

Biological Resources Assessment  
For  
#PR24-11  
City of Hemet

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APN #'s: 443-181-034, -037 through -040, -042 through -047, & -051

Address: 630 W. Latham Avenue, Hemet, CA 92544

Total Area Surveyed: ~1.50 Acres

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## 1 INTRODUCTION

The purpose of this report is to report baseline conditions and assess the potential for special-status plant and wildlife species to occur within the project site that could pose a constraint to implementation of the proposed project. Special attention was given to the suitability of the on-site habitat to support burrowing owl (*Athene cunicularia*) and several other special-status species identified by the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB) and other electronic databases as potentially occurring on or within the general vicinity of the project site.

Additionally, the report also addresses resources protected under the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code (FGC), federal Clean Water Act (CWA) regulated by the United States Army Corps of Engineers (Corps) and Regional Water Quality Control Board (Regional Board) respectively, and Section 1602 of the FGC administered by CDFW.

In addition, the Western Riverside County Regional Conservation Authority (RCA) MSHCP Information Map was queried to determine if the MSHCP identifies any potential survey requirements for the project. The project site was reviewed against the MSHCP to determine if the site is located within any MSHCP areas including Criteria Cells (core habitat and wildlife movement corridors) or areas proposed for conservation.

Based on the RCA MSHCP Information Map query and review of the MSHCP (RCA 2025), it was determined that the project site is located within the San Jacinto Habitat Management Unit of the MSHCP. It is not within a cell group, a criteria cell or a survey area for any non-covered or inadequately covered species. Furthermore, it is not within a constrained linkage.

## 2 PROJECT LOCATION

The approximate 1.5-acre project is generally located east of Interstate 215, south of Highway 60 and Interstate 10, near the northwest corner of Highway 74 and Highway 79 in the City of Hemet (Figure 1). The project location can also be described as in Section 10 of Township 5 South, Range 1 West of the San Jacinto and Hemet, California U.S. Geological Survey (USGS) 7.5-minute topographic quadrangle (Figure 2). More specifically the parcels in question are located at the northwest corner of W. Latham Avenue and N. Gilbert Street, Hemet, California 92544 (Figure 3).

Ecologically the site is situated west of the San Jacinto Mountains and south of the San Timoteo Badlands. Notable conservation areas found nearby include the San Jacinto Wildlife Area (SJWA) located 11 miles northeast, Diamond Valley Lake located 3.5 miles to the southwest and the Potrero Creek Unit of the SJWA located 8 miles to the northeast.

## 2.1 Project Description

The applicant, Dosner Organic Farms, proposes to renovate an existing building on APN# 443-181-034 into an organic herb packing facility and merge six adjacent undeveloped parcels (APN #'s: 443-181-042 through -047, & portions of parcel -051) with the developed parcel (-034). The applicant also proposes to merge APN#'s -037 through -040 and a portion of -051 to create a single lot for future development. Therefore, at the request of the project proponent, we conducted a general biological assessment on all undeveloped parcels 443-181-037 through -040, -042 through -047, & -051. The eleven aforementioned, undeveloped parcels consist of approximately 1.5 acres (Figure 4).

Figure 1 General Vicinity Map (National Geographic Maps 2024)

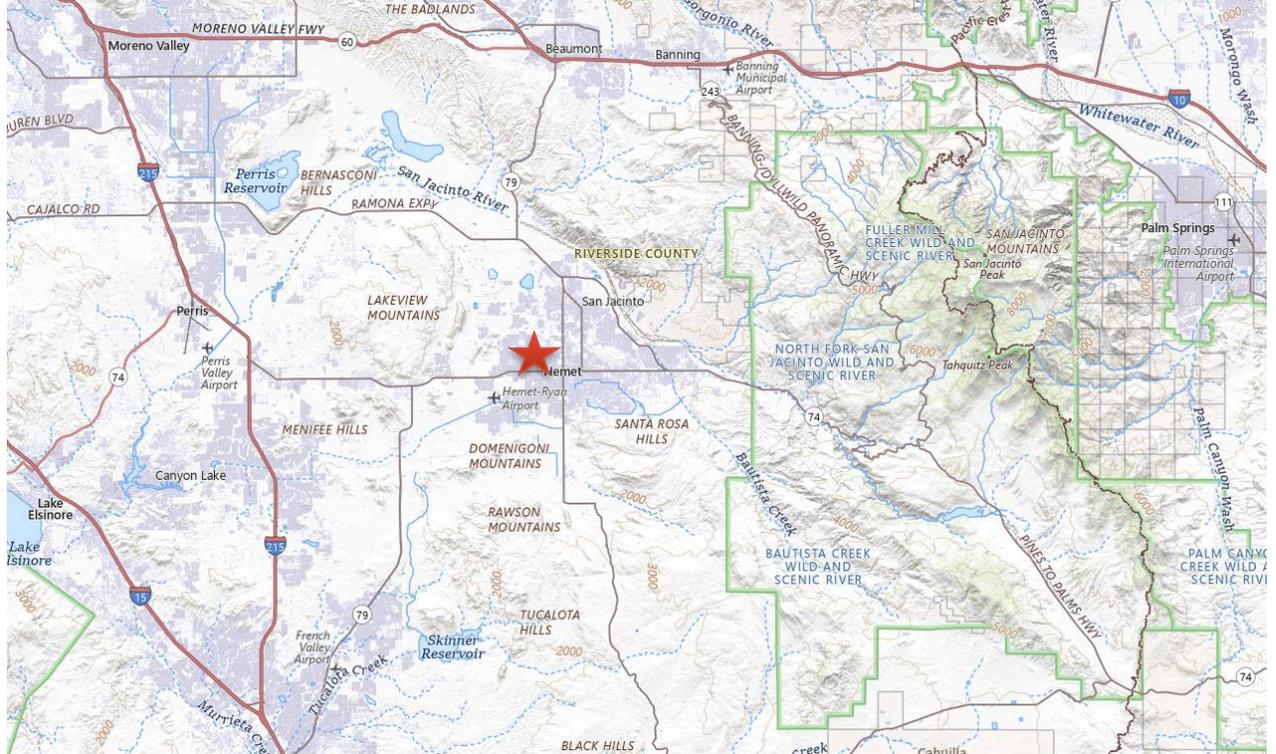


Figure 2 Project Site on the Hemet, CA USGS Topo Map

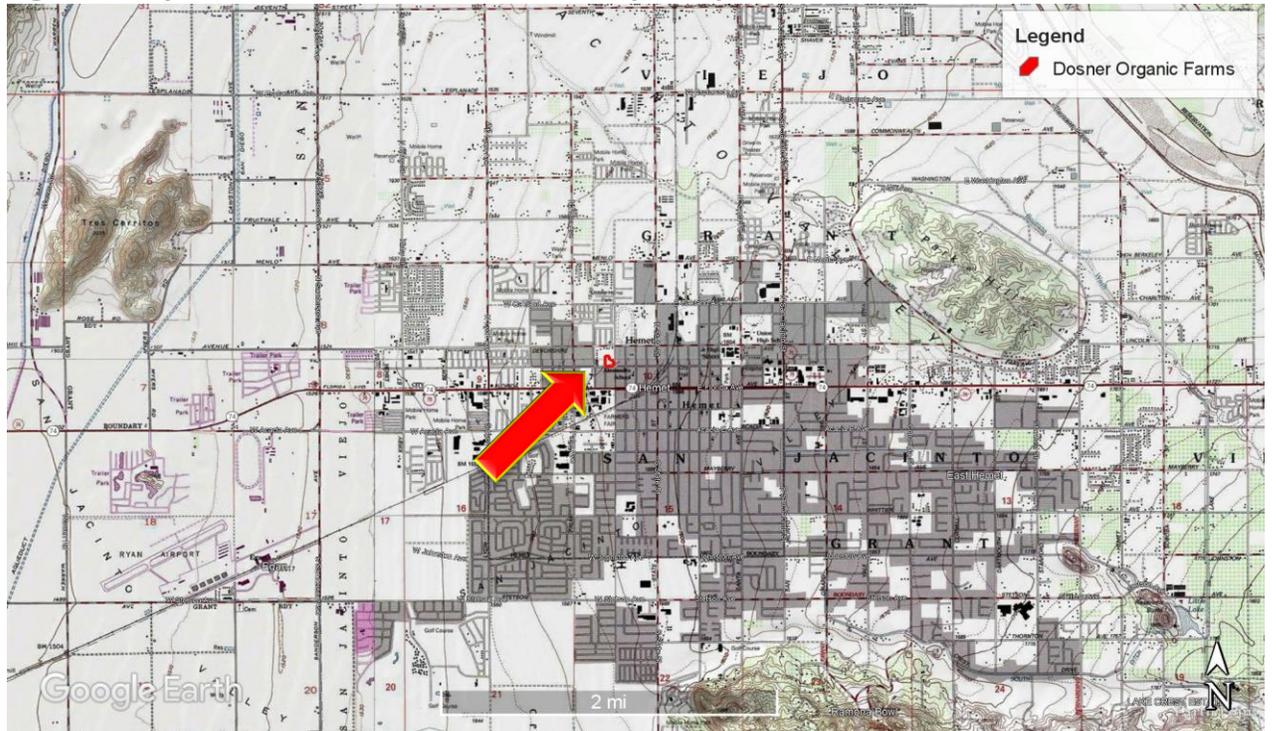


Figure 3. Parcel Boundaries



Figure 4. Site Plans

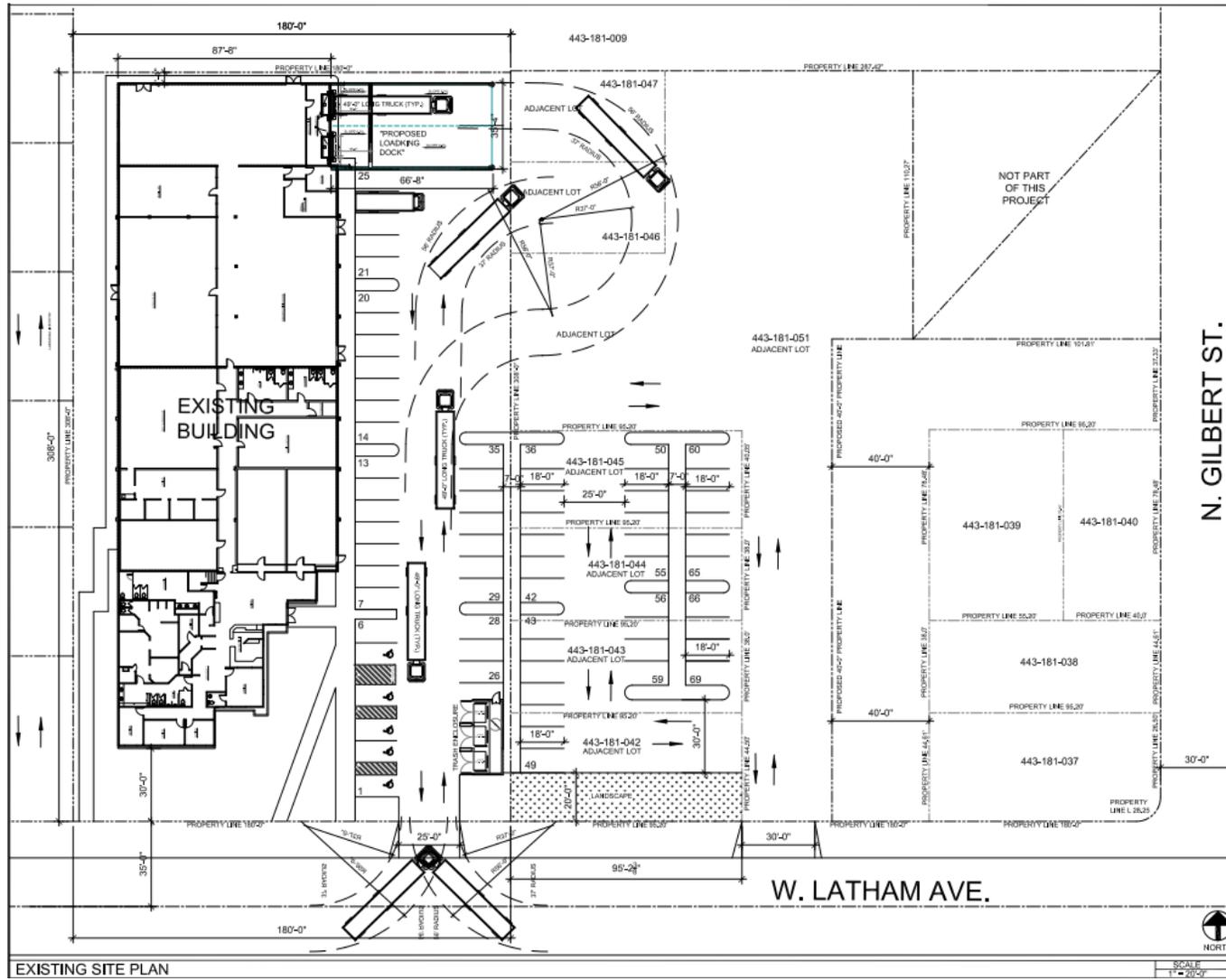


Figure 5. Study Area



## 3 METHODS

### 3.1 Literature Review

This assessment focused on reviewing documented sensitive biological resources in the Project's vicinity and to use the information found in the literature review to determine the potential for these sensitive species to occur onsite. The literature review relied on the California Department of Fish and Wildlife's (CDFW) Natural Diversity Database (CNDDDB 2024), California Native Plant Society's (CNPS) Inventory of Rare and Endangered Plants (CNPS 2024) and the U.S. U.S. Fish and Wildlife Service (USFWS) IPaC database (UFSWS 2024). The Western Riverside County Regional Conservation Authority (RCA) MSHCP Information Map was reviewed for the project's relationship to the conservation strategy of the plan.

A report was generated from the CNDDDB for sensitive species recorded within the Hemet, San Jacinto, Winchester, Lakeview, Lake Fulmor, Bachelor Mountain, Blackburn Canyon, Cahuilla Mountain USGS 7.5 Quadrangles. This information was used to help determine if any sensitive resources were previously reported on, or adjacent, to the subject property and guided our field survey effort.

Information from other resources such as the site plans, previously prepared reports, aerial photography and various mapping sources were included in the review. conducted a data search for information on plant and wildlife species known occurrences within the vicinity of the project. This review included biological texts on general and specific biological resources, and those resources considered to be sensitive by various wildlife agencies, local governmental agencies and interest groups. Please see Section 9 for a complete listing of documents reviewed.

### 3.2 Sensitive Resources

Sensitive biological resources are habitats or individual species that have special recognition by federal, state, or local conservation agencies and organizations as endangered, threatened, or rare. The CDFW, U.S. Fish and Wildlife Service (USFWS), and groups like the California Native Plant Society (CNPS) maintain special watch lists of such resources. Once the field survey was completed, it was determined from several criteria, which sensitive resources have a low, moderate or high potential to occur on site. Criteria used to determine potentials of occupancy include, but are not limited to, soil types and conditions, habitat types and quality, disturbance, site history, adjacent land uses and proximity to nearest known extant populations of each respective species.

### 3.3 Field Survey

This biological field study focused on three primary objectives: documenting existing conditions within the project site as well adjacent land use(s) within a 500-foot buffer from the site (Figure 5), documenting detected species, commenting on any other sensitive species or habitat(s) found on-site. Typical habitats found throughout the property were photographed for reference (Appendix B – Site Photos).

The site was surveyed by Scott Thomas, Kidd Biological, Inc., on July 18, 2024 between the hours of 1015 and 1220. Temperatures were warm, ranging from 82°f to 85°f, with mostly clear skies and winds 2-4 miles per hour. The site was systematically surveyed by walking approximately 10-foot wide transects starting from the northeast corner of the site and ending in the northwest corner of the site. A smart phone notepad was used to document the conditions on site including all plants and animals detected.

## 4 RESULTS

### 4.1 Site Conditions

The parcel is level with little to no change in topography. Elevation on-site is approximately 1,580 feet (~563 meters) above mean sea level. Areas surrounding the site support residential and commercial developments in all directions. Some similar vacant parcels are located throughout this mostly developed, urban, community.

### 4.2 Natural Communities

The site supports entirely disturbed habitats that appear to encounter routine disturbance (e.g. mowing or disking). Vegetation on site is ruderal and typical for parcels that have received regular mowing or abatement and is comprised of mostly naturalized annual grasses and a mixture of naturalized and native herbs. Grasses were dominated by wild oat (*Avena barbata*), barley grass (*Hordeum* sp.) and chess (*Bromus* sp.). The dominant herbs included turkey mullein (*Croton setigerus*), horseweed (*Erigeron canadensis*), telegraph weed (*Heterotheca grandiflora*), and prickly lettuce (*Lactuca serriola*). Three trees are present on-site: tree of heaven (*Ailanthus altissima*), Mexican fan palm (*Washingtonia robusta*), and olive tree (*Olea europaea*)- all ornamental species (Appendix A – Site Photos). Plant names derived from Jepson 2025.

### 4.3 Common Wildlife

Wildlife detected during the survey were limited to the time of day and the time of year the survey was conducted. For example, nocturnal species would likely not have been observed during the day time survey. Migrants which could occur on site during winter, would not have been detected during this summer survey. Species observed were typical of those commonly found in urban areas. Bird activity was very low and included: house finch (*Haemorphus mexicana*), Anna's hummingbird (*Calypte anna*), mourning dove (*Zenaida macroura*), common raven (*Corvus corax*),

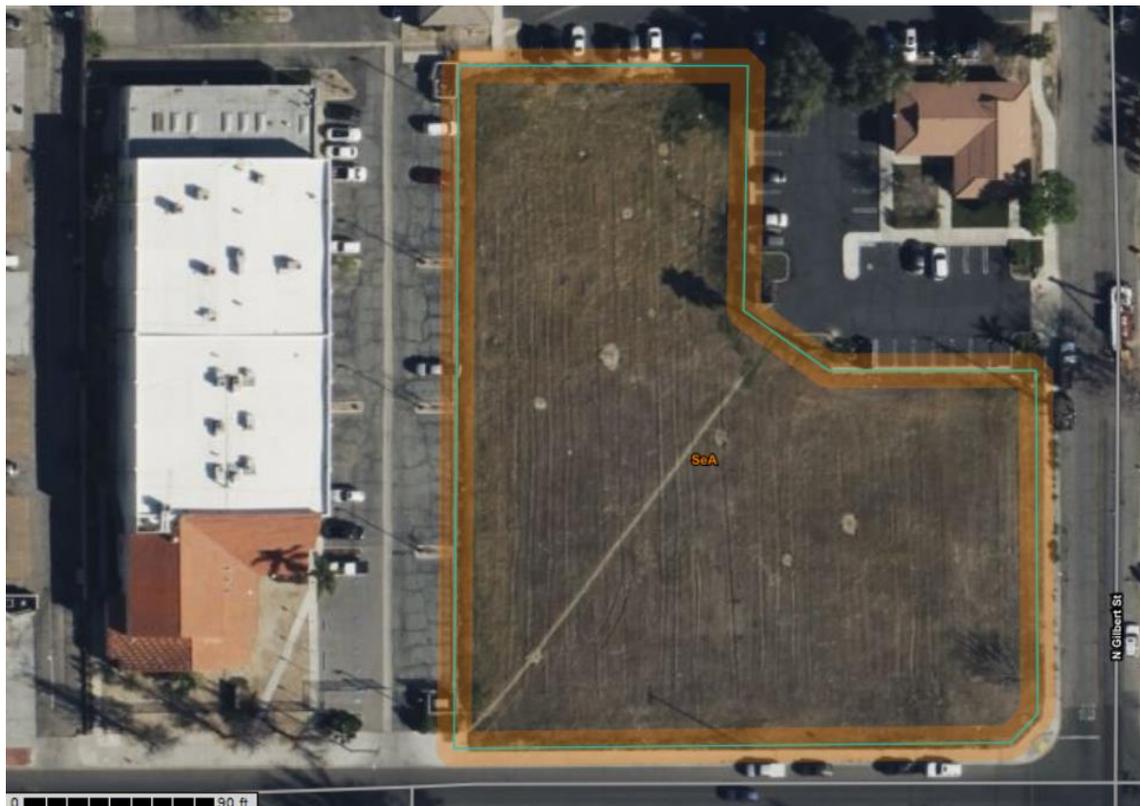
and white-crowned sparrow (*Zonotrichia leucophrys*), as well as naturalized rock pigeons (*Columba livia*) and Eurasian collared dove (*Streptopelia decaocto*).

The only mammal species detected were Botta’s pocket gophers (*Thamomys bottae*) (mounds). The site did not support any burrows indicative of those created or used by kangaroo rats (*Dipodomys* sp.). A few mammal (squirrel or rabbit) burrows were found, but none showed signs of recent use or large enough to support burrowing owls (*Athene cunicularia*). Because these were not considered suitable for the burrowing owl, they were not recorded with GPS.

#### 4.4 Soils

Onsite soils are mapped as San Emigdio fine sandy loam (FfC2) (0-2% slopes). Soil classifications were provided by the USDA Soils Conservation Service Maps (USDA 1980) and the Natural Resources Conservation Service – Web Soil Survey (2024). These soils consist of very deep, well drained soils that formed in dominantly sedimentary alluvium found on fans and floodplains. They have a pH of 8 (slightly to moderately alkaline, but generally not associated with rarer calciphyte plants) with little to no salt content (0.5 mmhos/cm=non-saline).

Figure 6. Soils Map



## 4.5 Sensitive or Protected Species

Sensitive biological resources are habitats or individual species that have special recognition by federal, state, or local conservation agencies and organizations as endangered, threatened, or rare. The CDFW (CDFW), USFWS, and groups like the CNPS (2025) maintain special watch lists of such resources.

All sensitive species, regardless of listing status, were considered during the data review as potentially present on the project site if: 1) Its known geographical distribution encompassed all or part of the project area; 2) Its distribution was near the site and its general habitat requirements were potentially present; or, 3) It was mapped on the project U.S Geological Survey (USGS) 7.5' topographic quadrangle or the surrounding nine quadrangles.

Data from IPAC, BIOS and CNDDDB listed a number of formally listed species potentially present on site (Table 1). The remaining species listed in the data are species that are not formally listed, but merit consideration under CEQA as being of concern to various entities. Criteria used to determine potentials of occupancy include, but are not limited to, soil types and conditions, habitat types and quality, disturbance, site history, adjacent land uses and proximity to nearest known extant populations of each respective species. Table 1, below, lists the species that were reported within the vicinity of the site and the potential these species have to occur on or adjacent (within 500 feet) to the site.

The review found 47 sensitive plant species, 4 sensitive plant communities and 50 sensitive wildlife species as having been reported within 5 miles of the project site. None of the 101 sensitive resources were observed on-site.

**Table 1. List of Species Reported within ~5 miles of Site**

Species Name	Common Name	FWS	CDFW	CNPS	Habitat Requirements	Occurrence Probability
<b>PLANTS</b>						
<i>Abronia villosa var. aurita</i>	chaparral sand-verbena	None	None	1B.1	Sandy soils in Chaparral   Coastal scrub   Desert dunes	<b>Low.</b> Marginal habitat. Not observed.
<i>Allium marvinii</i>	Yucaipa onion	None	None	1B.2	Clay openings in Chaparral	None. Outside of elevation range.
<i>Ambrosia pumila</i>	San Diego ambrosia	FE	None	1B.1	Chaparral   Coastal scrub   Valley & foothill grassland usually in clay soils	None. No clay soils + deep soil disturbance.
<i>Astragalus pachypus var. jaegeri</i>	Jaeger's milk-vetch	None	None	1B.1	Chaparral   Cismontane woodland   Coastal scrub   Valley & foothill grassland	None. Disturbance likely precludes presence.
<i>Atriplex coronata var. notatior</i>	San Jacinto Valley crownscale	FE	None	1B.1	Alkali playa   Valley & foothill grassland   Vernal pool   Wetland	None. No suitable habitat.
<i>Atriplex parishii</i>	Parish's brittle-scale	None	None	1B.1	Alkali playa   Chenopod scrub   Meadow & seep   Vernal pool   Wetland	None. No suitable habitat.
<i>Atriplex serenana var. davidsonii</i>	Davidson's salt-scale	None	None	1B.2	Alkaline valleys in low elevations below 600 feet). Valley grasslands, coastal sage scrub.	None. No suitable habitat.
<i>Berberis nevinii</i>	Nevin's barberry	FE	SE	1B.1	Chaparral   Cismontane woodland   Coastal scrub   Riparian scrub	None. No suitable habitat.
<i>Brodiaea filifolia</i>	thread-leaved brodiaea	FT	SE	1B.1	Clay soils; open grasslands at edges of vernal pools or floodplains.	None. No suitable habitat.
<i>Calochortus palmeri var. munzii</i>	San Jacinto mariposa-lily	None	None	1B.2	Chaparral   Lower montane coniferous forest   Meadow & seep	None. No suitable habitat.
<i>Calochortus plummerae</i>	Plummer's mariposa-lily	None	None	4.2	Dry, rocky areas in coastal sage scrub, chaparral and yellow pine forest	None. No suitable habitat.
<i>Calochortus weedii var. intermedius</i>	intermediate mariposa-lily	None	None	1B.2	Dry rocky areas, Chaparral   Coastal scrub   Valley & foothill grassland	None. No suitable habitat.

Species Name	Common Name	FWS	CDFW	CNPS	Habitat Requirements	Occurrence Probability
<i>Caulanthus simulans</i>	Payson's jewelflower	None	None	4.2	Dry, rocky, open slopes, often in chaparral, pinyon juniper woodland. Between 2000 - 5500 ft. elevation.	None. Outside elevation range.
<i>Centromadia pungens ssp. laevis</i>	smooth tarplant	None	None	1B.1	Often in disturbed sites near the coast. Also found on alkaline soils at the edges of marshes and swamps.	None. No suitable habitat.
<i>Chorizanthe parryi var. parryi</i>	Parry's spineflower	None	None	1B.1	Sandy openings in coastal sage scrub and chaparral, and occasionally grasslands. Often at interfaces of two habitats.	None. No suitable habitat.
<i>Chorizanthe polygonoides var. longispina</i>	long-spined spineflower	None	None	1B.2	Dry places in Chaparral, Coastal scrub, Meadow & seep, Ultramafic, Valley & foothill grassland. Often in clay soils.	None. No suitable habitat.
<i>Chorizanthe xanti var. leucotheca</i>	white-bracted spineflower	None	None	1B.2	Mojavean desert scrub & Pinon & juniper woodlands	None. No suitable habitat.
<i>Cryptantha wigginsii</i>	Wiggins' cryptantha	None	None	1B.2	Often on clay soils. Coastal scrub 65 - 900 feet elevation.	None. No suitable habitat.
<i>Deinandra mohavensis</i>	Mojave tarplant	None	SE	1B.3	Vernally mesic sites in sandy soils.	None. No suitable habitat.
<i>Delphinium hesperium ssp. cuyamaca</i>	Cuyamaca larkspur	None	SC	1B.2	Meadow & seep, Vernal pool, Wetland	None. No suitable habitat.
<i>Dodecahema leptoceras</i>	slender-horned spineflower	FE	SE	1B.1	Sandy and gravelly soils on alluvial fans and old floodplains.	None. No suitable habitat.
<i>Dudleya multicaulis</i>	many-stemmed dudleya	None	None	1B.2	Heavy, often clayey soils.	None. No suitable habitat.
<i>Galium angustifolium ssp. jacinticum</i>	San Jacinto Mountains bedstraw	None	None	1B.3	Lower montane coniferous forest 4430 - 6890 feet elevation	None. No suitable habitat.
<i>Galium californicum ssp. primum</i>	Alvin Meadow bedstraw	None	None	1B.2	Granitic and sandy soils. Chaparral, lower montane coniferous forest. 4430 - 5580 feet.	None. No suitable habitat.

Species Name	Common Name	FWS	CDFW	CNPS	Habitat Requirements	Occurrence Probability
<i>Harpagonella palmeri</i>	Palmer's grapplinghook	None	None	4.2	Clay soils. Openings in chaparral, coastal scrub, valley & foothill grasslands	None. No suitable habitat.
<i>Imperata brevifolia</i>	California satintail	None	None	2B.1	Wet springs, meadows, streambanks, floodplains meadows and seeps	None. No suitable habitat.
<i>Lasthenia glabrata ssp. coulteri</i>	Coulter's goldfields	None	None	1B.1	Salt marshes, alkali playas	None. No suitable habitat.
<i>Lepidium virginicum var. robinsonii</i>	Robinson's pepper-grass	None	None	4.3	Chaparral   Coastal scrub	None. No suitable habitat.
<i>Lilium parryi</i>	lemon lily	None	None	1B.2	Wet bank of seeps and creeks in Montane coniferous forest 4005 - 9005 feet elev.	None. No suitable habitat.
<i>Monardella macrantha ssp. hallii</i>	Hall's monardella	None	None	1B.3	Broadleaved and coniferous upland forest, chaparral, grassland 2395 - 7200 feet elev.	None. No suitable habitat.
<i>Monardella nana ssp. leptosiphon</i>	San Felipe monardella	None	None	1B.2	Chaparral, lower coniferous montane forest. 3935 - 6085 feet elevation.	None. No suitable habitat.
<i>Myosurus minimus ssp. apus</i>	little mousetail	None	None	3.1	Alkali vernal pools	None. No suitable habitat.
<i>Nama stenocarpa</i>	mud nama	None	None	2B.2	Marsh & swamp   Wetland	None. No suitable habitat.
<i>Navarretia fossalis</i>	spreading navarretia	FT	None	1B.1	Alkali playa   Chenopod scrub   Marsh & swamp   Vernal pool   Wetland	None. No suitable habitat.
<i>Orcuttia californica</i>	California Orcutt grass	FE	SE	1B.1	Vernal pool   Wetland	None. No suitable habitat.
<i>Penstemon californicus</i>	California beardtongue	None	None	1B.2	Chaparral, lower montane coniferous forest and pinyon juniper woodland. On sandy or granitic soils. 3840 - 7545 feet elevation.	None. No suitable habitat.
<i>Petalonyx linearis</i>	narrow-leaf sandpaper-plant	None	None	2B.3	Mojavean desert scrub   Sonoran desert scrub	None. No suitable habitat.

Species Name	Common Name	FWS	CDFW	CNPS	Habitat Requirements	Occurrence Probability
<i>Pseudognaphalium leucocephalum</i>	white rabbit-tobacco	None	None	2B.2	Alluvial sandy areas Cismontane woodland, Coastal scrub, Riparian woodland	None. No suitable habitat.
<i>Schoenoplectiella saximontana</i>	Rocky Mountain bulrush	None	None	2B.1	Marsh & swamp   Vernal pool	None. No suitable habitat.
<i>Saltugilia latimeri</i>	Latimer's woodland-gilia	None	None	1B.2	Chaparral   Limestone   Mojavean desert scrub   Pinon & juniper woodlands	None. No suitable habitat.
<i>Scutellaria bolanderi ssp. austromontana</i>	southern mountains skullcap	None	None	1B.2	Mesic sites. 1395 - 6560 feet. Chaparral, cismontane woodlands and lower montane coniferous forest.	None. No suitable habitat.
<i>Sidalcea neomexicana</i>	salt spring checkerbloom	None	None	2B.2	Alkaline, usually mesic places, playas.	None. No suitable habitat.
<i>Streptanthus bernardinus</i>	Laguna Mountains jewelflower	None	None	4.3	Chaparral, montane coniferous forest, 2200 - 8205 feet elevation	None. No suitable habitat.
<i>Symphyotrichum defoliatum</i>	San Bernardino aster	None	None	1B.2	Ditches, streams, springs, marshes and swamps.	None. No suitable habitat.
<i>Texosporium sancti-jacobi</i>	woven-spored lichen	None	None	3	Crustose lichen . On soil, small mammal pellets, dead twigs, and on Selaginella.	None. No suitable habitat.
<i>Tortula californica</i>	California screw moss	None	None	1B.2	Sandy soils. Valley and foothill grassland, chenopod scrub. Not tolerant of disturbance.	None. No suitable habitat.
<i>Trichocoronis wrightii var. wrightii</i>	Wright's trichocoronis	None	None	2B.1	Alkaline Meadows and seeps, marshes and swamps, riparian forest and vernal pools.	None. No suitable habitat.
<b>HABITATS</b>						
Canyon Live Oak Ravine Forest		None	None		Riparian forest	Absent
Desert Fan Palm Oasis Woodland		None	None		Riparian woodland	Absent

Species Name	Common Name	FWS	CDFW	CNPS	Habitat Requirements	Occurrence Probability
Southern Riparian Scrub		None	None		Riparian scrub	Absent
Southern Sycamore Alder Riparian Woodland		None	None		Riparian woodland	Absent
Southern Willow Scrub		None	None		Riparian scrub	Absent
<b>ANIMALS</b>						
<i>Accipiter (Astur) cooperii</i>	Cooper's hawk	None	WL	-	Cismontane woodland   Riparian forest   Riparian woodland   Upper montane coniferous forest	<b>Low-Marginal</b> habitat off site.
<i>Actinemys pallida</i>	southwestern pond turtle	PT	SC	-	Ponds and freshwater marsh   Riverine	None. No suitable habitat.
<i>Agelaius tricolor</i>	tricolored blackbird	BCC	ST	-	Freshwater marsh   Marsh & swamp   Swamp   Wetland	None. No suitable habitat.
<i>Aimophila ruficeps canescens</i>	So. California rufous-crowned sparrow	None	WL	-	Chaparral   Coastal scrub	None. No suitable habitat.
<i>Anaxyrus californicus</i>	arroyo toad	FE	SC	-	Desert wash   Riparian scrub   Riparian woodland with intermittent flowing water	None. No suitable habitat.
<i>Anniella stebbinsi</i>	Southern California legless lizard	None	SC	-	Friable sandy soils in a variety of habitats. Prefers moist areas and/or deep leaf litter.	Low.
<i>Antrozous pallidus</i>	pallid bat	None	SC	-	Variety of habitats with roost sites (caves, tree hollows)	None. No suitable habitat.
<i>Aquila chrysaetos</i>	golden eagle	BGEA	FP	-	Variety of habitats. Requires rugged mountainous areas for breeding.	None. No suitable habitat.
<i>Arizona elegans occidentalis</i>	California glossy snake	None	SC	-	Desert habitats and sage scrub with open sandy soils most often.	None. No suitable habitat.

Species Name	Common Name	FWS	CDFW	CNPS	Habitat Requirements	Occurrence Probability
<i>Artemisiospiza belli belli</i>	Bell's sparrow	None	WL	-	Chaparral   Coastal scrub	None. No suitable habitat.
<i>Aspidoscelis hyperythra</i>	orange-throated whiptail	None	WL	-	Chaparral   Cismontane woodland   Coastal scrub with prey (termites)	None. No suitable habitat.
<i>Aspidoscelis tigris stejnegeri</i>	coastal whiptail	None	SC	-	Chaparral   Cismontane woodland   Coastal scrub with prey (termites)	None. No suitable habitat.
<i>Athene cunicularia</i>	burrowing owl	BCC	CE	-	Grasslands and rangelands, usually occupying ground squirrel or other mammal burrows	<b>Low.</b> Heavy disturbance and isolated parcel precludes breeding. (no suitable burrows found)
<i>Bombus crotchii</i>	Crotch's bumble bee	None	CE	-	Variety of habitats. Requires nectar sources: <i>Antirrhinum</i> , <i>Phacelia</i> , <i>Clarkia</i> , <i>Dendromecon</i> , <i>Eschscholzia</i> , and <i>Eriogonum</i> .	None. No suitable habitat.
<i>Branchinecta lynchi</i>	vernal pool fairy shrimp	FT	None	-	Valley & foothill grassland   Vernal pool   Wetland	None. No suitable habitat.
<i>Buteo regalis</i>	ferruginous hawk	None	WL	-	Winters in southern California. Great Basin scrub   Pinon & juniper woodlands   Valley & foothill grassland	None. No suitable habitat.
<i>Campylorhynchus brunneicapillus sandiegensis</i>	coastal cactus wren	BCC	SC	-	Coastal scrub with mature prickly pear patches.	None. No suitable habitat.
<i>Charina umbratica</i>	southern rubber boa	None	ST	-	Usually occurs in moist woodlands and coniferous forests. Mixed conifer-oak forest and woodlands. 5000 to 8000 feet.	None. No suitable habitat.
<i>Circus hudsonius</i>	northern harrier	None	SC	-	Coastal scrub   Marsh & swamp   Riparian scrub   Valley & foothill grassland   Wetland	None. No suitable habitat.
<i>Coccyzus americanus occidentalis</i>	western yellow-billed cuckoo	FT	SE	-	Riparian forest	None. No suitable habitat.

Species Name	Common Name	FWS	CDFW	CNPS	Habitat Requirements	Occurrence Probability
<i>Coleonyx variegatus abbotti</i>	San Diego banded gecko	None	SC	-	Chaparral   Coastal scrub	None. No suitable habitat.
<i>Corynorhinus townsendii</i>	Townsend's big-eared bat	None	SC	-	Variety of habitats with roost sites (hollow trees, caves) near foraging areas	None. No suitable habitat.
<i>Crotalus ruber</i>	red-diamond rattlesnake	None	SC	-	Chaparral   Mojavean desert scrub   Sonoran desert scrub	None. No suitable habitat.
<i>Cypseloides niger</i>	black swift	None	SC	-	Rare and very local summer resident in the foothill canyons of mountains	None. No suitable habitat.
<i>Dipodomys merriami parvus</i>	San Bernardino kangaroo rat	FE	SE	-	Coastal scrub in alluvial fans	None. No suitable habitat.
<i>Dipodomys stephensi</i>	Stephens' kangaroo rat	FT	ST	-	Coastal scrub   Valley & foothill grassland	None. No suitable habitat.
<i>Elanus leucurus</i>	white-tailed kite	None	FP	-	Open grassland areas where it nests in oaks or sycamores, occasionally elderberry. Feeds almost exclusively on voles.	None. No suitable habitat.
<i>Eremophila alpestris actia</i>	California horned lark	None	WL	-	Prefers short-grass prairie, open coastal plains, fallow grain fields and alkali flats.	<b>Low.</b> Suitable nest habitat but very disturbed.
<i>Euphydryas editha quino</i>	quino checkerspot butterfly	FE	None	-	Chaparral   Coastal scrub	None. No suitable habitat.
<i>Haliaeetus leucocephalus</i>	bald eagle	BCC	SE	-	Lower montane coniferous forest near bodies of water. Old growth trees used for nesting.	None. No suitable habitat.
<i>Lanius ludovicianus</i>	loggerhead shrike	None	SC	-	A variety of habitats where prey is available. Not typically found in urbanized areas.	None. No suitable habitat.
<i>Lasiurus xanthinus</i>	western yellow bat	None	SC	-	Desert washes.	None. No suitable habitat.
<i>Neotoma lepida intermedia</i>	San Diego desert woodrat	None	SC	-	Coastal scrub and chaparral.	None. No suitable habitat.

Species Name	Common Name	FWS	CDFW	CNPS	Habitat Requirements	Occurrence Probability
<i>Onychomys torridus ramona</i>	southern grasshopper mouse	None	SC	-	Chenopod scrub	None. No suitable habitat.
<i>Perognathus longimembris brevinasus</i>	Los Angeles pocket mouse	None	SC	-	Coastal scrub with sandy soils, often near drainage features.	None. No suitable habitat.
<i>Perognathus longimembris internationalis</i>	Jacumba pocket mouse	None	SC	-	Desert wash or riparian scrub with alluvial substrates	None. No suitable habitat.
<i>Phrynosoma blainvillii</i>	coast horned lizard	None	SC	-	Open areas in a variety of habitats where prey of harvester ants are available.	None. No suitable habitat.
<i>Plegadis chihi</i>	white-faced ibis	None	WL		Marshes, swamps and wetland	None. No suitable habitat.
<i>Polioptila californica californica</i>	coastal California gnatcatcher	FT	SC		Coastal bluff scrub   Coastal scrub	None. No suitable habitat.
<i>Progne subis</i>	purple martin	None	SC		Broadleaved upland forest   Lower montane coniferous forest	None. No suitable habitat.
<i>Rana muscosa</i>	southern mountain yellow-legged frog	FE	SE		Aquatic, rocky streams.	None. No suitable habitat.
<i>Salvadora hexalepis virgultea</i>	coast patch-nosed snake	None	SC		Coastal scrub	None. No suitable habitat.
<i>Setophaga petechia</i>	yellow warbler	BCC	SC		Riparian forest   Riparian scrub   Riparian woodland	None. No suitable habitat.
<i>Spea hammondi</i>	western spadefoot	PT	SC		Requires rain pools or other ponded water for 3+ weeks for breeding.	None. No suitable habitat.
<i>Streptocephalus woottoni</i>	Riverside fairy shrimp	FE	None		Vernal pools	None. No suitable habitat.

Species Name	Common Name	FWS	CDFW	CNPS	Habitat Requirements	Occurrence Probability
<i>Taxidea taxus</i>	American badger	None	SC		Chaparral   Coastal scrub   desert scrub   Valley & foothill grassland	None. No suitable habitat.
<i>Thamnophis hammondi</i>	two-striped gartersnake	None	SC		Marsh & swamp   Riparian scrub   Riparian woodland   Wetland	None. No suitable habitat.
<i>Toxostoma bendirei</i>	Bendire's thrasher	None	SC		Joshua tree woodland   Mojavean desert scrub	None. No suitable habitat.
<i>Vireo bellii pusillus</i>	least Bell's vireo	FE	SE		Riparian forest   Riparian scrub   Riparian woodland	None. No suitable habitat.
<i>Xanthocephalus xanthocephalus</i>	yellow-headed blackbird	None	SC		Marsh & swamp   Wetland	None. No suitable habitat.
<b>U.S. Fish and Wildlife Service (FWS) Classifications</b>					<b>California Department of Fish and Wildlife (CDFW) Classifications</b>	
FE- Listed as Endangered					SE- Listed as Endangered	
FT- Listed as Threatened					ST- Listed as Threatened	
BCC- Bird of Conservation Concern					SC- State Species of Special Concern	
PT- Proposed for listing as threatened					CAND- Candidate for Listing (treated as ST)	
					FP- Fully Protected (treated as ST)	
<b>CNPS: California Native Plant Society Classifications</b>						
<b>1A</b> Plants presumed by CNPS to be extinct in California						
<b>1B</b> Plants considered by CNPS to be rare or endangered in California and elsewhere						
<b>2B</b> Plants considered by CNPS to be rare, threatened or endangered in California, but which are more common elsewhere.						
<b>3</b> Review list of plants suggested by CNPS for consideration as endangered but about which more information is needed.						
<b>4</b> Watch list of plants of limited distribution whose status should be monitored						
<b>CNPS: Threat Codes</b>						
.1 Seriously endangered in California (over 80% of occurrences threatened / high degree and immediacy of threat)						
.2 Fairly endangered in California (20-80% occurrences threatened)						
.3 Not very endangered in California (<20% of occurrences threatened or no threats known)						

#### 4.5.1 Special-Status Plants

According to the CNDDDB and CNPS, forty-eight (47) special-status plant species have been recorded in the area. No special-status plants were observed on the project site during the field investigation. The project site has been subject to anthropogenic disturbances from surrounding development and regular plowing/mowing. These disturbances have reduced the suitability of the habitat to support special-status plant species known to occur in the general vicinity of the project site. Based on habitat requirements for specific special-status plant species and the availability and quality of habitats needed by each species, it was determined that the project site does not provide suitable habitat for any of the special-status plant species known to occur in the area and all are presumed to be absent from the project site. The chaparral sand verbena has a very low potential to occur as it does tolerate some disturbance, but it was not observed during the survey and it would have been identifiable at the time of the survey. No focused surveys are recommended.

#### 4.5.2 Special-Status Wildlife

According to the CNDDDB, fifty (50) special-status wildlife species have been reported in the area. No special-status wildlife species were observed on the project site during the field investigation. Based on habitat requirements for specific species and the availability and quality of on-site habitats, it was determined that the project site has at least some potential to support burrowing owl (*Athene cunicularia*) and California horned lark (*Eremophila alpestris actia*). The neighboring parcels support ornamental trees, some of which may be mature enough to support Cooper's hawks (*Astur cooperii*). In order to ensure impacts to these avian species do not occur from implementation of the proposed project, a pre-construction nesting bird clearance survey shall be conducted prior to ground disturbance. With implementation of the pre-construction nesting bird clearance survey, impacts to special-status avian species will be less than significant and no mitigation will be required.

None of the aforementioned special-status wildlife species are state or federally listed as threatened or endangered.

##### 4.5.2.1 Burrowing Owl

The burrowing owl is a small, pale, buffy-brown owl that is unique in its habit of nesting in subterranean burrows. It occurs in grassland and other open habitats throughout much of the western United States, with a disjunct population in Florida. In California, the species is often found in areas containing California Ground Squirrels (*Otospermophilus beecheyi*), whose burrows are used by the owls. It is opportunistic in its use of burrow sites, and can use pipes or other suitable cavities at or below ground level. Egg laying occurs primarily from February to May.

Typical habitats suitable for the burrowing owl consist of two parts. First, the overall habitat type can vary significantly but would fall under some of these major habitat types: annual and perennial grasslands, deserts, scrublands and agricultural or range lands with low growing, sparse

vegetation. Second, and most importantly, the site would support burrows which provide shelter from predators, adverse weather and critical nest sites. Since the burrowing owl does not typically create its own burrows, it relies on the burrows made by fossorial animals such as squirrels, rabbits, badgers, foxes, coyotes and the desert tortoise. Artificial burrows such as pipes, rock piles, agricultural ditches and canals also provide suitable burrows.

Burrowing owls are subject to numerous avian predators (e.g. golden eagles, red-tailed hawks, and prairie falcons) and other causes of mortality including vehicle collisions, poisoning, feral animals, human persecution, disking, and urban developments to name a few.

Burrowing owls throughout western Riverside County are known to be highly philopatric hence they tend to search for familiar breeding sites near their natal territories. Natal and breeding dispersal distances average approximately 1 kilometer but are known to range from 0-4.1 kilometers (J.W. Kidd unpublished data). Because of their dispersal tendencies, single pairs of burrowing owls do not commonly establish or occupy small, unfamiliar island habitats located more than 4 kilometers from extant breeding colonies considered to be source populations such as those found in the vicinity of Perris, and the French Valley (Kidd et al. 2008).

Additionally, burrowing owls do not typically nest in island habitats unless they provide numerous suitable burrow complexes over an area of approximately 8-12 acres. This site, along with the neighboring parcels, do not support sufficient area to support a colony of owls, let alone a pair, plus disturbance and fragmentation make the parcel in question, very unlikely to support breeding pairs.

Very few burrows were identified during the site visit. These were determined to be too small and unsuitable for burrowing owls and were therefore not mapped.

Burrowing owls are now listed as a Candidate for listing under the California Endangered Species Act. If the proposed project complies with the MSHCP and the Migratory Bird Treaty Act (MBTA) and State Codes 3500 and 3503, no Incidental Take Permit (ITP) would be required; but the County guidelines would need to be followed (Personal communication- Kim Freeburn-Marquez, Env. Programs Manager, and Eric Chan CDFW, Inland Deserts Region Office Aug 11, 2025).

The project, as proposed, will not result in any impacts to burrowing owls or their habitats, thus no further action is required at this time. If future development of this site is planned, additional analysis may be required; however, any more than a preconstruction clearance survey to assess for wintering or dispersing owls should not be necessary as the site is too small and fragmented to support breeding pairs.

#### **4.5.3 Special-Status Plant Communities**

The CNDDDB lists four (4) special-status habitats as being identified within the study area. No special-status plant communities were observed during the field investigation. Therefore, no special-status plant communities will be impacted by implementation of the proposed project.

#### 4.5.4 Critical Habitat

Under the federal Endangered Species Act, “Critical Habitat” is designated at the time of listing of a species or within one year of listing. Critical Habitat refers to specific areas within the geographical range of a species at the time it is listed that include the physical or biological features that are essential to the survival and eventual recovery of that species. Maintenance of these physical and biological features requires special management considerations or protection, regardless of whether individuals or the species are present or not. All federal agencies are required to consult with the United States Fish and Wildlife Service (USFWS) regarding activities they authorize, fund, or permit which may affect a federally listed species or its designated Critical Habitat. The purpose of the consultation is to ensure that projects will not jeopardize the continued existence of the listed species or adversely modify or destroy its designated Critical Habitat. The designation of Critical Habitat does not affect private landowners, unless a project they are proposing is on federal lands, uses federal funds, or requires federal authorization or permits (e.g., funding from the Federal Highways Administration or a CWA Permit from the Corps). If there is a federal nexus, then the federal agency that is responsible for providing the funding or permit would consult with the USFWS.

The project site is not located with federally designated Critical Habitat. The nearest designated Critical Habitat is located approximately 3 miles southwest for Spreading navarretia (*Navarretia fossalis*), and 3 miles to the south for California gnatcatcher (*Polioptila californica californica*). There is no loss or degradation of critical habitat expected from the proposed project.

#### 4.6 Nesting Birds

Direct and indirect impacts that could cause failure to an active nest are restricted under both state and federal laws (California Department of Fish and Wildlife code 3500 and U.S. Federal Migratory Bird Treaty Act). The property supports potential nesting habitat ground nesting birds. The nearby ornamental trees support potential nesting habitat for tree nesting species. It should be noted that the proposed project entails only combining parcels and ground disturbance is not proposed.

#### 4.7 Critical Habitats

Critical habitat is defined as areas that contain the primary constituent elements essential for the survival and recovery of endangered and threatened species. Designated critical habitat includes sites for breeding and rearing, movement or migration, feeding, roosting, cover, and shelter. Critical habitat is designated by USFWS for endangered and threatened species per the federal ESA (16 U.S.C. § 1533 (a)(3)). The designation includes all suitable habitat for the species, whether or not it is occupied. The project site does not fall within or adjacent to any designated critical habitat for endangered species.

## 4.8 Wildlife Movement Corridors

A wildlife corridor is an area of habitat that provides passage for wildlife across artificial obstacles such as dams, roads, and railways. These features usually connect open spaces and fragmented natural areas to provide access to water, food, shelter and breeding areas. They are critically important in maintaining natural dispersal, migration routes and facilitating genetic diversity within species. Although these corridors are focused on animal movements, the linkages also provide opportunities for pollination and dispersal of plants. The project site is not located within, or immediately adjacent to, a designated wildlife corridor or linkage based on a review of aerial photography and the MSHCP Constrained Linkages Map (MSHCP 2003, Section 3.2.3 and Figure 3-2). The surrounding development prohibits any movement opportunities for wildlife.

# 5 RIPARIAN/ RIVERINE, VERNAL POOL ASSESSMENT (SECTION 6.1.2 OF THE MSHCP)

## 5.1 Riparian/Riverine Areas /Jurisdictional Features

The topography is flat. Based on aerial photos, the site is graded/disked on a regular basis. There are no channels, flow lines or other evidence of confined flow. There are no plants classified as riparian on site, and no suitable trees, shrubs or other cover for the Least Bell's Vireo, Southwestern Willow Flycatcher or Yellow-billed Cuckoo. There are no drainages or riparian habitats on the property. The USFWS Wetland Mapper was used to also confirm that there were no wetlands within the project site (USFWS 2025b). There are no jurisdictional waters and habitats as defined by the U.S. Army Corps of Engineers, California Department of Fish and Wildlife and the State Water Resources Control Board regulations.

## 5.2 Vernal Pools

The field team surveyed for vernal pools. No ponding or pooling or evidence of such areas would have been observable. No vernal pools or indications of vernal pools such as flat, unvegetated areas showing evidence of previous ponding, no patterns of inundation or distinct water-dependent plant species.

The property does not support conditions suitable for the formation of vernal pools. The soils are composed of San Emigdio fine sandy loam. Based on the soil descriptions these soils do not regularly pond or flood and are either well-drained or somewhat excessively well-drained soils. They are not suitable for the formation of long-term ponds, and there are no hard-packed areas that might pond or perch water. No evidence of hydrology, cracked soils, plant remains, or other hydrologic indicators were found. No obligate wetland perennial plant species typical of vernal pools were observed. No impacts to vernal pools are expected.

### **5.3 Riverside Fairy Shrimp, Vernal Pool Shrimp and Santa Rosa Shrimp**

As described in the vernal pool section, the property does not provide conditions suitable for the formation of pools. The soils are fine loamy sands or fine sandy loams and are unsuitable for the formation of long-term ponds that will last the minimum of two months. There are no other sources of standing water, such as cattle ponds or watering holes, or evidence of such ponding, which would provide suitable habitat for the Riverside fairy shrimp, vernal pool fairy shrimp or Santa Rosa fairy shrimp. No impacts to these species are expected.

The project is consistent with MSHCP Section 6.1.2.

### **5.4 Criteria Area Plant Species (MSHCP Section 6.1.3)**

There were no Criteria Area Plant Species identified as potentially present for the parcels making up the property. The project is consistent with MSHCP Section 6.1.3.

### **5.5 Additional Survey Needs and Procedures (MSHCP Section 6.3.2)**

The property does not fall into a survey area for any additional species. The project is consistent with MSHCP Section 6.3.2.

### **5.6 Guidelines Pertaining to the Urban/Wildland Interface (MSHCP Section 6.1.4)**

The parcels are surrounded by development. It is isolated from other open spaces. Based on a review of the RCA MSHCP mapping application (RCA 2025), there are no conserved lands within one mile of the proposed project site. The project is consistent with MSHCP Section 6.1.4.

### **5.7 Stephens Kangaroo Rat Habitat Conservation Plan**

The species objectives for the Stephens kangaroo rat (SKR) in the Western Riverside MSHCP were designed to incorporate the Long-Term Stephens Kangaroo Rat Habitat Conservation Plan (SKR Plan) that is administered by the Riverside County Habitat Conservation Agency (RCHCA). Any projects that are within the MSHCP boundaries must meet the SKR Plan requirements. The property is located within the SKR fee area (RCHCA 2025). Payment of the fee may be required if not already paid.

## 6 CEQA THRESHOLDS

The discussion below provides a summary of direct, indirect, and cumulative project impacts; and compensatory mitigation measures for each biological resource area required to be analyzed according to CEQA, based on Appendix G (Environmental Checklist Form) of the CEQA Guidelines:

***Would the proposed Project 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 Wildlife or the U.S. Fish and Wildlife Service?***

Special Status Plants: No, the size and extent of the project, the surrounding development and the disturbance on site finds that the project will not impact sensitive special status plants.

Special Status Wildlife: Three special status wildlife species have at least some potential to be within the project site or adjacent areas: burrowing owl, Cooper's hawk and horned lark. To ensure impacts to special-status avian species do not occur from implementation of the proposed project, a pre-construction nesting bird clearance survey shall be conducted prior to ground disturbance or tree removals if any future project permits are requested. This will also ensure compliance with the Migratory Bird Treaty Act and CDFW Codes 3503, 3503.5, 3511 and 3513.

***Would the proposed Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?***

No, there are jurisdictional waters or habitats within the project site.

***Would the proposed Project 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?***

No, the site does not function as a wildlife corridor.

***Would the proposed Project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?***

This project does not conflict any local ordinances protecting biological resources. No protected trees will be removed.

***Would the proposed 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?***

This project does not conflict with the Western Riverside County MSHCP. No protected trees will be removed.

## 7 AVOIDANCE & MINIMIZATION MEASURES

**BIO 1- Nesting Birds.** All native breeding birds, (except game birds) regardless of their listing status, are protected under the Migratory Bird Treaty Act (MBTA). Potential impacts to the breeding birds are considered significant under the California Environmental Quality Act (CEQA). The MBTA and the California Department of Fish and Wildlife (CDFW) Code Regulations 3500 and 3800 which protect nesting birds. In order to comply with these regulations all future clearing, grubbing, tree trimming and tree removals should be conducted outside the bird nesting season.

The typical nesting season is often considered February 15<sup>th</sup> to August 31<sup>st</sup> however these dates are not a legal definition. A nest is protected during any time of the year when eggs or young are present. If grading/grubbing/tree trimming must occur during the nesting bird season, a pre-construction nesting bird survey should be conducted by a qualified biologist. If an active nest is encountered outside the breeding season, avoidance of the nest is required.

**BIO 2- Burrowing Owls.** Due to the presence of marginal but suitable habitat on site and lack of sign, it is highly unlikely this area is used by burrowing owls. However, if squirrels, dogs, fossorial mammals created suitable burrows or features for owls the site could be used by wintering or dispersing owls in the future.

At this time, the project does not entail any ground disturbance; however, if that changes or other permits are applied for, additional analysis a pre-construction clearance survey no more than 30 days prior to any future ground disturbing, project-related, activities to better ensure impacts to burrowing owls are reduced.

## 8 CONCLUSION STATEMENT

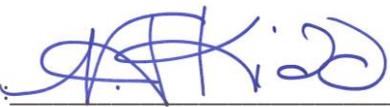
Currently no loss of habitat is expected to combine the smaller parcels into a single 1.5-acre parcel of disturbed non-native grassland habitat. It is expected that in the future this parcel will be developed, however, those plans have not been proposed at this time. The proposed project will not result in the direct take to any of the 101 aforementioned sensitive species. No impacts to

wildlife movement corridors or critical habitat are expected. No jurisdictional water features occur within the subject parcel.

The proposed development project will not conflict with the goals of the MSHCP. It will not degrade any nearby conservation measures. The project will not result in "significant impacts" to natural resources under the California Environmental Quality Act (CEQA).

**CERTIFICATION:** I hereby certify that the statements furnished above and in the attached exhibits present the data and information required for this biological evaluation, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief.

Date: Updated August 11, 2025

Signed:  \_\_\_\_\_

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*APPENDIX A*

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*SITE PHOTOS*



1. Looking East from NW corner



2. Looking North from SE Corner



3. Looking East from NW Corner



4. Looking NW from SE Corner



5. Looking SE from NW Corner



6. Looking West from NE Corner

## *Appendix B- Regulatory Framework*

### Special Status Species

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

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#### *Federal Endangered Species Act*

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The U.S. Fish and Wildlife Service (USFWS) administers the federal Endangered Species Act (FESA) that provides a process for listing species as either threatened or endangered, and methods of protecting listed species. The FESA defines as “endangered” any plant or animal species that is in danger of extinction throughout all or a significant portion of its range. A “threatened” species is a species that is likely to become endangered in the foreseeable future. A “proposed” species is one that has been officially proposed by USFWS for addition to the federal threatened and endangered species list.

Section 9 of the FESA prohibits “take” of threatened or endangered species. The term “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in such conduct. The presence of any federally threatened or endangered species that are in a project area generally imposes severe constraints on development, particularly if development would result in “take” of the species or its habitat. Under the regulations of the FESA, the USFWS may authorize “take” when it is incidental to, but not the purpose of, an otherwise lawful act.

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#### *California Endangered Species Act*

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The California Department of Fish and Game (CDFG) administers the California Endangered Species Act (CESA). The State of California considers an endangered species as one whose prospects of survival and reproduction are in immediate jeopardy. A threatened species is considered as one present in such small numbers throughout its range that it is likely to become an endangered species in the near future in the absence of special protection or management. A rare species is one that is considered present in such small numbers throughout its range that it may become endangered if its present environment worsens. State threatened and endangered species are fully protected against take, as defined above.

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#### *SECTION 3503 AND 3511 OF CALIFORNIA FISH AND GAME CODE*

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The CDFG administers the California Fish and Game Code. There are particular sections of the Code that are applicable to natural resource management. For example, section 3503 of the Code states it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird. Section 3511 of the Code lists fully protected bird species, where the CDFG is unable to authorize the issuance of permits or licenses to take these species. Pertinent species that are state fully protected include golden eagle (*Aquila chrysaetos*) and white-tailed kite (*Elanus leucurus*).

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#### *MIGRATORY BIRD TREATY ACT*

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The Migratory Bird Treaty Act (MBTA) makes it unlawful to pursue, capture, kill, or possess or attempt to do the same to any migratory bird or part, nest, or egg of any such bird listed in wildlife protection treaties between the United States, Great Britain, Mexico, Japan, and the countries of the former Soviet Union.

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#### *Western Riverside County MSHCP*

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Western Riverside County Multi-Species Habitat Conservation Plan (MSHCP). Per this plan, certain species are adequately conserved, while others are not.

The City of Hemet is a permittee under the MSHCP and, while the project is not specifically identified as a Covered Activity in the MSHCP, under Section 7.3.1, Public and Private Development Consistent with MSHCP Criteria, public and private development within the Criteria Area that is determined to be consistent with the Criteria is considered a Covered Activity. As such, to achieve coverage, the project must be consistent with the following policies of the MSHCP:

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

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

- A *Habitat Evaluation Acquisition Negotiation Strategy (HANS)* as set forth in Section 6.1.1 of the MSHCP.

## Jurisdictional Waters Regulations

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

### Federal Regulations

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#### Section 404 of the Clean Water Act

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Since 1972, the Corps and U.S. Environmental Protection Agency (EPA) have jointly regulated the filling of “waters of the U.S.,” including wetlands, pursuant to Section 404 of the Clean Water Act (CWA). The Corps has regulatory authority over the discharge of dredged or fill material into the waters of the United States under Section 404 of the CWA. The Corps and EPA define “fill material” to include any “material placed in waters of the United States where the material has the effect of: (i) replacing any portion of a water of the United States with dry land; or (ii) changing the bottom elevation of any portion of the waters of the United States.” Examples include, but are not limited to, sand, rock, clay, construction debris, wood chips, and “materials used to create any structure or infrastructure in the waters of the United States.” In order to further define the scope of waters protected under the CWA, the Corps and EPA published the Clean Water Rule on June 29, 2015. Pursuant to the Clean Water Rule, the term “waters of the United States” is defined as follows:

- (i) All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
- (ii) All interstate waters, including interstate wetlands<sup>1</sup>
- (iii) The territorial seas.
- (iv) All impoundments of waters otherwise defined as waters of the United States under the definition.

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<sup>1</sup> The term *wetlands* means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

(v) All tributaries<sup>2</sup> of waters identified in paragraphs (i) through (iii) mentioned above.

(vi) All waters adjacent to a water<sup>3</sup> identified in paragraphs (i) through (v) mentioned above, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters.

The following features are not defined as “waters of the United States” even when they meet the terms of paragraphs (iv) through (viii) mentioned above:

- (i) Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act.
- (ii) Prior converted cropland.
- (iii) The following ditches:
  - (A) Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.
  - (B) Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.
  - (C) Ditches that do not flow, either directly or through another water, into a water of the United States as identified in paragraphs (i) through (iii) of the previous section.
- (iv) The following features:
  - (A) Artificially irrigated areas that would revert to dry land should application of water to that area cease;
  - (B) Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds;
  - (C) Artificial reflecting pools or swimming pools created in dry land;
  - (D) Small ornamental waters created in dry land;
  - (E) Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water;
  - (F) Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of a tributary, non-wetland swales, and lawfully constructed grassed waterways; and
  - (G) Puddles.
- (v) Groundwater, including groundwater drained through subsurface drainage systems.
- (vi) Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.

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<sup>2</sup> The terms *tributary* and *tributaries* each mean a water that contributes flow, either directly or through another water (including an impoundment identified in paragraph (iv) mentioned above), to a water identified in paragraphs (i) through (iii) mentioned above, that is characterized by the presence of the physical indicators of a bed and banks and an ordinary high water mark.

<sup>3</sup> The term *adjacent* means bordering, contiguous, or neighboring a water identified in paragraphs mentioned above, including waters separated by constructed dikes or barriers, natural river berms, beach dunes, and the like.

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*Section 401 of the Clean Water Act*

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

***State Regulations***

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*Fish and Game Code*

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

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

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

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

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*Porter Cologne Act*

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