includes special status classifications and uses of habitats that are not typically included in biological studies for CEQA. Mitigation measure MM-BR-1 is included in the Initial Study/MND to provide mitigation and species protection for any avian species that may nest on the site, including any that were not identified in the MSHCP Report that could reasonably use the site for permanent habitat use.

Comment G-11: The commenter states that the project may have adverse impacts due project-related habitat modifications, increasing habitat fragmentation, disturbances to reproductive capacity, increased mortality due to traffic collisions, and impeding habitat movement, and then refers to the fair argument standard for adverse effects on special-status species.

Response G-11: Please see Responses G-7 and G-8 regarding habitat impacts, Response G-13 regarding habitat fragmentation and disturbances to reproductive capacity, Response G-14 regarding increased mortality due to traffic collisions, Response G-12 regarding impeding habitat movement, and Response G-2 regarding the fair argument standard.

Comment G-12: The commenter states that the Initial Study/MND fails to consider the impacts caused to wildlife movement.

Response G-12: The project would not significantly impact wildlife movement based on CEQA criteria because it is in an already disturbed site and not within any known migration corridor. CEQA does not protect all lands as "wildlife movement" areas but instead protects designated or "established native resident or migratory wildlife corridors." It is not expected that the project's removal of vegetation (primarily non-native grasses, see Figure 1) would reasonably be considered an impact on wildlife movement because there are alternate sites available in the vicinity that wildlife may use.

Figure 1. Brew Harley Knox Industrial Project on April 11, 2023.

The project site is within the Western Riverside MSHCP planning area, but it is not located in any existing or planned MSHCP Core, Linkage, Criteria Cell, Cell Group, Conserved Reserve Lands, or Conserved Public Quasi-Public Lands. Thus, the site is not part of a designated or planned migratory movement area. The Western Riverside MSHCP's activities (i.e., establishing linkages and cores) within the planning area likely constitute "methodology, sampling regime, or any program of observation to record wildlife patterns, assessments, and detailed analysis" that supports this area not being a wildlife corridor that Smallwood suggested was required. The site is also surrounded by existing and planned urban development which makes vacant land discontinuous and disconnected. While this land use pattern would not necessarily preclude wildlife movement, the CEQA threshold is whether or not the project would "interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors" (Initial Study/MND p. 64), There is no evidence that the project site supports migratory species or would significantly facilitate the movement of wildlife through this area. As previously stated, the site is also not designated by the MSHCP as a wildlife movement corridor. In addition, the commenter has not provided empirical evidence demonstrating potential project impacts related to wildlife movement rise to the level of having to prepare an EIR.

Comment G-13: The commenter states that the Initial Study/MND fails to address habitat loss and fragmentation, which would contribute to decreased reproductive capacity of birds in the area and cause the loss of 12 nest sites and 39 births annually.

Response G-13: The Smallwood study does not establish that any special-status species are residents of the project site (i.e., using the site for nesting or a nursery site), and there are no federal Critical Habitat or state Sensitive Natural Communities on the site. The site lacks trees and shrubs and is not dominated by native annuals that typically provide higher-quality habitats for sensitive and special-status species. The project site is routinely disked (see Figure 1 under Response G-12, above) following the Fire Code, and provides limited foraging opportunities. Evidence shows that the site is dominated by non-native grasses and forbs, which may provide limited foraging opportunities for wildlife of all statuses; however, no special-status species were

observed nesting on the site by Smallwood or MIG. Since the project site is primarily surrounded by development and is already developed/disturbed, it is also not reasonable to suggest that the project would significantly contribute to habitat fragmentation.

Again, the project site does not contain any habitats considered sensitive or protected by any resource agency or entity, such as wetlands or native grasslands; therefore, the project proponent/developer would not be expected to mitigate habitat loss. Further, the estimated losses per year are not a reasonable estimate. The Smallwood projections assume 100% of the deaths of birds when, realistically, there are other possible sites for nesting birds to nest other than the project site. Mitigation measure MM-BR-1 (for nesting birds) calls for avoiding nests during the nesting period and preconstruction surveys for active nests, which should lower the potential to impact nesting birds to below the significance level.

Comment G-14: The commenter states that the Initial Study/MND failed to address impacts on wildlife from project-generated traffic. The commenter supports this claim by stating VMT estimates from the Initial Study/MND and estimates from the Smallwood study. The commenter states further that there is a fair argument for adverse impacts and suggests some mitigation.

Response G-14: Wildlife impacts specifically caused by project-generated traffic are not evaluated under CEQA for common species. As excerpted from CEQA Appendix G, potential impacts for biological resources are evaluated considering if the project may:

a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

None of these conditions have been demonstrated to rise to the level of a significant impact on biological species. The commenter attempts to directly correlate a roadkill analysis for a project in Contra Costa County along a 2.5 mile stretch of a major arterial roadway and developing ratios of wildlife death for various species per mile of project-related traffic. This study is not applicable to the proposed project for many reasons, including but not limited to: the quantity and diversity of Contra Costa County wildlife vs. that of Riverside County (and the project area in particular); the onsite conditions supporting wildlife onsite and movement of wildlife through the area; and the amount and type of traffic generated by the proposed project relative to the example project. It is reasonable to assume that some amount of roadkill could occur on nearby roadways when new traffic-generating development is constructed. However, the effort to correlate traffic-related wildlife deaths on the example site to potential wildlife losses through roadkill at the project site is not scientifically appropriate or accurate. Without specific area wildlife and traffic data, it cannot be factually or scientifically concluded that the project would have a significant impact related to roadkill.

In addition, the analysis by the commenter also tries to tie the project's cumulative traffic impacts to cumulatively significant impacts to regional wildlife using the same methodology. The backup information provided a table of cumulative traffic in the area (Smallwood Table 3) but is based on the inaccurate procedure of directly tying roadkill ratios from the example project in Contra Costa County to the proposed project and surrounding area. Again, there is no scientific correlation between the example project and the proposed project, either on a project level or a cumulative level. This entire analysis is overly speculative and not a scientifically accurate way of assessing wildlife impacts from roadkill.

The commenter raises concerns about roadkill being increased by the project due to the vehicle miles traveled (VMT) estimated for buildout of the Focus Plan Area. The project would result in new trips and VMT. However, there is no evidence that increased traffic in the already urbanized City of Perris and Perris Valley Commerce Center area will result in a significant increase in wildlife roadkill. Because the area is largely developed and not pristine wildlife habitat, and does not support high quality habitat for special-status species, significant wildlife corridors, or significant nursery sites, the likelihood of roadkill of wildlife, including special-status species is low. CEQA does not specify that the analysis address project impacts to commonly occurring species. Many of these species thrive in an urban setting because they have adapted to traffic, either through behavior or reproductive rates. It is not expected that the project will result in a significant impact related to roadkill.

Regarding bird strike impacts, the comment is based on an analysis by Sean Smallwood, Ph.D., which may overestimate the amount of bird strike, and which makes assumptions about the amount and type of glass that will be included in future development. The analysis that is presented is based on empirical data collected at several buildings, resulting in an estimated bird strike rate of 0.073 bird deaths per square meter of glass per year. It does not describe anything about the glazing on the buildings that were studied, or the landscaping around them, or their physical setting.

As reported in the San Francisco Standards for Bird Safe Buildings and other documents, the typical bird strike zone is from grade to 60 feet, the primary concern is with any uninterrupted glazing 24 square feet or larger in size, and the likelihood of strike depends on the glazing used, the angle of the glass, the orientation of the building, and landscaping. In the urban setting, birds spend the majority their time in landscape vegetation in the bird strike zone, where the vegetation may be reflected in glass, making the glass look like vegetation and undetectable to the bird. However, in the case of the project, it is not a proposed glass tower building but instead

a concrete tilt-up building with small areas of glass. As shown in its elevations. the project walls would mainly have decorative treatments and the glass areas mainly restricted to the office portions of the building.

Currently, the land uses and habitat conditions in and around the project area consist primarily of developed and landscaped uses. Vegetation is limited and consists primarily of non-native trees and shrubs. The birds that would occur in the landscaping around buildings are common, urban-adapted songbird species –, none of which are special-status – and these are the species most at risk for collision with windows.

The vast majority of these species would continue to move in and around the area unimpeded by the new construction. Thus, although some birds may collide with window glass installed in future development, the potential impact would be less than significant.

Finally, the commenter made some additional assessment and comments based on personal experience that the recommended mitigation measures for biological resources (MM-BR-1, nesting bird surveys and MM-BR- 2, burrowing owl surveys) were not sufficient. However, it should be noted the language used in these mitigation measures is standard for these types of surveys as recommended by the CDFW and are considered adequate when property conducted to determine if nesting birds or burrowing owls are present and adequate to protect any nesting species or owls found until young have fledged and the nest is no longer needed. The City considers these standard measures to be sufficient and they will be monitored sufficiently to assure their successful implementation to protect these species if present.

The commenter recommended several additional mitigation measures regarding road mortality, funding wildlife rehabilitation centers, and landscaping. However, the Initial Study/MND did not identify potentially significant impacts for which such measures would be needed so they are not recommended for inclusion in the Initial Study/MND. These various issues are found in the Smallwood supporting materials on pages 30-36.

Conclusion, page 7.

Comment G-15: The commenter states that for the reasons provided in their comment letter, an EIR should be prepared.

Response G-15: The responses and comments included herein demonstrate the MND is the appropriate CEQA compliance document for this project and a fair argument has not been made that warrants the City the prepare an EIR.

Summary. Based on the responses to these comments, the information in the SAFER 4 letter does not require text or other informational changes to the Initial Study/MND or any technical studies and does not change its conclusions or recommended mitigation measures. Further, it does not provide accurate substantial scientific evidence of a fair argument that a significant impact to biological resources would occur from implementation of the proposed project.

3 Errata

Changes to the published Initial Study/MND are noted below. The changes to the Initial Study/MND do not affect the overall conclusions of the environmental document. These errata represent changes to the published Initial Study/MND to provide clarification, corrections, or revisions as needed as a result of public comments on the published Initial Study/MND, additional information received during the public review period, and/or minor typographical revisions. These clarifications and corrections are not considered to result in any new or more severe impacts than identified in the published Initial Study/MND and are not otherwise deemed to warrant Initial Study/MND recirculation pursuant to CEQA Guidelines Section 15088.5. Added or modified text is shown by underlining (example) while deleted text is shown by striking (~~example~~).

The letter from the Agua Caliente Band of Cahuilla Indians included as "Comment Letter D" in Section 2.0 above includes several requests to add and alter language pertaining to mitigation measures within the Cultural Resources section of the Initial Study/MND. Those requests alterations are outlined below for mitigation measure MM-CR-1:

Initial Study Environmental Issue No. 5, Cultural Resources, (*pp. 74-76)*

Mitigation Measures

MM-CR-1 Prior to the issuance of grading permits, the project proponent/developer shall retain a professional archaeologist meeting the Secretary of the Interior's Professional Standards for Archaeology (U.S. Department of Interior, 2012; Registered Professional Archaeologist preferred). The primary task of the consulting archaeologist shall be to monitor the initial ground-disturbing activities at both the project site and off-site improvement areas for the identification of any previously unknown archaeological and/or cultural resources. Selection of the archaeologist shall be subject to the approval of the City of Perris Director of Development Services and no ground-disturbing activities shall occur at the site or within the off-site project improvement areas until the archaeologist has been approved by the City.

The archaeologist shall be responsible for monitoring ground-disturbing activities, maintaining daily field notes and a photographic record, and for reporting all finds to the developer and the City of Perris in a timely manner. The archaeologist shall be prepared and equipped to record and salvage cultural resources that may be unearthed during ground-disturbing activities and shall be empowered to temporarily halt or divert ground- disturbing equipment to allow time for the recording and removal of the resources.

The project proponent/developer shall also enter into an agreement with either the Soboba Band of Luiseño Indians, the Pechanga Band of Indians, or the Agua Caliente Band of Cahuilla Indians for a Native American tribal representative (observer/monitor) to work along with the consulting archaeologist. This tribal representative will assist in the identification of Native American resources and will act as a representative between the City, the project proponent/developer, and Native American Tribal Cultural Resources Department. The Native American tribal representative shall be on-site during all ground-disturbing of

each portion of the project site including clearing, grubbing, tree removals, grading, trenching, etc. The Native American tribal representative should be on-site any time the consulting archaeologist is required to be on-site. Working with the consulting archaeologist, the Native American representative shall have the authority to halt, redirect, or divert any activities in areas where the identification, recording, or recovery of Native American resources are on-going.

The agreement between the project proponent/developer and the Native American tribe shall include, but not be limited to:

- An agreement that artifacts will be reburied on-site and in an area of permanent protection;
- Reburial shall not occur until all cataloging and basic recordation have been completed by the consulting archaeologist;
- Native American artifacts that cannot be avoided or relocated at the project site shall be prepared for curation at an accredited curation facility in Riverside County that meets federal standards (per 36 CFR Part 79) and available to archaeologists/researchers for further study; and
- The project archaeologist shall deliver the Native American artifacts, including title, to the identified curation facility within a reasonable amount of time, along with applicable fees for permanent curation.

The project proponent/developer shall submit a fully executed copy of the agreement to the City of Perris Planning Division to ensure compliance with this condition of approval. Upon verification, the City of Perris Planning Division shall clear this condition. This agreement shall not modify any condition of approval or mitigation measure.

In the event that archaeological resources are discovered at the project site or within the off-site project improvement areas, the handling of the discovered resource(s) will differ, depending on the nature of the find. Consistent with California Public Resources Code Section 21083.2(b) and Assembly Bill 52 (Chapter 532, Statutes of 2014), avoidance shall be the preferred method of preservation for Native American/tribal cultural/archaeological resources. However, it is understood that all artifacts, with the exception of human remains and related grave goods or sacred/ceremonial/religious objects, belong to the property owner. The property owner will commit to the relinquishing and curation of all artifacts identified as being of Native American origin. All artifacts, Native American or otherwise, discovered during the monitoring program shall be recorded and inventoried by the consulting archaeologist.

~~If any artifacts of Native American origin are discovered, all activities in the immediate vicinity of the find (within a 50-foot radius) shall stop and the project proponent and project archaeologist shall notify the City of Perris Planning Division and the Soboba Band of Luiseño Indians and the Pechanga Band of Luiseño Indians. A designated Native American representative from either the Soboba Band of Luiseño Indians or the Pechanga Band of Luiseño Indians shall be retained to assist the project archaeologist in the significance determination of the Native American as deemed possible. The designated Luiseño tribal representative will be given ample time to examine the find. The significance of Native American resources shall be evaluated in accordance with the provisions of CEQA and shall consider the religious beliefs, customs, and practices of the Luiseño tribe. If the find is determined to be of sacred or religious value, the Luiseño tribal representative will work with the City and consulting archaeologist to protect the resource in accordance with tribal requirements. All analysis will be undertaken in a manner that avoids destruction or other adverse impacts.~~

If any Native American artifacts are identified when the Native American tribal representative is not present, all reasonable measures will be taken to protect the resource(s) in situ and the City Planning Division and Native American tribal representative will be notified. The designated Native American tribal representative will be given ample time to examine the find. If the find is determined to be of sacred or religious value, the Native American tribal representative will work with the City and project archaeologist to protect the resource in accordance with tribal requirements. All analysis will be undertaking in a manner that avoids destruction or other adverse impacts.

In the event that human remains are discovered at the project site or within the off-site project improvement areas, mitigation measure **MM-CR-2** shall immediately apply and all items found in association with Native American human remains shall be considered grave goods or sacred in origin and subject to special handling.

~~Native American artifacts that are relocated/reburied at the project site shall be subject to a fully executed relocation/reburial agreement with the assisting Luiseño tribe. This shall include, but not be limited to, an agreement that artifacts will be reburied on-site and in an area of permanent protection, and that reburial shall not occur until all cataloging and basic recordation have been completed by the consulting archaeologist.~~

~~Native American artifacts that cannot be avoided or relocated at the project site shall be prepared for curation at an accredited curation facility in Riverside County that meets federal standards (per 36 CFR Part 79) and available to archaeologists/researchers for further study. The project archaeologist shall deliver the Native American artifacts, including title, to the identified curation facility within a reasonable amount of time, along with applicable fees for permanent curation.~~

Non-Native American artifacts shall be inventoried, assessed, and analyzed for cultural affiliation, personal affiliation (prior ownership), function, and temporal placement. Subsequent to analysis and reporting, these artifacts will be

subjected to curation, as deemed appropriate, or returned to the property owner.

Once grading activities have ceased and/or the archaeologist, in consultation with the designated ~~Luiseño~~ Native American representative, determines that monitoring is no longer warranted, monitoring activities can be discontinued following notification to the City of Perris Planning Division.

A report of findings, including an itemized inventory of artifacts, shall be prepared upon completion of the tasks outlined above. The report shall include all data outlined by the Office of Historic Preservation guidelines, including a conclusion of the significance of all recovered, relocated, and reburied artifacts. A copy of the report shall also be filed with the City of Perris Planning Division, the University of California, Riverside, Eastern Information Center (EIC) and the ~~Luiseño~~ Native American tribe(s) involved with the project.

4 Mitigation Monitoring And Reporting Program

A. Mitigation Monitoring Requirements and Procedures

CEQA was amended in 1989 to add Section 21081.6, which requires a public agency to adopt a monitoring and reporting program for assessing and ensuring compliance with any required mitigation measures applied to a proposed development. As stated in CEQA Section 21081.6 of the Public Resources Code,

> *"…the public agency shall adopt a reporting or monitoring program for the changes to the project which it has adopted, or made a condition of project approval, in order to mitigate or avoid significant effects on the environment."*

CEQA Section 21081.6 provides general guidelines for implementing mitigation monitoring programs and indicates that specific reporting and/or monitoring requirements, to be enforced during project implementation, shall be defined prior to final certification of the EIR.

The mitigation monitoring table below lists those mitigation measures that are to be adopted for the project. To ensure that the mitigation measures are properly implemented, a monitoring program has been devised which identifies the timing and responsibility for monitoring each measure. The developer will have the primary responsibility for implementing the measures, and the various City of Perris departments and divisions will have the primary responsibility for monitoring and reporting the implementation of the mitigation measures.

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Impact Category	Impact	Mitigation Measures	Implementation Timing	Responsible Party	Method of Verification	City Verification of Compliance (Date/Initials)
Aesthetics	AESTHETICS THRESHOLD d: Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	**MM-A-1:** Prior to issuance of grading permits, the project developer shall provide evidence to the City of Perris that the Contractor Specifications require that any temporary nighttime lighting installed during construction for security or any other purposes shall be downward facing and hooded or shielded to prevent security light spillage outside of the staging area or direct broadcast of security light into the sky or onto adjacent properties and roadways. Compliance with this measure shall be verified by the City of Perris Building Division during construction.	Prior to issuance of a grading permit	City Planning Division	Verify that construction contracts include required restriction	
Air Quality	AIR QUALITY THRESHOLD c: Would the Project expose sensitive receptors to substantial pollutant concentrations?	**MM Air 2:** Each individual implementing development project shall submit a traffic control plan prior to the issuance of a grading permit. The traffic control plan shall describe in detail safe detours and provide temporary traffic control during construction activities for that project. To reduce traffic congestion, the plan shall include, as necessary, appropriate, and practicable, the following: temporary traffic controls such as flag person during all phases of construction to maintain smooth traffic flow, dedicated turn lanes for movement of construction trucks and equipment on- and off-site, scheduling of construction activities that affect traffic flow on the arterial system to off-peak hour, consolidating truck deliveries, rerouting of construction trucks away from congested streets or sensitive receptors, and/or signal synchronization to improve traffic flow.	Prior to issuance of a grading permit	City Building Division	Approval of required Traffic Control Plan	

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		MM Air 3: To reduce fugitive dust emissions, the development of each individual implementing development project shall comply with SCAQMD Rule 403. The developer of each implementing project shall provide the City of Perris with the SCAQMD-approved dust control plan, or other sufficient proof of compliance with Rule 403, prior to grading permit issuance. Dust control measures shall include, but are not limited to: • Requiring the application of non- toxic soil stabilizers according to manufacturers' specifications to all inactive construction areas (previously graded areas inactive for 20 days or more, assuming no rain); Keeping disturbed/loose soil moist at all times; • Requiring trucks entering or leaving the site hauling dirt, sand, or soil, or other loose materials on public roads to be covered; • Installation of wheel washers or gravel construction entrances where vehicles enter and exit unpaved roads onto paved roads, or wash off trucks and any equipment leaving the site each trip; • Posting and enforcement of traffic speed limits of 15 miles per hour or less on all unpaved portions of the project site; • Suspending all excavating and grading operations when wind gusts (as instantaneous gust) exceed 25 miles per hour; • Appointment of a construction relations officer to act as a community liaison concerning on- site construction	Prior to issuance of a grading permit	City Planning Division	Submittal of dust control plan approved by the South Coast AQMD or other proof of compliance with Rule 403	

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		activity including resolution of issues related to PM-10 generation; • Sweeping streets at the end of the day if visible soil material is carried onto adjacent paved public roads and use of SCAQMD Rule 1186 and 1186.1 certified street sweepers or roadway washing trucks when sweeping streets to remove visible soil materials; and/or, replacement of ground cover in disturbed areas as quickly as possible.				
		MM Air 4: Building and grading permits shall include a restriction that limits idling of construction equipment on site to no more than five minutes.	Prior to issuance of a grading or building permit	City Planning Division	Verify that construction contracts include the required restriction	
		MM Air 5: Electricity from power poles shall be used instead of temporary diesel or gasoline-powered generators to reduce the associated emissions. Approval will be required by the City of Perris Building Division prior to issuance of grading permits.	Prior to issuance of a grading permit	City Building Division	Verify that this requirement is included in contractor contracts	

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		MM Air 6: The developer of each implementing development project shall require, by contract specifications, the use of alternative fueled off-road construction equipment, the us of construction equipment that demonstrates early compliance with off-road equipment with the CARB in-use off-road diesel vehicle regulation (SCAQMD Rule 2449) and/or meets or exceeds Tier 3 standards with available CARB verified or USEPA certified technologies. Diesel equipment shall use water emulsified diesel fuel such as PuriNOx unless it is unavailable in Riverside County at the time of project construction activities. Contract specifications shall be included in project construction documents, which shall be reviewed by the City of Perris Building Division prior to issuance of a grading permit.	Prior to issuance of a grading permit	City Building Division	Verify that this requirement is included in contractor contracts	
		MM Air 7: During construction, ozone precursor emissions from mobile construction equipment shall be controlled by maintaining equipment engines in good condition and in proper tune per manufacturers' specifications to the satisfaction of the City of Perris Building Division. Equipment maintenance records and equipment design specification data sheets shall be kept on-site during construction. Compliance with this measure shall be subject to periodic inspections by the City of Perris Building Division.	Prior to issuance of a grading permit and Infrequently during grading and construction	City Building Division	Verify that this requirement is included in contractor contracts Periodic review of equipment maintenance records and equipment design	

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		MM Air 8: Each individual implementing development project shall apply paints using either high volume low pressure (HVLP) spray equipment with a minimum transfer efficiency of at least 50 percent or other application techniques with equivalent or higher transfer efficiency.	Prior to issuance of a building permit	City Building Division	Verify that this requirement is included in contractor contracts	
		MM Air 9: To reduce VOC emissions associated with architectural coating, the project designer and contractor shall reduce the use of paints and solvents by utilizing pre-coated materials (e.g., bathroom stall dividers, metal awnings), materials that do not require painting, and require coatings and solvents with a VOC content lower than required under Rule 1113 to be utilized. The construction contractor shall be required to utilize "Super-Compliant" VOC paints, which are defined in SCAQMD's Rule 1113. Construction specifications shall be included in building specifications thatassure these requirements are implemented. The specifications for each implementing development project shall be reviewed by the City of Perris Building Division for compliance with this mitigation measure prior to issuance of a building permit for that project.	Prior to issuance of a building permit	City Building Division	Verify that this requirement is included in contractor contracts	

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		MM Air 11: Signage shall be posted at loading docks and all entrances to loading areas prohibiting all on-site truck idling in excess of five minutes.	Prior to issuance of a Certificate of Occupancy	City Building Division	Verify that this requirement is included in building specifications Inspection to verify placement of signs	
		MM Air 13: In order to promote alternative fuels, and help support "clean" truck fleets, the developer/successor-in- interest shall provide building occupants and businesses with information related to SCAQMD's Carl Moyer Program, or other state programs that restrict operations to "clean" trucks, such as 2007 or newer model year or 2010 compliant vehicles and information including, but not limited to, the health effect of diesel particulates, benefits of reduced idling time, CARB regulations, and importance of not parking in residential areas. If trucks older than 2007 model year would be used at a facility with three or more dock-high doors, the developer/successor-in-interest shall require, within one year of signing a lease, future tenants to apply in good-faith for funding for diesel truck replacement/retrofit through grant programs such as the Carl Moyer, Prop 1B, VIP [On-road Heavy Duty Voucher Incentive Program], HVIP [Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project], and SOON [Surplus Off-Road Opt-in for NOx] funding programs, as identified on SCAQMD's website (http: //www.aqmd.gov). Tenants would be required to use those funds, if awarded.	Prior to issuance of a Certificate of Occupancy	City Planning Division	Verify that tenants have been provided with required information	

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		MM Air 14: Each implementing development project shall designate parking spaces for high-occupancy vehicles and provide larger parking spaces to accommodate vans used for ride sharing. Proof of compliance would be required prior to the issuance of occupancy permits.	Prior to issuance of an occupancy permit	City Planning Division	Confirmation that designated parking spaces for high-occupancy vehicles and vans are included in building plans	
		MM Air 19: In order to reduce energy consumption from the individual implementing development projects, applicable plans (e.g., electrical plans, improvement maps) submitted to the City shall include the installation of energy-efficient street lighting throughout the project site. These plans shall be reviewed and approved by the applicable City Department (e.g., City of Perris Building Division) prior to conveyance of applicable streets.	Prior to issuance of a building permit	City Building Division	Verify that lighting plans provide energy-efficient street lighting	
		MM Air 20: Each implementing development project shall be encouraged to implement, at a minimum, an increase in each building's energy efficiency 15 percent beyond Title 24, and reduce indoor water use by 25 percent. All reductions will be documented through a checklist to be submitted prior to issuance of building permits for the implementing development project with building plans and calculations.	Prior to issuance of a building permit	City Building Division	Submission of a checklist documenting calculations with building plans	
		MM Air 21: Each implementing development project shall implement, at a minimum, use of water conserving appliances and fixtures (low-flush toilets, and low-flow shower heads and faucets) within all new residential developments.	Prior to issuance of a building permit	City Building Division	Confirmation that building plans include specified conservation appliances	

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Biological Resources	THRESHOLD f: Would the Project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan	**MM BR 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 PVCCSP implementing development and infrastructure projects shall be avoided, to the greatest extent possible, during the nesting season (generally February 1 to September 1) 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 of 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/breeding season. However, if active nests are located during the pre- activity field survey, then the biologist shall immediately establish a conservative avoidance buffer surrounding the nest based on their best professional judgement and experience. The biologist shall monitor the nest at the onset of project activities and at the onset of any changes in such project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to	Prior to issuance of a grading permit or before any ground-disturbing activity	City Planning Division	Verify that nesting bird survey has been completed as specified If nests are encountered, monitoring report shall be submitted to the City of Perris Planning Division	

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		determine the efficacy of the buffer. If the biologist determines that such project activities may be causing an adverse reaction, the biologist shall adjust the buffer accordingly or implement alternative avoidance and minimization measures, such as redirecting or rescheduling construction or erecting sound barriers. All work within these buffers will be halted until the nesting effort is finished (i.e., the juveniles are surviving independent from the nest). The on-site qualified biologist shall review and verify compliance with these nesting avoidance buffers and will verify the nesting effort has finished. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a report shall be prepared and submitted to City for mitigation monitoring compliance record keeping				
		MM BR 2: The project proponent shall retain a qualified biologist to conduct a pre-construction survey for resident burrowing owls within 30 days prior to commencement of grading and construction activities within the project site. The survey shall include the project site and all suitable burrowing owl habitat within a 500-foot buffer. The results of the survey shall be submitted to the City prior to obtaining a grading permit. In addition, if burrowing owls are observed during the Migratory Bird Treaty Act nesting bird survey, to be conducted within three days prior to ground disturbance or vegetation clearance, the observation shall be reported to the Wildlife Agencies. If ground disturbing activities in these areas are delayed or suspended for more than 30 days after the	No more than 30 days before any ground-disturbing activity	City Planning Division	Verify that owl survey has been completed as specified If burrowing owls are detected, the City shall send written notification to the CDFW A burrowing owl plan shall be put in place by qualified biologist, CDFW, USFWS, City of Perris Planning Division,	

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		pre-construction survey, the area shall be resurveyed for owls. The pre- construction survey and any relocation activity shall be conducted in accordance with the current Burrowing Owl Survey Instructions for the Western Riverside MSHCP. If burrowing owl are detected, the CDFW shall be sent written notification by the City within three days of detection of burrowing owls. If active nests are identified during the pre-construction survey, the nests shall be avoided and the qualified biologist and project applicant shall coordinate with the City of Perris Planning Division, the USFWS, and the CDFW to develop a Burrowing Owl Plan to be approved by the City in consultation with the CDFW and the USFWS prior to commencing project activities. The Burrowing Owl Plan shall be prepared in accordance with guidelines in the CDFW Staff Report on Burrowing Owl (March 2012) and MSHCP. The Burrowing Owl Plan shall describe proposed avoidance, minimization, relocation, and monitoring as applicable. The Burrowing Owl Plan shall include the number and location of occupied burrow sites and details on proposed buffers if avoiding the burrowing owls and/or information on the adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls may also be required in the Burrowing Owl Plan. The permittee shall implement the Burrowing Owl Plan following CDFW and USFWS review and concurrence. A final			and Project applicant, if applicable	

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		letter report shall be prepared by the qualified biologist documenting the results of the Burrowing Owl Plan. The letter shall be submitted to the CDFW prior to the start of project activities. When a qualified biologist determines that burrowing owls are no longer occupying the project site per the criteria in the Burrowing Owl Plan, project activities may begin. If burrowing owls occupy the project site after project activities have started, then construction activities shall be halted immediately. The project proponent shall notify the City and the City shall notify the CDFW and the USFWS within 48 hours of detection. A Burrowing Owl Plan, as detailed above, shall be implemented.				

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Cultural Resources	THRESHOLD a: Would the Project cause a substantial adverse change in the significance of a historical resource as defined in §15064.5? THRESHOLD b: Would the Project cause a substantial adverse change in the significance of an archaeologica resource pursuant to §15064.5?	**MM-CR-1:** Prior to the issuance of grading permits, the Project proponent/developer shall retain a professional archaeologist meeting the Secretary of the Interior's Professional Standards for Archaeology (U.S. Department of Interior, 2012; Registered Professional Archaeologist preferred). The primary task of the consulting archaeologist shall be to monitor the initial ground-disturbing activities at both the subject site and any off-site Project-related improvement areas for the identification of any previously unknown archaeological and/or cultural resources. Selection of the archaeologist shall be subject to the approval of the City of Perris Director of Development Services and no ground-disturbing activities shall occur at the site or within the off-site Project improvement areas until the archaeologist has been approved by the City. The archaeologist shall be responsible for monitoring ground-disturbing activities, maintaining daily field notes and a photographic record, and for reporting all finds to the developer and the City of Perris in a timely manner. The archaeologist shall be prepared and equipped to record and salvage cultural resources that may be unearthed during ground-disturbing activities and shall be empowered to temporarily halt or divert ground-disturbing equipment to allow time for the recording and removal of the resources. The project proponent/developer shall also enter into an agreement with either the Soboba Band of Luiseño Indians, the Pechanga Band of Indians, or the Agua	Prior to issuance of a grading permit	City Planning Division	Verify that archaeologist has been retained and contracted for specified work Verify that Native American tribal agreement has been signed Submittal of Report of Findings	

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		Caliente Band of Cahuilla Indians for a Native American tribal representative (observer/monitor) to work along with the consulting archaeologist. This tribal representative will assist in the identification of Native American resources and will act as a representative between the City, the project proponent/developer, and Native American Tribal Cultural Resources Department. The Native American tribal representative shall be on-site during all ground-disturbing of each portion of the project site including clearing, grubbing, tree removals, grading, trenching, etc. The Native American tribal representative should be on-site any time the consulting archaeologist is required to be on-site. Working with the consulting archaeologist, the Native American representative shall have the authority to halt, redirect, or divert any activities in areas where the identification, recording, or recovery of Native American resources are on-going. The agreement between the project proponent/developer and the Native American tribe shall include, but not be limited to: • An agreement that artifacts will be reburied on-site and in an area of permanent protection; • Reburial shall not occur until all cataloging and basic recordation have been completed by the consulting archaeologist; • Native American artifacts that cannot be avoided or relocated at the project site shall be prepared for curation at an accredited curation facility in Riverside County that				

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		meets federal standards (per 36 CFR Part 79) and available to archaeologists/researchers for further study; and • The project archaeologist shall deliver the Native American artifacts, including title, to the identified curation facility within a reasonable amount of time, along with applicable fees for permanent curation. The project proponent/developer shall submit a fully executed copy of the agreement to the City of Perris Planning Division to ensure compliance with this condition of approval. Upon verification, the City of Perris Planning Division shall clear this condition. This agreement shall not modify any condition of approval or mitigation measure. In the event that archaeological resources are discovered at the Project site or within the off-site Project improvement areas, the handling of the discovered resource(s) will differ, depending on the nature of the find. Consistent with California Public Resources Code Section 21083.2(b) and Assembly Bill 52 (Chapter 532, Statutes of 2014), avoidance shall be the preferred method of preservation for Native American/tribal cultural/archaeological resources. However, it is understood that all artifacts, with the exception of human remains and related grave goods or sacred/ceremonial/religious objects, belong to the property owner. The property owner will commit to the relinquishing and curation of all artifacts identified as being of Native American origin. All artifacts, Native American or otherwise, discovered during the monitoring program				

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		shall be recorded and inventoried by the consulting archaeologist. If any Native American artifacts are identified when the Native American tribal representative is not present, all reasonable measures will be taken to protect the resource(s) in situ and the City Planning Division and Native American tribal representative will be notified. The designated Native American tribal representative will be given ample time to examine the find. If the find is determined to be of sacred or religious value, the Native American tribal representative will work with the City and project archaeologist to protect the resource in accordance with tribal requirements. All analysis will be undertaking in a manner that avoids destruction or other adverse impacts. In the event that human remains are discovered at the project site or within the off-site project improvement areas, mitigation measure MM-CR-2 shall immediately apply and all items found in association with Native American human remains shall be considered grave goods or sacred in origin and subject to special handling. Non-Native American artifacts shall be inventoried, assessed, and analyzed for cultural affiliation, personal affiliation (prior ownership), function, and temporal placement. Subsequent to analysis and reporting, these artifacts will be subjected to curation, as deemed appropriate, or returned to the property owner. Once grading activities have ceased and/or the archaeologist, in consultation with the				

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		designated Native American representative, determines that monitoring is no longer warranted, monitoring activities can be discontinued following notification to the City of Perris Planning Division. A report of findings, including an itemized inventory of artifacts, shall be prepared upon completion of the tasks outlined above. The report shall include all data outlined by the Office of Historic Preservation guidelines, including a conclusion of the significance of all recovered, relocated, and reburied artifacts. A copy of the report shall also be filed with the City of Perris Planning Division, the University of California, Riverside, Eastern Information Center (EIC) and the Native American tribe(s) involved with the Project.				
		MM-CR-2: In the event that human remains (or remains that may be human) are discovered at the Project site or within the off-site Project improvement areas during ground- disturbing activities, the construction contractors, Project archaeologist, and/or designated Luiseño tribal representative shall immediately stop all activities within 100 feet of the find. The Project proponent shall then inform the Riverside County Coroner and the City of Perris Planning Division immediately, and the coroner shall be permitted to examine the remains as required by California Health and Safety Code Section 7050.5(b). If the coroner determines that the remains are of Native American origin, the coroner would notify the Native American Heritage Commission (NAHC), which will identify the	If human remains are found during grading	City Planning Division	Confirmation of coroner and NAHC contact and submittal of Report of Findings, if applicable	

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		"Most Likely Descendent" (MLD). Despite the affiliation with any Luiseño tribal representative(s) at the site, the NAHC's identification of the MLD will stand. The MLD shall be granted access to inspect the site of the discovery of Native American human remains and may recommend to the Project proponent means for treatment or disposition, with appropriate dignity of the human remains and any associated grave goods. The MLD shall complete his or her inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site. The disposition of the remains will be determined in consultation between the Project proponent and the MLD. In the event that there is disagreement regarding the disposition of the remains, State law will apply and the median with the NAHC will make the applicable determination (see Public Resources Code Section 5097.98l and 5097.94(k)). The specific locations of Native American burials and reburials will be proprietary and not disclosed to the general public. The locations will be documented by the consulting archaeologist in conjunction with the various stakeholders and a report of findings will be filed with the EIC.				

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Energy	THRESHOLD a: Would the Project result in potentially significant environmental impacts due to wasteful, inefficient, or unnecessary consumption of energy resources, during Project construction or operation? THRESHOLD b: Would the Project conflict with or obstruct a State or Local plan for renewable energy or energy efficiency?	**MM Air 11**, **MM Air 14**, **MM Air 19**, and **MM Air 20** shall apply; see the Air Quality Section above				
Geology and Soils	THRESHOLD b: Would the Project result in substantial soil erosion or the loss of topsoil?	**MM Air 3** shall apply; see Air Quality Section above				
	THRESHOLD f: Would the Project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	**MM-GEO-1:** Prior to the issuance of grading permits, the Project proponent/developer shall submit to and receive approval from the City, a Paleontological Resource Impact Mitigation Monitoring Program (PRIMMP). The PRIMMP shall include the provision for a qualified professional paleontologist (or his or her trained paleontological representative) to be on-site fulltime for any project-related excavations. Selection of the paleontologist shall be subject to the approval of the City of Perris Planning Manager and no grading activities shall occur at the project site or within the off-site project improvement areas until the paleontologist has been approved by the City.	Prior to issuance of a grading permit and during subsurface excavation	City Planning Division	Verify PRIMMP prepared and implemented	

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		Monitoring shall be restricted to undisturbed subsurface areas of older Quaternary alluvium. The approved paleontologist shall be prepared to quickly salvage fossils as they are unearthed to avoid construction delays. The paleontologist shall also remove samples of sediments which are likely to contain the remains of small fossil invertebrates and vertebrates. The paleontologist shall have the power to temporarily halt or divert grading equipment to allow for removal of abundant or large specimens. Collected samples of sediments shall be washed to recover small invertebrate and vertebrate fossils. Recovered specimens shall be prepared so that they can be identified and permanently preserved. Specimens shall be identified and curated and placed into an accredited repository (such as the Western Science Center or the Riverside Metropolitan Museum) with permanent curation and retrievable storage. A report of findings, including an itemized inventory of recovered specimens, shall be prepared upon completion of the steps outlined above. The report shall include a discussion of the significance of all recovered specimens. The report and inventory, when submitted to the City of Perris Planning Division, will signify completion of the program to mitigate impacts to paleontological resources.				

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Greenhouse Gas Emissions	THRESHOLD b: Would the Project conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs?	**MM Air 11**, **MM Air 13**, **MM Air 14, MM Air 18, MM Air 19**, **MM Air 20, and MM Air 21** shall apply; see the Air Quality Section above				
Hazards and Hazardous Materials	THRESHOLD e: Would the Project result in a safety hazard or excessive noise for people residing or working in the Project area (for a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport)?	**MM-HHM-1:** ALUC Compliance. Based on ALUC's Memorandum dated May 11, 2023, the project applicant shall demonstrate that the project has complied with the following measures prior to issuance of the first certificate of occupancy: 1. Any new outdoor lighting that is installed shall be hooded or shielded so as to prevent either the spillage of lumens or reflection into the sky. Outdoor lighting shall be downward facing. 2. The following uses/activities are not included in the proposed project and shall be prohibited at this site: 5 Any use which would direct a steady light or flashing light of red, white, green, or amber colors associated with airport operations toward an aircraft engaged in an initial straight or circling climb following takeoff or toward an aircraft engaged in a straight or circling final approach toward a landing at an airport, other than a DoD or FAA- approved navigational signal light or visual approach slope indicator.	Prior to issuance of a Certificate of Occupancy	City Planning Division	Verify that project complies with ALUC requirements	

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		6 Any use which would cause sunlight to be reflected towards an aircraft engaged in an initial straight or circling climb following takeoff or towards an aircraft engaged in a straight or circling final approach towards a landing at an airport. 7 Any use which would generate smoke or water vapor, or which would attract large concentrations of birds, or which may otherwise affect safe air navigation within the area. (Such uses include landscaping utilizing water features, aquaculture, production of cereal grains, sunflower, and row crops, composting operations, wastewater management facilities, artificial marshes, trash transfer stations that are open on one or more sides, recycling centers containing putrescible wastes, construction and demolition debris facilities, fly ash disposal, and incinerators.) 8 Any use which would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation. 9 Hazards to flight 3. The attached notice shall be provided to all prospective purchasers of the property				

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		and tenants of the building and shall be recorded as a deed notice. 4. Any proposed detention basins or facilities shall be designed and maintained to provide for a maximum 48-hour detention period following the design storm and remain totally dry between rainfalls. Vegetation in and around the detention basins that would provide food or cover for birds would be incompatible with airport operations and shall not be utilized in project landscaping. Trees shall be spaced so as to prevent large expanses of contiguous canopy, when mature. Landscaping in and around the detention basin(s) shall not include trees or shrubs that produce seeds, fruits, or berries.Landscaping in the detention basin, if not rip-rap, should be in accordance with the guidance provided in ALUC "LANDSCAPING NEAR AIRPORTS" brochure, and the "AIRPORTS, WILDLIFE AND STORMWATER MANAGEMENT" brochure available at RCALUC.ORG which list acceptable plants from Riverside County Landscaping Guide or other alternative landscaping as may be recommended by a qualified wildlife hazard biologist. A notice sign, in a form similar to that attached hereto, shall be permanently affixed to the stormwater basin with the following language: "There is an airport nearby. This stormwater basin is designed to hold stormwater for only 48 hours and not attract birds. Proper maintenance is necessary to avoid bird strikes." The sign will also include the name, telephone number or other contact information of the				

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		person or entity responsible for monitoring the stormwater basin. 5. March Air Reserve Base must be notified of any land use having an electromagnetic radiation component to assess whether a potential conflict with Air Base radio communications could result. Sources of electromagnetic radiation include radio wave transmission in conjunction with remote equipment inclusive of irrigation controllers, access gates, etc. 6. The project has been evaluated to construct a proposal to construct a 58,974 square foot industrial building with mezzanines. Any increase in building area, change in use to any higher intensity use, change in building location, or modification of the tentative parcel map lot lines and areas will require an amended review to evaluate consistency with the ALUCP compatibility criteria, at the discretion of the ALUC Director. 7. All solar arrays installed on the project site shall consist of smooth glass photovoltaic solar panels without anti-reflective coating, a fixed tilt of 10 degrees and orientation of 180 degrees. Solar panels shall be limited to a total of 42,000 square feet, and the locations and coordinates shall be as specified in the glare study. Any deviation from these specifications (other than reduction in square footage of panels), including change in orientation, shall require a new solar glare analysis to ensure that the amended project does not result in any glare impacting the air traffic control tower or creation of any “yellow” or “red” level				

Impact Category	Impact	Mitigation Measures	Implementation Timing	Responsible Party	Method of Verification	City Verification of Compliance (Date/Initials)
		glare in the flight paths, and shall require a new hearing by the Airport Land Use Commission 8. In the event that any glint, glare, or flash affecting the safety of air navigation occurs as a result of project operation, upon notification to the airport operator of an event, the airport operator shall notify the project operator in writing. Within 30 days of written notice, the project operator shall be required to promptly take all measures necessary to eliminate such glint, glare, or flash. An "event" includes any situation that results in an accident, incident, "near-miss," or specific safety complaint regarding an in-flight experience to the airport operator or to federal, state, or county authorities responsible for the safety of air navigation. The project operator shall work with the airport operator to prevent recurrence of the incidence. Suggested measures may include, but are not limited to, changing the orientation and/or tilt of the source, covering the source at the time of day when events of glare occur, or wholly removing the source to diminish or eliminate the source of the glint, glare, or flash. For each such event made known to the project operator, the necessary remediation shall only be considered to have been fulfilled when the airport operator states in writing that the situation has been remediated to the airport operator's satisfaction. 9. In the event that any electrical interference affecting the safety of air				

Impact Category	Impact	Mitigation Measures	Implementation Timing	Responsible Party	Method of Verification	City Verification of Compliance (Date/Initials)
		navigation occurs as a result of project operation, upon notification to the airport operator of an event, the airport operator shall notify the project operator in writing. Within 30 days of written notice, the project operator shall be required to promptly take all measures necessary to eliminate such interference. An "event" includes any situation that results in an accident, incident, "near-miss," report by airport personnel, or specific safety complaint to the airport operator or to federal, state, or county authorities responsible for the safety of air navigation. The project operator shall work with the airport operator to prevent recurrence of the event. For each such event made known to the project operator, the necessary remediation shall only be considered to have been fulfilled when the airport operator states in writing that the situation has been remediated to the airport operator's satisfaction.				

Impact Category	Impact	Mitigation Measures	Implementation Timing	Responsible Party	Method of Verification	City Verification of Compliance (Date/Initials)
		MM Haz 2: Prior to the recordation of a final map, issuance of a building permit, or conveyance to an entity exempt from the Subdivision Map Act, whichever occurs first, the landowner shall convey an avigation easement to the MARB/March Inland Port Airport Authority.	Prior to recordation of a final map, issuance of a building permit, or conveyance to an entity exempt from the Subdivision Map Act, whichever occurs first	City Planning Division	Submittal of evidence of conveyance of an avigation easement to the MARB/IPA Authority or provide documentation to the City of Perris and the Airport Land Use Commission that such conveyance has previously been recorded	
		MM Haz 3: Any outdoor lighting installed shall be hooded or shielded to prevent either the spillage of lumens or reflection into the sky or above the horizontal plane.	Prior to issuance of a building permit	City Building Division	Submittal of lighting plans demonstrating that lights are hooded or shielded to prevent either the spillage of lumens or reflection into the sky and that all outdoor lighting is downward facing as much as feasible	

Impact Category	Impact	Mitigation Measures	Implementation Timing	Responsible Party	Method of Verification	City Verification of Compliance (Date/Initials)
		MM Haz 4: The following notice shall be provided to all potential purchasers and tenants: "This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example, noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you. Business & Profession Code 11010 13(A)."	Prior to issuance of a Certificate of Occupancy and tenant improvements	City Planning Division	Confirmation that this requirement is included in lease agreements	
		MM Haz 5: The following uses shall be prohibited: a) Any use which would direct a steady light or flashing light of red, white, green, or amber colors associated with airport operations toward an aircraft engaged in an initial straight climb following takeoff or toward an aircraft engaged in a straight final approach toward a landing at an airport, other than an FAA-approved navigational signal light or visual approach slope indicator. b) Any use which would cause sunlight to be reflected towards an aircraft engaged in an initial straight climb following takeoff or towards an aircraft engaged in a straight final approach towards a landing at an airport.	Prior to issuance of a Certificate of Occupancy	City Planning Division	Submittal of evidence that uses listed are prohibited on site	

Impact Category	Impact	Mitigation Measures	Implementation Timing	Responsible Party	Method of Verification	City Verification of Compliance (Date/Initials)
		c) Any use which would generate smoke or water vapor or which would attract large concentrations of birds, or which may otherwise affect safe air navigation within the area. d) Any use which would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation. All retention and water quality basins shall be designed to dewater within 48 hours of a rainfall event.				
		MM Haz 6: A minimum of 45 days prior to submittal of an application for a building permit for an implementing development project, the implementing development project applicant shall consult with the City of Perris Planning Department in order to determine whether any implementing project-related vertical structures or construction equipment will encroach into the 100-to-1 imaginary surface surrounding the MARB/IPA. If it is determined that there will be an encroachment into the 100-to-1 imaginary surface, the implementing development project applicant shall file a FAA Form 7460-1, Notice of Proposed Construction or Alteration. If FAA determines that the implementing development project would potentially be an obstruction unless reduced to a specified height, the implementing development project applicant and the Perris Planning Division will work with FAA to resolve any adverse effects on aeronautical operations.	A minimum of 45 days before issuance of a Building Permit	City Planning Division	Verify project complies with ALUC requirements	

Impact Category	Impact	Mitigation Measures	Implementation Timing	Responsible Party	Method of Verification	City Verification of Compliance (Date/Initials)
Noise	THRESHOLD a: Would the Project result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	**MM Noise 1:** During all project site excavation and grading on-site, construction contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers, consistent with manufacturer standards. The construction contractor shall place all stationary construction equipment so that emitted noise is directed away from the noise sensitive receptors nearest the project site.	Prior to issuance of a grading permit and during construction	City Planning Division	Verify that this requirement is included in contractor contracts	
		MM Noise 2: During all construction, stationary construction equipment, stockpiling and vehicle staging areas will be placed a minimum of 446 feet from the closest sensitive receptor.	Prior to issuance of a grading permit and during construction	City Planning Division	Verify that this requirement is included in contractor contracts	
		MM Noise 3: No combustion- powered equipment, such as pumps or generators, shall be allowed to operate within 446 feet of any occupied residence unless the equipment is surrounded by a noise protection barrier.	Prior to issuance of a grading permit and during construction	City Planning Division	Verify that this requirement is included in contractor contracts	
		MM Noise 4: Construction contractors of implementing development projects shall limit haul truck deliveries to the same hours specified for construction equipment. To the extent feasible, haul routes shall not pass sensitive land uses or residential dwellings.	Prior to issuance of a grading permit and during construction	City Planning Division	Verify that this requirement is included in contractor contracts	
Transportation	THRESHOLD a: Would the Project conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	**MM Trans 1:** Future implementing development projects shall construct on-site roadway improvements pursuant to the general alignments and right-of-way sections set forth in the PVCC Circulation Plan, except where said improvement have previously been constructed.	Prior to issuance of a a building permit	City Engineering Department	Approval of the onsite parking improvement plans	

Impact Category	Impact	Mitigation Measures	Implementation Timing	Responsible Party	Method of Verification	City Verification of Compliance (Date/Initials)
		MM Trans 2: Sight distance at the project entrance roadway of each implementing development project shall be reviewed with respect to standard City of Perris sight distance standards at the time of preparation of final grading, landscape and street improvement plans.	Prior to issuance of grading, landscaping, and street improvement plans	City Engineering Department	Approval of the final grading, landscape and street improvement plans	
		MM Trans 3: Each implementing development project shall participate in the phased construction of offsite traffic signals through payment of that project's fair share of traffic signal mitigation fees and the cost of other offsite improvements through payment of fair share mitigation fees which include TUMF (Transportation Uniform Mitigation Fee), DIF (Development Impact Fee), and the NPRBBD (North Perris Road and Bridge Benefit District)[23]. The fees shall be collected and utilized as needed by the City of Perris to construct the improvements necessary to maintain the required level of service and build or improve roads to their build-out level.	Prior to issuance of a Certificate of Occupancy	City Engineering Department	Verify that all required fees have been paid	
		PVCCSP MM Trans 5: Bike racks shall be installed in all parking lots in compliance with City of Perris standards.	Prior to issuance of a Certificate of Occupancy	City Building Division	Verify placement of bike racks	
	THRESHOLD d: Would the Project result in inadequate emergency access?	**MM Air 2** shall apply; see the Air Quality Section above				
Tribal Cultural Resources	THRESHOLD a.i: Would the Project cause a substantial adverse change in the significance	**MM-CR-1** and **MM-CR-2** shall apply; see the Cultural Resources Section above				

Impact Category	Impact	Mitigation Measures	Implementation Timing	Responsible Party	Method of Verification	City Verification of Compliance (Date/Initials)
	of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a Cultural Native American tribe, and that is listed or eligible for listing in the California Register of Historical resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)? THRESHOLD a.ii: Would the Project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a Cultural Native American tribe, and that is a resource determined by the lead agency, in its discretion and supported					

Impact Category	Impact	Mitigation Measures	Implementation Timing	Responsible Party	Method of Verification	City Verification of Compliance (Date/Initials)
	by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?					

Exhibit A

Shawn Smallwood, PhD
3108 Finch Street
Davis, CA 95616

Alfredo Garcia, Associate Planner
City of Perris
Planning Division
101 North D Stree
Perris, CA 92376

9 December 2021

RE: Operon HKI - Perris

Dear Mr. Garcia,

I write to comment on the Initial Study/Negative Mitigated Declaration (IS/MND) (City of Perris 2021) and biological resources study (Lilburn Corporation 2021) that were prepared in support of the proposed Operon HKI warehouse project, which I understand would include 137,700 square feet of floor space on 8.69 acres of open space at the southeast corner of Indian Ave. and Harley Knox Blvd.

My qualifications for preparing expert comments are the following. I hold a Ph.D. degree in Ecology from University of California at Davis, where I subsequently worked for four years as a post-graduate researcher in the Department of Agronomy and Range Sciences. My research has been on animal density and distribution, habitat selection, interactions between wildlife and human infrastructure and activities, conservation of rare and endangered species, and on the ecology of invading species. I authored numerous papers on special-status species issues. I served as Chair of the Conservation Affairs Committee for The Wildlife Society – Western Section. I am a member of The Wildlife Society and the Raptor Research Foundation, and I've been a part-time lecturer at California State University, Sacramento. I was Associate Editor of wildlife biology's premier scientific journal, The Journal of Wildlife Management, as well as of Biological Conservation, and I was on the Editorial Board of Environmental Management. I have performed wildlife surveys in California for thirty-five years, including at many proposed project sites. My CV is attached.

SITE VISIT

Noriko Smallwood, a wildlife ecologist who earned her Master's Degree at California State University Los Angeles, visited the proposed project site (Photos 1 and 2) from 07:03 to 08:45 hours on 21 November 2020. She walked the site's perimeter along city streets, stopping to scan for wildlife with the use of binoculars. The sky was clear with a light breeze and temperatures of 64 to 68 F.

In her 102 minutes of survey, Noriko Smallwood detected 15 species of vertebrate wildlife at the site, as well as harvester ants and 5 special-status species (Table 1, Photo 3). The presence of harvester ants – an ecological keystone species – increases the likelihood that Blainville's horned lizard and other special-status species also occur at

the site. She saw California gulls and double-crested cormorants flying over the project site (Photos 4 and 5). Both of these species are special-status species. She saw a peregrine falcon, red-tailed hawk and American kestrel (Photos 6-8), all of which are protected by California Fish and Game Code. Peregrine falcon is also a California Fully Protected species. Noriko Smallwood also saw common ravens and savannah sparrows (Photos 9 and 10) among other species. Even though the grassland of this site is mowed, its location as an island of open space surrounded by warehouses increases its importance to wildlife as habitat and for stopover and staging opportunities.

Noriko Smallwood certifies that the foregoing and following survey results are true and accurately reported.

Noriko Smallwood

Photos 1 and 2. *Views of the project site on 21 November 2021. Photos by Noriko Smallwood.*

Table 1. *Species of vertebrate wildlife seen by Noriko Smallwood at the project site on 21 November 2021.*

Species	***Scientific name***	**Status[1]**	**Notes**
Rock pigeon	*Columba livia*	Non-native	On site
Mourning dove	*Zenaida macroura*		On site
Anna's hummingbird	*Calypte anna*		On site
California gull	*Larus californicus*	BCC, WL	On site
Double-crested cormorant	*Nannopterum auritum*	WL	Next to site
Red-tailed hawk	*Buteo jamaicensis*	BOP	On site
American kestrel	*Falco sparverius*	BOP	Next to site
Peregrine falcon	*Falco peregrinus*	BCC, CFP, BOP	On site
Cassin's kingbird	*Tyrannus vociferans*		Next to site
Common raven	*Corvus corax*		On site
European starling	*Sturnus vulgaris*	Non-native	Next to site
House finch	*Haemorphous mexicanus*		On site
Lesser goldfinch	*Carduelis psaltria*		On site
Savannah sparrow	*Passerculus sandwichenis*		On site
Yellow-rumped warbler	*Dendroica coronate*		Next to site
Harvester ant	*P*ogonomermyx californicus		On site

[1] BCC = U.S. Fish and Wildlife Service Bird Species of Conservation Concern, CFP = California Fully Protected (CFG Code 3511), WL = Taxa to Watch List (Shuford and Gardali 2008), BOP = California Fish and Game Code 3503.5 (Birds of Prey).

Photo 3. *Harvester ant on the project site, 21 November 2021. Photo by Noriko Smallwood*

Photos 4 and 5. *California gulls (top) and Double-crested cormorants (bottom) flying over or next to the project site, 21 November 2021. Photos by Noriko Smallwood*

Photo 6. *The back end of a fast-flying peregrine falcon over the project site, 21 November 2021. Peregrine falcon is a California Fully Protected species. Photo by Noriko Smallwood.*

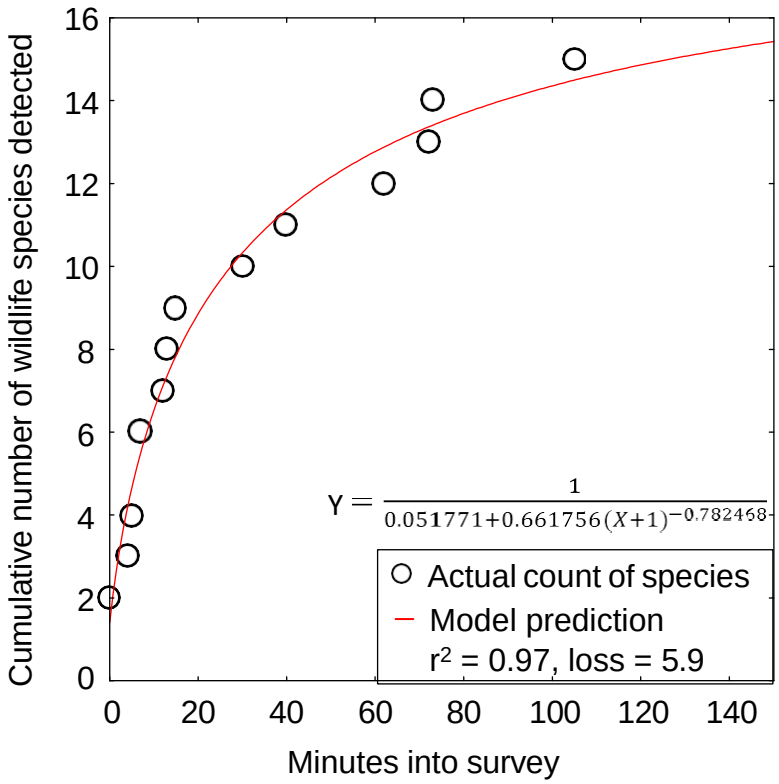
Photos 7 and 8. *Red-tailed hawk (left) and American kestrel (right) at the project site, 21 November 2021. Photos by Noriko Smallwood.*

Photos 9 and 10. *Common raven (top) and savannah sparrow (bottom) at the project site, 21 November 2021. Photos by Noriko Smallwood.*

Noriko's detection of 15 species of vertebrate wildlife needs to be interpreted within the context of her survey effort. No matter who performs a survey, the results of a reconnaissance-level survey qualify as thin empirical foundation for characterizing the environmental setting of any site, including one proposed for a project. Such a survey can serve only as a starting point toward characterization of a site's wildlife community.

There were only so many species Noriko was likely to detect within the short time she had available to perform a visual-scan survey on 21 November 2021. However, a focused survey effort in which the times of species detections are noted can inform of the number of species likely to be detected with a larger survey effort of the same methods and the same time of year (Figure 1). This potential is of critical importance when making determinations about occurrence likelihoods of special-status species.

Figure 1. *Actual and predicted relationships between the number of vertebrate wildlife species detected and the elapsed survey time based on Noriko Smallwood's visual scan survey on 21 November 2021. Note that the relationships would differ if the surveys were based on another method or during another season. Also note that the cumulative number of vertebrate species across all methods, times of day, and seasons would increase substantially.*

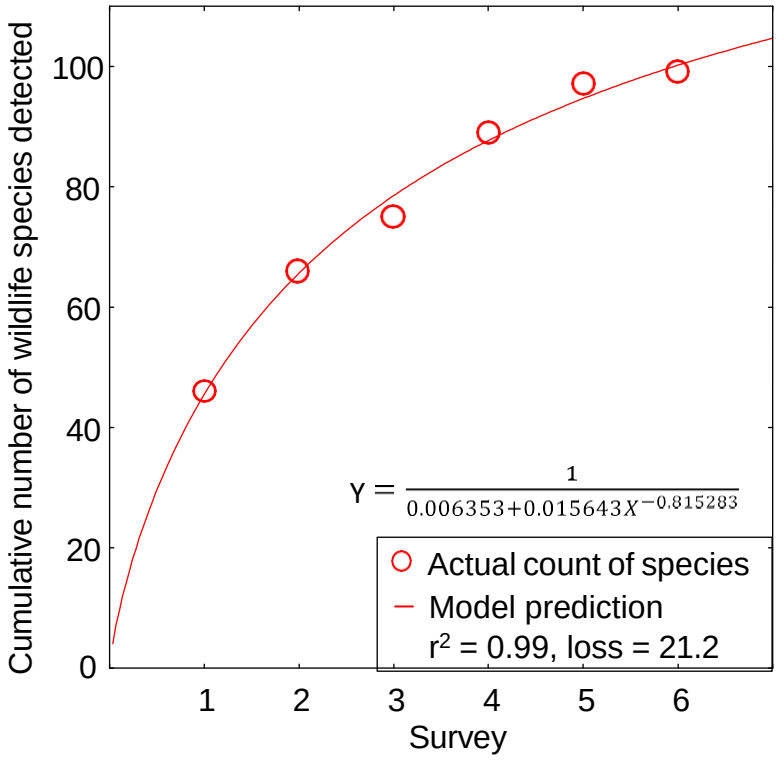


By recording when she detected each species, I could forecast the number of species that could have been detected with a longer effort using the same visual-scan method. Figure 1 shows Noriko's cumulative count of species detected at the site with increasing time into her survey. Just as I have seen for many other survey efforts, a nonlinear regression model fit the data very well, explaining 97% of the variation in the data. The pattern in the data showed progress towards the inevitable asymptote of the number of species detectable over a longer period of time using the same survey method. In Noriko's case, the model predicted Noriko would have eventually detected 19 species that morning. Had she been able to continue her survey, she would have continued to detect additional species.

Noriko could have detected many more species than predicted had she also performed surveys at different times of day to detect diurnal, nocturnal and crepuscular species with appropriate methods and technology, or surveys in different seasons and years to detect migrants and species with multi-annual cycles of abundance. Her reconnaissance-level survey informs me that the site is richer in wildlife than the 15 species detected, but also that the environmental setting of the project remains insufficiently characterized as foundation for analysis of impacts to special-status species (more on this later). How many more species could Noriko have detected by simply repeating the visual-scan survey she performed, but on various dates through the year?

To answer the forgoing question, I repeated visual-scan surveys 6 times over the period of one year at a proposed project site near Sacramento, California. Survey outcomes ranged 40 to 67 species per survey, but a least-squares regression model that I fit to the cumulative number of species detections predicted that 157 species of vertebrate wildlife would eventually be detected by continuing to repeat the visual-scan surveys (Figure 2). Repeated surveys achieved diminishing returns, but they were necessary to document the occurrences of the scarcer and more cryptic species. Given the example illustrated in Figure 2, and assuming the pattern of survey returns is robustly represented by Figure 2, the 15 species Noriko detected after her one survey at the project site likely represent 29% of the species likely to be detected after many visual-scan surveys. With many more repeat surveys, Noriko would likely detect $^{15}/_{0.29} = 52$ species of vertebrate wildlife at the site.

Figure 2. *Cumulative number of species detected as a function of the number of visual-scan surveys performed through one year at one site near Sacramento, California.*



There is no question that a larger survey effort would result in a longer list of species documented to use the project site, thereby changing our understanding of the current environmental setting. But which species have yet to be detected? And how many of them would be special-status species? And how many would be listed species? The likelihood of detecting special-status species is typically lower than that of more common species. This difference can be explained by the fact that special-status species tend to be rarer and thus less detectable than common species. Special-status species also tend to be more cryptic, fossorial, or active during nocturnal periods when reconnaissance surveys are not performed. Another useful relationship from careful recording of species detections and subsequent comparative analysis is the probability of detection of listed species as a function of an increasing number of vertebrate wildlife species detected (Figure 3). (Note that listed species number fewer than special-status species, which are inclusive of listed species. Also note that I include California Fully Protected species and federal Candidate species as listed species.)

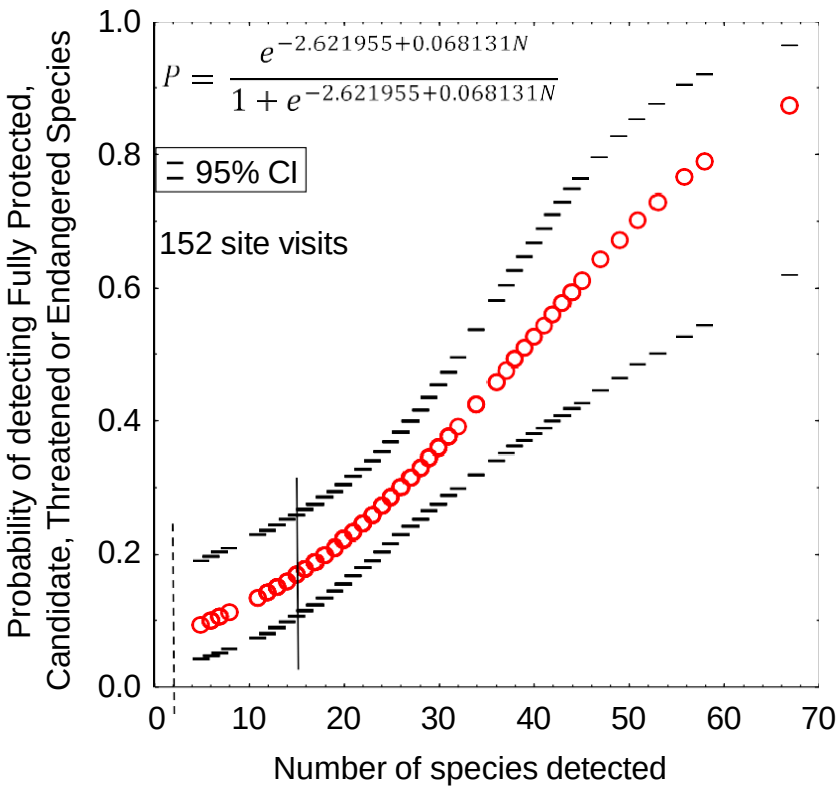


Figure 3. *Probability of detecting ≥1 Candidate, Threatened or Endangered Species of wildlife listed under California or federal Endangered Species Acts, based on survey outcomes logit-regressed on the number of wildlife species Noriko and I detected as expert witnesses during 152 site visits in California. The dashed vertical line represents the number of species detected by Jennings and the solid vertical line represents the number detected by Noriko.*

As was demonstrated in Figures 1 and 2, the number of species detected is largely a function of survey effort. Greater survey effort also increases the likelihood that listed species will be detected (which is the first tenet of detection surveys for special-status species). Based on the outcomes of 152 previous surveys that Noriko and I performed at sites of proposed projects, Noriko's survey effort at the project site carried an 18% chance of detecting a listed species, whereas the survey effort of Jennings Environmental (2021) carried an 8% chance of detecting a listed species. Jennings did not detect a listed species, but Noriko Smallwood detected a peregrine falcon, which is

California Fully Protected. Additional listed species likely use the site, but documenting their use would take much more survey effort to achieve a reasonable likelihood of detecting them. No reconnaissance-level survey is capable of detecting enough of the wildlife species that occur at a site to realistically characterize the site's wildlife community. This context bears on my comments regarding potential project impacts to biological resources, below.

CURRENT ENVIRONMENTAL SETTING

The first step in analysis of potential project impacts to biological resources is to accurately characterize the existing environmental setting, including the species that use the site, their relative abundances, how they use the site, key ecological relationships, and known and ongoing threats to those species with special status. A reasonably accurate characterization of the environmental setting can provide the baseline against which to analyze project impacts. Methods to achieve this first step typically include surveys of the site for biological resources and reviews of literature, databases and local experts for documented occurrences of special-status species. The IS/MND, however, is both incomplete and inaccurate in its characterization of the environmental setting as it relates to wildlife. A biological survey was provided, but it was inadequate. The supporting review of literature and databases is much too cursory. I found additional problems with the premises used to determine occurrence likelihoods, and with the interpretation of available information. I will comment on these problems, but first I will comment on the biological resources survey.

The biologist from Jennings Environmental (2021) committed 1 hour to a survey of the site on 10 April 2021. During this one hour to determine the likelihoods of occurrence of wildlife on the site, Jennings Environmental (2021) detected only two species of vertebrate wildlife -- house sparrow and northern mockingbird. Informed by Jennings's peek at the site, Jennings Environmental (2021:8) and the IS/MND (page 28) report, "very little evidence of any wildlife existed on-site and only two bird species were observed during the site survey." However, the foregoing conclusion was refuted by Noriko Smallwood's survey. Within Noriko's first hour of survey, she had detected 6 times the number of species detected by Jennings Environmental. Furthermore, as I demonstrated with Figures 1 through 3, more species would be detected with greater survey effort. The finding of the IS/MND of "very little evidence" of wildlife at the site lacks credibility, and calls into question its lack of findings of evidence of burrowing owl occurrence at the site.

Similarly, results of a database review in the IS/MND do not comport with my review of available databases. Jennings Environmental consulted only the California Natural Diversity Data Base (CNDDB), and in so doing, inappropriately used it to screen out many special-status species from further consideration. For this reason, the list of special-status species assessed for occurrence likelihood was much too short (Table 2). Of the 98 special-status species of wildlife I identified as potentially occurring at the site, the IS/MND addressed only 22(22%) (Table 2). The IS/MND's characterization of the likelihoods of species occurrences is too incomplete to serve as a sound basis for analyzing project impacts to wildlife.

Table 2. *Occurrence likelihoods of wildlife species at the project site, as determined by Jennings Environmental (2021) and as indicated by eBird/iNaturalist records (data base) and on-site survey findings. 'Very close' indicates sightings within about 1.5 miles of the site, 'nearby' indicates sightings within several miles, 'in region' indicates sightings within about 30 to 50 miles, and 'in range' means the species' geographic range overlaps the site.*

Common name	***Species name***	**Status[1]**	**Occurrence likelihood**		**MSHCP cover**
			IS/MND	**Databases, Site visit**	
Monarch	*Danaus plexippus*	FC		Very close	
Crotch's bumblebee	*Bombus crotchii*	FC	Absent	Very close	
Western spadefoot	*Scaphiophis hammondi*	SSC	Absent	In region	Yes
Blainville's horned lizard	*Phrynosoma blainvillii*	SSC	Absent	In region	Yes
Orange-throated whiptail	*Aspidoscelis hyperythrus*	WL	Absent	Nearby	Yes
Coastal whiptail	*Aspidoscelis tigris stejnegeri*	SSC	Absent	In region	Yes
Southern California legless lizard	*Anniella stebbinsi*	SSC	Absent	Nearby	
California glossy snake	*Arizona elegans occidentalis*	SSC	Absent	In region	
Coast patch-nosed snake	*Salvadora hexalepis virgultea*	SSC		Nearby	
Red-diamond rattlesnake	*Crotalus ruber*	SSC	Absent	Nearby	Yes
Western pond turtle	*Emys marorata*	SSC	Absent	In region	Yes
Vaux's swift	*Chaetura vauxi*	SSC2		Nearby	
Costa's hummingbird	*Calypte costae*	BCC		Nearby	
Rufous hummingbird	*Selasphorus rufus*	BCC		Nearby	
Allen's hummingbird	*Selasphorus sasin*	BCC		Nearby	
Mountain plover	*Charadrius montanus*	BCC		In region	Yes
Long-billed curlew	*Numenius americanus*	BCC, WL		Nearby	
Western gull	*Larus occidentalis*	BCC		Nearby	
California gull	*Larus californicus*	WL, BCC		On site	
Laughing gull	*Leucophaeus atricilla*	WL		Nearby	
Heermann's gull	*Larus heermanni*	BCC		Nearby	
Caspian tern	*Hydropogne caspia*	WL		Nearby	
Black tern	*Chlidonias niger*	BCC		In region	
Brant	*Branta bernicla*	SSC2		Nearby	
Double-crested cormorant	*Phalacrocorax auritus*	WL		Next to site	Yes

Common name	*Species name*	Status[1]	Occurrence likelihood		MSHCP cover
			IS/MND	Databases, Site visit	
American white pelican	*Pelacanus erythrorhynchos*	SSC1		Nearby	
White-faced ibis	*Plegadis chihi*	WL		Nearby	Yes
Turkey vulture	*Cathartes aura*	BOP		Very close	Yes
Osprey	*Pandion haliaetus*	BOP, WL		Very close	Yes
White-tailed kite	*Elanus leucurus*	CFP, BOP		Nearby	Yes
Golden eagle	*Aquila chrysaetos*	BGEPA, CFP		Nearby	Yes
Bald eagle	*Haliaeetus leucocephalus*	BGEPA, BCC, CFP		Nearby	Yes
Northern harrier	*Circus cyaneus*	SSC3, BOP, BCC		Very close	Yes
Sharp-shinned hawk	*Accipiter striatus*	WL, BOP		Nearby	Yes
Cooper's hawk	*Accipiter cooperi*	WL, BOP		Very close	Yes
Red-shouldered hawk	*Buteo lineatus*	BOP		Nearby	
Swainson's hawk	*Buteo swainsoni*	CT, BOP		Nearby	Yes
Red-tailed hawk	*Buteo jamaicensis*	BOP		On site	
Ferruginous hawk	*Buteo regalis*	WL, BOP		Very close	Yes
Barn owl	*Tyto alba*	BOP		In region	
Western screech-owl	*Megascops kennicotti*	BOP		In region	
Great horned owl	*Bubo virginianus*	BOP		Nearby	
Burrowing owl	*Athene cunicularia*	BCC, SSC2, BOP	Absent	Nearby	Yes
Long-eared owl	*Asio otus*	SSC, BOP, BCC		In region	
Short-eared owl	*Asio flammeus*	BCC		In region	
Lewis's woodpecker	*Melanerpes lewis*	BCC		In region	
Nuttall's woodpecker	*Picoides nuttallii*	BCC		Very close	
American kestrel	*Falco sparverius*	BOP		On site	
Merlin	*Falco columbarius*	WL, BOP		In region	Yes
Prairie falcon	*Falco mexicanus*	WL, BCC, BOP		In region	Yes
Peregrine falcon	*Falco peregrinus*	BCC, CFP, BOP		On site	Yes
Olive-sided flycatcher	*Contopus cooperi*	SSC2		In region	
Willow flycatcher	*Empidonax traillii*	BCC, CE		In region	Yes
Vermilion flycatcher	*Pyrocephalus rubinus*	SSC2		Nearby	

Common name	*Species name*	Status[1]	Occurrence likelihood		MSHCP cover
			IS/MND	Databases, Site visit	
Least Bell' vireo	*Vireo belli pusillus*	FE, CE	Absent	In region	Yes
Loggerhead shrike	*Lanius ludovicianus*	BCC, SSC2		Nearby	Yes
Oak titmouse	*Baeolophus inornatus*	BCC		In region	
Horned lark	*Eremophila alpestris actia*	WL	Absent	Nearby	Yes
Purple martin	*Progne subis*	SSC2		In region	Yes
Bank swallow	*Riparia riparia*	BLM:S		In region	
Wrentit	*Chamaea fasciata*	BCC		In region	
Coastal California gnatcatcher	*Polioptila californica californica*	SSC	Absent	Nearby	Yes
California thrasher	*Toxostoma redivivum*	BCC		Nearby	
Lawrence's goldfinch	*Carduelis lawrencei*	BCC		Nearby	
Grasshopper sparrow	*Ammodramus savannarum*	SSC		In region	Yes
Black-chinned sparrow	*Spizella atrogularis*	BCC		In region	
Brewer's sparrow	*Spizella breweri*	BCC		In region	
Bell's sage sparrow	*Amphispiza b. belli*	WL		Nearby	Yes
Southern California rufous-crowned sparrow	*Aimophila ruficeps canescens*	FSC, SSC	Absent	Nearby	Yes
Yellow-breasted chat	*Icteria virens*	SSC3		In region	Yes
Yellow-headed blackbird	*X. xanthocephalus*	SSC3		In region	
Bullock's oriole	*Icterus bullockii*	BCC		Nearby	
Tricolored blackbird	*Agelaius tricolor*	BCC, CT	Absent	In region	Yes
Virginia's warbler	*Leiothlypis virginiae*	WL, BCC		In region	
Yellow warbler	*Dendroica petachia*	BCC, SSC2		Nearby	Yes
Summer tanager	*Piranga rubra*	SSC1		Nearby	
Western mastiff bat	*Eumops perotis californicus*	SSC, WBWG:H	Absent	In range	
Pocketed free-tailed bat	*Nyctinomops femorosaccus*	SSC, WBWG:M		In region	
Big free-tailed bat	*Nyctinomops macrotis*	SSC, WBWG:MH		In region	
Pallid bat	*Antrozous pallidus*	SSC, WBWG:H		In region	
Townsend's big-eared bat	*Corynorhinus townsendii*	SSC, WBWG:H		In region	
Spotted bat	*Euderma maculatum*	SSC, WBWG:H		In region	

Common name	*Species name*	Status[1]	Occurrence likelihood		MSHCP cover
			IS/MND	Databases, Site visit	
Silver-haired bat	*Lasionycteris noctivagans*	WBWG:M		In region	
Western red bat	*Lasiurus blossevillii*	SSC, WBWG:H		In region	
Hoary bat	*Lasiurus cinereus*	WBWG:M		In region	
Western yellow bat	*Lasiurus xanthinus*	SSC, WBWG:H	Absent	In region	
Western small-footed myotis	*Myotis ciliolabrum*	WBWG:M		In region	
Little brown myotis	*Myotis lucifugus*	WBWG:M		In range	
Fringed myotis	*Myotis thysanodes*	WBWG:H		In region	
Miller's myotis	*Myotis evotis*	WBWG:M		In region	
Long-legged myotis	*Myotis volans*	WBWG:H		In region	
Yuma myotis	*Myotis yumanensis*	SSC, WBWG:LM		In region	
American badger	*Taxidea taxus*	SSC	Absent	In region	
San Diego black-tailed jackrabbit	*Lepus californicus bennettii*	SSC	Absent	In region	Yes
Southern grasshopper mouse	*Onychomys torridus ramona*	SSC	Absent	In region	
Northwestern San Diego pocket mouse	*Chaetodipus f. fallax*	SSC	Absent	In range	Yes
Stephens' kangaroo rat	*Dipodomys stephensi*	FE, CT	Absent	Very close	Yes

[1] FE and FT = federal endangered and threatened, BCC = U.S. Fish and Wildlife Service Bird Species of Conservation Concern, CE and CT = California endangered and threatened, CFP = California Fully Protected (FGC Code 3511), SSC = California species of special concern, SSC1, SSC2 and SSC3 = California Bird Species of Special Concern priorities 1, 2 and 3, respectively, and WL = Taxa to Watch List (Shuford and Gardali 2008), BOP = California Fish and Game Code 3503.5 (Birds of Prey), and WBWG = Western Bat Working Group with priority rankings, of low, moderate, and high.

Of the species that were considered for occurrence potential, all were said to lack habitat at the project site. According to the IS/MND (page 28), "Suitable habitat for the sensitive and listed species do not occur on site. As such, these species are considered absent from the Project Site." Indeed, this is the determination made by Jennings Environmental (2021) for every species considered (Table 2). These findings are incredible. According to publicly available data, 5 of these species have been reported within about 1.5 miles of the site ("very close" in Table 2), and another 7 have been reported within several miles of the site ("nearby" in Table 2). Another 11 of the species have been documented within about 30 to 50 miles of the site ("in region" in Table 2). I find it hard to believe that for all these special-status species documented near the site, Jennings Environmental and the IS/MND assert no habitat exists for them there.

Five of the special-status species not addressed in the IS/MND were seen at the project site by Noriko Smallwood during her brief survey. The site certainly provides habitat for these species. It also likely provides habitat for most of the species in Table 2 at one time or another.

Additional problems with determinations of occurrence likelihoods.-- Earlier I mentioned additional problems with the premises used to determine occurrence likelihoods, and with the interpretation of available information. I add those comments below.

To the first problem, the IS/MND (i.e., Jennings Environmental 2021) inappropriately relies on absence of CNDDB records to determine no potential for occurrences of many special-status species. CNDDB was not designed to support absence determinations or to screen out species from the characterization of the current environmental setting. For the reasons described below, lack of CNDDB records does not mean a species is absent from a site nor from the area around the site. Similarly, relative abundance of CNDDB records in the project area does not indicate whether a species' occurrence likelihood would be lower or higher. The reasons are rooted in principles of ecology and in principles of statistical sampling.

Spatial distributions of animal populations are aggregated and naturally dynamic, with centers of activity shifting every generation or so (Taylor and Taylor 1979). Hypotheses for spatially dynamic distributions of animal species include the need to exploit forage that accumulated outside activity areas while it depleted within activity areas, the need to escape predator or parasite loads, and the need of young animals to leave natal areas to form new breeding populations. Whatever the reasons, animal populations are not static in their distribution, so past sightings records cannot entirely inform of a species' current locations. A recorded presence of a species in CNDDB informs of the capacity of a site to support the species, but it does not mean the species is always present.

Likewise, the reported absence of a species does not necessarily mean the site lacks the capacity to support members of the species nor that the species would continue to be absent from the site. A more realistic representation of occurrence likelihood would be a probability of occurrence of a given species on the *i*th survey date at a given site that is both within the species' geographic range and supports conditions typical of the species' habitat.

To develop a basis for quantifying probability of occurrences, CNDDB would ideally implement a statistical sampling design based on unlimited access to properties, but no such sampling has been implemented. CNDDB could develop a less ideal basis for quantifying probability of occurrences by providing the means for investigators to report survey attributes that inform of survey effort and methods used. eBird provides such an opportunity to report on survey effort and methods, but CNDDB focuses more on the validity of the reported sighting. Because there is no scientific sampling framework to CNDDB, and because CNDDB relies entirely on volunteer reporting from biologists who were allowed access to whatever properties they report from, reports of species' detections can only be interpreted as confirmations of presence of a species at a particular time and place. In fact, negative findings from reconnaissance-level surveys and protocol-level detection surveys are never reported to CNDDB, so species absences are not tracked in CNDDB. Many properties have never been surveyed by biologists.
Many properties have been surveyed, but the survey outcomes never reported to CNDDB. Many properties have been surveyed multiple times, but not all survey outcomes reported to CNDDB. For all these reasons, occurrence probabilities cannot be quantified from CNDDB.

Consulting CNDDB is fine for confirming presence of a species, but it is inappropriate as a basis for narrowing a list of potentially occurring species. The limitations of CNDDB are well-known, and summarized by California Department of Fish and Wildlife in a warning presented on its CNDDB web site (https://wildlife.ca.gov/Data/CNDDB/ Maps-and-Data): "*We work very hard to keep the CNDDB and the Spotted Owl Database as current and up-to-date as possible given our capabilities and resources. However, we cannot and do not portray the CNDDB as an exhaustive and comprehensive inventory of all rare species and natural communities statewide. Field verification for the presence or absence of sensitive species will always be an important obligation of our customers…*" The IS/MND's use of CNDDB records to filter out species from its characterization of the current environmental setting is therefore inconsistent with CNDDB's purpose.

To the second problem, which bridges the characterization of the environmental setting and the analysis of potential project impacts to wildlife, the IS/MND, i.e., Jennings Environmental (2021), relies on the premise that only impacts to breeding habitat qualify as significant impacts. For species such as burrowing owl and tricolored blackbird, the IS/MND contrives a distinction between nesting habitat and non-nesting habitat. The IS/MND then implies that because nesting habitat is unavailable at the project site, project impacts to the species would be less than significant. In reality, all of a species' habitat is of critical importance to the species regardless of where breeding sites are located. After all, no matter where a species breeds, members of the species cannot breed successfully without also surviving migration and the non-breeding season. Animals cannot breed successfully with insufficient forage or opportunities for stopover refugia during migration or opportunities for staging areas or for mate- selection and all the other functions the animal must perform to successfully breed.
Species for which the IS/MND determines nesting habitat is unavailable on site are

inaccurately and incompletely characterized as part of the wildlife community at the project site.

To the third problem, which is related to the second, the IS/MND pigeon-holes species into portions of the environment that are much narrower than the species' actual habitat. The IS/MND repeatedly mischaracterizes species as obligates of narrowly defined habitats that are not truly representative of the species. A table of such narrow characterizations of habitat is then cross-checked against conditions at the project site to systematically rule out the likelihoods of occurrence of one species after another, which is what the IS/MND did. To facilitate this process, the annual grassland at the site has been "managed" (mowed) so that it does not resemble the "habitat" of any of the special-status species addressed in the CEQA review.

The approach used in the IS/MND represents a gross departure from the most efficient method known for characterizing habitat. The most efficient method is to observe which parts of the environment a species is using, hence relying on each species to inform of its habitat. After all, habitat is defined by a species' use of the environment (Hall et al. 1997, Morison et al. 1998, Krausman 2016). In fact, the main purpose of reconnaissance-level surveys is to document as many of the species using the site as reasonably feasible as a means to assess the site's role as habitat. Each species detected on site confirms the site's use as habitat by that species. A confirmation is much more reliable than assumed presence of absence each species. Actual sightings of members of a species cut through the guesswork and bypass the assumptions, because they go directly to sound interpretation of what is habitat.

The tabulated habitat characterizations used for cross-checking against observed conditions on the ground were presumably based on sightings of wildlife somewhere else. Lest they be pure speculation, descriptions of habitat follow from observations of the species relative to measured environmental conditions. If habitats were assigned to species in the absence of observations, then there would be no need for reconnaissance- level surveys to inform CEQA reviews. But the survey at the project site was needed because it is the species' unique use of the environment that informs of its habitat. No canned table of habitats is going to capture the range of conditions in which any given species exists; the analyst must take a serious look at a proposed project site. But knowing that a reconnaissance-level survey is insufficient for detecting all of the wildlife species that use a site, the survey outcome must be interpreted carefully. Per the careful interpretation that is needed, the Precautionary Principle in risk assessment is essential. The analyst should more often assume presence of each conceivable species because, informed only be a reconnaissance-level survey, insufficient effort was made to prove absence. To prove absence, protocol-level detection surveys were formulated by natural resource agencies and other species' experts.

The current environmental setting described in the IS/MND looks nothing like the one described by Noriko Smallwood, based on her brief survey visit. Noriko Smallwood saw 15 species of wildlife that Jennings Environmental did not see. She saw 5 special-status species of wildlife that Jennings Environmental did not see,

including a peregrine falcon. The photo montage at the beginning of this comment letter looks nothing like what the IS/MND would have the reader believe of the site – that nothing is there and the site provides no value to wildlife. Wildlife are using the site. The current environmental setting is other than what the IS/MND presents. Therefore, a fair argument can be made for the need to prepare an EIR to more carefully and more thoroughly characterize the current environmental setting as a basis of performing project impacts analysis.

BIOLOGICAL IMPACTS ANALYSIS

Determination of occurrence likelihoods of special-status species is not, in and of itself, an analysis of potential project impacts. An impacts analysis should consider whether and how a proposed project would affect members of a species, larger demographic units of the species, or the whole of a species. In the following, I analyze several types of impacts likely to result from the project, and none of which are analyzed in the IS/MND.

HABITAT LOSS

Habitat loss not only results in the immediate numerical decline of wildlife, but also in permanent loss of productive capacity (Smallwood 2015). For example, two study sites in grassland/wetland/woodland complexes had total bird nesting densities of 32.8 and
35.8 nests per acre (Young 1948, Yahner 1982) for an average 34.3 nests per acre. Applying as little as a third of this density to the project site, 11.42 nests/acre multiplied against 8.69 acres would predict a loss of 99 bird nests. The average number of fledglings per nest in Young's (1948) study was 2.9. Assuming Young's (1948) study site typifies bird productivity, then the project would prevent the production of 287 fledglings per year. After 100 years and assuming an average generation time of 5 years, the lost capacity of both breeders and annual fledgling production can be estimated from the following formula: {(nests/year × chicks/nest × number of years) + ((2 adults/nest × nests/year) × (number of years ÷ years/generation))}. In the case of this project, and given my stated assumptions, this formula predicts **the project would deny California 32,660 birds over the next century due solely to loss of terrestrial habitat**. This predicted loss of 327 birds/year would be substantial, and would qualify as a significant impact that is not addressed in the IS/MND. A fair argument can be made for the need to prepare an EIR to appropriately analyze habitat loss as a potential project impact to birds.

WILDLIFE MOVEMENT

The IS/MND is misleading in its analysis of whether the project would interfere with wildlife movement in the region. According to the IS/MND (p. 31), "Project Site would not be suitable as a native resident or migratory wildlife Corridor" ...and therefore "would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors..." However, the premise of the City's conclusion is incorrect. The

CEQA standard is whether a project will "Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors…" The primary phrase of the standard goes to wildlife movement regardless of whether the movement is channeled by a corridor. And anyhow, corridors are typically regarded in science as human-created landscape structures intended to reduce the effects of habitat fragmentation, and only infrequently as a channelization of wildlife movement caused by landscape structure (Smallwood 2015).

Wildlife movement in a region is often diffuse rather than channeled (Runge et al. 2014, Taylor et al. 2011) unless anthropogenic changes have forced channeling or targeting of "island" patches of habitat (Smallwood 2015). Wildlife movement includes stopover by birds and bats (Taylor et al. 2011), and staging (Warnock 2010) during dispersal, migration or home range patrol. Many species of wildlife likely use the site of the proposed project for movement across the region, and some species were seen doing so during Noriko Smallwood's survey. The project would cut wildlife off from stopover and staging opportunities, and would lengthen the distances that wildlife must travel before finding alternate stopover opportunities. The project, therefore, would interfere with wildlife movement in the region. A fair argument can be made for the need to prepare an EIR to appropriately analyze interference with wildlife movement in the region as a potential project impact to wildlife.

ROAD MORTALITY

With the proposed construction of 137,700 square feet of industrial and commercial floor space, the IS/MND is deficient for providing no analysis of traffic impacts to wildlife. In fact, the IS/MND makes no mention of this potential impact. Various means to analyze the impact are available, one of which I implement below.

As will be described, a basis for predicting wildlife mortality can be found in the prediction of annual vehicle miles traveled (VMT). According to the IS/MND, the project would generate an annual VMT of 2,181,593. This mileage would kill wildlife (Photos 11 through 13). A fundamental shortfall of the IS/MND is its failure to analyze the impacts of the project's added road traffic on special-status species of wildlife, including species that might not occur at the project site, but which would occur along the roads that project-generated traffic would travel. Such species would include western pond turtle (*Actinemys pallida*), mountain lion (*Puma concolor*) and American badger (*Taxidea taxus*), among many others. Many animals that would be killed by the traffic generated from this project would be located far from the project's construction footprint; they would be crossing roads traversed from cars and trucks originating from or headed toward the project site. The project's impacts on wildlife would reach as far from the project as cars and trucks travel to or from the project site. Despite the obvious risk to wildlife, and despite the multiple papers and books written about this type of impact and how to mitigate them, the IS/MND does not address impacts to wildlife caused by vehicles traveling to and from the project site.

Photo 11. *A Gambel's quail dashes across a road* on *3 April 2021. Such road crossings are usually successful, but too often prove fatal to the animal. Photo by Noriko Smallwood.*

Photo 12. *A mourning dove killed by vehicle traffic on a California road. Photo by Noriko Smallwood, 21 June 2020.*

Photo 13. *Raccoon killed on Road 31 just east of Highway 505 in Solano County. Photo taken on 10 November 2018.*

Vehicle collisions have accounted for the deaths of many thousands of amphibian, reptile, mammal, bird, and arthropod fauna, and the impacts have often been found to be significant at the population level (Forman et al. 2003). Across North America,

traffic impacts have taken devastating tolls on wildlife (Forman et al. 2003). In Canada, 3,562 birds were estimated killed per 100 km of road per year (Bishop and Brogan 2013), and the US estimate of avian mortality on roads is 2,200 to 8,405 deaths per 100 km per year, or 89 million to 340 million total per year (Loss et al. 2014). Local impacts can be more intense than nationally.

The nearest study of traffic-caused wildlife mortality was performed along a 2.5 mile stretch of Vasco Road in Contra Costa County, California. Fatality searches in this study found 1,275 carcasses of 49 species of mammals, birds, amphibians and reptiles over 15 months of searches (Mendelsohn et al. 2009). This fatality number needs to be adjusted for the proportion of fatalities that were not found due to scavenger removal and searcher error. This adjustment is typically made by placing carcasses for searchers to find (or not find) during their routine periodic fatality searches. This step was not taken at Vasco Road (Mendelsohn et al. 2009), but it was taken as part of another study right next to Vasco Road (Brown et al. 2016). The Brown et al. (2016) adjustment factors were similar to those for carcass persistence of road fatalities (Santos et al. 2011).
Applying searcher detection rates estimated from carcass detection trials performed at a wind energy project immediately adjacent to this same stretch of road (Brown et al. 2016), the adjusted total number of fatalities was estimated at 12,187 animals killed by traffic on the road. This fatality number translates to a rate of 3,900 wild animals per mile per year killed along 2.5 miles of road in 1.25 years. In terms comparable to the national estimates, the estimates from the Mendelsohn et al. (2009) study would translate to 243,740 animals killed per 100 km of road per year, or 29 times that of Loss et al.'s (2014) upper bound estimate and 68 times the Canadian estimate. An analysis is needed of whether increased traffic on roads within the County of San Bernardino would similarly result in intense local impacts on wildlife.

Predicting project-generated traffic impacts to wildlife

The IS/MND predicts that the project would generate 2,181,593vehicle miles traveled per year. This would be a lot of mileage to be driven at great peril to wildlife that must cross roads to go about their business of foraging, patrolling home ranges, dispersing and migrating. But it can also serve as a basis for predicting impacts to wildlife.

For wildlife vulnerable to front-end collisions and crushing under tires, road mortality can be predicted from the study of Mendelsohn et al. (2009) as a basis, although despite the nearness of the Mendelsohn et al. (2009) study to the project site, it would be helpful to have the availability of more studies like that of Mendelsohn et al. (2009) at additional locations. My analysis of the Mendelsohn et al. (2009) data resulted in an estimated 3,900 animals killed per mile along a county road in Contra Costa County.
Two percent of the estimated number of fatalities were birds, and the balance was composed of 34% mammals (many mice and pocket mice, but also ground squirrels, desert cottontails, striped skunks, American badgers, raccoons, and others), 52.3% amphibians (large numbers of California tiger salamanders and California red-legged frogs, but also Sierran treefrogs, western toads, arboreal salamanders, slender

salamanders and others), and 11.7% reptiles (many western fence lizards, but also skinks, alligator lizards, and snakes of various species). During the Mendelsohn et al. (2009) study, 19,500 cars traveled Vasco Road daily, so the vehicle miles that contributed to my estimate of non-volant fatalities was 19,500 cars and trucks × 2.5 miles × 365 days/year × 1.25 years = 22,242,187.5 vehicle miles per 12,187 wildlife fatalities, or 1,825 vehicle miles per fatality. This rate divided into the annual VMT predicted above, I predict the project would cause 1,195 wildlife fatalities per year. **Operations over 100 years would accumulate 119,500 wildlife fatalities**. It remains unknown whether and to what degree vehicle tires contribute to carcass removals from the roadway, thereby contributing a negative bias to the fatality estimates I made from the Mendelsohn et al. (2009) fatality counts.

Based on my assumptions and simple calculations, the project-generated traffic would cause substantial, significant impacts to wildlife. A fair argument can be made for the need to prepare an EIR to appropriately analyze traffic-caused road mortality as a potential project impact to wildlife.

CUMULATIVE IMPACTS

The IS/MND (p. 83) asserts that because of project-specific mitigation for impacts to biological resources, "impacts would be reduced to less than significant levels and would not considerably contribute to cumulative impacts in the greater project region," there would likewise be no significant cumulative impacts to biological resources. The IS/MND implies that cumulative impacts are really just residual impacts of incomplete mitigation. If that was CEQA's standard, then cumulative effects analysis would be merely an analysis of mitigation efficacy. The IS/MND's implied standard is not the standard of analysis of cumulative effects. CEQA defines cumulative impacts, and it outlines two general approaches for performing the analysis. Given that North America has lost nearly a third of its birds over the past half century (Rosenberg et al. 2019), an appropriate cumulative effects analysis is warranted. A fair argument can be made for the need to prepare an EIR to appropriately analyze the project's contribution to potential cumulative impacts to wildlife.

MITIGATION MEASURES

BIO 1 Preconstruction survey for nesting birds

Preconstruction surveys are proposed for nesting birds, as they ought to be. However, it should be understood that preconstruction surveys are really wildlife salvage surveys; they are intended as last-minute efforts to save the readily detectable birds or their nests from being crushed by heavy machinery. Because many birds will nest on site during the breeding season, and because the majority of these nests will be expertly constructed for concealment from predators, preconstruction surveys are assured to detect a tiny fraction of bird nests. Such surveys would save very few of the nesting birds in peril.

Furthermore, preconstruction surveys cannot estimate nor offset the permanent loss of breeding habitat and all of the productive capacity lost with that habitat. Far more effective than preconstruction surveys, project construction timed outside the breeding season would cause no direct mortality of breeding birds. However, this approach would likewise be unable to avoid habitat loss and loss of breeding capacity.

Payment of fees to the Western Riverside Multiple Species Habitat Conservation Plan (MSHCP)

Payment of mitigation fees to the MCHCP would inadequately mitigate project impacts to wildlife. Of the 98 species listed as potentially occurring on the project site, 60 lack coverage under the MSHCP (Table 2). That 61% of the special-status species in the project area lack coverage under the MSHCP is ample evidence of a rapid deterioration of conditions for wildlife in California. Many species that were common at the time of the certification of the MSHCP have recently been listed as candidates for listing or as California Species of Special Concern or as US Fish and Wildlife Service Birds of Conservation Concern. Just this year, Bullock's oriole and wrentit were designated as Birds of Conservation Concern, and so was California gull, which Noriko Smallwood saw at the project site. In fact, Noriko saw 3 special-status species at the project site and which lack coverage under the MSHCP.

But what of the species that are covered? According to Jennings Environmental (2021:5) and the IS/MND (page 33), "Of the 146 species addressed in the Western Riverside County MSHCP, 118 are adequately conserved simply by implementing the conservation program. Incidental take of these 118 species is permitted by the Western Riverside County MSHCP. The remaining 28 species are partially conserved." However, whether any of the species covered by the MSHCP are adequately conserved or partially conserved is questionable. The growing list of species assigned special status is indicative of worsening conditions for wildlife. And the evidence of the MSHCP's conservation efficacy is discouraging.

The evidence indicates the MSHCP is failing to meet its conservation goals and objectives while at the same time frontloading development. The biological goal of the MSHCP is to "…*conserve covered species and their habitats*…" by acquiring 153,000 acres of additional reserve land and meeting species-specific numerical thresholds of abundance. According to the 2018 annual report, additional acreage acquired through 2018 totaled 60,336 acres, or 39% of the goal. Only 38,767 acres were managed under Regional Conservation Authority (RCA), or 25% of the goal. Over the same time period, habitat losses totaled 83,975 acres, of which 16,161 acres (19%) were inside Criteria Cells. The MSHCP is failing to meet goals and objectives. Until it can demonstrate success, a return to conventional mitigation strategies under CEQA is warranted.

Nor was the mitigation of the MSHCP formulated in response to consideration of all of the impacts I outlined in my comments. The strategy of the MSHCP is to preserve patches of habitat as mitigation for the habitat that will be lost to development. This strategy failed to consider the chronic impacts of the ecological sinks created by the

projects' habitat destruction. One such ecological sink includes road traffic, which chronically take members of species targeted for protection in the preserved habitat. The MSHCP fails to consider that wildlife are mobile, and wildlife cannot persist without expressing their mobility. To migrate, disperse, forage, and patrol home ranges, wildlife must cross roads, and those that are volant must fly through the airspaces that energy conservation and instinct dictate. Furthermore, the consigning of wildlife to the preserved habitat patches per the MSHCP's strategy exposes those "preserved" wildlife to catastrophic losses from wildfire. Having worked with endangered species in small, isolated habitat patches, I have witnessed what happens when fire burns all the vegetation remaining in the patch, or when drought destroys all the forage. The species is extinguished. The MSHCP cannot alone mitigate the impacts of this or all the other projects participating with it.

Mitigation also needs to be formulated for wildlife road mortality. Options include driver education, vehicle speed reduction zones and enforcement, dissuasion of wildlife from entering traffic lanes on bridges, wildlife undercrossing or overcrossings, and measures to reduce the number of vehicles on California roads.

RECOMMENDED MEASURES

I recommend more conventional CEQA mitigation measures instead of payment into the MSHCP. Land should be strategically conserved in perpetuity as compensation for habitat loss at the project site. An EIR should be prepared to formulate appropriate mitigation.

Detection surveys for special-status species

Detection surveys are needed for each of the special-status species in Table 2. Detection surveys are needed for herpetofauna, nesting birds, and for burrowing owls (CDFW 2012). Qualified biologists should be recruited to perform the surveys.

Fund Wildlife Rehabilitation Facilities

Compensatory mitigation ought also to include funding contributions to wildlife rehabilitation facilities to cover the costs of injured animals that will be delivered to these facilities for care. Most of the injuries will likely be caused by the increased trip generation of cars and trucks. Many animals need treatment caused by collision injuries and an increasing number appear to be injured by the turbulence of passing trucks.

Thank you for your attention,

Shawn Smallwood, Ph.D.

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Exhibit B

Shawn Smallwood, PhD
3108 Finch Street
Davis, CA 95616

Alfredo Garcia, Associate Planner
City of Perris
Planning Division
101 North D Stree
Perris, CA 92376

9 December 2021

RE: Operon HKI - Perris

Dear Mr. Garcia,

I write to comment on the Initial Study/Negative Mitigated Declaration (IS/MND) (City of Perris 2021) and biological resources study (Lilburn Corporation 2021) that were prepared in support of the proposed Operon HKI warehouse project, which I understand would include 137,700 square feet of floor space on 8.69 acres of open space at the southeast corner of Indian Ave. and Harley Knox Blvd.

My qualifications for preparing expert comments are the following. I hold a Ph.D. degree in Ecology from University of California at Davis, where I subsequently worked for four years as a post-graduate researcher in the Department of Agronomy and Range Sciences. My research has been on animal density and distribution, habitat selection, interactions between wildlife and human infrastructure and activities, conservation of rare and endangered species, and on the ecology of invading species. I authored numerous papers on special-status species issues. I served as Chair of the Conservation Affairs Committee for The Wildlife Society – Western Section. I am a member of The Wildlife Society and the Raptor Research Foundation, and I've been a part-time lecturer at California State University, Sacramento. I was Associate Editor of wildlife biology's premier scientific journal, The Journal of Wildlife Management, as well as of Biological Conservation, and I was on the Editorial Board of Environmental Management. I have performed wildlife surveys in California for thirty-five years, including at many proposed project sites. My CV is attached.

SITE VISIT

Noriko Smallwood, a wildlife ecologist who earned her Master's Degree at California State University Los Angeles, visited the proposed project site (Photos 1 and 2) from 07:03 to 08:45 hours on 21 November 2020. She walked the site's perimeter along city streets, stopping to scan for wildlife with the use of binoculars. The sky was clear with a light breeze and temperatures of 64 to 68 F.

In her 102 minutes of survey, Noriko Smallwood detected 15 species of vertebrate wildlife at the site, as well as harvester ants and 5 special-status species (Table 1, Photo 3). The presence of harvester ants – an ecological keystone species – increases the likelihood that Blainville's horned lizard and other special-status species also occur at

the site. She saw California gulls and double-crested cormorants flying over the project site (Photos 4 and 5). Both of these species are special-status species. She saw a peregrine falcon, red-tailed hawk and American kestrel (Photos 6-8), all of which are protected by California Fish and Game Code. Peregrine falcon is also a California Fully Protected species. Noriko Smallwood also saw common ravens and savannah sparrows (Photos 9 and 10) among other species. Even though the grassland of this site is mowed, its location as an island of open space surrounded by warehouses increases its importance to wildlife as habitat and for stopover and staging opportunities.

Noriko Smallwood certifies that the foregoing and following survey results are true and accurately reported.

Noriko Smallwood

Photos 1 and 2. *Views of the project site on 21 November 2021. Photos by Noriko Smallwood.*

Table 1. *Species of vertebrate wildlife seen by Noriko Smallwood at the project site on 21 November 2021.*

Species	***Scientific name***	**Status[1]**	**Notes**
Rock pigeon	*Columba livia*	Non-native	On site
Mourning dove	*Zenaida macroura*		On site
Anna's hummingbird	*Calypte anna*		On site
California gull	*Larus californicus*	BCC, WL	On site
Double-crested cormorant	*Nannopterum auritum*	WL	Next to site
Red-tailed hawk	*Buteo jamaicensis*	BOP	On site
American kestrel	*Falco sparverius*	BOP	Next to site
Peregrine falcon	*Falco peregrinus*	BCC, CFP, BOP	On site
Cassin's kingbird	*Tyrannus vociferans*		Next to site
Common raven	*Corvus corax*		On site
European starling	*Sturnus vulgaris*	Non-native	Next to site
House finch	*Haemorphous mexicanus*		On site
Lesser goldfinch	*Carduelis psaltria*		On site
Savannah sparrow	*Passerculus sandwichenis*		On site
Yellow-rumped warbler	*Dendroica coronate*		Next to site
Harvester ant	*P*ogonomermyx californicus		On site

[1] BCC = U.S. Fish and Wildlife Service Bird Species of Conservation Concern, CFP = California Fully Protected (CFG Code 3511), WL = Taxa to Watch List (Shuford and Gardali 2008), BOP = California Fish and Game Code 3503.5 (Birds of Prey).

Photo 3. *Harvester ant on the project site, 21 November 2021. Photo by Noriko Smallwood.*

Photos 4 and 5. *California gulls (top) and Double-crested cormorants (bottom) flying over or next to the project site, 21 November 2021. Photos by Noriko*

Photo 6. *The back end of a fast-flying peregrine falcon over the project site, 21 November 2021. Peregrine falcon is a California Fully Protected species. Photo by Noriko Smallwood.*

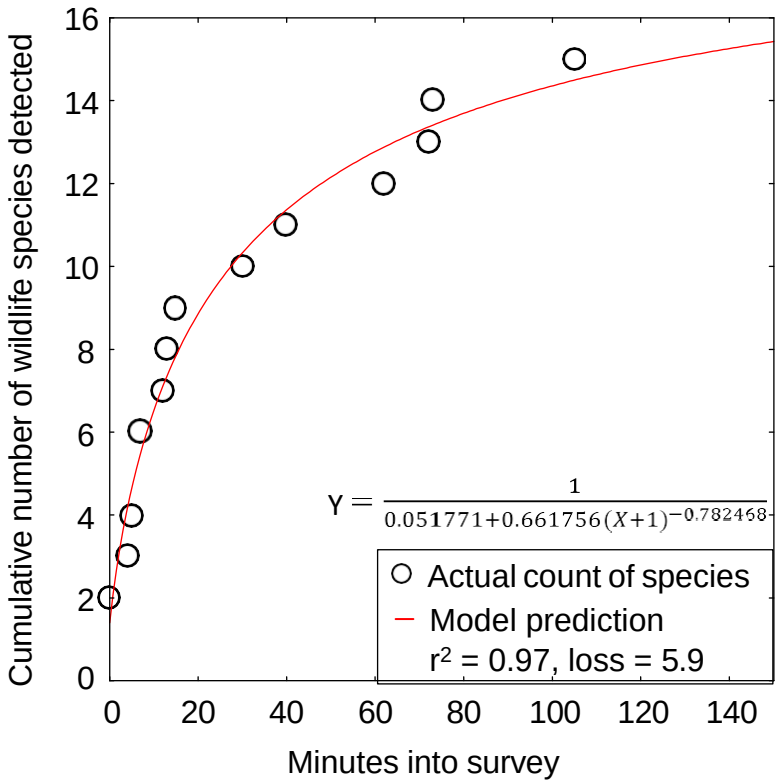
Photos 7 and 8. *Red-tailed hawk (left) and American kestrel (right) at the project site, 21 November 2021. Photos by Noriko Smallwood.*

Photos 9 and 10. *Common raven (top) and savannah sparrow (bottom) at the project site, 21 November 2021. Photos by Noriko Smallwood.*

Noriko's detection of 15 species of vertebrate wildlife needs to be interpreted within the context of her survey effort. No matter who performs a survey, the results of a reconnaissance-level survey qualify as thin empirical foundation for characterizing the environmental setting of any site, including one proposed for a project. Such a survey can serve only as a starting point toward characterization of a site's wildlife community.

There were only so many species Noriko was likely to detect within the short time she had available to perform a visual-scan survey on 21 November 2021. However, a focused survey effort in which the times of species detections are noted can inform of the number of species likely to be detected with a larger survey effort of the same methods and the same time of year (Figure 1). This potential is of critical importance when making determinations about occurrence likelihoods of special-status species.

Figure 1. *Actual and predicted relationships between the number of vertebrate wildlife species detected and the elapsed survey time based on Noriko Smallwood's visual scan survey on 21 November 2021. Note that the relationships would differ if the surveys were based on another method or during another season. Also note that the cumulative number of vertebrate species across all methods, times of day, and seasons would increase substantially.*

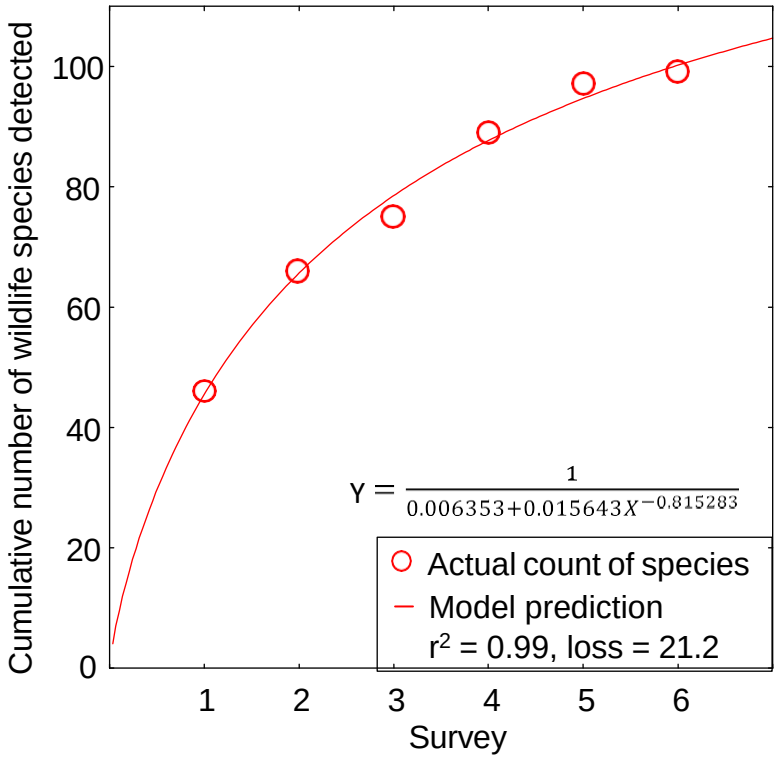


By recording when she detected each species, I could forecast the number of species that could have been detected with a longer effort using the same visual-scan method. Figure 1 shows Noriko's cumulative count of species detected at the site with increasing time into her survey. Just as I have seen for many other survey efforts, a nonlinear regression model fit the data very well, explaining 97% of the variation in the data. The pattern in the data showed progress towards the inevitable asymptote of the number of species detectable over a longer period of time using the same survey method. In Noriko's case, the model predicted Noriko would have eventually detected 19 species that morning. Had she been able to continue her survey, she would have continued to detect additional species.

Noriko could have detected many more species than predicted had she also performed surveys at different times of day to detect diurnal, nocturnal and crepuscular species with appropriate methods and technology, or surveys in different seasons and years to detect migrants and species with multi-annual cycles of abundance. Her reconnaissance-level survey informs me that the site is richer in wildlife than the 15 species detected, but also that the environmental setting of the project remains insufficiently characterized as foundation for analysis of impacts to special-status species (more on this later). How many more species could Noriko have detected by simply repeating the visual-scan survey she performed, but on various dates through the year?

To answer the forgoing question, I repeated visual-scan surveys 6 times over the period of one year at a proposed project site near Sacramento, California. Survey outcomes ranged 40 to 67 species per survey, but a least-squares regression model that I fit to the cumulative number of species detections predicted that 157 species of vertebrate wildlife would eventually be detected by continuing to repeat the visual-scan surveys (Figure 2). Repeated surveys achieved diminishing returns, but they were necessary to document the occurrences of the scarcer and more cryptic species. Given the example illustrated in Figure 2, and assuming the pattern of survey returns is robustly represented by Figure 2, the 15 species Noriko detected after her one survey at the project site likely represent 29% of the species likely to be detected after many visual-scan surveys. With many more repeat surveys, Noriko would likely detect $^{15}/_{0.29} = 52$ species of vertebrate wildlife at the site.

Figure 2. *Cumulative number of species detected as a function of the number of visual-scan surveys performed through one year at one site near Sacramento, California.*



There is no question that a larger survey effort would result in a longer list of species documented to use the project site, thereby changing our understanding of the current environmental setting. But which species have yet to be detected? And how many of them would be special-status species? And how many would be listed species? The likelihood of detecting special-status species is typically lower than that of more common species. This difference can be explained by the fact that special-status species tend to be rarer and thus less detectable than common species. Special-status species also tend to be more cryptic, fossorial, or active during nocturnal periods when reconnaissance surveys are not performed. Another useful relationship from careful recording of species detections and subsequent comparative analysis is the probability of detection of listed species as a function of an increasing number of vertebrate wildlife species detected (Figure 3). (Note that listed species number fewer than special-status species, which are inclusive of listed species. Also note that I include California Fully Protected species and federal Candidate species as listed species.)

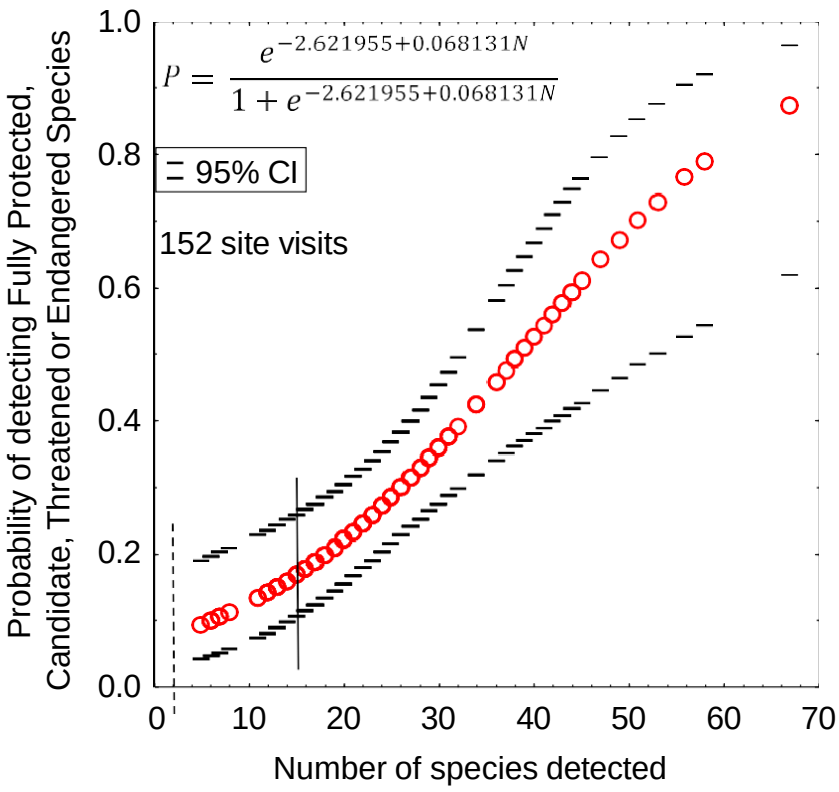


Figure 3. *Probability of detecting ≥1 Candidate, Threatened or Endangered Species of wildlife listed under California or federal Endangered Species Acts, based on survey outcomes logit-regressed on the number of wildlife species Noriko and I detected as expert witnesses during 152 site visits in California. The dashed vertical line represents the number of species detected by Jennings and the solid vertical line represents the number detected by Noriko.*

As was demonstrated in Figures 1 and 2, the number of species detected is largely a function of survey effort. Greater survey effort also increases the likelihood that listed species will be detected (which is the first tenet of detection surveys for special-status species). Based on the outcomes of 152 previous surveys that Noriko and I performed at sites of proposed projects, Noriko's survey effort at the project site carried an 18% chance of detecting a listed species, whereas the survey effort of Jennings Environmental (2021) carried an 8% chance of detecting a listed species. Jennings did not detect a listed species, but Noriko Smallwood detected a peregrine falcon, which is

California Fully Protected. Additional listed species likely use the site, but documenting their use would take much more survey effort to achieve a reasonable likelihood of detecting them. No reconnaissance-level survey is capable of detecting enough of the wildlife species that occur at a site to realistically characterize the site's wildlife community. This context bears on my comments regarding potential project impacts to biological resources, below.

CURRENT ENVIRONMENTAL SETTING

The first step in analysis of potential project impacts to biological resources is to accurately characterize the existing environmental setting, including the species that use the site, their relative abundances, how they use the site, key ecological relationships, and known and ongoing threats to those species with special status. A reasonably accurate characterization of the environmental setting can provide the baseline against which to analyze project impacts. Methods to achieve this first step typically include surveys of the site for biological resources and reviews of literature, databases and local experts for documented occurrences of special-status species. The IS/MND, however, is both incomplete and inaccurate in its characterization of the environmental setting as it relates to wildlife. A biological survey was provided, but it was inadequate. The supporting review of literature and databases is much too cursory. I found additional problems with the premises used to determine occurrence likelihoods, and with the interpretation of available information. I will comment on these problems, but first I will comment on the biological resources survey.

The biologist from Jennings Environmental (2021) committed 1 hour to a survey of the site on 10 April 2021. During this one hour to determine the likelihoods of occurrence of wildlife on the site, Jennings Environmental (2021) detected only two species of vertebrate wildlife -- house sparrow and northern mockingbird. Informed by Jennings's peek at the site, Jennings Environmental (2021:8) and the IS/MND (page 28) report, "very little evidence of any wildlife existed on-site and only two bird species were observed during the site survey." However, the foregoing conclusion was refuted by Noriko Smallwood's survey. Within Noriko's first hour of survey, she had detected 6 times the number of species detected by Jennings Environmental. Furthermore, as I demonstrated with Figures 1 through 3, more species would be detected with greater survey effort. The finding of the IS/MND of "very little evidence" of wildlife at the site lacks credibility, and calls into question its lack of findings of evidence of burrowing owl occurrence at the site.

Similarly, results of a database review in the IS/MND do not comport with my review of available databases. Jennings Environmental consulted only the California Natural Diversity Data Base (CNDDB), and in so doing, inappropriately used it to screen out many special-status species from further consideration. For this reason, the list of special-status species assessed for occurrence likelihood was much too short (Table 2). Of the 98 special-status species of wildlife I identified as potentially occurring at the site, the IS/MND addressed only 22(22%) (Table 2). The IS/MND's characterization of the likelihoods of species occurrences is too incomplete to serve as a sound basis for analyzing project impacts to wildlife.

***Table 2**. Occurrence likelihoods of wildlife species at the project site, as determined by Jennings Environmental (2021) and as indicated by eBird/iNaturalist records (data base) and on-site survey findings. 'Very close' indicates sightings within about 1.5 miles of the site, 'nearby' indicates sightings within several miles, 'in region' indicates sightings within about 30 to 50 miles, and 'in range' means the species' geographic range overlaps the site.*

Common name	***Species name***	**Status[1]**	**Occurrence likelihood**		**MSHCP cover**
			IS/MND	**Databases, Site visit**	
Monarch	*Danaus plexippus*	FC		Very close	
Crotch's bumblebee	*Bombus crotchii*	FC	Absent	Very close	
Western spadefoot	*Scaphiophis hammondi*	SSC	Absent	In region	Yes
Blainville's horned lizard	*Phrynosoma blainvillii*	SSC	Absent	In region	Yes
Orange-throated whiptail	*Aspidoscelis hyperythrus*	WL	Absent	Nearby	Yes
Coastal whiptail	*Aspidoscelis tigris stejnegeri*	SSC	Absent	In region	Yes
Southern California legless lizard	*Anniella stebbinsi*	SSC	Absent	Nearby	
California glossy snake	*Arizona elegans occidentalis*	SSC	Absent	In region	
Coast patch-nosed snake	*Salvadora hexalepis virgultea*	SSC		Nearby	
Red-diamond rattlesnake	*Crotalus ruber*	SSC	Absent	Nearby	Yes
Western pond turtle	*Emys marorata*	SSC	Absent	In region	Yes
Vaux's swift	*Chaetura vauxi*	SSC2		Nearby	
Costa's hummingbird	*Calypte costae*	BCC		Nearby	
Rufous hummingbird	*Selasphorus rufus*	BCC		Nearby	
Allen's hummingbird	*Selasphorus sasin*	BCC		Nearby	
Mountain plover	*Charadrius montanus*	BCC		In region	Yes
Long-billed curlew	*Numenius americanus*	BCC, WL		Nearby	
Western gull	*Larus occidentalis*	BCC		Nearby	
California gull	*Larus californicus*	WL, BCC		On site	
Laughing gull	*Leucophaeus atricilla*	WL		Nearby	
Heermann's gull	*Larus heermanni*	BCC		Nearby	
Caspian tern	*Hydropogne caspia*	WL		Nearby	
Black tern	*Chlidonias niger*	BCC		In region	
Brant	*Branta bernicla*	SSC2		Nearby	
Double-crested cormorant	*Phalacrocorax auritus*	WL		Next to site	Yes

Common name	*Species name*	Status[1]	Occurrence likelihood		MSHCP cover
			IS/MND	Databases, Site visit	
American white pelican	*Pelacanus erythrorhynchos*	SSC1		Nearby	
White-faced ibis	*Plegadis chihi*	WL		Nearby	Yes
Turkey vulture	*Cathartes aura*	BOP		Very close	Yes
Osprey	*Pandion haliaetus*	BOP, WL		Very close	Yes
White-tailed kite	*Elanus leucurus*	CFP, BOP		Nearby	Yes
Golden eagle	*Aquila chrysaetos*	BGEPA, CFP		Nearby	Yes
Bald eagle	*Haliaeetus leucocephalus*	BGEPA, BCC, CFP		Nearby	Yes
Northern harrier	*Circus cyaneus*	SSC3, BOP, BCC		Very close	Yes
Sharp-shinned hawk	*Accipiter striatus*	WL, BOP		Nearby	Yes
Cooper's hawk	*Accipiter cooperi*	WL, BOP		Very close	Yes
Red-shouldered hawk	*Buteo lineatus*	BOP		Nearby	
Swainson's hawk	*Buteo swainsoni*	CT, BOP		Nearby	Yes
Red-tailed hawk	*Buteo jamaicensis*	BOP		On site	
Ferruginous hawk	*Buteo regalis*	WL, BOP		Very close	Yes
Barn owl	*Tyto alba*	BOP		In region	
Western screech-owl	*Megascops kennicotti*	BOP		In region	
Great horned owl	*Bubo virginianus*	BOP		Nearby	
Burrowing owl	*Athene cunicularia*	BCC, SSC2, BOP	Absent	Nearby	Yes
Long-eared owl	*Asio otus*	SSC, BOP, BCC		In region	
Short-eared owl	*Asio flammeus*	BCC		In region	
Lewis's woodpecker	*Melanerpes lewis*	BCC		In region	
Nuttall's woodpecker	*Picoides nuttallii*	BCC		Very close	
American kestrel	*Falco sparverius*	BOP		On site	
Merlin	*Falco columbarius*	WL, BOP		In region	Yes
Prairie falcon	*Falco mexicanus*	WL, BCC, BOP		In region	Yes
Peregrine falcon	*Falco peregrinus*	BCC, CFP, BOP		On site	Yes
Olive-sided flycatcher	*Contopus cooperi*	SSC2		In region	
Willow flycatcher	*Empidonax traillii*	BCC, CE		In region	Yes
Vermilion flycatcher	*Pyrocephalus rubinus*	SSC2		Nearby	

Common name	*Species name*	Status[1]	Occurrence likelihood		MSHCP cover
			IS/MND	Databases, Site visit	
Least Bell' vireo	*Vireo belli pusillus*	FE, CE	Absent	In region	Yes
Loggerhead shrike	*Lanius ludovicianus*	BCC, SSC2		Nearby	Yes
Oak titmouse	*Baeolophus inornatus*	BCC		In region	
Horned lark	*Eremophila alpestris actia*	WL	Absent	Nearby	Yes
Purple martin	*Progne subis*	SSC2		In region	Yes
Bank swallow	*Riparia riparia*	BLM:S		In region	
Wrentit	*Chamaea fasciata*	BCC		In region	
Coastal California gnatcatcher	*Polioptila californica californica*	SSC	Absent	Nearby	Yes
California thrasher	*Toxostoma redivivum*	BCC		Nearby	
Lawrence's goldfinch	*Carduelis lawrencei*	BCC		Nearby	
Grasshopper sparrow	*Ammodramus savannarum*	SSC		In region	Yes
Black-chinned sparrow	*Spizella atrogularis*	BCC		In region	
Brewer's sparrow	*Spizella breweri*	BCC		In region	
Bell's sage sparrow	*Amphispiza b. belli*	WL		Nearby	Yes
Southern California rufous-crowned sparrow	*Aimophila ruficeps canescens*	FSC, SSC	Absent	Nearby	Yes
Yellow-breasted chat	*Icteria virens*	SSC3		In region	Yes
Yellow-headed blackbird	*X. xanthocephalus*	SSC3		In region	
Bullock's oriole	*Icterus bullockii*	BCC		Nearby	
Tricolored blackbird	*Agelaius tricolor*	BCC, CT	Absent	In region	Yes
Virginia's warbler	*Leiothlypis virginiae*	WL, BCC		In region	
Yellow warbler	*Dendroica petachia*	BCC, SSC2		Nearby	Yes
Summer tanager	*Piranga rubra*	SSC1		Nearby	
Western mastiff bat	*Eumops perotis californicus*	SSC, WBWG:H	Absent	In range	
Pocketed free-tailed bat	*Nyctinomops femorosaccus*	SSC, WBWG:M		In region	
Big free-tailed bat	*Nyctinomops macrotis*	SSC, WBWG:MH		In region	
Pallid bat	*Antrozous pallidus*	SSC, WBWG:H		In region	
Townsend's big-eared bat	*Corynorhinus townsendii*	SSC, WBWG:H		In region	
Spotted bat	*Euderma maculatum*	SSC, WBWG:H		In region	

Common name	*Species name*	Status[1]	Occurrence likelihood		MSHCP cover
			IS/MND	Databases, Site visit	
Silver-haired bat	*Lasionycteris noctivagans*	WBWG:M		In region	
Western red bat	*Lasiurus blossevillii*	SSC, WBWG:H		In region	
Hoary bat	*Lasiurus cinereus*	WBWG:M		In region	
Western yellow bat	*Lasiurus xanthinus*	SSC, WBWG:H	Absent	In region	
Western small-footed myotis	*Myotis ciliolabrum*	WBWG:M		In region	
Little brown myotis	*Myotis lucifugus*	WBWG:M		In range	
Fringed myotis	*Myotis thysanodes*	WBWG:H		In region	
Miller's myotis	*Myotis evotis*	WBWG:M		In region	
Long-legged myotis	*Myotis volans*	WBWG:H		In region	
Yuma myotis	*Myotis yumanensis*	SSC, WBWG:LM		In region	
American badger	*Taxidea taxus*	SSC	Absent	In region	
San Diego black-tailed jackrabbit	*Lepus californicus bennettii*	SSC	Absent	In region	Yes
Southern grasshopper mouse	*Onychomys torridus ramona*	SSC	Absent	In region	
Northwestern San Diego pocket mouse	*Chaetodipus f. fallax*	SSC	Absent	In range	Yes
Stephens' kangaroo rat	*Dipodomys stephensi*	FE, CT	Absent	Very close	Yes

[1] FE and FT = federal endangered and threatened, BCC = U.S. Fish and Wildlife Service Bird Species of Conservation Concern, CE and CT = California endangered and threatened, CFP = California Fully Protected (FGC Code 3511), SSC = California species of special concern, SSC1, SSC2 and SSC3 = California Bird Species of Special Concern priorities 1, 2 and 3, respectively, and WL = Taxa to Watch List (Shuford and Gardali 2008), BOP = California Fish and Game Code 3503.5 (Birds of Prey), and WBWG = Western Bat Working Group with priority rankings, of low, moderate, and high.

Of the species that were considered for occurrence potential, all were said to lack habitat at the project site. According to the IS/MND (page 28), "Suitable habitat for the sensitive and listed species do not occur on site. As such, these species are considered absent from the Project Site." Indeed, this is the determination made by Jennings Environmental (2021) for every species considered (Table 2). These findings are incredible. According to publicly available data, 5 of these species have been reported within about 1.5 miles of the site ("very close" in Table 2), and another 7 have been reported within several miles of the site ("nearby" in Table 2). Another 11 of the species have been documented within about 30 to 50 miles of the site ("in region" in Table 2). I find it hard to believe that for all these special-status species documented near the site, Jennings Environmental and the IS/MND assert no habitat exists for them there.

Five of the special-status species not addressed in the IS/MND were seen at the project site by Noriko Smallwood during her brief survey. The site certainly provides habitat for these species. It also likely provides habitat for most of the species in Table 2 at one time or another.

Additional problems with determinations of occurrence likelihoods.--Earlier I mentioned additional problems with the premises used to determine occurrence likelihoods, and with the interpretation of available information. I add those comments below.

To the first problem, the IS/MND (i.e., Jennings Environmental 2021) inappropriately relies on absence of CNDDB records to determine no potential for occurrences of many special-status species. CNDDB was not designed to support absence determinations or to screen out species from the characterization of the current environmental setting. For the reasons described below, lack of CNDDB records does not mean a species is absent from a site nor from the area around the site. Similarly, relative abundance of CNDDB records in the project area does not indicate whether a species' occurrence likelihood would be lower or higher. The reasons are rooted in principles of ecology and in principles of statistical sampling.

Spatial distributions of animal populations are aggregated and naturally dynamic, with centers of activity shifting every generation or so (Taylor and Taylor 1979). Hypotheses for spatially dynamic distributions of animal species include the need to exploit forage that accumulated outside activity areas while it depleted within activity areas, the need to escape predator or parasite loads, and the need of young animals to leave natal areas to form new breeding populations. Whatever the reasons, animal populations are not static in their distribution, so past sightings records cannot entirely inform of a species' current locations. A recorded presence of a species in CNDDB informs of the capacity of a site to support the species, but it does not mean the species is always present. Likewise, the reported absence of a species does not necessarily mean the site lacks the capacity to support members of the species nor that the species would continue to be absent from the site. A more realistic representation of occurrence likelihood would be a probability of occurrence of a given species on the *i*th survey date at a given site that is both within the species' geographic range and supports conditions typical of the species' habitat.

To develop a basis for quantifying probability of occurrences, CNDDB would ideally implement a statistical sampling design based on unlimited access to properties, but no such sampling has been implemented. CNDDB could develop a less ideal basis for quantifying probability of occurrences by providing the means for investigators to report survey attributes that inform of survey effort and methods used. eBird provides such an opportunity to report on survey effort and methods, but CNDDB focuses more on the validity of the reported sighting. Because there is no scientific sampling framework to CNDDB, and because CNDDB relies entirely on volunteer reporting from biologists who were allowed access to whatever properties they report from, reports of species' detections can only be interpreted as confirmations of presence of a species at a particular time and place. In fact, negative findings from reconnaissance-level surveys and protocol-level detection surveys are never reported to CNDDB, so species absences are not tracked in CNDDB. Many properties have never been surveyed by biologists. Many properties have been surveyed, but the survey outcomes never reported to CNDDB. Many properties have been surveyed multiple times, but not all survey outcomes reported to CNDDB. For all these reasons, occurrence probabilities cannot be quantified from CNDDB.

Consulting CNDDB is fine for confirming presence of a species, but it is inappropriate as a basis for narrowing a list of potentially occurring species. The limitations of CNDDB are well-known, and summarized by California Department of Fish and Wildlife in a warning presented on its CNDDB web site (https://wildlife.ca.gov/Data/CNDDB/ Maps-and-Data): "*We work very hard to keep the CNDDB and the Spotted Owl Database as current and up-to-date as possible given our capabilities and resources. However, we cannot and do not portray the CNDDB as an exhaustive and comprehensive inventory of all rare species and natural communities statewide. Field verification for the presence or absence of sensitive species will always be an important obligation of our customers…*" The IS/MND's use of CNDDB records to filter out species from its characterization of the current environmental setting is therefore inconsistent with CNDDB's purpose.

To the second problem, which bridges the characterization of the environmental setting and the analysis of potential project impacts to wildlife, the IS/MND, i.e., Jennings Environmental (2021), relies on the premise that only impacts to breeding habitat qualify as significant impacts. For species such as burrowing owl and tricolored blackbird, the IS/MND contrives a distinction between nesting habitat and non-nesting habitat. The IS/MND then implies that because nesting habitat is unavailable at the project site, project impacts to the species would be less than significant. In reality, all of a species' habitat is of critical importance to the species regardless of where breeding sites are located. After all, no matter where a species breeds, members of the species cannot breed successfully without also surviving migration and the non-breeding season. Animals cannot breed successfully with insufficient forage or opportunities for stopover refugia during migration or opportunities for staging areas or for mate- selection and all the other functions the animal must perform to successfully breed.
Species for which the IS/MND determines nesting habitat is unavailable on site are

inaccurately and incompletely characterized as part of the wildlife community at the project site.

To the third problem, which is related to the second, the IS/MND pigeon-holes species into portions of the environment that are much narrower than the species' actual habitat. The IS/MND repeatedly mischaracterizes species as obligates of narrowly defined habitats that are not truly representative of the species. A table of such narrow characterizations of habitat is then cross-checked against conditions at the project site to systematically rule out the likelihoods of occurrence of one species after another, which is what the IS/MND did. To facilitate this process, the annual grassland at the site has been "managed" (mowed) so that it does not resemble the "habitat" of any of the special-status species addressed in the CEQA review.

The approach used in the IS/MND represents a gross departure from the most efficient method known for characterizing habitat. The most efficient method is to observe which parts of the environment a species is using, hence relying on each species to inform of its habitat. After all, habitat is defined by a species' use of the environment (Hall et al. 1997, Morison et al. 1998, Krausman 2016). In fact, the main purpose of reconnaissance-level surveys is to document as many of the species using the site as reasonably feasible as a means to assess the site's role as habitat. Each species detected on site confirms the site's use as habitat by that species. A confirmation is much more reliable than assumed presence of absence each species. Actual sightings of members of a species cut through the guesswork and bypass the assumptions, because they go directly to sound interpretation of what is habitat.

The tabulated habitat characterizations used for cross-checking against observed conditions on the ground were presumably based on sightings of wildlife somewhere else. Lest they be pure speculation, descriptions of habitat follow from observations of the species relative to measured environmental conditions. If habitats were assigned to species in the absence of observations, then there would be no need for reconnaissance-level surveys to inform CEQA reviews. But the survey at the project site was needed because it is the species' unique use of the environment that informs of its habitat. No canned table of habitats is going to capture the range of conditions in which any given species exists; the analyst must take a serious look at a proposed project site. But knowing that a reconnaissance-level survey is insufficient for detecting all of the wildlife species that use a site, the survey outcome must be interpreted carefully. Per the careful interpretation that is needed, the Precautionary Principle in risk assessment is essential. The analyst should more often assume presence of each conceivable species because, informed only be a reconnaissance-level survey, insufficient effort was made to prove absence. To prove absence, protocol-level detection surveys were formulated by natural resource agencies and other species' experts.

The current environmental setting described in the IS/MND looks nothing like the one described by Noriko Smallwood, based on her brief survey visit. Noriko Smallwood saw 15 species of wildlife that Jennings Environmental did not see. She saw 5 special-status species of wildlife that Jennings Environmental did not see, including a peregrine falcon. The photo montage at the beginning of this comment letter looks nothing like

what the IS/MND would have the reader believe of the site – that nothing is there and the site provides no value to wildlife. Wildlife are using the site. The current environmental setting is other than what the IS/MND presents. Therefore, a fair argument can be made for the need to prepare an EIR to more carefully and more thoroughly characterize the current environmental setting as a basis of performing project impacts analysis.

BIOLOGICAL IMPACTS ANALYSIS

Determination of occurrence likelihoods of special-status species is not, in and of itself, an analysis of potential project impacts. An impacts analysis should consider whether and how a proposed project would affect members of a species, larger demographic units of the species, or the whole of a species. In the following, I analyze several types of impacts likely to result from the project, and none of which are analyzed in the IS/MND.

HABITAT LOSS

Habitat loss not only results in the immediate numerical decline of wildlife, but also in permanent loss of productive capacity (Smallwood 2015). For example, two study sites in grassland/wetland/woodland complexes had total bird nesting densities of 32.8 and 35.8 nests per acre (Young 1948, Yahner 1982) for an average 34.3 nests per acre. Applying as little as a third of this density to the project site, 11.42 nests/acre multiplied against 8.69 acres would predict a loss of 99 bird nests. The average number of fledglings per nest in Young's (1948) study was 2.9. Assuming Young's (1948) study site typifies bird productivity, then the project would prevent the production of 287 fledglings per year. After 100 years and assuming an average generation time of 5 years, the lost capacity of both breeders and annual fledgling production can be estimated from the following formula: {(nests/year × chicks/nest × number of years) + ((2 adults/nest × nests/year) × (number of years ÷ years/generation))}. In the case of this project, and given my stated assumptions, this formula predicts **the project would deny California 32,660 birds over the next century due solely to loss of terrestrial habitat**. This predicted loss of 327 birds/year would be substantial, and would qualify as a significant impact that is not addressed in the IS/MND. A fair argument can be made for the need to prepare an EIR to appropriately analyze habitat loss as a potential project impact to birds.

WILDLIFE MOVEMENT

The IS/MND is misleading in its analysis of whether the project would interfere with wildlife movement in the region. According to the IS/MND (p. 31), "Project Site would not be suitable as a native resident or migratory wildlife Corridor" …and therefore "would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors…" However, the premise of the City's conclusion is incorrect. The CEQA standard is whether a project will "Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors…" The primary phrase of the standard goes to

wildlife movement regardless of whether the movement is channeled by a corridor. And anyhow, corridors are typically regarded in science as human-created landscape structures intended to reduce the effects of habitat fragmentation, and only infrequently as a channelization of wildlife movement caused by landscape structure (Smallwood 2015).

Wildlife movement in a region is often diffuse rather than channeled (Runge et al. 2014, Taylor et al. 2011) unless anthropogenic changes have forced channeling or targeting of "island" patches of habitat (Smallwood 2015). Wildlife movement includes stopover by birds and bats (Taylor et al. 2011), and staging (Warnock 2010) during dispersal, migration or home range patrol. Many species of wildlife likely use the site of the proposed project for movement across the region, and some species were seen doing so during Noriko Smallwood's survey. The project would cut wildlife off from stopover and staging opportunities, and would lengthen the distances that wildlife must travel before finding alternate stopover opportunities. The project, therefore, would interfere with wildlife movement in the region. A fair argument can be made for the need to prepare an EIR to appropriately analyze interference with wildlife movement in the region as a potential project impact to wildlife.

ROAD MORTALITY

With the proposed construction of 137,700 square feet of industrial and commercial floor space, the IS/MND is deficient for providing no analysis of traffic impacts to wildlife. In fact, the IS/MND makes no mention of this potential impact. Various means to analyze the impact are available, one of which I implement below.

As will be described, a basis for predicting wildlife mortality can be found in the prediction of annual vehicle miles traveled (VMT). According to the IS/MND, the project would generate an annual VMT of 2,181,593. This mileage would kill wildlife (Photos 11 through 13). A fundamental shortfall of the IS/MND is its failure to analyze the impacts of the project's added road traffic on special-status species of wildlife, including species that might not occur at the project site, but which would occur along the roads that project-generated traffic would travel. Such species would include western pond turtle (*Actinemys pallida*), mountain lion (*Puma concolor*) and American badger (*Taxidea taxus*), among many others. Many animals that would be killed by the traffic generated from this project would be located far from the project's construction footprint; they would be crossing roads traversed from cars and trucks originating from or headed toward the project site. The project's impacts on wildlife would reach as far from the project as cars and trucks travel to or from the project site. Despite the obvious risk to wildlife, and despite the multiple papers and books written about this type of impact and how to mitigate them, the IS/MND does not address impacts to wildlife caused by vehicles traveling to and from the project site.

Photo 11. *A Gambel's quail dashes across a road* on *3 April 2021. Such road crossings are usually successful, but too often prove fatal to the animal. Photo by Noriko Smallwood.*

Photo 12. *A mourning dove killed by vehicle traffic on a California road. Photo by Noriko Smallwood, 21 June 2020.*

Photo 13. *Raccoon killed on Road 31 just east of Highway 505 in Solano County. Photo taken on 10 November 2018.*

Vehicle collisions have accounted for the deaths of many thousands of amphibian, reptile, mammal, bird, and arthropod fauna, and the impacts have often been found to be significant at the population level (Forman et al. 2003). Across North America,

traffic impacts have taken devastating tolls on wildlife (Forman et al. 2003). In Canada, 3,562 birds were estimated killed per 100 km of road per year (Bishop and Brogan 2013), and the US estimate of avian mortality on roads is 2,200 to 8,405 deaths per 100 km per year, or 89 million to 340 million total per year (Loss et al. 2014). Local impacts can be more intense than nationally.

The nearest study of traffic-caused wildlife mortality was performed along a 2.5 mile stretch of Vasco Road in Contra Costa County, California. Fatality searches in this study found 1,275 carcasses of 49 species of mammals, birds, amphibians and reptiles over 15 months of searches (Mendelsohn et al. 2009). This fatality number needs to be adjusted for the proportion of fatalities that were not found due to scavenger removal and searcher error. This adjustment is typically made by placing carcasses for searchers to find (or not find) during their routine periodic fatality searches. This step was not taken at Vasco Road (Mendelsohn et al. 2009), but it was taken as part of another study right next to Vasco Road (Brown et al. 2016). The Brown et al. (2016) adjustment factors were similar to those for carcass persistence of road fatalities (Santos et al. 2011). Applying searcher detection rates estimated from carcass detection trials performed at a wind energy project immediately adjacent to this same stretch of road (Brown et al. 2016), the adjusted total number of fatalities was estimated at 12,187 animals killed by traffic on the road. This fatality number translates to a rate of 3,900 wild animals per mile per year killed along 2.5 miles of road in 1.25 years. In terms comparable to the national estimates, the estimates from the Mendelsohn et al. (2009) study would translate to 243,740 animals killed per 100 km of road per year, or 29 times that of Loss et al.'s (2014) upper bound estimate and 68 times the Canadian estimate. An analysis is needed of whether increased traffic on roads within the County of San Bernardino would similarly result in intense local impacts on wildlife.

Predicting project-generated traffic impacts to wildlife

The IS/MND predicts that the project would generate 2,181,593vehicle miles traveled per year. This would be a lot of mileage to be driven at great peril to wildlife that must cross roads to go about their business of foraging, patrolling home ranges, dispersing and migrating. But it can also serve as a basis for predicting impacts to wildlife.

For wildlife vulnerable to front-end collisions and crushing under tires, road mortality can be predicted from the study of Mendelsohn et al. (2009) as a basis, although despite the nearness of the Mendelsohn et al. (2009) study to the project site, it would be helpful to have the availability of more studies like that of Mendelsohn et al. (2009) at additional locations. My analysis of the Mendelsohn et al. (2009) data resulted in an estimated 3,900 animals killed per mile along a county road in Contra Costa County. Two percent of the estimated number of fatalities were birds, and the balance was composed of 34% mammals (many mice and pocket mice, but also ground squirrels, desert cottontails, striped skunks, American badgers, raccoons, and others), 52.3% amphibians (large numbers of California tiger salamanders and California red-legged frogs, but also Sierran treefrogs, western toads, arboreal salamanders, slender salamanders and others), and 11.7% reptiles (many western fence lizards, but also skinks, alligator lizards, and snakes of various species).

During the Mendelsohn et al. (2009) study, 19,500 cars traveled Vasco Road daily, so the vehicle miles that contributed to my estimate of non-volant fatalities was 19,500 cars and trucks × 2.5 miles × 365 days/year × 1.25 years = 22,242,187.5 vehicle miles per 12,187 wildlife fatalities, or 1,825 vehicle miles per fatality. This rate divided into the annual VMT predicted above, I predict the project would cause 1,195 wildlife fatalities per year. **Operations over 100 years would accumulate 119,500 wildlife fatalities**. It remains unknown whether and to what degree vehicle tires contribute to carcass removals from the roadway, thereby contributing a negative bias to the fatality estimates I made from the Mendelsohn et al. (2009) fatality counts.

Based on my assumptions and simple calculations, the project-generated traffic would cause substantial, significant impacts to wildlife. A fair argument can be made for the need to prepare an EIR to appropriately analyze traffic-caused road mortality as a potential project impact to wildlife.

CUMULATIVE IMPACTS

The IS/MND (p. 83) asserts that because of project-specific mitigation for impacts to biological resources, "impacts would be reduced to less than significant levels and would not considerably contribute to cumulative impacts in the greater project region," there would likewise be no significant cumulative impacts to biological resources. The IS/MND implies that cumulative impacts are really just residual impacts of incomplete mitigation. If that was CEQA's standard, then cumulative effects analysis would be merely an analysis of mitigation efficacy. The IS/MND's implied standard is not the standard of analysis of cumulative effects. CEQA defines cumulative impacts, and it outlines two general approaches for performing the analysis. Given that North America has lost nearly a third of its birds over the past half century (Rosenberg et al. 2019), an appropriate cumulative effects analysis is warranted. A fair argument can be made for the need to prepare an EIR to appropriately analyze the project's contribution to potential cumulative impacts to wildlife.

MITIGATION MEASURES

BIO 1 Preconstruction survey for nesting birds

Preconstruction surveys are proposed for nesting birds, as they ought to be. However, it should be understood that preconstruction surveys are really wildlife salvage surveys; they are intended as last-minute efforts to save the readily detectable birds or their nests from being crushed by heavy machinery. Because many birds will nest on site during the breeding season, and because the majority of these nests will be expertly constructed for concealment from predators, preconstruction surveys are assured to detect a tiny fraction of bird nests. Such surveys would save very few of the nesting birds in peril.

Furthermore, preconstruction surveys cannot estimate nor offset the permanent loss of breeding habitat and all of the productive capacity lost with that habitat. Far more effective than preconstruction surveys, project construction timed outside the breeding

season would cause no direct mortality of breeding birds. However, this approach would likewise be unable to avoid habitat loss and loss of breeding capacity.

Payment of fees to the Western Riverside Multiple Species Habitat Conservation Plan (MSHCP)

Payment of mitigation fees to the MCHCP would inadequately mitigate project impacts to wildlife. Of the 98 species listed as potentially occurring on the project site, 60 lack coverage under the MSHCP (Table 2). That 61% of the special-status species in the project area lack coverage under the MSHCP is ample evidence of a rapid deterioration of conditions for wildlife in California. Many species that were common at the time of the certification of the MSHCP have recently been listed as candidates for listing or as California Species of Special Concern or as US Fish and Wildlife Service Birds of Conservation Concern. Just this year, Bullock's oriole and wrentit were designated as Birds of Conservation Concern, and so was California gull, which Noriko Smallwood saw at the project site. In fact, Noriko saw 3 special-status species at the project site and which lack coverage under the MSHCP.

But what of the species that are covered? According to Jennings Environmental (2021:5) and the IS/MND (page 33), "Of the 146 species addressed in the Western Riverside County MSHCP, 118 are adequately conserved simply by implementing the conservation program. Incidental take of these 118 species is permitted by the Western Riverside County MSHCP. The remaining 28 species are partially conserved." However, whether any of the species covered by the MSHCP are adequately conserved or partially conserved is questionable. The growing list of species assigned special status is indicative of worsening conditions for wildlife. And the evidence of the MSHCP's conservation efficacy is discouraging.

The evidence indicates the MSHCP is failing to meet its conservation goals and objectives while at the same time frontloading development. The biological goal of the MSHCP is to "*…conserve covered species and their habitats…*" by acquiring 153,000 acres of additional reserve land and meeting species-specific numerical thresholds of abundance. According to the 2018 annual report, additional acreage acquired through 2018 totaled 60,336 acres, or 39% of the goal. Only 38,767 acres were managed under Regional Conservation Authority (RCA), or 25% of the goal. Over the same time period, habitat losses totaled 83,975 acres, of which 16,161 acres (19%) were inside Criteria Cells. The MSHCP is failing to meet goals and objectives. Until it can demonstrate success, a return to conventional mitigation strategies under CEQA is warranted.

Nor was the mitigation of the MSHCP formulated in response to consideration of all of the impacts I outlined in my comments. The strategy of the MSHCP is to preserve patches of habitat as mitigation for the habitat that will be lost to development. This strategy failed to consider the chronic impacts of the ecological sinks created by the projects' habitat destruction. One such ecological sink includes road traffic, which chronically take members of species targeted for protection in the preserved habitat. The MSHCP fails to consider that wildlife are mobile, and wildlife cannot persist without expressing their mobility. To migrate, disperse, forage, and patrol home ranges, wildlife

must cross roads, and those that are volant must fly through the airspaces that energy conservation and instinct dictate. Furthermore, the consigning of wildlife to the preserved habitat patches per the MSHCP's strategy exposes those "preserved" wildlife to catastrophic losses from wildfire. Having worked with endangered species in small, isolated habitat patches, I have witnessed what happens when fire burns all the vegetation remaining in the patch, or when drought destroys all the forage. The species is extinguished. The MSHCP cannot alone mitigate the impacts of this or all the other projects participating with it.

Mitigation also needs to be formulated for wildlife road mortality. Options include driver education, vehicle speed reduction zones and enforcement, dissuasion of wildlife from entering traffic lanes on bridges, wildlife undercrossing or overcrossings, and measures to reduce the number of vehicles on California roads.

RECOMMENDED MEASURES

I recommend more conventional CEQA mitigation measures instead of payment into the MSHCP. Land should be strategically conserved in perpetuity as compensation for habitat loss at the project site. An EIR should be prepared to formulate appropriate mitigation.

Detection surveys for special-status species

Detection surveys are needed for each of the special-status species in Table 2. Detection surveys are needed for herpetofauna, nesting birds, and for burrowing owls (CDFW 2012). Qualified biologists should be recruited to perform the surveys.

Fund Wildlife Rehabilitation Facilities

Compensatory mitigation ought also to include funding contributions to wildlife rehabilitation facilities to cover the costs of injured animals that will be delivered to these facilities for care. Most of the injuries will likely be caused by the increased trip generation of cars and trucks. Many animals need treatment caused by collision injuries and an increasing number appear to be injured by the turbulence of passing trucks.

Thank you for your attention,

Shawn Smallwood, Ph.D.

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Exhibit A

Shawn Smallwood, PhD
3108 Finch Street
Davis, CA 95616

Alfredo Garcia, Associate Planner
City of Perris Planning Division
135 North D Street
Perris, California 92570 25 March 2024 RE:

Brew Enterprises Warehouse

Dear Mr. Garcia,

I write to comment on potential impacts to biological resources that could result from the proposed Brew Enterprises Project, which I understand would add a 58,974 square foot warehouse building on 4.01 acres located on Harley Knox Boulevard in Perris. I comment on the analyses of impacts to biological resources in MIG (2024) and the IS/MND (City of Perris 2024).

My qualifications for preparing expert comments are the following. I hold a Ph.D. degree in Ecology from University of California at Davis, where I also worked as a post-graduate researcher in the Department of Agronomy and Range Sciences. My research has been on animal density and distribution, habitat selection, wildlife interactions with the anthrosphere, and conservation of rare and endangered species. I authored many papers on these and other topics. I served as Chair of the Conservation Affairs Committee for The Wildlife Society – Western Section. I am a member of The Wildlife Society and Raptor Research Foundation, and I've lectured part-time at California State University, Sacramento. I was Associate Editor of wildlife biology's premier scientific journal, The Journal of Wildlife Management, as well as of Biological Conservation, and I was on the Editorial Board of Environmental Management. I have performed wildlife surveys in California for thirty-seven years. My CV is attached.

SITE VISIT

On my behalf, Noriko Smallwood, a wildlife biologist with a Master's Degree from California State University Los Angeles, visited the site of the proposed project for 2.8 hours from 06:28 to 09:16 hours on 5 March 2024. Noriko visited the site again for 3.32 hours from 06:42 to 9:59 hours on 21 March 2024. Noriko also visited the site twice before, once on 21 November 2021 for 1.7 hours from 07:03 to 08:45, and again for 1.6 hours on 9 December 2022 from 07:22 to 09:00. She walked the site's northern perimeter, stopping to scan for wildlife with use of binoculars. Noriko recorded all species of vertebrate wildlife she detected, including those whose members flew over the site or were seen nearby, off the site. Animals of uncertain species identity were either omitted or, if possible, recorded to the Genus or higher taxonomic level.

On 5 March 2024, conditions were partly cloudy to sunny with 2 mph southeast wind and temperatures of 44-52° F, and on 21 March 2024, conditions were clear and sunny

with 2 mph northeast wind and temperatures of 49-59° F. The site was previously annual grass with scattered shrubs, but had been disked shortly before Noriko's 5 March 2024 survey (Photo 1). Between her surveys of March 5th and 21st, portions of the surrounding grassland had been mowed to a very low stature (Photo 2).

Photo 1. *View of the project site, 5 March 2024. Photo by Noriko Smallwood.*

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Photo 2. *View of the west end of the project site (disked portion in left foreground) on 21 March 2024, including a portion of the adjacent field that was mowed to very low stature since 5 March 2024.*

During all four surveys, Noriko detected evidence of harvester ants on the project site Table 1). Harvester ants are significant as ecological keystone species. Harvester ants aerate the soil and they add substantial volumes of biomass to it. Harvester ants also serve as prey of multiple special-status species including Blainville's horned lizard.

Over the four surveys, 40 species of vertebrate wildlife at or adjacent to the project site, including eight species with special status (Table 1). Noriko found a relatively stable wildlife community, having detected 10 of the vertebrate wildlife species in Table 1 during all four surveys, four of the species during three surveys, and 11 of the species during two surveys. Nevertheless, her species list for the project site grew four-fold between the times of her first and fourth surveys.

Noriko saw red-tailed hawk, American kestrel, turkey vulture, and California gull (Photos 3 – 6), and she observed that the site was very active with grassland-associated birds including western meadowlark (Photos 7 and 8), Say's phoebe (Photo 9), savannah sparrows (Photos 10 and 11), house finches (Photos 12 and 13), and American pipits (Photo 14). Noriko also saw great egret (Photo 15), and common raven and red-winged blackbird (Photos 16 and 17), Not only were the ravens collecting nest material from the project site (Photo 16), but they also used the site for courtship (Photo 18). Additionally, Noriko saw gopher snake (Photo 19), Cassin's kingbird and mourning dove (Photos 20 and 21), European starling and yellow-rumped warbler (Photos 22 and 23), killdeer and Canada goose (Photos 24 and 25), black phoebe, lark sparrow and lesser goldfinch (Photos 26, 27 and 28), harvester ants (Photo 29), peregrine falcon and double-crested cormorants on 21 November 2021 (Photos 30 and 31), among the other species listed in Table 1.

Noriko Smallwood certifies that the foregoing and following survey results are true and accurately reported.

Noriko Smallwood

During her most recent surveys, Noriko detected 28 species of vertebrate wildlife in 2.8 hours, but she detected 23 species over the same survey time period as used in her previous two surveys when she detected 15 and 18 species, respectively. During her third survey, Noriko detected 53% more species than during her first survey in 2021 despite the project acreage having lessened and having recently been disked. MIG (2024:16) claimed that "the Project Area was disced immediately prior to the survey to comply with fire code requirements." However, the disking of the site that Noriko observed was restricted to the proposed project's footprint (Photos 1 and 2), which suggests that the fire code was not the motivating reason. Nevertheless, Noriko detected more species of wildlife than previously, which suggests that the site increased in importance to wildlife due to the loss of surrounding habitat to industrialization of the area.

Table 1. *Species of wildlife Noriko observed during 1.7 hours of survey on 21 November 2021, 1.6 hours of survey on 9 December 2022, and 2.8 hours of survey on 5 March 2024.*

Common name	***Species name***	**Status[1]**	**21 Nov 2021**	**9 Dec 2022**	**5 Mar 2024**	**21 Mar 2024**	**Notes from 3/5 & 21/2024**
Harvester ant	*Pogonomyrmex sp.*		X	X	X	X	Mounds
Canada goose	*Branta canadensis*			X	X	X	Flyovers
Mallard	*Anas platyrhynchos*				X	X	Flyovers
Rock pigeon	*Columba livia*	Non-native	X	X	X	X	Flyovers
Mourning dove	*Zenaida macroura*		X	X	X	X	Perched on fence
Anna's hummingbird	*Calypte anna*		X	X		X	
Killdeer	*Charadrius vociferus*				X	X	Flock flew over
California gull	*Larus californicus*	BCC, TWL	X	X	X	X	Flyovers
Double-crested cormorant	*Nannopterum auritum*	TWL	X				Flock flew by just off site
Great egret	*Ardea alba*				X	X	Flyovers
Turkey vulture	*Cathartes aura*	BOP			X		Circled over
Northern harrier	*Circus cyaneus*	BCC, SSC3, BOP		X			Flew low over site
Red-tailed hawk	*Buteo jamaicensis*	BOP	X	X	X	X	Perched and flew over
American kestrel	*Falco sparverius*	BOP	X		X		Perched and flew over
Peregrine falcon	*Falco peregrinus*	BOP	X				Flew over
Cassin's kingbird	*Tyrannus vociferans*				X	X	Perched on site
Kingbird sp.	*Tyrannus sp.*		X				Flew over
Black phoebe	*Sayornis nigricans*				X	X	Foraged on site
Say's phoebe	*Sayornis saya*				X	X	Foraged on site
Common raven	*Corvus corax*		X	X	X	X	Many; carried nest material, courted
California horned lark	*Eremophila alpestris actia*	TWL		X			Flock foraged on site
Swallow sp.	*Hirundinidae*				X		Flock just off site
Bushtit	*Psaltriparus minimus*				X	X	Just off site
Northern mockingbird	*Mimus polyglottos*				X	X	Just off site
European starling	*Sturnus vulgaris*	Non-native	X	X	X	X	Perched on traffic light
House sparrow	*Passer domesticus*	Non-native		X			Just off site

American pipit	*Anthus rubescens*			X	X	X	Flock foraged
House finch	*Haemorphous mexicanus*		X	X	X	X	Many, foraged
Lesser goldfinch	*Spinus psaltria*		X	X	X	X	
Lark sparrow	*Chondestes grammacus*				X		Just off site
White-crowned sparrow	*Zonotrichia leucophrys*				X		
Savannah sparrow	*Passerculus sandwichensis*		X	X	X	X	Many, foraged
Western meadowlark	*Sturnella neglecta*			X	X	X	Flock foraged
Red-winged blackbird	*Agelaius phoeniceus*				X	X	Flew over
Orange-crowned warbler	*Leiothlypis celata*					X	Just off site
Yellow-rumped warbler	*Setophaga coronata*		X	X	X	X	
Raccoon	*Procyon lotor*			X			Tracks on site
Botta's pocket gopher	*Thomomys bottae*				X	X	Burrows on site
California ground squirrel	*Otospermophilus beecheyi*					X	Just off site
Western side-blotched lizard	*Uta stansburiana elegans*					X	Landscaping of adjacent warehouses
Gopher snake	*Pituophis melanoleucus*					X	Adjacent bike lane

[1] Listed as FT or FE = federal threatened or endangered, CT or CE = California threatened or endangered, CFP = California Fully Protected (CFG Code 3511), SSC = California Species of Special Concern, BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern, TWL = Taxa to Watch List (Shuford and Gardali 2008), and BOP = Birds of Prey (California Fish and Game Code 3503.5).

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Photos 3, 4, 5, and 6. *Red-tailed hawk (top left), American kestrel (top right), turkey vulture (bottom left), and California gull (bottom right) flying over the project site, 5 March 2024. Photos by Noriko Smallwood.*

Photos 7 and 8 (below). *A flock of western meadowlarks on the project site, 5 March 2024, and a meadowlark on the ground on 21 March 2024. Photos by Noriko Smallwood.*

Photos 9 and 10. *Say's phoebe foraging (left), and savannah sparrows (right) on the project site, 5 March 2024. Photos by Noriko Smallwood.*

Photo 11. *Savannah sparrow at the project site, 21 March 2024. Photo by Noriko Smallwood.*

Photos 12 and 13. *Female and male house finches at the project site, 21 March 2024, and earlier on 5 March 2024 (below). Photo by Noriko Smallwood.*

Photos 14 and 15. *American pipit (left), and great egret (right) on the project site, 5 March 2024. Photos by Noriko Smallwood.*

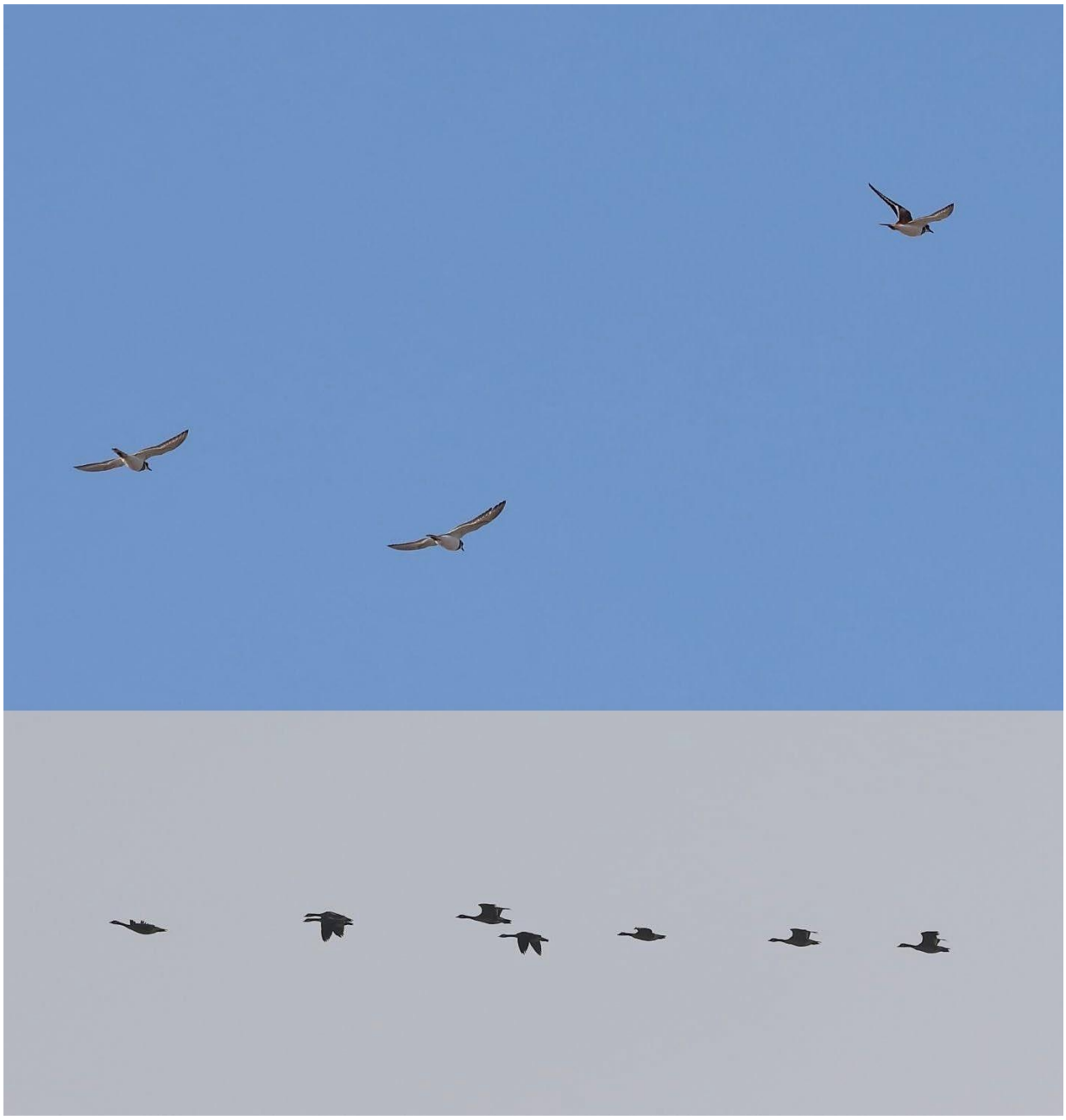
Photos 16 and 17. *Common raven with nest material (left), and red-winged blackbird (right) flying over the project site, 5 March 2024. Photo by Noriko Smallwood.*

Photo 18. *Common ravens in courtship on the project site, 21 March 2021. Photo by Noriko Smallwood.*

Photo 19. *Gopher snake next to the project site after having been rescued from Harley Knox Blvd next to the project site, 21 March 2024. Photo by Noriko Smallwood.*

Photos 20 and 21. *Cassin's kingbird (left), and mourning dove (right) nearby the project site, 5 March 2024. Photos by Noriko Smallwood.*

Photos 22 and 23. *European starling (left), and yellow-rumped warbler (right) on the project site, 5 March 2024. Photos by Noriko Smallwood.*



Photos 24 and 25. *Killdeer (top) flying over the project site, and Canada goose (bottom) flying nearby the project site, 5 March 2024. Photos by Noriko Smallwood.*

Photos 26 and 27. *Black phoebe on the project site (left) and lark sparrow (right) nearby the project site, 5 March 2024. Photos by Noriko Smallwood.*

Photo 28. *Lesser goldfinch next to the project site, 21 March 2024. Photo by Noriko Smallwood.*

Photo 29. *Harvester ants on the project site, 5 March 2024. Photo by Noriko Smallwood.*

Photo 30. *Peregrine falcon flying over the project site, 21 November 2021. Photo by Noriko Smallwood.*

Photo 31. *Double-crested cormorants flying nearby the project site, 21 November 2021. Photo by Noriko Smallwood.*

I fit a nonlinear regression model to Noriko's cumulative number of vertebrate species 54
detected with time into her 5 March 2024 survey to predict the number of species that she would have detected with a longer survey or perhaps with additional biologists available to assist her. The model is a logistic growth model which reaches an asymptote that corresponds with the maximum number of vertebrate wildlife species that could have been detected during the survey. In this case, the model predicts 29 species of vertebrate wildlife were available to be detected on the morning of March 5th, which left one species undetected during her survey (Figure 1). Unfortunately, I do not know the identity of the undetected species, but the pattern in her data indicates relatively high use of the project site compared to 53 surveys at other sites she and I have completed in the region. Compared to models fit to data I collected from 53 other site in the region between 2019 and 2023, the data from the project site mostly exceeded the upper bound of the 95% confidence interval of the rate of accumulated species detections with time into the survey (Figure 1). Importantly, however, the species Noriko did and did not detect on 5 March 2024 composed only a fraction of the species that would occur at the project site over the period of a year or longer. This is because many species are seasonal in their occurrence. That this is true is evident in the cumulative 40 species Noriko detected in four surveys during only two seasons of the year, including the additional four surveys she detected on 21 March 2024 (Table 1).

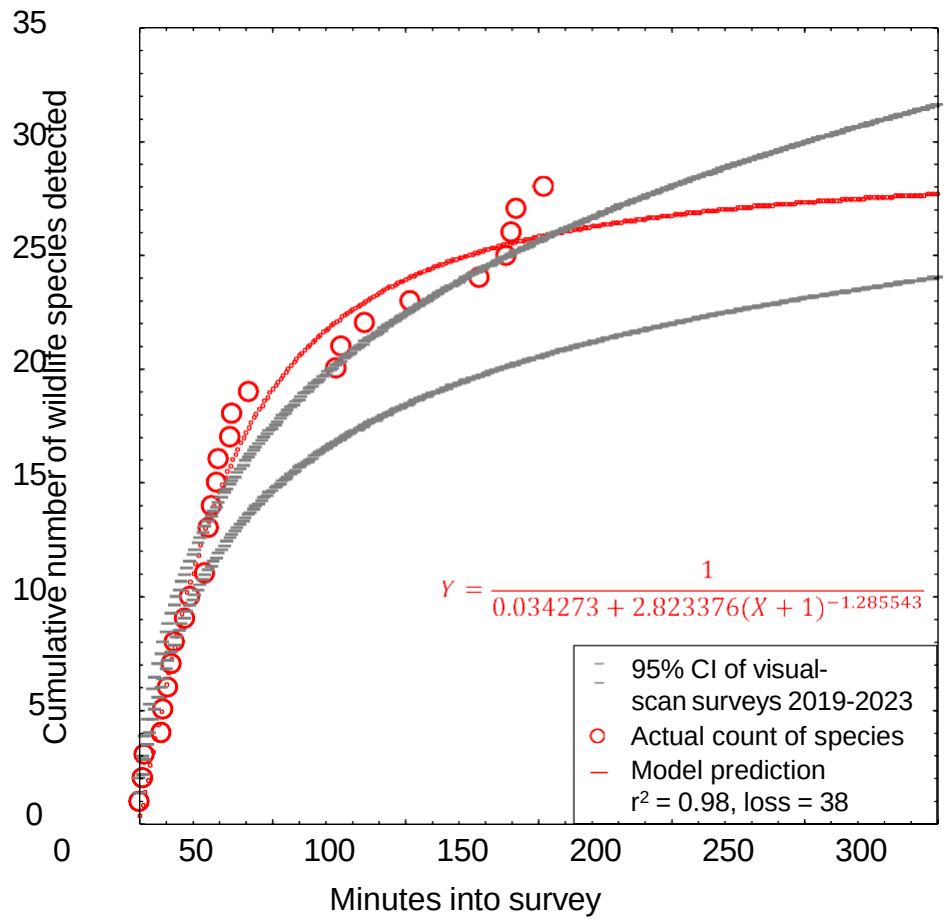
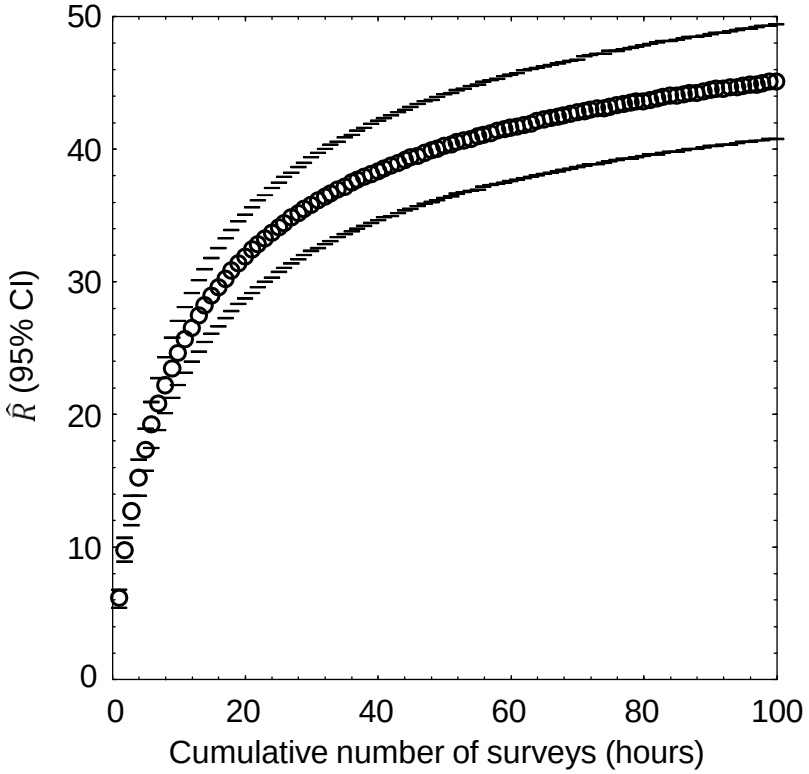


Figure 1. *Actual and predicted relationships between the number of vertebrate wildlife species detected and the elapsed survey time based on Noriko's visual-scan survey on 5 March 2024. Note that the relationship would differ if the survey was based on another method or during another season.*

At least a year's worth of surveys would be needed to more accurately report the number of vertebrate species that occur at the project site, but I only have Noriko's one survey. However, by use of an analytical bridge, a modeling effort applied to a large, robust data set from a research site can predict the number of vertebrate wildlife species that likely make use of the site over the longer term. As part of my research, I completed a much larger survey effort across 167 km² of annual grasslands of the Altamont Pass Wind Resource Area, where from 2015 through 2019 I performed 721 1-hour visual-scan surveys, or 721 hours of surveys, at 46 stations. I used binoculars and otherwise the methods were the same as the methods I and other consulting biologists use for surveys at proposed project sites. At each of the 46 survey stations, I tallied new species detected with each sequential survey at that station, and then related the cumulative species detected to the hours (number of surveys, as each survey lasted 1 hour) used to accumulate my counts of species detected. I used combined quadratic and simplex methods of estimation in Statistica to estimate least-squares, best-fit nonlinear models
of the number of cumulative species detected regressed on hours of survey (number of surveys) at the station: $\hat{R} = \frac{1}{1/aa+bb\times(HHHHHHHHHH)^{cc}}$, where $\hat{R}$represented cumulative species richness detected. The coefficients of determination, r^2, of the models ranged 0.88 to 1.00, with a mean of 0.97 (95% CI: 0.96, 0.98); or in other words, the models were excellent fits to the data.

I projected the predictions of each model to thousands of hours to find predicted asymptotes of wildlife species richness. The mean model-predicted asymptote of species richness was 57 after 11,857 hours of visual-scan surveys among the 46 stations of my research site. I also averaged model predictions of species richness at each incremental increase of number of surveys, i.e., number of hours (Figure 2). On average I would have detected 12 species over my first 2.8 hours of surveys at my research site in the Altamont Pass (2.8 hours to match the 2.8 hours Noriko surveyed at the project site on 5 March 2024), which composed 21% of the predicted total number of species I would detect with a much larger survey effort at the research site. Given the example illustrated in Figure 2, the 28 species Noriko detected after her 2.8 hours of survey at the project site on 5 March 2024 likely represented 21% of the species to be detected after many more visual- scan surveys over another year or longer. With many more repeat surveys through the year, Noriko would likely detect $^{28}/_{0.21} = 133$ species of vertebrate wildlife at the site.
Assuming Noriko's ratio of special-status to non-special-status species was to hold through the detections of all 133 predicted species, then continued surveys would eventually detect 19 special-status species of vertebrate wildlife.

Figure 2. *Mean (95% CI) predicted wildlife species richness, $\hat{R}$, as a nonlinear function of hour-long survey increments across 46 visual-scan survey stations across the Altamont Pass Wind Resource Area, Alameda and Contra Costa Counties, 2015–2019. Note that the location of the study is largely irrelevant to the utility of the graph to the interpretation of survey outcomes at the project site. It is the pattern in the data that is relevant, because the pattern is typical of the pattern seen elsewhere.*



Because my prediction of 133 species of vertebrate wildlife, including 19 special-status species of vertebrate wildlife, is derived from daytime visual-scan surveys, and would detect few nocturnal mammals such as bats, the true number of species composing the wildlife community of the site must be larger. Noriko's reconnaissance survey should serve only as a starting point toward characterization of the site's wildlife community, but it certainly cannot alone inform of the inventory of species that use the site. More surveys are needed than her four surveys to inventory use of the project site by wildlife.

Nevertheless, the large number of species I predict at the project site is indicative of a relatively species-rich wildlife community that warrants a serious survey effort.

EXISTING ENVIRNMENTAL SETTING

The first step in analysis of potential project impacts to biological resources is to accurately characterize the existing environmental setting, including the biological species that use the site, their relative abundances, how they use the site, key ecological relationships, and known and ongoing threats to those species with special status. A reasonably accurate characterization of the environmental setting can provide the basis for determining whether the site holds habitat value to wildlife, as well as a baseline against which to analyze potential project impacts. For these reasons, characterization of the environmental setting, including the project site's regional setting, is one of CEQA's essential analytical steps. Methods to achieve this first step typically include (1) surveys of the site for biological resources, and (2) reviews of literature, databases and local experts for documented occurrences of special-status species. In the case of the proposed project, these needed steps have been inadequate.

Environmental Setting informed by Field Surveys

To CEQA's primary objective to disclose potential environmental impacts of a proposed project, the analysis should be informed of which biological species are known to occur at the proposed project site, which special-status species are likely to occur, as well as the limitations of the survey effort directed to the site. Analysts need this information to characterize the environmental setting as a basis for opining on, or predicting, potential project impacts to biological resources.

MIG (2024) performed a reconnaissance survey of the project site on 11 April 2023 to "assess the existing conditions of the Project Area, including recording observed plant and wildlife species, characterizing and delineating the vegetation communities and associated wildlife habitats, and evaluating the potential for these habitats to support special-status species and sensitive communities," and to inspect the site "to determine if any wetlands and "other waters" or streambeds potentially subject to jurisdiction by the USACE, RWQCB, or CDFW were present." The same two biologists also performed burrowing owl surveys on 11 April 2023. These surveys reportedly consisted of a habitat assessment survey followed by a focused burrowing owl survey. If the reconnaissance survey doubled as the burrowing owl surveys, then the number of survey objectives numbered seven. Performing a survey with seven objectives must have been a challenge. Any given survey for biological resources should be in pursuit of no more than two objectives. By definition, a focused burrowing owl survey should have been focused on burrowing owls, and not also on surveys for plants and other wildlife and wetlands.

Whether the reconnaissance survey doubled as a burrowing owl survey is unclear. No start time is reported for the reconnaissance survey. The burrowing owl surveys began at 08:30 and lasted for 90 minutes. Otherwise, no details are provided of the reconnaissance surveys and how it was conducted. It is therefore difficult to assess

survey outcomes relative to survey effort and methods. The reporting of the surveys is grossly incomplete.

One of MIG's objectives is habitat assessment for burrowing owls as part of the Step 1 burrowing owl survey protocol, and for other wildlife as part of the reconnaissance survey. The most effective methodology for habitat assessment is a survey of sufficient effort to determine whether each potentially occurring species truly occurs at the project site. The presence of a species confirms the existence of habitat of the species. This most effective methodology, if implemented, would simultaneously achieve the first two of the reported survey objectives. The weakness of this approach is that undetected species might truly occur on the site, either because the survey failed to detect the species that was truly present or the habitat was unoccupied at the time of the survey. Each detection of a species provides certainty of the presence of the species' habitat whereas lack of detection provides uncertainty unless a compelling argument can be made for true absence. Given this uncertainty associated with all of the species that were not detected by MIG's reconnaissance survey, MIG's survey was unsuitable for determining the absence of any wildlife species.

According to MIG (2024:20), "Surveys were conducted in accordance with the *Western Riverside County MSHCP Burrowing Owl Instructions* (2006)." However, whereas the burrowing owl surveys might be defensible as technically in accordance with the MSHCP instructions, it was inappropriate to rely on the findings of this single breeding- season survey. The site had been disked shortly before the survey. Disking can destroy the integrity of the burrow entrances of both ground squirrels and burrowing owls, and it can cover up burrowing owl sign, but the survivors of such disking usually repair their burrow entrances to connect with the rest of the burrows which largely remain intact below the depth of the disking. Performing a breeding-season survey shortly after disking can yield a false negative result.

MIG (2024) also failed to achieve the minimum standards of survey recommended by CDFW (2012). MIG (2024) completed only a single breeding-season survey, and otherwise failed to summarize the qualifications of the biologists who performed the survey and most of the other minimum standards. Therefore, the minimum scientific standards needed to support an absence determination were not achieved.

As a result of its two-person reconnaissance survey and its surveys for burrowing owls, MIG (2024) detected only six species of vertebrate wildlife. These six species numbered only 15% of the species detected by Noriko during her reconnaissance surveys, and 0% of the special-status species she detected. Noriko detected her first six species of vertebrate wildlife within only 12 minutes from the start of her survey on 5 March 2024, and within only 14 minutes from the start of her survey on 21 March 2024. The disparity of survey outcomes suggests that the surveys were of unequal efforts or of unequal skill- levels, or both. Whichever the reason, the MIG (2024) surveys inaccurately represent the wildlife community of the project site.

According to MIG (2024:13), "Based on results of the … survey conducted on April 11, 2023, none of the 48 plant species are expected to occur within the Project Area,

primarily due to the level of discing evident within the Project Area." However, it is evident that MIG (2024) failed to achieve the minimum standards of CDFW (2018) for conducting a reconnaissance survey for plants.

Environmental Setting informed by Desktop Review

The purpose of literature and database review and of consulting with local experts is to inform the field survey, and to augment interpretation of its outcome. Analysts need this information to identify which species are known to have occurred at or near the project site, and to identify which other special-status species could conceivably occur at the site due to geographic range overlap and migration flight paths.

MIG's (2024) analysis is immediately misleading regarding the potetnial value of the project site to wildlife. According to MIG (2024:12), "The Project Area consists entirely of a vacant lot." The project area is not a vacant lot; it is an annual grassland that has been diminished by disking to suppress biota. However, plants and wildlife have continued to use the project site despite the disking, as should have been known to the City after I commented (letter of 9 December 2021) on the previously proposed Operon HKI Warehouse project (City of Perris 2021). At that time, Noriko Smallwood documented use of the site by 15 species of vertebrate wildlife, five of which were special-status species. After three more surveys, Noriko has documented use of the site by 40 species of vertebrate wildlife, including eight with special status. MIG (2024) reports three more species that Noriko did not detect, bringing the total number of documented wildlife species on site to 43. The project site provides habitat to at least 43 species of vertebrate wildlife, and is predicted to support at least 133 species of vertebrate wildlife, including at least 19 special-status species (see comments above). Few special-status species are known for living on "vacant lots."

The misleading analysis continues with MIG's report that the entire area including the project site has been disturbed historically for agriculture. However, MIG (2024) provides no evidence in support of its insinuation that agricultural disturbances of the past would have prevented use of the site by special-status plants and wildlife. In fact, the evidence Noriko collected at the site is that many species of wildlife, including special-status species, use the project site as habitat despite past and more recent disturbances.

According to MIG (2024), the initial pool of 58 special-status species considered for inclusion in its analysis of occurrence potential was drawn from queries of California Natural Diversity Data Base (CNDDB) occurrence records on the local 7.5-minute Quadrangle and the eight surrounding Quads. This screening step, however, is flawed. CNDDB is not designed to support absence determinations or to screen out species from characterization of a site's wildlife community. As noted by CNDDB, "*The CNDDB is a positive sighting database. It does not predict where something may be found. We map occurrences only where we have documentation that the species was found at the site. There are many areas of the state where no surveys have been conducted and therefore there is nothing on the map. That does not mean that there are no special status species present*." MIG (2024) and the IS/MND misuse CNDDB.

CNDDB relies entirely on volunteer reporting from biologists who were allowed access to whatever properties they report from. Many properties have never been surveyed by biologists. Many properties have been surveyed, but the survey outcomes never reported to CNDDB. Many properties have been surveyed multiple times, but not all survey outcomes reported to CNDDB. Furthermore, CNDDB is interested only in the findings of special-status species, which means that species more recently assigned special status will have been reported many fewer times to CNDDB than were species assigned special status since the inception of CNDDB. The lack of many CNDDB records for species recently assigned special status had nothing to do with whether the species' geographic ranges overlapped the project site, but rather more to do with the brief time for records to have accumulated since the species were assigned special status. And because negative findings are not reported to CNDDB, CNDDB cannot provide the basis for estimating occurrence likelihoods, either. The IS/MND's analysis of special-status species occurrence likelihoods is fundamentally flawed.

MIG (2024) determines that 56 of the 58 special-status species considered are not expected to occur due to the absence of essential habitat requirements. Of the 127 special-status species included in my Table 2, MIG (2024) analyzed the occurrence likelihoods of only 44 species, only two of which were given any potential for occurrence. Of the species whose occurrences MIG (2024) determines to be not expected, two were detected on the site by Noriko, seven more have been documented within 1.5 miles of the site, and another 16 have been documented within 1.5 and 4 miles of the site. MIG's (2024) desktop analysis is inaccurate.

In my assessment based on database reviews and site visits, 127 special-status species of wildlife are known to occur near enough to the site to warrant analysis of occurrence potential (Table 2). Of these 127 species, 8 (6%) were recorded on or just off of the project site, and another 21 (16.5%) species have been documented within 1.5 miles of the site ('Very close'), another 49 (38.6%) within 1.5 and 4 miles ('Nearby'), and another 42 (33%) within 4 to 30 miles ('In region'). Over half (61%) of the species in Table 2 have been reportedly seen within 4 miles of the project site. The site therefore supports multiple special-status species of wildlife and carries the potential for supporting many more special-status species of wildlife based on proximity of recorded occurrences. The site is far richer in special-status species than is characterized in the IS/MND.

Many of the explanations for determinations of "not expected" to occur are misleading in Appendix C of MIG (2024). MIG (2024) repeatedly pigeon-holes species into unrealistically narrow portions of the environment, and then concludes that that portion of the environment is absent from the site. For example, MIG (2024) premises a determination on the false assertion that Swainson's hawks require mesic or riparian settings. Swainson's hawks also occur on grasslands, and often forage on disked fields (Smallwood 1995). MIG applies the same false habitat requirement to northern harrier, white-tailed kite, and other species. One of these other species was California horned lark, which Noriko saw flocking on the project site.

Table 2. *Occurrence likelihoods of special-status bird species at or near the proposed project site, according to eBird/iNaturalist records (https://eBird.org, https://www.inaturalist.org) and on-site survey findings, where 'Very close' indicates within 1.5 miles of the site, "nearby" indicates within 1.5 and 4 miles, and "in region" indicates within 4 and 30 miles, and 'in range' means the species' geographic range overlaps the site. Entries in bold font identify species Noriko detected.*

Common name	***Species name***	**Status[1]**	**Occurrence potentials**	
			IS/MND	**Data bases, Site visits**
Monarch	*Danaus plexippus*	FC		Nearby
Crotch's bumble bee	*Bombus crotchii*	CCE	Not expected	Nearby
Western spadefoot	*Spea hammondii*	SSC	Not expected	Nearby
Western pond turtle	*Emys marmorata*	SSC	Not expected	In region
Blainville's horned lizard	*Phrynosoma blainvillii*	SSC	Not expected	Nearby
Orange-throated whiptail	*Aspidoscelis hyperythra*	WL	Not expected	Nearby
Coastal whiptail	*Aspidoscelis tigris stejnegeri*	SSC	Not expected	Nearby
San Diegan legless lizard	*Anniella stebbinsi*	SSC	Not expected	Nearby
California glossy snake	*Arizona elegans occidentalis*	SSC	Not expected	In region
Coast patch-nosed snake	*Salvadora hexalepis virgultea*	SSC	Not expected	In region
Two-striped gartersnake	*Thamnophis hammondii*	SSC		In region
South coast gartersnake	*Thamnophis sirtalis pop. 1*	SSC		In range
Red-diamond rattlesnake	*Crotalus ruber*	SSC	Not expected	Nearby
Fulvous whistling-duck	*Dendrocygna bicolor*	SSC1		In region
Brant	*Branta bernicla*	SSC2		Nearby
Cackling goose (Aleutian)	*Branta hutchinsii leucopareia*	WL		In region
Redhead	*Aythya americana*	SSC2		Very close
Western grebe	*Aechmophorus occidentalis*	BCC		Nearby
Clark's grebe	*Aechmophorus clarkii*	BCC		Nearby
Black swift	*Cypseloides niger*	SSC3, BCC		Nearby
Vaux's swift	*Chaetura vauxi*	SSC2, BCC		Nearby
Costa's hummingbird	*Calypte costae*	BCC		Very close
Rufous hummingbird	*Selasphorus rufus*	BCC		Nearby
Allen's hummingbird	*Selasphorus sasin*	BCC		Very close
American avocet[4]	*Recurvirostra americana*	BCC		Very close
Mountain plover	*Charadrius montanus*	SSC2, BCC		In region

Common name	*Species name*	Status[1]	Occurrence potentials	
			IS/MND	Data bases, Site visits
Snowy plover	*Charadrius nivosus*	BCC	Not expected	Nearby
Western snowy plover	*Charadrius nivosus nivosus*	FT, SSC, BCC		In region
Whimbrel[2]	*Numenius phaeopus*	BCC		Nearby
Long-billed curlew	*Numenius americanus*	WL		Nearby
Marbled godwit	*Limosa fedoa*	BCC		Nearby
Red knot (Pacific)	*Calidris canutus*	BCC		Nearby
Short-billed dowitcher	*Limnodromus griseus*	BCC		In region
Willet	*Tringa semipalmata*	BCC		Very close
Laughing gull	*Leucophaeus atricilla*	WL		In region
Heermann's gull	*Larus heermanni*	BCC		Nearby
Western gull	*Larus occidentalis*	BCC		Nearby
California gull	*Larus californicus*	BCC, WL		**On site**
California least tern	*Sternula antillarum browni*	FE, CE, FP		In region
Gull-billed tern	*Gelochelidon nilotica*	BCC, SSC3		In region
Black tern	*Chlidonias niger*	SSC2, BCC		Nearby
Elegant tern	*Thalasseus elegans*	BCC, WL		In region
Black skimmer	*Rynchops niger*	BCC, SSC3		In region
Common loon	*Gavia immer*	SSC		Nearby
Double-crested cormorant	*Phalacrocorax auritus*	WL		**Just off site**
American white pelican	*Pelacanus erythrorhynchos*	SSC1, BCC		Nearby
California brown pelican	*Pelecanus occidentalis californicus*	FP		Nearby
Least bittern	*Ixobrychus exilis*	SSC2		In region
White-faced ibis	*Plegadis chihi*	WL	Not expected	Nearby
Turkey vulture	*Cathartes aura*	BOP		**On site**
Osprey	*Pandion haliaetus*	WL, BOP		Very close
White-tailed kite	*Elanus luecurus*	CFP, BOP	Not expected	Very close
Golden eagle	*Aquila chrysaetos*	BGEPA, CFP, BOP, WL	Not expected	Nearby
Northern harrier	*Circus cyaneus*	BCC, SSC3, BOP	Not expected	**On site**
Sharp-shinned hawk	*Accipiter striatus*	WL, BOP		Nearby

Common name	*Species name*	Status[1]	Occurrence potentials	
			IS/MND	Data bases, Site visits
Cooper's hawk	*Accipiter cooperii*	WL, BOP	Potential	Very close
Bald eagle	*Haliaeetus leucocephalus*	CE, BGEPA, BOP		Very close
Red-shouldered hawk	*Buteo lineatus*	BOP		Very close
Swainson's hawk	*Buteo swainsoni*	CT, BOP	Not expected	Nearby
Red-tailed hawk	*Buteo jamaicensis*	BOP		**On site**
Ferruginous hawk	*Buteo regalis*	WL, BOP	Not expected	Very close
Zone-tailed hawk	*Buteo albonotatus*	BOP		In region
Harris' hawk	*Parabuteo unicinctus*	WL, BOP		In region
Rough-legged hawk	*Buteo lagopus*	BOP		Nearby
Barn owl	*Tyto alba*	BOP		Very close
Western screech-owl	*Megascops kennicotti*	BOP		Nearby
Great horned owl	*Bubo virginianus*	BOP		Very close
Burrowing owl	*Athene cunicularia*	BCC, SSC2, BOP	Potential	Nearby
Long-eared owl	*Asio otus*	BCC, SSC3, BOP	Not expected	In region
Short-eared owl	*Asia flammeus*	BCC, SSC3, BOP		Nearby
Lewis's woodpecker	*Melanerpes lewis*	BCC		In region
Nuttall's woodpecker	*Picoides nuttallii*	BCC		Very close
American kestrel	*Falco sparverius*	BOP		**On site**
Merlin	*Falco columbarius*	WL, BOP		Nearby
Peregrine falcon	*Falco peregrinus*	BOP		**On site**
Prairie falcon	*Falco mexicanus*	WL, BOP		Nearby
Olive-sided flycatcher	*Contopus cooperi*	BCC, SSC2		Nearby
Willow flycatcher	*Empidonax trailii*	CE	Not expected	Nearby
Southwestern willow flycatcher	*Empidonax traillii extimus*	FE, CE		In region
Vermilion flycatcher	*Pyrocephalus rubinus*	SSC2		Very close
Least Bell's vireo	*Vireo bellii pusillus*	FE, CE	Not expected	Nearby
Loggerhead shrike	*Lanius ludovicianus*	SSC2	Not expected	Very close
Oak titmouse	*Baeolophus inornatus*	BCC		Nearby
California horned lark	*Eremophila alpestris actia*	WL	Not expected	**On site**

Common name	*Species name*	Status[1]	Occurrence potentials	
			IS/MND	Data bases, Site visits
Bank swallow	*Riparia riparia*	CT		Nearby
Purple martin	*Progne subis*	SSC2		Nearby
Wrentit	*Chamaea fasciata*	BCC		Nearby
California gnatcatcher	*Polioptila c. californica*	FT, SSC2	Not expected	Very close
California thrasher	*Toxostoma redivivum*	BCC		Nearby
Cassin's finch	*Haemorhous cassinii*	BCC		In region
Lawrence's goldfinch	*Spinus lawrencei*	BCC	Not expected	Very close
Grasshopper sparrow	*Ammodramus savannarum*	SSC2	Not expected	In region
Black-chinned sparrow	*Spizella atrogularis*	BCC		Nearby
Gray-headed junco	*Junco hyemalis caniceps*	WL		Nearby
Bell's sparrow	*Amphispiza b. belli*	WL	Not expected	Very close
Oregon vesper sparrow	*Pooecetes gramineus affinis*	SSC2, BCC		In range
Southern California rufous-crowned sparrow	*Aimophila ruficeps canescens*	WL	Not expected	Nearby
Yellow-breasted chat	*Icteria virens*	SSC3	Not expected	In region
Yellow-headed blackbird	*Xanthocephalus xanthocephalus*	SSC3	Not expected	Nearby
Bullock's oriole	*Icterus bullockii*	BCC		Very close
Tricolored blackbird	*Agelaius tricolor*	CT, BCC, SSC1	Not expected	Nearby
Lucy's warbler	*Leiothlypis luciae*	SSC3, BCC		In region
Virginia's warbler	*Leiothlypis virginiae*	WL, BCC		In region
Yellow warbler	*Setophaga petechia*	SSC2	Not expected	Very close
Summer tanager	*Piranga rubra*	SSC1		Nearby
Pallid bat	*Antrozous pallidus*	SSC, WBWG:H		In region
Townsend's big-eared bat	*Corynorhinus townsendii*	SSC, WBWG:H		In region
Silver-haired bat	*Lasionycteris noctivagans*	WBWG:M		In range
Spotted bat	*Euderma maculatum*	SSC, WBWG:H		In range
Hoary bat	*Lasiurus cinereus*	WBWG:M		In region
Western yellow bat	*Lasiurus xanthinus*	SSC, WBWG:H	Not expected	In range
Western small-footed myotis	*Myotis cililabrum*	WBWG:M		In range

Common name	*Species name*	Status[1]	Occurrence potentials	
			IS/MND	Data bases, Site visits
Miller's myotis	*Myotis evotis*	WBWG:M		In range
Little brown myotis	*Myotis lucifugus*	WBWG:M		In range
Fringed myotis	*Myotis thysanodes*	WBWG:H		In region
Long-legged myotis	*Myotis volans*	WBWG:H		In region
Yuma myotis	*Myotis yumanensis*	WBWG:LM		In region
Western mastiff bat	*Eumops perotis*	SSC, WBWG:H	Not expected	In range
Pocketed free-tailed bat	*Nyctinomops femorosaccus*	SSC, WBWG:M	Not expected	In range
San Diego black-tailed jackrabbit	*Lepus californicus bennettii*	SSC	Not expected	In region
Northwestern San Diego pocket mouse	*Chaetodipus fallax fallax*	SSC	Not expected	In region
San Bernardino kangaroo rat	*Dipodomys merriami parvus*	FE, CCE, SSC	Not expected	In region
Stephens' kangaroo rat	*Dipodomys stephensi*	FE, CT	Not expected	In region
Los Angeles pocket mouse	*Perognathus longimembris brevinasus*	SSC	Not expected	In region
San Diego desert woodrat	*Neotoma lepida intermedia*	SSC	Not expected	In region
Southern grasshopper mouse	*Onychomys torridus ramona*	SSC	Not expected	In range
American badger	*Taxidea taxus*	SSC	Not expected	In region

[1] Listed as FT or FE = federal threatened or endangered, FC = federal candidate for listing, BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern, CT or CE = California threatened or endangered, CCT or CCE = Candidate California threatened or endangered, CFP = California Fully Protected (California Fish and Game Code 3511), SSC = California Species of Special Concern (not threatened with extinction, but rare, very restricted in range, declining throughout range, peripheral portion of species' range, associated with habitat that is declining in extent), SSC1, SSC2 and SSC3 = California Bird Species of Special Concern priorities 1, 2 and 3, respectively (Shuford and Gardali 2008), WL = Taxa to Watch List (Shuford and Gardali 2008), and BOP = Birds of Prey (CFG Code 3503.5), and WBWG = Western Bat Working Group with priority rankings, of low (L), moderate (M), and high (H).

[2] Uncertain if BCC based on 2021 Bird of Conservation Concern list.

MIG (2024) also repeatedly assesses the site's suitability to species based solely on the question of whether the species is likely to find nesting or breeding opportunities on the site. MIG (2024) points out that the project site lacks the cliffs, rock outcrops and tall trees needed for nesting by ferruginous hawks, but in the case of this species, nesting does not even happen in southern California. Ferruginous hawks are winter migrants to southern California, where successful foraging is just as important to breeding success as is the availability of nesting substrates far to the north where the species actually breeds. MIG's (2024) App. C falsely distinguishes habitat based on functional importance to breeding, and it inaccurately characterizes species' ecology.

Considering the inaccuracies of the IS/MND's characterization of the existing environmental setting, a fair argument can be made for the need to prepare an EIR to appropriately characterize the existing environmental setting. The City needs to better understand the habitat values on the project site as a baseline for analyzing potential project impacts to wildlife.

POTENTIAL BIOLOGICAL IMPACTS

An impacts analysis should consider whether and how a proposed project would affect members of a species, larger demographic units of the species, the whole of a species, and ecological communities. The accuracy of this analysis depends on an accurate characterization of the existing environmental setting. In the case of the proposed project, the existing environmental setting has not been accurately characterized, and several important types of potential project impacts have been inadequately analyzed. These types of impacts include habitat loss, interference with wildlife movement, and wildlife-automobile collision mortality.

HABITAT LOSS

Habitat loss results in a reduced productive capacity of affected wildlife species, but MIG (2024) and the IS/MND make no attempt to estimate this lost capacity for any of the wildlife species potentially affected. In the case of birds, two methods exist for estimating the loss of productive capacity that would be caused by the project. One method would involve surveys to count the number of bird nests and chicks produced. The alternative method would be to infer productive capacity from estimates of total nest density elsewhere.

Because the project is located within an area that has undergone severe habitat fragmentation, the habitat that remains in fragmented patches probably no longer supports its original productive capacity of wildlife (Smallwood 2015). However, several studies have estimated total avian nest density at locations that had likewise been highly fragmented. Two study sites in grassland/wetland/woodland complexes within agricultural matrices had total bird nesting densities of 32.8 and 35.8 nests per acre (Young 1948, Yahner 1982) for an average 34.3 nests per acre. To acquire a total nest density closer to conditions in California, I surveyed a 12.74-acre site in Rancho Cordova 30 times from March through the first half of August. The Rancho Cordova site was surrounded on three sides by residential developments, so was also a habitat fragment.

Total nest density of birds on this site was 2.12 nests per acre on the portion of the study area that was composed of annual grassland with a scattering of trees and after omitting all the nests that were in trees (leaving only ground nests). On 4.29 acres of grassland in the San Jacinto Wildlife Area, Noriko tabulated 3.72 bird nests/acre last spring.
Applying the mean total nest density between our two survey efforts to the 4.01 acres of the project site, I predict the project site supports 11.7 bird nests/year.

The loss of 11.7 nest sites of birds would qualify as a significant project impact that has not been quantitatively addressed in the IS/MND. But the impact would not end with the immediate loss of nest sites as nest substrate is removed and foraging grounds graded in preparation for impervious surfaces. The reproductive capacity of the site would be lost. The average number of fledglings per nest in Young's (1948) study was
2.9. Assuming Young's (1948) study site typifies bird productivity, the project would prevent the production of 34 fledglings per year. Assuming an average bird generation time of 5 years, the lost capacity of both breeders and annual fledgling production can be estimated from an equation in Smallwood (2022): {(nests/year × chicks/nest × number of years) + (2 adults/nest × nests/year) × (number of years ÷ years/generation)} ÷ (number of years) = 39 birds per year denied to California. At least a fair argument can be made for the need to prepare an EIR to appropriately analyze the project's impacts to wildlife caused by habitat loss and habitat fragmentation.

INTERFERENCE WITH WILDLIFE MOVEMENT

One of CEQA's principal concerns regarding potential project impacts is whether a proposed project would interfere with wildlife movement in the region. Unfortunately, the IS/MND's analysis of whether the project would interfere with wildlife movement in the region is flawed and misleading. After providing a reasonably accurate summary of the need for maintaining habitat connectivity to conserve wildlife, MIG (2024:14) concludes, "The Project Area does not act as a wildlife movement corridor due to the current built environment as well as the presence of urban/suburban development surrounding the site. … the Project Area is situated in an urbanized area and does not represent a wildlife movement corridor as it (along with other small neighboring vacant lots) is largely bound on all sides by developments, possesses vegetation that is largely non-native that would support high levels of species diversity, and it is too small of an area to support significant wildlife movement." This conclusion is reached immediately after explaining that "Wildlife corridors can consist of a sequence of stepping-stones across the landscape (i.e., discontinuous areas of habitat such as isolated wetlands), …" which essentially describes the project site and its setting and is consistent with the best definition of wildlife movement corridor as a human construct (Smallwood 2015). MIG's conclusion is inconsistent with its description of how a wildlife corridor can be constructed.

MIG's (2024) conclusion lacks supporting evidence. MIG (2024) reports no survey methodology designed to determine whether wildlife rely on the site for movement in the region. MIG (2024) implemented no sampling regime, nor any program of observation to record wildlife movement patterns, to quantify movement or to qualitatively assess movement for evidence of the project's contribution to movement in

the region. Based on what is reported, MIG (2024) did not record or measure wildlife movement in any way. The conclusions of MIG (2024) and the IS/MND regarding wildlife movement on the project site are speculative and conclusory. Not only is their claim lacking support, but Noriko found that the site was heavily used by wildlife, especially special-status species and birds utilizing the linear features of the site as a fly- through area. Because much of the surrounding area is developed, the site is one of the only remaining east-west plots of undeveloped land. Thus, there is evidence in support of the conclusion that the site important to wildlife movement in the region.

Furthermore, whether the site includes or is within a wildlife movement corridor is not the only consideration when it comes to the standard CEQA Checklist question of whether the project would interfere with wildlife movement in the region. The primary phrase of the CEQA standard goes to wildlife movement regardless of whether the movement is channeled by a corridor. In fact, a site such as the project site is critically important for wildlife movement because it composes an increasingly diminishing area of open space within a growing expanse of anthropogenic uses, forcing more species of volant wildlife to use the site for stopover and staging during migration, dispersal, and home range patrol (Warnock 2010, Taylor et al. 2011, Runge et al. 2014). The project, due to its elimination of at least 4.01 acres of vegetation cover and due to its insertion of a large warehouse into the aerospace used by birds, bats and butterflies. would cut wildlife off from one of the last remaining stopover and staging opportunities in the project area, forcing volant wildlife to travel even farther between remaining stopover sites. This impact would be significant, and as the project is currently proposed, it would be unmitigated.

TRAFFIC IMPACTS TO WILDLIFE

Project-generated traffic would endanger wildlife that must, for various reasons, cross roads used by the project's traffic to get to and from the project site (Photos 25—27), including along roads far from the project footprint. Vehicle collisions have accounted for the deaths of many thousands of amphibian, reptile, mammal, bird, and arthropod fauna, and the impacts have often been found to be significant at the population level (Forman et al. 2003). Across North America traffic impacts have taken devastating tolls on wildlife (Forman et al. 2003). In Canada, 3,562 birds were estimated killed per 100 km of road per year (Bishop and Brogan 2013), and the US estimate of avian mortality on roads is 2,200 to 8,405 deaths per 100 km per year, or 89 million to 340 million total per year (Loss et al. 2014). Local impacts can be more intense than nationally.

Photo 25. *A Gambel's quail dashes across a road* on *3 April 2021. Such road crossings are usually successful, but too often prove fatal to the animal. Photo by Noriko Smallwood.*

Photo 26. *Mourning dove killed by vehicle on a California road. Photo by Noriko Smallwood, 21 June 2020.*

Photo 27 *Raccoon killed on Road 31 just east of Highway 505 in Solano County. Photo taken on 10 November 2018.*

The nearest study of traffic-caused wildlife mortality was performed along a 2.5-mile stretch of Vasco Road in Contra Costa County, California. Fatality searches in this study found 1,275 carcasses of 49 species of mammals, birds, amphibians and reptiles over 15 months of searches (Mendelsohn et al. 2009). This fatality number needs to be adjusted for the proportion of fatalities that were not found due to scavenger removal and searcher error. This adjustment is typically made by placing carcasses for searchers to find (or not find) during their routine periodic fatality searches. This step was not taken at Vasco Road (Mendelsohn et al. 2009), but it was taken as part of another study next to Vasco Road (Brown et al. 2016). Brown et al.'s (2016) adjustment factors for carcass persistence resembled those of Santos et al. (2011). Also applying searcher detection rates from Brown et al. (2016), the adjusted total number of fatalities was estimated at 12,187 animals killed by traffic on the road. This fatality number over 1.25 years and 2.5 miles of road translates to 3,900 wild animals per mile per year. In terms comparable to the national estimates, the estimates from the Mendelsohn et al. (2009) study would translate to 243,740 animals killed per 100 km of road per year, or 29 times that of Loss et al.'s (2014) upper bound estimate and 68 times the Canadian estimate. An analysis is

needed of whether increased traffic generated by the project site would similarly result in local impacts on wildlife.

For wildlife vulnerable to front-end collisions and crushing under tires, road mortality can be predicted from the study of Mendelsohn et al. (2009) as a basis. My analysis of the Mendelsohn et al. (2009) data resulted in an estimated 3,900 animals killed per mile along a county road in Contra Costa County. Two percent of the estimated number of fatalities were birds, and the balance was composed of 34% mammals (many mice and pocket mice, but also ground squirrels, desert cottontails, striped skunks, American badgers, raccoons, and others), 52.3% amphibians (large numbers of California tiger salamanders and California red-legged frogs, but also Sierran treefrogs, western toads, arboreal salamanders, slender salamanders and others), and 11.7% reptiles (many western fence lizards, but also skinks, alligator lizards, and snakes of various species). VMT is useful for predicting wildlife mortality because I was able to quantify miles traveled along the studied reach of Vasco Road during the time period of the Mendelsohn et al. (2009), hence enabling a rate of fatalities per VMT that can be projected to other sites, assuming similar collision fatality rates.

Predicting project-generated traffic impacts to wildlife

The IS/MND predicts 103 daily trips and 16.9 daily VMT per employee. These predictions would lead to a prediction of 317,678 annual VMT. During the Mendelsohn et al. (2009) study, 19,500 cars traveled Vasco Road daily, so the vehicle miles that contributed to my estimate of non-volant fatalities was 19,500 cars and trucks × 2.5 miles × 365 days/year × 1.25 years = 22,242,187.5 vehicle miles per 12,187 wildlife fatalities, or 1,825 vehicle miles per fatality. This rate divided into the predicted annual VMT, above, would predict 174 vertebrate wildlife fatalities per year.

Based on my analysis, the project-generated traffic would cause significant impacts to wildlife. The IS/MND does not address this potential impact, let alone propose to mitigate it. Mitigation measures to improve wildlife safety along roads are available and are feasible, and they need exploration for their suitability with the proposed project.
Given the predicted level of project-generated, traffic-caused mortality, and the lack of any proposed mitigation, it is my opinion that the proposed project would result in potentially significant adverse biological impacts. A fair argument can be made for the need to prepare an EIR to appropriately analyze the potential impacts of project- generated automobile traffic on wildlife.

CUMULATIVE IMPACTS

The IS/MND presents a flawed analysis of cumulative impacts, including to biological resources. The IS/MND asserts that "… no individual impacts to sensitive species or migratory birds would occur; therefore, the project could not contribute considerably to regional impacts on such species." And, "… potential impacts to burrowing owls and nesting birds would be less than significant with implementation of the project-specific mitigation shown below and adherence to existing regulations." The IS/MND contrives the false standard that a given impact is cumulatively considerable only when it is a

significant project-level direct impact that has not been fully mitigated, hence leaving no residual impact. The IS/MND implies that cumulative impacts are really residual impacts left over by inadequate mitigation of project impacts. This notion of residual impacts being the source of cumulative impacts is inconsistent with CEQA's definition of cumulative effects. Individually mitigated projects do not negate the significance of cumulative impacts. If they did, then CEQA would not require a cumulative effects analysis. To summarize, the IS/MND presents no cumulative effects analysis as defined in two ways by CEQA.

Table 3 includes an example of how a cumulative analysis can begin. Table 3 includes acreages, predicted annual VMT and predicted wildlife mortality of recently proposed and recently constructed projects in and near the City of Perris. Considering only the projects in Table 3 and assuming traffic-caused mortality of wildlife would equal that of the Vasco Road study (see above), 31,214 annual wildlife fatalities are predictable based on the volumes of traffic that would be generated by these projects. This is an example of cumulative impacts to wildlife that has not been addressed in the IS/MND.

Another example of a cumulative impact can be predicted from Table 3, and that is of habitat loss. Based on the same assumptions I applied earlier, one can predict that the loss of 157 acres (Table 3) would deny California 458 nest sites and 1,511 birds per year.

Table 3. *Project attributes of some of the projects recently built or under consideration in or near the City of Perris, and which contribute to cumulative impacts to wildlife.*

Project	**Acres**	**Square feet**	**Annual VMT**	**Annual wildlife fatalities**
Brew Enterprises	4.01	58,974	317,678	174
DeDeaux	9.56	205830	563,794	309
Haun and Holland Mixed Use Center	37.06	304,300	28,099,134	15,397
Harvill Warehouse [a]	11.15	55,700	6,325,596	3,466
Rider Commerce Center [a]	9.58	203,445	2,144,886	1,175
Duke Patterson & Nance Warehouse	35.65	769,668	5,625,380	3,082
First Industrial [a]	9.7	220,756	2,350,892	1,288
Mapes & Trumble Industrial Facility Complex	19.16	396,000	5,888,800	3,227
Perris Circle Industrial Building 3 [b]	9.9	210,900	3,054,503	1,674
Ramona-Indian Warehouse Project	15	232,575	2,911,669	1,595
Total	157	2,599,174	56,964,654	31,214

[a] Assumed 16.6 miles/trip

[b] Assumed trip lengths of Mapes & Trumble Industrial Facility Complex

At least a fair argument can be made for the need to prepare a new EIR to appropriately analyze potential project contributions to cumulative impacts to wildlife in the City. To do this, ongoing development in the City needs to be examined for its contributions to habitat fragmentation and how this fragmentation is affecting wildlife movement in the region. It also needs to examine City-wide annual VMT and to what degree this VMT is contributing to wildlife-vehicle collision mortality.

MITIGATION

MM-BR-1: *Project construction shall be avoided, to the greatest extent possible, during the nesting season of potentially occurring native and migratory bird species. The nesting season in Riverside County generally extends from February 1 through September 1.*

This measure has already been ignored, in my assessment. The footprint of the project was already disked just prior to Noriko's survey of 5 March 2024. The evidence that the site most likely had been disked during the nesting season is (1) the above-ground portions of turned-over plants were still alive during Noriko's survey (Photo 1), and (2) the loosened soil had not coagulated following substantial rainfall (see Photos 9 and 28). According to UC Riverside Agriculture and Natural Resources (https://ceorange.ucanr.edu/about/weather/?weather=station&station=240), Perris received 1.73 inches of rain in January and 5.46 inches of rain in February of 2024, and 1.19 inches of February's rain fell on 20-21 February 2024. Based on my experience with disking of soils in agriculture and as a measure to conserve wildlife, this last substantial rainfall would have coagulated loosened soil, which means the disking would have been completed between 21 February and 5 March, which was during the nesting season.

MM-BR-1: Preconstruction Nesting Bird Survey. *If construction commences during the nesting season, then sometime prior to construction (the measure does not specify how long prior to construction), a qualified biologist shall conduct a preconstruction nesting bird survey. if active nests are located during the pre-activity field survey, then the biologist shall immediately establish a conservative avoidance buffer surrounding the nest based on their best professional judgement and experience. The biologist shall monitor the nest…*

Whereas I concur that preconstruction, take-avoidance surveys should be completed, in my experience, the majority of bird nests would not be found by biologists assigned to the survey. For instance, I surveyed for grassland nesters, including as part of an intensive survey effort that I performed from March through mid-August 2023 on a Northern California site. I surveyed the site 30 times. I found that the nests of grassland birds are the most difficult to locate. Cavity nesters can more effectively defend their nests against predators, whereas ground nesters are highly vulnerable to predation, and thus the most cryptic of nesters. Ground nesters, which include bird species that occur at the project site, are highly adept at concealing their nests both physically and behaviorally. Based on my experience, it is highly likely that the proposed preconstruction survey would fail to find any of the nests of ground-nesting birds that truly occur on the project site. The IS/MND's implication that a preconstruction survey

would reduce potential impacts to nesting birds to less-than-significant is unsubstantiated by evidence in the IS/MND. The IS/MND cites not a single example of success of this measure applied elsewhere.

Furthermore, the mitigation language allows a single individual to make a subjective decision, outside the public's view, to determine the buffer area for any given species of nesting birds. This measure lacks objective criteria, and is unenforceable.

Photo 28. Dust deposited by disking remains on grass stems around this Say's phoebe on the project site, 5 March 2024.

MM-BR-2: Preconstruction Burrowing Owl Survey.

As I commented above, an action that suppressed wildlife has already been implemented on the project site. Disking of only the project footprint is not typical of a fire prevention measure, and it was done during the nesting season. It is therefore difficult to take this entire measure seriously.

Furthermore, the proposed relocation of burrowing owls consistent with the Burrowing Owl Survey Instructions for the Western Riverside MSHCP would perpetuate a practice that has not proven effective. In fact, the Western Riverside County Regional Conservation Authority (2021) has acknowledged that the burrowing owl conservation plan is not working. Burrowing owls are rapidly declining in western Riverside County, which is one of the reasons that a petition to list the burrowing owl in California has been submitted to the California Fish and Game Commission (Miller 2024).

RECOMMENDED MEASURES

Road Mortality: Compensatory mitigation is needed for the increased wildlife mortality that would be caused by bird-window collisions and the project-generated road traffic in the region. I suggest that this mitigation can be directed toward funding research to identify fatality patterns and effective impact reduction measures such as reduced speed limits and wildlife under-crossings or overcrossings of particularly dangerous road segments. Compensatory mitigation can also be provided in the form of donations to wildlife rehabilitation facilities (see below).

Fund Wildlife Rehabilitation Facilities: Compensatory mitigation ought also to include funding contributions to wildlife rehabilitation facilities to cover the costs of injured animals that will be delivered to these facilities for care. Many animals would likely be injured by collisions with automobiles traveling to and from the project's buildings.

Landscaping: If the project goes forward, California native plant landscaping (i.e., chaparral, grassland, and locally appropriate scrub plants) should be considered to be used as opposed to landscaping with lawn and exotic shrubs. Native plants offer more structure, cover, food resources, and nesting substrate for wildlife than landscaping with lawn. Native plant landscaping has been shown to increase the abundance of arthropods which act as importance sources of food for wildlife and are crucial for pollination and plant reproduction (Narango et al. 2017, Adams et al. 2020, Smallwood and Wood 2022.). Further, many endangered and threated insects require native host plants for reproduction and migration, e.g., monarch butterfly. Around the world, landscaping with native plants over exotic plants increases the abundance and diversity of birds, and is particularly valuable to native birds (Lerman and Warren 2011, Burghardt et al. 2008, Berthon et al. 2021, Smallwood and Wood 2022). Landscaping with native plants is a way to maintain or to bring back some of the natural habitat and lessen the footprint of urbanization by acting as interconnected patches of habitat for wildlife (Goddard et al. 2009, Tallamy 2020). Lastly, not only does native plant landscaping benefit wildlife, it requires less water and maintenance than traditional landscaping with lawn and hedges.

Thank you for your consideration,

Shawn Smallwood, Ph.D.

LITERATURE CITED

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Photo by Noriko Smallwood: Savannah sparrow on the project site on 21 November 2021.

Exhibit B

Shawn Smallwood, PhD 3108
Finch Street
Davis, CA 95616

Alfredo Garcia, Associate Planner City
of Perris Planning Division 135 North
D Street
Perris, California 92570 11 March 2024 RE:

Brew Enterprises Warehouse

Dear Mr. Garcia,

I write to comment on potential impacts to biological resources that could result from the proposed Brew Enterprises Project, which I understand would add a 58,974 square foot warehouse building on 4.01 acres located on Harley Knox Boulevard in Perris. I comment on the analyses of impacts to biological resources in MIG (2024) and the IS/MND (City of Perris 2024).

My qualifications for preparing expert comments are the following. I hold a Ph.D. degree in Ecology from University of California at Davis, where I also worked as a post- graduate researcher in the Department of Agronomy and Range Sciences. My research has been on animal density and distribution, habitat selection, wildlife interactions with the anthrosphere, and conservation of rare and endangered species. I authored many papers on these and other topics. I served as Chair of the Conservation Affairs Committee for The Wildlife Society – Western Section. I am a member of The Wildlife Society and Raptor Research Foundation, and I've lectured part-time at California State University, Sacramento. I was Associate Editor of wildlife biology's premier scientific journal, The Journal of Wildlife Management, as well as of Biological Conservation, and I was on the Editorial Board of Environmental Management. I have performed wildlife surveys in California for thirty-seven years. My CV is attached.

SITE VISIT

On my behalf, Noriko Smallwood, a wildlife biologist with a Master's Degree from California State University Los Angeles, visited the site of the proposed project for 2.8 hours from 06:28 to 09:16 hours on 5 March 2024. Noriko also visited the site twice before, once on 21 November 2021 for 1.7 hours from 07:03 to 08:45, and again for 1.6 hours on 9 December 2022 from 07:22 to 09:00. She walked the site's northern perimeter, stopping to scan for wildlife with use of binoculars. Noriko recorded all species of vertebrate wildlife she detected, including those whose members flew over the site or were seen nearby, off the site. Animals of uncertain species identity were either omitted or, if possible, recorded to the Genus or higher taxonomic level.

Conditions were partly cloudy to sunny with 2 mph southeast wind and temperatures of 44-52° F on 5 March 2024. The site was previously annual grass with scattered shrubs, but has recently been disked (Photo 1).

Photo 1. *View of the project site, 5 March 2024. Photo by Noriko Smallwood.*

Over the three surveys, Noriko detected 35 species of vertebrate wildlife at or adjacent to the project site, including eight species with special status (Table 1). Noriko saw red- tailed hawk, American kestrel, turkey vulture, and California gull (Photos 2 – 5), and she observed that the site was very active with grassland-associated birds including western meadowlark (Photo 6), Say's phoebe (Photo 9), savannah sparrow (Photo 10), and American pipit (Photo 15). She also common raven and red-winged blackbird (Photos 7 and 8), Cassin's kingbird and mourning dove (Photos 11 and 12), European starling and yellow-rumped warbler (Photos 13 and 14), great egret (Photo 16), killdeer and Canada goose (Photos 17 and 18), house finch (Photo 19), black phoebe and lark sparrow (Photos 20 and 21), harvester ants (Photo 22), peregrine falcon and double-crested cormorants on 21 November 2021 (Photos 23 and 24), among the other species listed in Table 1.

Noriko Smallwood certifies that the foregoing and following survey results are true and accurately reported.

Noriko Smallwood

During her most recent survey, Noriko detected 28 species of vertebrate wildlife in 2.8 hours, but she detected 23 species over the same survey time period as used in her previous two surveys when she detected 15 and 18 species, respectively. During her third survey, Noriko detected 53% more species than during her first survey in 2021 despite the project acreage having lessened and having recently been disked. MIG (2024:16) claimed that "the Project Area was disced immediately prior to the survey to comply with fire code requirements." However, the disking of the site that Noriko observed was restricted to the proposed project's footprint (Photo 1), which suggests that the fire code was not the motivating reason. Nevertheless, Noriko detected more species of wildlife than previously, which suggests that the site increased in importance to wildlife due to the loss of surrounding habitat to industrialization of the area.

Table 1. *Species of wildlife Noriko observed during 1.7 hours of survey on 21 November 2021, 1.6 hours of survey on 9 December 2022, and 2.8 hours of survey on 5 March 2024.*

Common name	***Species name***	**Status[1]**	**21 Nov 2021**	**9 Dec 2022**	**5 Mar 2024**	**Notes from 3/5/2024**
Harvester ant	*Pogonomyrmex sp.*		X	X	X	Mounds
Canada goose	*Branta canadensis*			X	X	Flew over
Mallard	*Anas platyrhynchos*				X	Flew by just off site
Rock pigeon	*Columba livia*	Non-native	X	X	X	
Mourning dove	*Zenaida macroura*		X	X	X	
Anna's hummingbird	*Calypte anna*		X	X		
Killdeer	*Charadrius vociferus*				X	Flock flew over
California gull	*Larus californicus*	BCC, TWL	X	X	X	Flew over
Double-crested cormorant	*Nannopterum auritum*	TWL	X			Flock flew by just off site
Great egret	*Ardea alba*				X	Flew over
Turkey vulture	*Cathartes aura*	BOP			X	Circled over
Northern harrier	*Circus cyaneus*	BCC, SSC3, BOP		X		Flew low over site
Red-tailed hawk	*Buteo jamaicensis*	BOP	X	X	X	Perched and flew over
American kestrel	*Falco sparverius*	BOP	X		X	Perched and flew over
Peregrine falcon	*Falco peregrinus*	BOP	X			Flew over
Cassin's kingbird	*Tyrannus vociferans*				X	Just off site
Kingbird sp.	*Tyrannus sp.*		X			Flew over
Black phoebe	*Sayornis nigricans*				X	Foraged on site
Say's phoebe	*Sayornis saya*				X	Foraged on site
Common raven	*Corvus corax*		X	X	X	Many
California horned lark	*Eremophila alpestris actia*	TWL		X		Flock foraged on site
Swallow sp.	*Hirundinidae*				X	Flock just off site
Bushtit	*Psaltriparus minimus*				X	Just off site
Northern mockingbird	*Mimus polyglottos*				X	Just off site
European starling	*Sturnus vulgaris*	Non-native	X	X	X	
House sparrow	*Passer domesticus*	Non-native		X		Just off site
American pipit	*Anthus rubescens*			X	X	Flock foraged
House finch	*Haemorphous mexicanus*		X	X	X	Many, foraged
Lesser goldfinch	*Spinus psaltria*		X	X	X	

Lark sparrow	*Chondestes grammacus*				X	Just off site
White-crowned sparrow	*Zonotrichia leucophrys*				X	
Savannah sparrow	*Passerculus sandwichensis*		X	X	X	Many, foraged
Western meadowlark	*Sturnella neglecta*			X	X	Flock foraged
Red-winged blackbird	*Agelaius phoeniceus*				X	Flew over
Yellow-rumped warbler	*Setophaga coronata*		X	X	X	
Raccoon	*Procyon lotor*			X		Tracks on site
Botta's pocket gopher	*Thomomys bottae*				X	Burrows on site

[1] Listed as FT or FE = federal threatened or endangered, CT or CE = California threatened or endangered, CFP = California Fully Protected (CFG Code 3511), SSC = California Species of Special Concern, BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern, TWL = Taxa to Watch List (Shuford and Gardali 2008), and BOP = Birds of Prey (California Fish and Game Code 3503.5).

Photos 2, 3, 4, and 5. *Red-tailed hawk (top left), American kestrel (top right), turkey vulture (bottom left), and California gull (bottom right) flying over the project site, 5 March 2024. Photos by Noriko Smallwood.*

Photo 6. *A flock of western meadowlarks on the project site, 5 March 2024. Photo by Noriko Smallwood.*

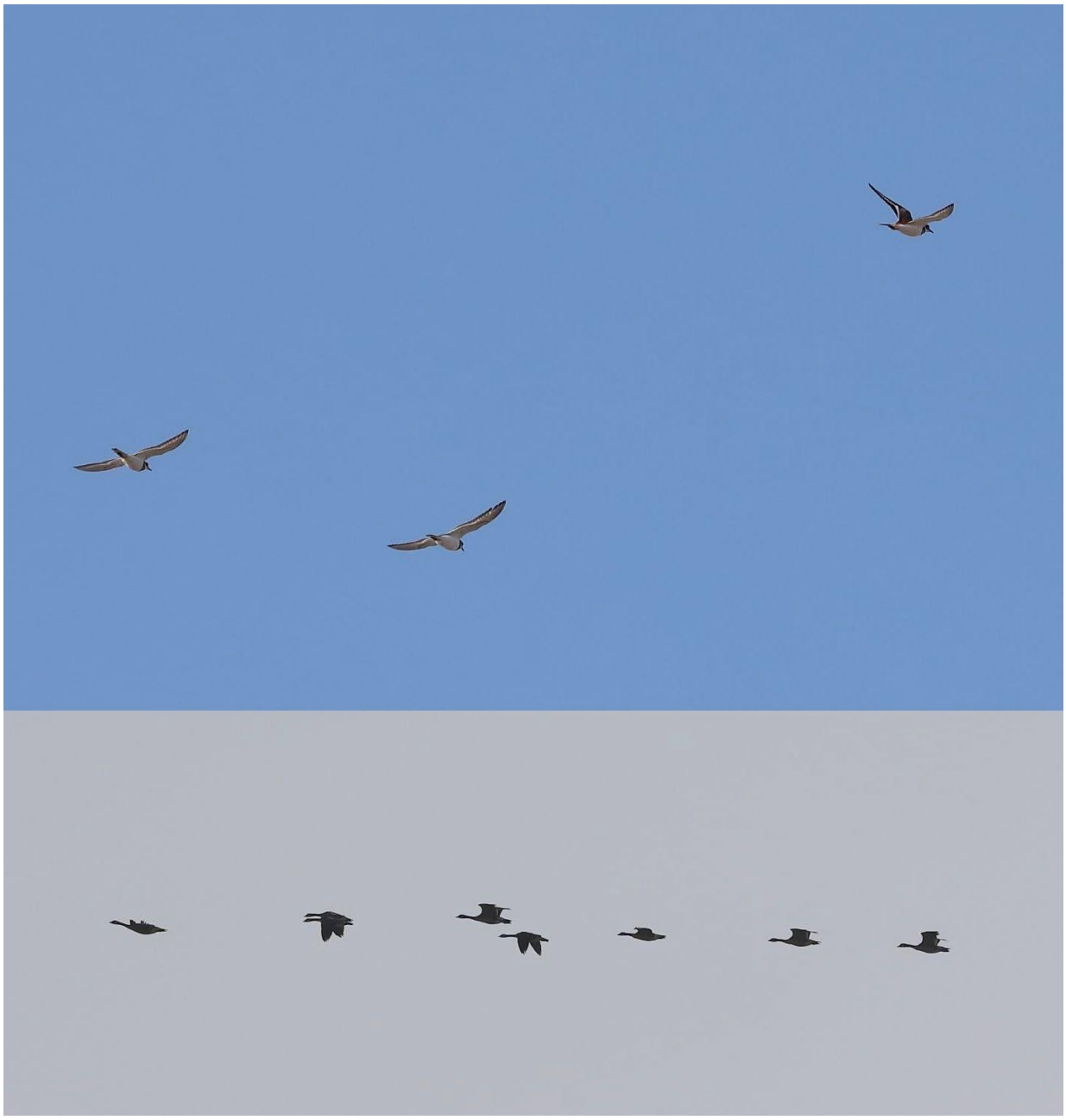
Photos 7 and 8. *Common raven with nest material (left), and red-winged blackbird (right) flying over the project site, 5 March 2024. Photo by Noriko Smallwood.*

Photos 9 and 10. *Say's phoebe foraging (left), and savannah sparrows (right) on the project site, 5 March 2024. Photos by Noriko Smallwood.*

Photos 11 and 12. *Cassin's kingbird (left), and mourning dove (right) nearby the project site, 5 March 2024. Photos by Noriko Smallwood.*

Photos 13 and 14. *European starling (left), and yellow-rumped warbler (right) on the project site, 5 March 2024. Photos by Noriko Smallwood.*

Photos 15 and 16. *American pipit (left), and great egret (right) on the project site, 5 March 2024. Photos by Noriko Smallwood.*



Photos 17 and 18. *Killdeer (top) flying over the project site, and Canada goose (bottom) flying nearby the project site, 5 March 2024. Photos by Noriko Smallwood.*

Photo 19. *House finch nearby the project site, 5 March 2024. Photo by Noriko Smallwood.*

Photos 20 and 21. *Black phoebe on the project site (left) and lark sparrow (right) nearby the project site, 5 March 2024. Photos by Noriko Smallwood.*

Photo 22. *Harvester ants on the project site, 5 March 2024. Photo by Noriko Smallwood.*

Photo 23. *Peregrine falcon flying over the project site, 21 November 2021. Photo by Noriko Smallwood.*

Photo 24. *Double-crested cormorants flying nearby the project site, 21 November 2021. Photo by Noriko Smallwood.*

I fit a nonlinear regression model to Noriko's cumulative number of vertebrate species detected with time into her 5 March 2024 survey to predict the number of species that she would have detected with a longer survey or perhaps with additional biologists available to assist her. The model is a logistic growth model which reaches an asymptote that corresponds with the maximum number of vertebrate wildlife species that could have been detected during the survey. In this case, the model predicts 29 species of vertebrate wildlife were available to be detected on the morning of March 5th, which left one species undetected during her survey (Figure 1). Unfortunately, I do not know the identity of the undetected species, but the pattern in her data indicates relatively high use of the project site compared to 53 surveys at other sites she and I have completed in the region. Compared to models fit to data I collected from 53 other site in the region between 2019 and 2023, the data from the project site mostly exceeded the upper bound of the 95% confidence interval of the rate of accumulated species detections with time into the survey (Figure 1). Importantly, however, the species Noriko did and did not detect on 5 March 2024 composed only a fraction of the species that would occur at the project site over the period of a year or longer. This is because many species are seasonal in their occurrence. That this is true is evident in the cumulative 37 species Noriko detected in three surveys during only two seasons of the year (Table 1).

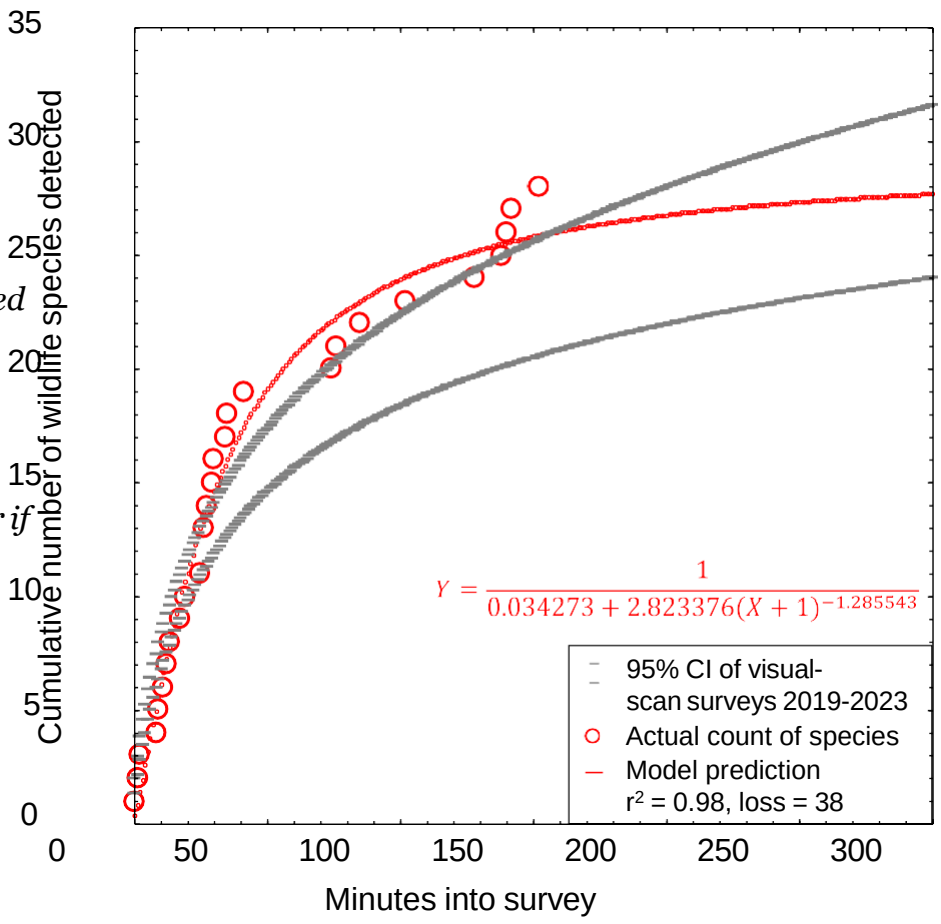
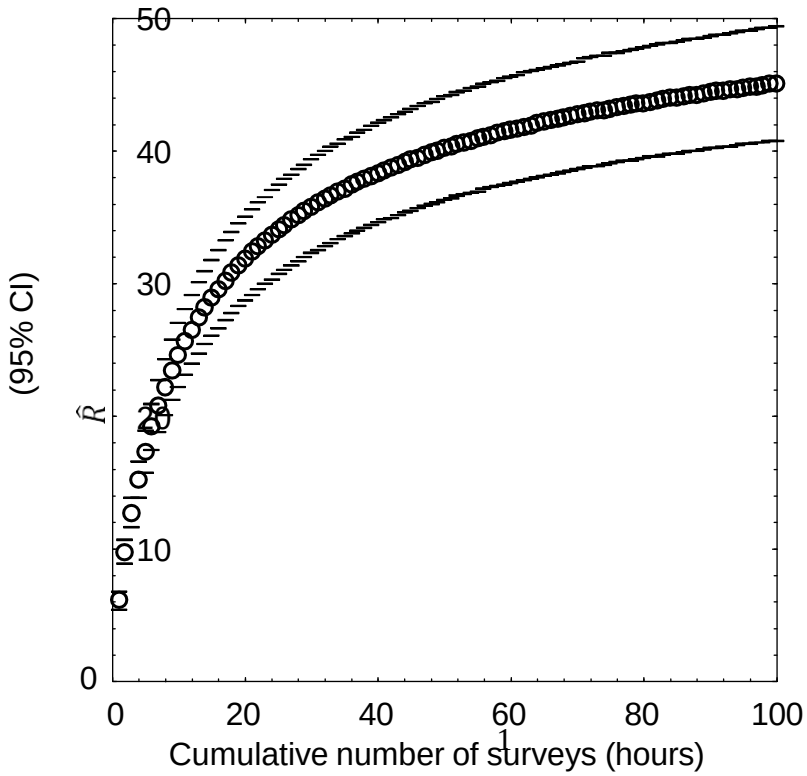


Figure 1. *Actual and predicted relationships between the number of vertebrate wildlife species detected and the elapsed survey time based on Noriko's visual-scan survey on 5 March 2024. Note that the relationship would differ if the survey was based on another method or during another season.*

At least a year's worth of surveys would be needed to more accurately report the number of vertebrate species that occur at the project site, but I only have Noriko's one survey. However, by use of an analytical bridge, a modeling effort applied to a large, robust data set from a research site can predict the number of vertebrate wildlife species that likely make use of the site over the longer term. As part of my research, I completed a much larger survey effort across 167 km² of annual grasslands of the Altamont Pass Wind Resource Area, where from 2015 through 2019 I performed 721 1-hour visual-scan surveys, or 721 hours of surveys, at 46 stations. I used binoculars and otherwise the methods were the same as the methods I and other consulting biologists use for surveys at proposed project sites. At each of the 46 survey stations, I tallied new species detected with each sequential survey at that station, and then related the cumulative species detected to the hours (number of surveys, as each survey lasted 1 hour) used to accumulate my counts of species detected. I used combined quadratic and simplex methods of estimation in Statistica to estimate least-squares, best-fit nonlinear models of the number of cumulative species detected regressed on hours of survey (number of surveys) at the station: $\hat{R} = \frac{1}{1/aa+bb\times(HHHHHHHHHH)^{cc}}$, where $\hat{R}$ represented cumulative species richness detected. The coefficients of determination, r^2, of the models ranged 0.88 to 1.00, with a mean of 0.97 (95% CI: 0.96, 0.98); or in other words, the models were excellent fits to the data.

I projected the predictions of each model to thousands of hours to find predicted asymptotes of wildlife species richness. The mean model-predicted asymptote of species richness was 57 after 11,857 hours of visual-scan surveys among the 46 stations of my research site. I also averaged model predictions of species richness at each incremental increase of number of surveys, i.e., number of hours (Figure 2). On average I would have detected 12 species over my first 2.8 hours of surveys at my research site in the Altamont Pass (2.8 hours to match the 2.8 hours Noriko surveyed at the project site), which composed 21% of the predicted total number of species I would detect with a much larger survey effort at the research site. Given the example illustrated in Figure 2, the 28 species Noriko detected after her 2.8 hours of survey at the project site likely represented 21% of the species to be detected after many more visual-scan surveys over another year or longer. With many more repeat surveys through the year, Noriko would likely detect $^{28}/_{0.21} = 133$ species of vertebrate wildlife at the site. Assuming Noriko's ratio of special-status to non-special-status species was to hold through the detections of all 133 predicted species, then continued surveys would eventually detect 19 special- status species of vertebrate wildlife.

Figure 2. *Mean (95% CI) predicted wildlife species richness, $\hat{R}$, as a nonlinear function of hour-long survey increments across 46 visual-scan survey stations across the Altamont Pass Wind Resource Area, Alameda and Contra Costa Counties, 2015–2019. Note that the location of the study is largely irrelevant to the utility of the graph to the interpretation of survey outcomes at the project site. It is the pattern in the data that is relevant, because the pattern is typical of the pattern seen elsewhere.*



Because my prediction of 133 species of vertebrate wildlife, including 19 special-status species of vertebrate wildlife, is derived from daytime visual-scan surveys, and would detect few nocturnal mammals such as bats, the true number of species composing the wildlife community of the site must be larger. Noriko's reconnaissance survey should serve only as a starting point toward characterization of the site's wildlife community, but it certainly cannot alone inform of the inventory of species that use the site. More surveys are needed than her three surveys to inventory use of the project site by wildlife.

Nevertheless, the large number of species I predict at the project site is indicative of a relatively species-rich wildlife community that warrants a serious survey effort.

EXISTING ENVIRNMENTAL SETTING

The first step in analysis of potential project impacts to biological resources is to accurately characterize the existing environmental setting, including the biological species that use the site, their relative abundances, how they use the site, key ecological relationships, and known and ongoing threats to those species with special status. A reasonably accurate characterization of the environmental setting can provide the basis for determining whether the site holds habitat value to wildlife, as well as a baseline against which to analyze potential project impacts. For these reasons, characterization of the environmental setting, including the project site's regional setting, is one of CEQA's essential analytical steps. Methods to achieve this first step typically include (1) surveys of the site for biological resources, and (2) reviews of literature, databases and local experts for documented occurrences of special-status species. In the case of the proposed project, these needed steps have been inadequate.

Environmental Setting informed by Field Surveys

To CEQA's primary objective to disclose potential environmental impacts of a proposed project, the analysis should be informed of which biological species are known to occur at the proposed project site, which special-status species are likely to occur, as well as the limitations of the survey effort directed to the site. Analysts need this information to characterize the environmental setting as a basis for opining on, or predicting, potential project impacts to biological resources.

MIG (2024) performed a reconnaissance survey of the project site on 11 April 2023 to "assess the existing conditions of the Project Area, including recording observed plant and wildlife species, characterizing, and delineating the vegetation communities and associated wildlife habitats, and evaluating the potential for these habitats to support special-status species and sensitive communities," and to inspect the site "to determine if any wetlands and "other waters" or streambeds potentially subject to jurisdiction by the USACE, RWQCB, or CDFW were present." The same two biologists also performed burrowing owl surveys on 11 April 2023. These surveys reportedly consisted of a habitat assessment survey followed by a focused burrowing owl survey. If the reconnaissance survey doubled as the burrowing owl surveys, then the number of survey objectives numbered seven. Performing a survey with five to seven objectives must have been a challenge. Any given survey for biological resources should be in pursuit of no more than two objectives. By definition, a focused burring owl survey should have been focused on burrowing owls, and not also on surveys for plants and other wildlife.

Whether the reconnaissance survey doubled as a burrowing owl survey is unclear. No start time is reported for the reconnaissance survey. The burrowing owl surveys began at 08:30 and lasted for 90 minutes. Otherwise, no details are provided of the reconnaissance surveys and how it was conducted. It is therefore difficult to assess

survey outcomes relative to survey effort and methods. The reporting of the surveys is grossly incomplete.

One of MIG's objectives is habitat assessment for burrowing owls as part of the Step 1 burrowing owl survey protocol, and for other wildlife as part of the reconnaissance survey. The most effective methodology for habitat assessment is a survey of sufficient effort to determine whether each potentially occurring species truly occurs at the project site. The presence of a species confirms the existence of habitat of the species. This most effective methodology, if implemented, would simultaneously achieve the first two of the reported survey objectives. The weakness of this approach is that undetected species might truly occur on the site, either because the survey failed to detect the species that was truly present or the habitat was unoccupied at the time of the survey. Each detection of a species provides certainty of the presence of the species' habitat whereas lack of detection provides uncertainty unless a compelling argument can be made for true absence. Given this uncertainty associated with all of the species that were not detected by MIG's reconnaissance survey, MIG's survey was unsuitable for determining the absence of any wildlife species.

Even more flawed than the survey methodology is the omission of a list of species that MIG (2024) detected during its reconnaissance survey. MIG (2024) cites Appendix D for the list of species of plants and wildlife detected, but Appendix A is blank. This omission is inconsistent with the disclosure of technical information needed to achieve one of CEQA's primary objectives, which is that the environmental review should be informative of the current environmental setting and potential project impacts.

According to MIG (2024:13), "Based on results of the … survey conducted on April 11, 2023, none of the 48 plant species are expected to occur within the Project Area, primarily due to the level of discing evident within the Project Area." However, it is evident that MIG (2024) failed to achieve the minimum standards of CDFW (2018) for conducting a reconnaissance survey for plants.

Environmental Setting informed by Desktop Review

The purpose of literature and database review and of consulting with local experts is to inform the field survey, and to augment interpretation of its outcome. Analysts need this information to identify which species are known to have occurred at or near the project site, and to identify which other special-status species could conceivably occur at the site due to geographic range overlap and migration flight paths.

MIG's (2024) analysis is immediately misleading regarding the potetnial[1] value of the project site to wildlife. According to MIG (2024:12), "The Project Area consists entirely of a vacant lot." The project area is not a vacant lot; it is an annual grassland that has been diminished by disking to suppress biota. However, plants and wildlife have continued to use the project site despite the disking, as should have been known to the City after I commented (letter of 9 December 2021) on the previously proposed Operon HKI Warehouse project (City of Perris 2021). At that time, Noriko Smallwood documented use of the site by 15 species of vertebrate wildlife, five of which were

special-status species. After two more surveys, Noriko has documented use of the site by 37 species of vertebrate wildlife, including eight with special status. The project site provides habitat to at least 37 species of vertebrate wildlife, and is predicted to support at least 133 species of vertebrate wildlife, including at least 19 special-status species (see comments above). Few special-status species are known for living on "vacant lots."

The misleading analysis continues with MIG's report that the entire area including the project site has been disturbed historically for agriculture. However, MIG (2024) provides no evidence in support of its insinuation that agricultural disturbances of the past would have prevented use of the site by special-status plants and wildlife. In fact, the evidence Noriko collected at the site is that many species of wildlife, including special-status species, use the project site as habitat despite past and more recent disturbances.

According to MIG (2024), the initial pool of 58 special-status species considered for inclusion in its analysis of occurrence potential was drawn from queries of California Natural Diversity Data Base (CNDDB) occurrence records on the local 7.5-minute Quadrangle and the eight surrounding Quads. This screening step, however, is flawed. CNDDB is not designed to support absence determinations or to screen out species from characterization of a site's wildlife community. As noted by CNDDB, "*The CNDDB is a positive sighting database. It does not predict where something may be found. We map occurrences only where we have documentation that the species was found at the site. There are many areas of the state where no surveys have been conducted and therefore there is nothing on the map. That does not mean that there are no special status species present*." MIG (2024) and the IS/MND misuse CNDDB.

CNDDB relies entirely on volunteer reporting from biologists who were allowed access to whatever properties they report from. Many properties have never been surveyed by biologists. Many properties have been surveyed, but the survey outcomes never reported to CNDDB. Many properties have been surveyed multiple times, but not all survey outcomes reported to CNDDB. Furthermore, CNDDB is interested only in the findings of special-status species, which means that species more recently assigned special status will have been reported many fewer times to CNDDB than were species assigned special status since the inception of CNDDB. The lack of many CNDDB records for species recently assigned special status had nothing to do with whether the species' geographic ranges overlapped the project site, but rather more to do with the brief time for records to have accumulated since the species were assigned special status. And because negative findings are not reported to CNDDB, CNDDB cannot provide the basis for estimating occurrence likelihoods, either. The IS/MND's analysis of special-status species occurrence likelihoods is fundamentally flawed.

Even more flawed is the omission of the list of special-status species that MIG (2024) included in its analysis of occurrence likelihoods. MIG (2024) cites Appendices A, B and C for the lists of special-status species of plants and wildlife considered, but the cited Appendices are blank. These omissions are inconsistent with the disclosure of technical information needed to achieve one of CEQA's primary objectives, which is that the environmental review should be informative of the current environmental setting and

potential project impacts. The omission is especially troublesome because MIG (2024) reports having determined that 56 of the 58 special-status species considered are not expected to occur due to the absence of essential habitat requirements. Without Appendices A, B and C, the reader of the IS/MND cannot assess the reasons for MIG's expectations, at least some of which do not comport with Noriko Smallwood's findings nor of my own analysis of occurrence likelihoods.

In my assessment based on database reviews and site visits, 127 special-status species of wildlife are known to occur near enough to the site to warrant analysis of occurrence potential (Table 2). Of these 127 species, 8 (6%) were recorded on or just off of the project site, and another 21 (16.5%) species have been documented within 1.5 miles of the site ('Very close'), another 49 (38.6%) within 1.5 and 4 miles ('Nearby'), and another 42 (33%) within 4 to 30 miles ('In region'). Over half (61%) of the species in Table 2 have been reportedly seen within 4 miles of the project site. The site therefore supports multiple special-status species of wildlife and carries the potential for supporting many more special-status species of wildlife based on proximity of recorded occurrences. The site is far richer in special-status species than is characterized in the IS/MND.

Considering the inaccuracies of the IS/MND's characterization of the existing environmental setting, a fair argument can be made for the need to prepare an EIR to appropriately characterize the existing environmental setting. The City needs to understand the habitat values on the project site as a baseline for analyzing potential project impacts to wildlife.

POTENTIAL BIOLOGICAL IMPACTS

An impacts analysis should consider whether and how a proposed project would affect members of a species, larger demographic units of the species, the whole of a species, and ecological communities. The accuracy of this analysis depends on an accurate characterization of the existing environmental setting. In the case of the proposed project, the existing environmental setting has not been accurately characterized, and several important types of potential project impacts have been inadequately analyzed. These types of impacts include habitat loss, interference with wildlife movement, and wildlife-automobile collision mortality.

HABITAT LOSS

Habitat loss results in a reduced productive capacity of affected wildlife species, but MIG (2024) and the IS/MND make no attempt to estimate this lost capacity for any of the wildlife species potentially affected. In the case of birds, two methods exist for estimating the loss of productive capacity that would be caused by the project. One method would involve surveys to count the number of bird nests and chicks produced. The alternative method would be to infer productive capacity from estimates of total nest density elsewhere.

Table 2. *Occurrence likelihoods of special-status bird species at or near the proposed project site, according to eBird/iNaturalist records (https://eBird.org, https://www.inaturalist.org) and on-site survey findings, where 'Very close' indicates within 1.5 miles of the site, "nearby" indicates within 1.5 and 4 miles, and "in region" indicates within 4 and 30 miles, and 'in range' means the species' geographic range overlaps the site. Entries in bold font identify species Noriko detected.*

Common name	***Species name***	**Status[1]**	**Occurrence potentials**	
			IS/MND	**Data bases, Site visits**
Monarch	*Danaus plexippus*	FC		Nearby
Crotch's bumble bee	*Bombus crotchii*	CCE		Nearby
Western spadefoot	*Spea hammondii*	SSC		Nearby
Western pond turtle	*Emys marmorata*	SSC		In region
Blainville's horned lizard	*Phrynosoma blainvillii*	SSC		Nearby
Orange-throated whiptail	*Aspidoscelis hyperythra*	WL		Nearby
Coastal whiptail	*Aspidoscelis tigris stejnegeri*	SSC		Nearby
San Diegan legless lizard	*Anniella stebbinsi*	SSC		Nearby
California glossy snake	*Arizona elegans occidentalis*	SSC		In region
Coast patch-nosed snake	*Salvadora hexalepis virgultea*	SSC		In region
Two-striped gartersnake	*Thamnophis hammondii*	SSC		In region
South coast gartersnake	*Thamnophis sirtalis pop. 1*	SSC		In range
Red-diamond rattlesnake	*Crotalus ruber*	SSC		Nearby
Fulvous whistling-duck	*Dendrocygna bicolor*	SSC1		In region
Brant	*Branta bernicla*	SSC2		Nearby
Cackling goose (Aleutian)	*Branta hutchinsii leucopareia*	WL		In region
Redhead	*Aythya americana*	SSC2		Very close
Western grebe	*Aechmophorus occidentalis*	BCC		Nearby
Clark's grebe	*Aechmophorus clarkii*	BCC		Nearby
Black swift	*Cypseloides niger*	SSC3, BCC		Nearby
Vaux's swift	*Chaetura vauxi*	SSC2, BCC		Nearby
Costa's hummingbird	*Calypte costae*	BCC		Very close
Rufous hummingbird	*Selasphorus rufus*	BCC		Nearby
Allen's hummingbird	*Selasphorus sasin*	BCC		Very close
American avocet[4]	*Recurvirostra americana*	BCC		Very close
Mountain plover	*Charadrius montanus*	SSC2, BCC		In region

Common name	*Species name*	Status[1]	Occurrence potentials	
			IS/MND	Data bases, Site visits
Snowy plover	*Charadrius nivosus*	BCC		Nearby
Western snowy plover	*Charadrius nivosus nivosus*	FT, SSC, BCC		In region
Whimbrel[2]	*Numenius phaeopus*	BCC		Nearby
Long-billed curlew	*Numenius americanus*	WL		Nearby
Marbled godwit	*Limosa fedoa*	BCC		Nearby
Red knot (Pacific)	*Calidris canutus*	BCC		Nearby
Short-billed dowitcher	*Limnodromus griseus*	BCC		In region
Willet	*Tringa semipalmata*	BCC		Very close
Laughing gull	*Leucophaeus atricilla*	WL		In region
Heermann's gull	*Larus heermanni*	BCC		Nearby
Western gull	*Larus occidentalis*	BCC		Nearby
California gull	*Larus californicus*	BCC, WL		**On site**
California least tern	*Sternula antillarum browni*	FE, CE, FP		In region
Gull-billed tern	*Gelochelidon nilotica*	BCC, SSC3		In region
Black tern	*Chlidonias niger*	SSC2, BCC		Nearby
Elegant tern	*Thalasseus elegans*	BCC, WL		In region
Black skimmer	*Rynchops niger*	BCC, SSC3		In region
Common loon	*Gavia immer*	SSC		Nearby
Double-crested cormorant	*Phalacrocorax auritus*	WL		**Just off site**
American white pelican	*Pelacanus erythrorhynchos*	SSC1, BCC		Nearby
California brown pelican	*Pelecanus occidentalis californicus*	FP		Nearby
Least bittern	*Ixobrychus exilis*	SSC2		In region
White-faced ibis	*Plegadis chihi*	WL		Nearby
Turkey vulture	*Cathartes aura*	BOP		**On site**
Osprey	*Pandion haliaetus*	WL, BOP		Very close
White-tailed kite	*Elanus luecurus*	CFP, BOP		Very close
Golden eagle	*Aquila chrysaetos*	BGEPA, CFP, BOP, WL		Nearby
Northern harrier	*Circus cyaneus*	BCC, SSC3, BOP		**On site**
Sharp-shinned hawk	*Accipiter striatus*	WL, BOP		Nearby

Common name	*Species name*	Status[1]	Occurrence potentials	
			IS/MND	Data bases, Site visits
Cooper's hawk	*Accipiter cooperii*	WL, BOP	Potential	Very close
Bald eagle	*Haliaeetus leucocephalus*	CE, BGEPA, BOP		Very close
Red-shouldered hawk	*Buteo lineatus*	BOP		Very close
Swainson's hawk	*Buteo swainsoni*	CT, BOP		Nearby
Red-tailed hawk	*Buteo jamaicensis*	BOP		**On site**
Ferruginous hawk	*Buteo regalis*	WL, BOP		Very close
Zone-tailed hawk	*Buteo albonotatus*	BOP		In region
Harris' hawk	*Parabuteo unicinctus*	WL, BOP		In region
Rough-legged hawk	*Buteo lagopus*	BOP		Nearby
Barn owl	*Tyto alba*	BOP		Very close
Western screech-owl	*Megascops kennicotti*	BOP		Nearby
Great horned owl	*Bubo virginianus*	BOP		Very close
Burrowing owl	*Athene cunicularia*	BCC, SSC2, BOP	Potential	Nearby
Long-eared owl	*Asio otus*	BCC, SSC3, BOP		In region
Short-eared owl	*Asia flammeus*	BCC, SSC3, BOP		Nearby
Lewis's woodpecker	*Melanerpes lewis*	BCC		In region
Nuttall's woodpecker	*Picoides nuttallii*	BCC		Very close
American kestrel	*Falco sparverius*	BOP		**On site**
Merlin	*Falco columbarius*	WL, BOP		Nearby
Peregrine falcon	*Falco peregrinus*	BOP		**On site**
Prairie falcon	*Falco mexicanus*	WL, BOP		Nearby
Olive-sided flycatcher	*Contopus cooperi*	BCC, SSC2		Nearby
Willow flycatcher	*Empidonax trailii*	CE		Nearby
Southwestern willow flycatcher	*Empidonax traillii extimus*	FE, CE		In region
Vermilion flycatcher	*Pyrocephalus rubinus*	SSC2		Very close
Least Bell's vireo	*Vireo bellii pusillus*	FE, CE		Nearby
Loggerhead shrike	*Lanius ludovicianus*	SSC2		Very close
Oak titmouse	*Baeolophus inornatus*	BCC		Nearby
California horned lark	*Eremophila alpestris actia*	WL		**On site**

Common name	*Species name*	Status[1]	Occurrence potentials	
			IS/MND	Data bases, Site visits
Bank swallow	*Riparia riparia*	CT		Nearby
Purple martin	*Progne subis*	SSC2		Nearby
Wrentit	*Chamaea fasciata*	BCC		Nearby
California gnatcatcher	*Polioptila c. californica*	FT, SSC2		Very close
California thrasher	*Toxostoma redivivum*	BCC		Nearby
Cassin's finch	*Haemorhous cassinii*	BCC		In region
Lawrence's goldfinch	*Spinus lawrencei*	BCC		Very close
Grasshopper sparrow	*Ammodramus savannarum*	SSC2	Not expected	In region
Black-chinned sparrow	*Spizella atrogularis*	BCC		Nearby
Gray-headed junco	*Junco hyemalis caniceps*	WL		Nearby
Bell's sparrow	*Amphispiza b. belli*	WL		Very close
Oregon vesper sparrow	*Pooecetes gramineus affinis*	SSC2, BCC		In range
Southern California rufous-crowned sparrow	*Aimophila ruficeps canescens*	WL		Nearby
Yellow-breasted chat	*Icteria virens*	SSC3		In region
Yellow-headed blackbird	*Xanthocephalus xanthocephalus*	SSC3		Nearby
Bullock's oriole	*Icterus bullockii*	BCC		Very close
Tricolored blackbird	*Agelaius tricolor*	CT, BCC, SSC1		Nearby
Lucy's warbler	*Leiothlypis luciae*	SSC3, BCC		In region
Virginia's warbler	*Leiothlypis virginiae*	WL, BCC		In region
Yellow warbler	*Setophaga petechia*	SSC2		Very close
Summer tanager	*Piranga rubra*	SSC1		Nearby
Pallid bat	*Antrozous pallidus*	SSC, WBWG:H		In region
Townsend's big-eared bat	*Corynorhinus townsendii*	SSC, WBWG:H		In region
Silver-haired bat	*Lasionycteris noctivagans*	WBWG:M		In range
Spotted bat	*Euderma maculatum*	SSC, WBWG:H		In range
Hoary bat	*Lasiurus cinereus*	WBWG:M		In region
Western yellow bat	*Lasiurus xanthinus*	SSC, WBWG:H		In range
Western small-footed myotis	*Myotis cililabrum*	WBWG:M		In range

Common name	*Species name*	Status[1]	Occurrence potentials	
			IS/MND	Data bases, Site visits
Miller's myotis	*Myotis evotis*	WBWG:M		In range
Little brown myotis	*Myotis lucifugus*	WBWG:M		In range
Fringed myotis	*Myotis thysanodes*	WBWG:H		In region
Long-legged myotis	*Myotis volans*	WBWG:H		In region
Yuma myotis	*Myotis yumanensis*	WBWG:LM		In region
Western mastiff bat	*Eumops perotis*	SSC, WBWG:H		In range
Pocketed free-tailed bat	*Nyctinomops femorosaccus*	SSC, WBWG:M		In range
San Diego black-tailed jackrabbit	*Lepus californicus bennettii*	SSC		In region
Northwestern San Diego pocket mouse	*Chaetodipus fallax fallax*	SSC		In region
San Bernardino kangaroo rat	*Dipodomys merriami parvus*	FE, CCE, SSC		In region
Stephens' kangaroo rat	*Dipodomys stephensi*	FE, CT		In region
Los Angeles pocket mouse	*Perognathus longimembris brevinasus*	SSC		In region
San Diego desert woodrat	*Neotoma lepida intermedia*	SSC		In region
Southern grasshopper mouse	*Onychomys torridus ramona*	SSC		In range
American badger	*Taxidea taxus*	SSC		In region

[1] Listed as FT or FE = federal threatened or endangered, FC = federal candidate for listing, BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern, CT or CE = California threatened or endangered, CCT or CCE = Candidate California threatened or endangered, CFP = California Fully Protected (California Fish and Game Code 3511), SSC = California Species of Special Concern (not threatened with extinction, but rare, very restricted in range, declining throughout range, peripheral portion of species' range, associated with habitat that is declining in extent), SSC1, SSC2 and SSC3 = California Bird Species of Special Concern priorities 1, 2 and 3, respectively (Shuford and Gardali 2008), WL = Taxa to Watch List (Shuford and Gardali 2008), and BOP = Birds of Prey (CFG Code 3503.5), and WBWG = Western Bat Working Group with priority rankings, of low (L), moderate (M), and high (H).

[2] Uncertain if BCC based on 2021 Bird of Conservation Concern list.

Because the project is located within an area that has undergone severe habitat fragmentation, the habitat that remains in fragmented patches probably no longer supports its original productive capacity of wildlife (Smallwood 2015). However, several studies have estimated total avian nest density at locations that had likewise been highly fragmented. Two study sites in grassland/wetland/woodland complexes within agricultural matrices had total bird nesting densities of 32.8 and 35.8 nests per acre (Young 1948, Yahner 1982) for an average 34.3 nests per acre. To acquire a total nest density closer to conditions in California, I surveyed a 12.74-acre site in Rancho Cordova 30 times from March through the first half of August. The Rancho Cordova site was surrounded on three sides by residential developments, so was also a habitat fragment. Total nest density of birds on this site was 2.12 nests per acre on the portion of the study area that was composed of annual grassland with a scattering of trees and after omitting all the nests that were in trees (leaving only ground nests). On 4.29 acres of grassland in the San Jacinto Wildlife Area, Noriko tabulated 3.72 bird nests/acre last spring. Applying the mean total nest density between our two survey efforts to the 4.01 acres of the project site, I predict the project site supports 11.7 bird nests/year.

The loss of 11.7 nest sites of birds would qualify as a significant project impact that has not been quantitatively addressed in the IS/MND. But the impact would not end with the immediate loss of nest sites as nest substrate is removed and foraging grounds graded in preparation for impervious surfaces. The reproductive capacity of the site would be lost. The average number of fledglings per nest in Young's (1948) study was 2.9. Assuming Young's (1948) study site typifies bird productivity, the project would prevent the production of 34 fledglings per year. Assuming an average bird generation time of 5 years, the lost capacity of both breeders and annual fledgling production can be estimated from an equation in Smallwood (2022): {(nests/year × chicks/nest × number of years) + (2 adults/nest × nests/year) × (number of years ÷ years/generation)} ÷ (number of years) = 39 birds per year denied to California. At least a fair argument can be made for the need to prepare an EIR to appropriately analyze the project's impacts to wildlife caused by habitat loss and habitat fragmentation.

INTERFERENCE WITH WILDLIFE MOVEMENT

One of CEQA's principal concerns regarding potential project impacts is whether a proposed project would interfere with wildlife movement in the region. Unfortunately, the IS/MND's analysis of whether the project would interfere with wildlife movement in the region is flawed and misleading. After providing a reasonably accurate summary of the need for maintaining habitat connectivity to conserve wildlife, MIG (2024:14) concludes, "The Project Area does not act as a wildlife movement corridor due to the current built environment as well as the presence of urban/suburban development surrounding the site. … the Project Area is situated in an urbanized area and does not represent a wildlife movement corridor as it (along with other small neighboring vacant lots) is largely bound on all sides by developments, possesses vegetation that is largely non-native that would support high levels of species diversity, and it is too small of an area to support significant wildlife movement." This conclusion is reached immediately after explaining that "Wildlife corridors can consist of a sequence of stepping-stones across the landscape (i.e., discontinuous areas of habitat such as isolated wetlands), …"

which essentially describes the project site and its setting and is consistent with the best definition of wildlife movement corridor as a human construct (Smallwood 2015). MIG's conclusion is inconsistent with its description of how a wildlife corridor can be constructed.

MIG's (2024) conclusion lacks supporting evidence. MIG (2024) reports no survey methodology designed to determine whether wildlife rely on the site for movement in the region. MIG (2024) implemented no sampling regime, nor any program of observation to record wildlife movement patterns, to quantify movement or to qualitatively assess movement for evidence of the project's contribution to movement in the region. Based on what is reported, MIG (2024) did not record or measure wildlife movement in any way. The conclusions of MIG (2024) and the IS/MND regarding wildlife movement on the project site are speculative and conclusory. Not only is their claim lacking support, but Noriko found that the site was heavily used by wildlife, especially special-status species and birds utilizing the linear features of the site as a fly-through area. Because much of the surrounding area is developed, the site is one of the only remaining east-west plots of undeveloped land. Thus, there is evidence in support of the conclusion that the site important to wildlife movement in the region.

Furthermore, whether the site includes or is within a wildlife movement corridor is not the only consideration when it comes to the standard CEQA Checklist question of whether the project would interfere with wildlife movement in the region. The primary phrase of the CEQA standard goes to wildlife movement regardless of whether the movement is channeled by a corridor. In fact, a site such as the project site is critically important for wildlife movement because it composes an increasingly diminishing area of open space within a growing expanse of anthropogenic uses, forcing more species of volant wildlife to use the site for stopover and staging during migration, dispersal, and home range patrol (Warnock 2010, Taylor et al. 2011, Runge et al. 2014). The project, due to its elimination of at least 4.01 acres of vegetation cover and due to its insertion of a large warehouse into the aerospace used by birds, bats and butterflies. would cut wildlife off from one of the last remaining stopover and staging opportunities in the project area, forcing volant wildlife to travel even farther between remaining stopover sites. This impact would be significant, and as the project is currently proposed, it would be unmitigated.

TRAFFIC IMPACTS TO WILDLIFE

Project-generated traffic would endanger wildlife that must, for various reasons, cross roads used by the project's traffic to get to and from the project site (Photos 25—27), including along roads far from the project footprint. Vehicle collisions have accounted for the deaths of many thousands of amphibian, reptile, mammal, bird, and arthropod fauna, and the impacts have often been found to be significant at the population level (Forman et al. 2003). Across North America traffic impacts have taken devastating tolls on wildlife (Forman et al. 2003). In Canada, 3,562 birds were estimated killed per 100 km of road per year (Bishop and Brogan 2013), and the US estimate of avian mortality on roads is 2,200 to 8,405 deaths per 100 km per year, or 89 million to 340 million total per year (Loss et al. 2014). Local impacts can be more intense than nationally.

Photo 25. *A Gambel's quail dashes across a road* on *3 April 2021. Such road crossings are usually successful, but too often prove fatal to the animal. Photo by Noriko Smallwood.*

Photo 26. *Mourning dove killed by vehicle on a California road. Photo by Noriko Smallwood, 21 June 2020.*

Photo 27 *Raccoon killed on Road 31 just east of Highway 505 in Solano County. Photo taken on 10 November 2018.*

The nearest study of traffic-caused wildlife mortality was performed along a 2.5-mile stretch of Vasco Road in Contra Costa County, California. Fatality searches in this study found 1,275 carcasses of 49 species of mammals, birds, amphibians and reptiles over 15 months of searches (Mendelsohn et al. 2009). This fatality number needs to be adjusted for the proportion of fatalities that were not found due to scavenger removal and searcher error. This adjustment is typically made by placing carcasses for searchers to find (or not find) during their routine periodic fatality searches. This step was not taken at Vasco Road (Mendelsohn et al. 2009), but it was taken as part of another study next to Vasco Road (Brown et al. 2016). Brown et al.'s (2016) adjustment factors for carcass persistence resembled those of Santos et al. (2011). Also applying searcher detection rates from Brown et al. (2016), the adjusted total number of fatalities was estimated at 12,187 animals killed by traffic on the road. This fatality number over 1.25 years and 2.5 miles of road translates to 3,900 wild animals per mile per year. In terms comparable to the national estimates, the estimates from the Mendelsohn et al. (2009) study would translate to 243,740 animals killed per 100 km of road per year, or 29 times that of Loss et al.'s (2014) upper bound estimate and 68 times the Canadian estimate. An analysis is needed of whether increased

traffic generated by the project site would similarly result in local impacts on wildlife.

For wildlife vulnerable to front-end collisions and crushing under tires, road mortality can be predicted from the study of Mendelsohn et al. (2009) as a basis. My analysis of the Mendelsohn et al. (2009) data resulted in an estimated 3,900 animals killed per mile along a county road in Contra Costa County. Two percent of the estimated number of fatalities were birds, and the balance was composed of 34% mammals (many mice and pocket mice, but also ground squirrels, desert cottontails, striped skunks, American badgers, raccoons, and others), 52.3% amphibians (large numbers of California tiger salamanders and California red-legged frogs, but also Sierran treefrogs, western toads, arboreal salamanders, slender salamanders and others), and 11.7% reptiles (many western fence lizards, but also skinks, alligator lizards, and snakes of various species). VMT is useful for predicting wildlife mortality because I was able to quantify miles traveled along the studied reach of Vasco Road during the time period of the Mendelsohn et al. (2009), hence enabling a rate of fatalities per VMT that can be projected to other sites, assuming similar collision fatality rates.

Predicting project-generated traffic impacts to wildlife

The IS/MND predicts 103 daily trips and 16.9 daily VMT per employee. These predictions would lead to a prediction of 317,678 annual VMT. During the Mendelsohn et al. (2009) study, 19,500 cars traveled Vasco Road daily, so the vehicle miles that contributed to my estimate of non-volant fatalities was 19,500 cars and trucks × 2.5 miles × 365 days/year × 1.25 years = 22,242,187.5 vehicle miles per 12,187 wildlife fatalities, or 1,825 vehicle miles per fatality. This rate divided into the predicted annual VMT, above, would predict 174 vertebrate wildlife fatalities per year.

Based on my analysis, the project-generated traffic would cause significant impacts to wildlife. The IS/MND does not address this potential impact, let alone propose to mitigate it. Mitigation measures to improve wildlife safety along roads are available and are feasible, and they need exploration for their suitability with the proposed project.
Given the predicted level of project-generated, traffic-caused mortality, and the lack of any proposed mitigation, it is my opinion that the proposed project would result in potentially significant adverse biological impacts. A fair argument can be made for the need to prepare an EIR to appropriately analyze the potential impacts of project- generated automobile traffic on wildlife.

CUMULATIVE IMPACTS

The IS/MND presents a flawed analysis of cumulative impacts, including to biological resources. The IS/MND asserts that "… no individual impacts to sensitive species or migratory birds would occur; therefore, the project could not contribute considerably to regional impacts on such species." And, "… potential impacts to burrowing owls and nesting birds would be less than significant with implementation of the project-specific mitigation shown below and adherence to existing regulations." The IS/MND contrives the false standard that a given impact is cumulatively considerable only when it is a significant project-level direct impact that has not been fully mitigated, hence leaving no residual

impact. The IS/MND implies that cumulative impacts are really residual impacts left over by inadequate mitigation of project impacts. This notion of residual impacts being the source of cumulative impacts is inconsistent with CEQA's definition of cumulative effects. Individually mitigated projects do not negate the significance of cumulative impacts. If they did, then CEQA would not require a cumulative effects analysis. To summarize, the IS/MND presents no cumulative effects analysis as defined in two ways by CEQA.

Table 3 includes an example of how a cumulative analysis can begin. Table 3 includes acreages, predicted annual VMT and predicted wildlife mortality of recently proposed and recently constructed projects in and near the City of Perris. Considering only the projects in Table 3 and assuming traffic-caused mortality of wildlife would equal that of the Vasco Road study (see above), 31,214 annual wildlife fatalities are predictable based on the volumes of traffic that would be generated by these projects. This is an example of cumulative impacts to wildlife that has not been addressed in the IS/MND.

Another example of a cumulative impact can be predicted from Table 3, and that is of habitat loss. Based on the same assumptions I applied earlier, one can predict that the loss of 157 acres (Table 3) would deny California 458 nest sites and 1,511 birds per year.

Table 3. *Project attributes of some of the projects recently built or under consideration in or near the City of Perris, and which contribute to cumulative impacts to wildlife.*

Project	**Acres**	**Square feet**	**Annual VMT**	**Annual wildlife fatalities**
Brew Enterprises	4.01	58,974	317,678	174
DeDeaux	9.56	205830	563,794	309
Haun and Holland Mixed Use Center	37.06	304,300	28,099,134	15,397
Harvill Warehouse [a]	11.15	55,700	6,325,596	3,466
Rider Commerce Center [a]	9.58	203,445	2,144,886	1,175
Duke Patterson & Nance Warehouse	35.65	769,668	5,625,380	3,082
First Industrial [a]	9.7	220,756	2,350,892	1,288
Mapes & Trumble Industrial Facility Complex	19.16	396,000	5,888,800	3,227
Perris Circle Industrial Building 3 [b]	9.9	210,900	3,054,503	1,674
Ramona-Indian Warehouse Project	15	232,575	2,911,669	1,595
Total	157	2,599,174	56,964,654	31,214

[a] Assumed 16.6 miles/trip
[b] Assumed trip lengths of Mapes & Trumble Industrial Facility Complex

At least a fair argument can be made for the need to prepare a new EIR to appropriately analyze potential project contributions to cumulative impacts to wildlife in the City. To do this, ongoing development in the City needs to be examined for its contributions to habitat fragmentation and how this fragmentation is affecting wildlife movement in the region. It also needs to examine City-wide annual VMT and to what degree this VMT is contributing to wildlife-vehicle collision mortality.

MITIGATION

MM-BR-1: *Project construction shall be avoided, to the greatest extent possible, during the nesting season of potentially occurring native and migratory bird species. The nesting season in Riverside County generally extends from February 1 through September 1.*

This measure has already been ignored, in my assessment. The footprint of the project was already disked just prior to Noriko's survey of 5 March 2024. The evidence that the site most likely had been disked during the nesting season is (1) the above-ground portions of turned-over plants were still alive during Noriko's survey (Photo 1), and (2) the loosened soil had not coagulated following substantial rainfall (see Photos 9 and 28). According to UC Riverside Agriculture and Natural Resources (https://ceorange.ucanr.edu/about/weather/?weather=station&station=240), Perris received 1.73 inches of rain in January and 5.46 inches of rain in February of 2024, and 1.19 inches of February's rain fell on 20-21 February 2024. Based on my experience with disking of soils in agriculture and as a measure to conserve wildlife, this last substantial rainfall would have coagulated loosened soil, which means the disking would have been completed between 21 February and 5 March, which was during the nesting season.

MM-BR-1: Preconstruction Nesting Bird Survey. *If construction commences during the nesting season, then sometime prior to construction (the measure does not specify how long prior to construction), a qualified biologist shall conduct a preconstruction nesting bird survey. if active nests are located during the pre-activity field survey, then the biologist shall immediately establish a conservative avoidance buffer surrounding the nest based on their best professional judgement and experience. The biologist shall monitor the nest…*

Whereas I concur that preconstruction, take-avoidance surveys should be completed, in my experience, the majority of bird nests would not be found by biologists assigned to the survey. For instance, I surveyed for grassland nesters, including as part of an intensive survey effort that I performed from March through mid-August 2023 on a Northern California site. I surveyed the site 30 times. I found that the nests of grassland birds are the most difficult to locate. Cavity nesters can more effectively defend their nests against predators, whereas ground nesters are highly vulnerable to predation, and thus the most cryptic of nesters. Ground nesters, which include bird species that occur at the project site, are highly adept at concealing their nests both physically and behaviorally. Based on my experience, it is highly likely that the proposed preconstruction survey would fail to find any of the nests of ground-nesting birds that truly occur on the project site. The IS/MND's implication that a preconstruction survey

would reduce potential impacts to nesting birds to less-than-significant is unsubstantiated by evidence in the IS/MND. The IS/MND cites not a single example of success of this measure applied elsewhere.

Furthermore, the mitigation language allows a single individual to make a subjective decision, outside the public's view, to determine the buffer area for any given species of nesting birds. This measure lacks objective criteria, and is unenforceable.

Photo 28. Dust deposited by disking remains on grass stems around this Say's phoebe on the project site, 5 March 2024.

MM-BR-2: Preconstruction Burrowing Owl Survey.

As I commented above, an action that suppressed wildlife has already been implemented on the project site. Disking of only the project footprint is not typical of a fire prevention measure, and it was done during the nesting season. It is therefore difficult to take this entire measure seriously.

Furthermore, the proposed relocation of burrowing owls consistent with the Burrowing Owl Survey Instructions for the Western Riverside MSHCP would perpetuate a practice that has not proven effective. In fact, the Western Riverside County Regional Conservation Authority (2021) has acknowledged that the burrowing owl conservation plan is not working. Burrowing owls are rapidly declining in western Riverside County, which is one of the reasons that a petition to list the burrowing owl in California has been submitted to the California Fish and Game Commission (Miller 2024).

RECOMMENDED MEASURES

Road Mortality: Compensatory mitigation is needed for the increased wildlife mortality that would be caused by bird-window collisions and the project-generated road traffic in the region. I suggest that this mitigation can be directed toward funding research to identify fatality patterns and effective impact reduction measures such as reduced speed limits and wildlife under-crossings or overcrossings of particularly dangerous road segments. Compensatory mitigation can also be provided in the form of donations to wildlife rehabilitation facilities (see below).

Fund Wildlife Rehabilitation Facilities: Compensatory mitigation ought also to include funding contributions to wildlife rehabilitation facilities to cover the costs of injured animals that will be delivered to these facilities for care. Many animals would likely be injured by collisions with automobiles traveling to and from the project's buildings.

Landscaping: If the project goes forward, California native plant landscaping (i.e., chaparral, grassland, and locally appropriate scrub plants) should be considered to be used as opposed to landscaping with lawn and exotic shrubs. Native plants offer more structure, cover, food resources, and nesting substrate for wildlife than landscaping with lawn. Native plant landscaping has been shown to increase the abundance of arthropods which act as importance sources of food for wildlife and are crucial for pollination and plant reproduction (Narango et al. 2017, Adams et al. 2020, Smallwood and Wood 2022.). Further, many endangered and threated insects require native host plants for reproduction and migration, e.g., monarch butterfly. Around the world, landscaping with native plants over exotic plants increases the abundance and diversity of birds, and is particularly valuable to native birds (Lerman and Warren 2011, Burghardt et al. 2008, Berthon et al. 2021, Smallwood and Wood 2022). Landscaping with native plants is a way to maintain or to bring back some of the natural habitat and lessen the footprint of urbanization by acting as interconnected patches of habitat for wildlife (Goddard et al. 2009, Tallamy 2020). Lastly, not only does native plant landscaping benefit wildlife, it requires less water and maintenance than traditional landscaping with lawn and hedges.

Thank you for your consideration,

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Photo by Noriko Smallwood: Savannah sparrow on the project ste on 21 November 2021.