Morro Shoulderband Snail (*Helminthoglypta walkeriana*) Habitat Conservation Plan for 2680 Cottontail Lane, Los Osos, San Luis Obispo County, California

FEBRUARY 2023

PREPARED FOR

Paul and Melanie Kasson

PREPARED BY

SWCA Environmental Consultants

MORRO SHOULDERBAND SNAIL (*HELMINTHOGLYPTA WALKERIANA*) HABITAT CONSERVATION PLAN FOR 2680 COTTONTAIL LANE, LOS OSOS, SAN LUIS OBISPO COUNTY, CALIFORNIA

Prepared for

Paul and Melanie Kasson
1177 Oxford Way
Stockton, CA 85204

Prepared by

Travis Belt, Senior Biologist

SWCA Environmental Consultants
1422 Monterey Street, C200
San Luis Obispo, California 93401
(805) 543-7095
www.swca.com

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ABSTRACT/EXECUTIVE SUMMARY

SWCA Environmental Consultants (SWCA) has prepared this Habitat Conservation Plan (HCP) at the request of Paul and Melanie Kasson (applicants or permittees) for a proposed single-family residential development project (project) in Los Osos, San Luis Obispo County, California. The proposed project and covered lands are located at 2680 Cottontail Lane on an undeveloped parcel (Assessor's Parcel Number [APN] 074-326-050). The parcel is not in designated critical habitat for any listed species.

SWCA conducted biological surveys that identified the presence of Morro shoulderband snail (MSS) (*Helminthoglypta walkeriana*) and Morro manzanita (*Arctostaphylos morroensis*) on the parcel. MSS is currently listed as Threatened under the Federal Endangered Species Act (FESA). Morro manzanita is listed as Threatened under the FESA. As such, it was determined that the proposed project has potential to take a FESA-listed wildlife species. The intent of this HCP is to support the applicant's application for an Incidental Take Permit (ITP) under Section 10(a)(1)(B) of the FESA for MSS. This HCP also includes measures to mitigate the removal of three Morro manzanita plants and potential trimming of 11 Morro manzanita plants. However, listed plants are not included in the FESA's prohibition on take of listed species; therefore, the applicants do not intend to apply for an ITP for Morro manzanita. This HCP acknowledges that Morro manzanita will be subject to direct impacts and includes measures to mitigate those impacts to less-than-significant levels under the California Environmental Quality Act (CEQA).

This HCP includes measures to minimize and mitigate impacts to MSS and Morro manzanita. Minimization measures include but are not limited to conducting environmental awareness training with project staff, conducting capture and relocation surveys for MSS, minimizing the project footprint, incorporating native vegetation into the landscape, and erecting construction exclusion fencing during project implementation. Compensatory mitigation for unavoidable impacts to Morro manzanita and MSS includes the applicants use of the U.S. Fish and Wildlife Service's existing National Fish and Wildlife Foundation Impact Directed Environmental Account (NFWF IDEA) program. The applicants agree to fund the NFWF IDEA program to compensate for the unavoidable impacts to 0.47-acre of MSS and Morro manzanita habitat at a 3:1 basis. The 3:1 basis is consistent with the stated mitigation in the *Draft Los Osos Habitat Conservation Plan* (Community-wide HCP) for projects occurring in the designated Priority Conservation Area.

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CONTENTS

Appendices

Figures

Tables

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1 INTRODUCTION AND BACKGROUND

1.1 Overview/Background

SWCA Environmental Consultants (SWCA) has prepared this Habitat Conservation Plan (HCP) at the request of Paul and Melanie Kasson (applicants or permittees) for a proposed single-family residential development project (project) in Los Osos, San Luis Obispo County, California. SWCA conducted biological surveys and prepared a Biological Resources Assessment (BRA) for the proposed project. The BRA evaluated and documented the biological resources in the project area and identified impacts to sensitive biological resources that could occur from the proposed project. The surveys and BRA identified the presence of Morro shoulderband snail (MSS) (*Helminthoglypta walkeriana*) on the project parcel. MSS is currently listed as a Threatened species under the Federal Endangered Species Act (FESA). As such, it was determined that the proposed project has potential to take a FESA-listed wildlife species.

Once this HCP is approved by the U.S. Fish and Wildlife Service (Service), the applicants will apply for an Incidental Take Permit (ITP) under Section 10(a)(1)(B) of the FESA for MSS. This HCP describes the project, discusses MSS and the potential MSS taking, and proposes measures to avoid, minimize, and mitigate the anticipated taking. The proposed measures were developed to be commensurate with the measures that are included in the *Draft Los Osos Habitat Conservation Plan* (Community-wide HCP) that is currently being developed by the County of San Luis Obispo (County).

Although listed plants are not included in the FESA's prohibition on take of listed species, this HCP acknowledges that Morro manzanita (*Arctostaphylos morroensis*), a federally Threatened plant species, also occurs on the parcel and will be subject to direct impacts. This HCP and subsequent ITP application does not seek incidental take coverage for Morro manzanita; however, the proposed compensatory mitigation for take of MSS considers the impacts to Morro manzanita and is consistent with the compensatory mitigation for MSS and Morro manzanita that is provided by the Community-wide HCP.

1.2 Permit Holder/Permit Duration

The project proponents and applicants listed below will be the Permit Holders:

Paul and Melanie Kasson
1177 Oxford Way
Stockton, CA 85204

The applicants are requesting the permit duration or term to be 10 years.

1.3 Permit Boundary/Covered Lands

The proposed project is located at 2680 Cottontail Lane in Los Osos, San Luis Obispo County, California (Figure 1). The requested permit boundary and covered lands include the entire 0.47-acre parcel (Assessor's Parcel Number [APN] 074-326-050), a narrow stretch of land that extends beyond the parcel's boundary to an existing power pole located on Bayview Heights Drive and adjacent to the neighboring parcel, and the County right-of-way along Cottontail Lane adjacent to the subject parcel (Figure 2).

Figure 1. Project vicinity map.

Figure 2. Covered lands map.

1.4 Species to be Covered by Permit

This HCP and subsequent ITP seek coverage for the incidental taking of MSS.

1.5 Regulatory Framework

1.5.1 Federal Endangered Species Act

Section 9 of the FESA and federal regulation pursuant to Section 4(d) of the FESA prohibit the take of Endangered and Threatened species, respectively, without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Harm is further defined by the Service to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Harass is defined by the Service as intentional or negligent actions that create the likelihood of injury to listed species by annoying them to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

Pursuant to Sections 11(a) and (b) of the FESA, any person who knowingly violates Section 9 of the FESA, or any permit, certificate, or regulation related to Section 9, may be subject to civil penalties of up to $25,000 for each violation or criminal penalties up to $50,000 and/or imprisonment of up to 1 year.

Individuals and State and local agencies proposing an action that is expected to result in the take of federally listed species are encouraged to apply for an ITP under Section 10(a)(1)(B) of the FESA to be in compliance with the law. Such permits are issued by the Service when take is not the intention of and is incidental to otherwise legal activities. An application for an ITP must be accompanied by an HCP. The regulatory standard under Section 10(a)(1)(B) of the FESA is that the effects of authorized incidental take must be minimized and mitigated to the maximum extent practicable. Under Section 10(a)(1)(B) of the FESA, a proposed project also must not appreciably reduce the likelihood of the survival and recovery of the species in the wild, and adequate funding for a plan to minimize and mitigate impacts must be ensured.

Section 7 of the FESA requires federal agencies to ensure that their actions, including issuing permits, do not jeopardize the continued existence of listed species or destroy or adversely modify listed species' critical habitat. "Jeopardize the continued existence of . . . " pursuant to 50 Code of Federal Regulations (CFR) 402.2, means to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species. Issuance of an ITP under Section 10(a)(1)(B) of the FESA by the Service is a federal action subject to Section 7 of the FESA. As a federal agency issuing a discretionary permit, the Service is required to consult with itself (i.e., conduct an internal consultation). Delivery of the HCP and a Section 10(a)(1)(B) permit application initiates the Section 7 consultation process within the Service.

The requirements of Section 7 and Section 10 substantially overlap. Elements unique to Section 7 include analyses of impacts on designated critical habitat, analyses of impacts on listed plant species, if any, and analyses of indirect and cumulative impacts on listed species. Cumulative effects are effects of future State, tribal, local or private actions that are reasonably certain to occur in the action area, pursuant to section 7(a)(2) of the FESA. The action area is defined by the influence of direct and indirect impacts of covered activities. The action area may or may not be solely contained within the HCP boundary. These

additional analyses are included in this HCP to meet the requirements of Section 7 and to assist the Service with its internal consultation.

1.5.2 The Section 10(a)(1)(B) Process: Habitat Conservation Plan Requirements and Guidelines

The Section 10(a)(1)(B) process for obtaining an ITP has three primary phases: (1) the HCP development phase; (2) the formal permit processing phase; and (3) the post-issuance phase.

During the HCP development phase, the project applicant prepares a plan that integrates the proposed project or activity with the protection of listed species. An HCP submitted in support of an ITP application must include the following information:

- Impacts likely to result from the proposed taking of the species for which permit coverage is requested.
- Measures that will be implemented to monitor, minimize, and mitigate impacts; funding that will be made available to undertake such measures; and procedures to deal with unforeseen circumstances.
- Alternative actions considered that would not result in take; and
- Additional measures the Service may require as necessary or appropriate for purposes of the plan.

The HCP development phase concludes and the permit processing phase begins when a complete application package is submitted to the appropriate permit-issuing office. A complete application package consists of (1) an HCP, (2) an Implementing Agreement (IA) if applicable, (3) a permit application, and (4) a $100 fee from the applicant. The Service must also publish a Notice of Availability of the HCP package in the *Federal Register* to allow for public comment. The Service also prepares an Intra-Service Section 7 Biological Opinion and a Set of Findings, which evaluates the Section 10(a)(1)(B) permit application as in the context of permit issuance criteria (see below). An Environmental Action Statement, Environmental Assessment, or Environmental Impact Statement serves as the Service's record of compliance with the National Environmental Policy Act (NEPA), which is distributed for a 30-day, 60-day, or 90-day public comment period. An IA is required for HCPs unless the HCP qualifies as a low-effect HCP. A Section 10(a)(1)(B) ITP is granted upon a determination by the Service that all requirements for permit issuance have been met. Statutory criteria for issuance of the permit specify that:

- The taking will be incidental;
- The impacts of incidental take will be minimized and mitigated to the maximum extent practicable;
- Adequate funding for the HCP and procedures to handle unforeseen circumstances will be provided;
- The taking will not appreciably reduce the likelihood of survival and recovery of the species in the wild;
- The applicant will provide additional measures that the Service requires as being necessary or appropriate; and
- The Service has received assurances, as may be required, that the HCP will be implemented.

During the post-issuance phase, the permittee and other responsible entities implement the HCP, and the Service monitors the permittee's compliance with the HCP as well as the long-term progress and success of the HCP. The public is notified of permit issuance by means of the *Federal Register*.

1.5.3 National Environmental Policy Act

The purpose of NEPA is two-fold: to ensure that federal agencies examine environmental impacts of their actions (in this case deciding whether to issue an ITP) and to utilize public participation. NEPA serves as an analytical tool on direct, indirect, and cumulative impacts of the proposed project alternatives to help the Service decide whether to issue an ITP (or Section 10(a)(1)(B) permit). NEPA analysis must be done by the Service for each HCP as part of the ITP application process.

1.5.4 National Historic Preservation Act

All federal agencies are required to examine the cultural impacts of their actions (e.g., issuance of a permit). This may require consultation with the State Historic Preservation Officer (SHPO) and appropriate American Indian tribes. All ITP applicants are requested to submit a Request for Cultural Resources Compliance form to the Service. To complete compliance, the applicants may be required to contract for cultural resource surveys and possibly mitigation. The Kasson's prepared a Cultural Resources Phase 1 Surface Survey Report on the parcel that did not detect any evidence of cultural resources. A Request for Cultural Resources Compliance form is included in Appendix A.

1.5.5 Other Relevant Laws and Regulations

1.5.5.1 CALIFORNIA ENVIRONMENTALQUALITY ACT

The California Environmental Quality Act (CEQA) is a statute that is considered to be analogous to NEPA as it also requires the completion of an environmental review for projects that may impact environmental resources. It requires lead public agencies to review the environmental impacts of proposed projects, prepare and review Environmental Impact Reports or Negative Declarations, and consider feasible alternatives and mitigation measures that would substantially reduce significant adverse environmental effects. It applies to a broad range of environmental resources, including federally and state-listed wildlife and plant species, as well as other species and natural plant communities that are considered to be locally sensitive.

The County is the lead agency responsible for conducting CEQA review and ensuring compliance for projects in the unincorporated community of Los Osos. As such, they will evaluate the Kasson's project and ensure compliance with CEQA. Impacts to MSS represent one aspect of a CEQA review; however, as with NEPA, the potential for impacts to other environmental resources is also reviewed as part of the CEQA compliance process.

1.5.5.2 CALIFORNIA COASTAL ACT OF 1976

A California voter initiative, Proposition 20 (i.e., the Coastal Zone Conservation Act), passed in 1972 and created the California Coastal Commission (Commission). It was later made permanent through the passage of the California Coastal Act of 1976. The Commission is a state environmental agency charged with ensuring that all development within California's coastal zone (CZ) is consistent with the provisions of the Coastal Act. Commission jurisdiction within the CZ is broad and applies to both private and public entities and addresses almost all types of development activities inclusive of division of land, changes in the intensity of use of state waters, and public access to the waters. The regulatory role of the Commission is facilitated through their review of development projects and the issuance of Coastal Development

Permits (CDPs) that typically include conditions of approval that, if met, will bring the development into compliance with the Coastal Act. In circumstances where a Local Coastal Program (LCP) has been prepared by a local agency and certified by the Commission, it is, in effect, the environmental review. In such cases, the issuance of a CDP is the responsibility of the local agency. The Commission retains ultimate oversight and responsibility for compliance through an appeal process. The CZ encompasses waters 3 miles seaward from the coastline and generally extends inland 1,000 yards from the mean high tide line, except in developed urban areas where the boundary is often less than 1,000 yards. In significant estuarine habitat and recreational areas, the CZ extends inland to the first major ridgeline, or 5 miles from the mean high tide line. By virtue of its proximity to the Morro Bay Estuary, the entire community of Los Osos, including the Kasson's project site, lies within the CZ. One of the primary provisions of the Coastal Act is to preserve, protect, and enhance environmentally sensitive habitat areas (ESHA). Section 30107.5 of the Coastal Act defines an ESHA as "Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments."

2 PROJECT DESCRIPTION/ACTIVITIES COVERED BY PERMIT

2.1 Project Description

The applicant proposes to construct and live in a two-story single-family residence. The site plan includes an approximately 3,500-square-foot house with an attached garage, a deck, landscaped areas, a yard area, a septic system, and underground utilities (Appendix B). An asphalt-concrete driveway would have two points of ingress off Cottontail Lane and would provide access to the house. To reduce the total disturbance area, the septic and leach field system will be situated within the proposed yard area at the northwest side of the house.

Existing gas and water services are located at the southwest corner of the parcel. Approximately 32 feet of trenched gas and water line would originate at the services, connect at the detached metal building, and terminate at the new house. Power, cable, and phone would be supplied from the existing power pole located on Bayview Heights Drive. Service lines would run through a utility easement that runs north–south along the eastern boundary of the subject parcel and neighboring parcel. The proposed development would require approximately 248 cubic yards (CY) of cut and 164 CY of fill.

The maritime chaparral vegetation that is not removed for the project but within 100 feet of the residential structure would be trimmed to comply with the California Department of Forestry and Fire Protection (CAL FIRE) requirements for defensible space. The vegetation that occurs on the parcel but beyond 100 feet from the proposed residence would be left intact. Combined, the CAL FIRE defensible space and the undisturbed vegetation would provide a natural buffer between the proposed residence and another proposed residence on the neighboring property to the north and existing residences to the east.

2.2 Activities Covered by Permit

Proposed residential development activities to be covered by the ITP include all those activities necessary for the construction of the single-family residence, septic system, and improved residential access. Ongoing uses of the residential development, such as structure and landscape maintenance, would also be covered. Activities to be covered under the ITP include:

- **MSS minimization:** Survey for MSS, capture MSS, and relocation of MSS out of the disturbance areas to minimize the effects of the taking.
- **Installation of temporary fencing:** The permittees will install temporary fencing around the residential development building envelope to exclude adjacent MSS habitat from inadvertent disturbances during construction. Installation of the temporary fence will require limited disturbance to vegetation that may provide shelter to MSS.
- **Initial vegetation clearing and grading of the Cottontail Lane access, residential building envelope, and septic system/yard site envelope:** The vegetation clearing and grading would include rough and finish grading for the driveway, vegetation removal, and excavation of structural footings, foundations, and slabs for the residence. All grading activities would be conducted with large equipment (backhoe, excavator, ditch witch, etc.) and hand tools (shovels, picks, etc.).
- **Materials staging for construction:** Once cleared, all areas will be available for the temporary placement of equipment, building supplies, landscaping materials, vehicles, and other items necessary for the construction of the project elements.
- **Septic system and utilities installation:** Activities associated with installation of the septic systems and utilities will include trenching for and installation of sewage conveyance pipes, gas lines, electrical conduit, and water lines. Excavation and/or drilling for the septic tanks and septic pits will also be included.
    - If deemed necessary by the County in the CEQA documentation, the applicants may utilize horizontal direction drilling (HDD) to install underground electrical conduit and lines to connect to the existing pole on Bayview Heights Drive. Use of HDD would reduce direct impacts to native vegetation and potential MSS shelter habitat.
- **Hardscape and foundations:** Forming and pouring the residential driveway, structural foundations, and outdoor hardscapes will be included.
- **Structural framing and finish work:** This will include erecting the structural skeletons and installing all internal electrical, plumbing, heating, air conditioning, and other standard amenities.
- **Landscape components:** Installation of the residential landscape and associated irrigation systems will be included.
- **CAL FIRE defensible space vegetation management:** Vegetation removal and/or trimming in the CAL FIRE defensible space will be included.

3 ENVIRONMENTAL SETTING/BIOLOGICAL RESOURCES

3.1 Environmental Settings

The proposed project is located at 2680 Cottontail Lane in Los Osos (see Figure 1). The parcels located in this part of Los Osos range between approximately 0.4 acre to 2 acres and are zoned for residential single family. The subject parcel (APN 074-326-050) is approximately 0.47 acre in size and currently undeveloped (see Figure 2). The parcels located to the east, west, and south of the subject parcel are developed with single-family residences and include native vegetation. An undeveloped parcel is located immediately north of the subject parcel. Due to the larger parcel sizes and single-family residential zoning in the area, this part of Los Osos has low-density development and native vegetation.

3.1.1 Climate

In the plan area, summer temperatures range from 50 degrees Fahrenheit (ºF) to 70ºF, with an average of 58ºF, and winter temperatures range from 52ºF to 55ºF, with an average of 53ºF. Annual precipitation is approximately 17 inches per year. All precipitation falls as rain. The rainy season is typically from October to March, with most of the rainfall typically occurring between January and March.

3.1.2 Soils, Topography, and Elevation

The soil in the parcel is Baywood fine sand and the topography is nearly flat to mildly sloped. Baywood fine sand is associated with stabilized sand dunes and is the dominating soil in the Los Osos area. Undisturbed Baywood fine sand in the Los Osos area typically supports coastal dune scrub, maritime chaparral, or oak woodland habitats. Based on the Morro Bay South, California U.S. Geological Survey (USGS) 7.5-minute quadrangle map, the elevation of the parcel is approximately 350 feet above mean sea level (USGS 1994). Representative photos of the parcel are included in Appendix C.

3.1.3 Hydrology/Streams, Rivers, Drainages

The project parcel does not include any streams, rivers, drainages, or other aquatic features.

3.1.4 Existing Land Use/Vegetation

The project parcel is currently undeveloped and includes open and senescent chamise chaparral (*Adenostoma fasciculatum* Shrubland Alliance) (California Native Plant Society [CNPS] 2022) habitat that is dominated by chamise (*Adenostoma fasciculatum*); this community is also grouped under northern maritime chaparral (Holland 1986). Other species in the parcel include scattered occurrences of Morro manzanita, black sage (*Salvia mellifera*), mock heather (*Ericameria ericoides*), buckbrush (*Ceanothus cuneatus*), coffeeberry (*Frangula californica*), and coast live oak (*Quercus agrifolia*). The open habitat is easy to walk through, and the large senescent shrubs provide minimal overhanging vegetation at the ground layer. Popcorn lichen (*Cladonia firma*) occurs in patches in the openings among the shrubs. The community is a good representation of native chamise chaparral with minimal cover of veldt grass (*Ehrharta calycina*) or other invasive species. The dominance of senescent chaparral vegetation is indicative of a chaparral community where fire has not occurred for many years (probably decades).

3.2 Covered Wildlife Species: Morro Shoulderband Snail

3.2.1 Status and Distribution

On December 15, 1994, the Service listed MSS as an endangered species under the FESA. On July 24, 2020, the Service published their proposal to down list or reclassify MSS as a threatened species with a special rule under Section 4(d) of the FESA. MSS are a member of the land snail family Helminthoglyptidae and are found in association with sandy soils of coastal dune and coastal sage scrub communities near Morro Bay, California. Based on known species occurrences and soil associations, the Service defines the species range by the presence of Baywood Fine Sand soils and small areas of Dune Land in Morro Bay and Los Osos. Within this range, MSS distribution is estimated at 2,638 hectares (6,520 acres) located in and around the community of Los Osos/Baywood Park and city of Morro Bay (U.S. Fish and Wildlife Service 2018).

Based on surveys conducted by SWCA throughout the community of Los Osos for a variety of development and conservation projects, MSS population densities vary throughout the community. Small

pockets of relatively dense populations are distributed in the villages of Baywood, El Morro, and Cuesta by the Sea, and east towards Los Osos Middle School. These dense occurrences are often found in vacant parcels, road rights-of-way, conserved lands, and greenbelt areas. Generally, occurrences that include the most individuals are located between 80 and 200 feet above mean sea level. Occurrences above 200 feet mean sea level tend to have fewer individuals (Travis Belt, SWCA, personal observations).

3.2.2 Habitat Characteristics and Use

MSS can be found in native and non-native habitats within their range. Their native habitats include coastal dune scrub and maritime chaparral communities. However, MSS are routinely observed in disturbed areas in Los Osos that support non-native grasses, landscaping, woody debris, or other substrates that provide shelter and protection from the sun. Because MSS require shelter to avoid desiccation, they are closely associated with plants and debris that exhibit dense cover and ample contact with the ground. Plants that MSS are often found in association with include mock heather, seaside golden yarrow (*Eriophyllum staechadifolium*), deerweed (*Acmispon glaber*), sand almond (*Prunus fasciculata* var. *punctata*), horkelia (*Horkelia cuneata*), and ice plant (*Carpobrotus* sp.) Other plants that commonly occur in areas occupied by this species include black sage, dune buckwheat (*Eriogonum parvifolium*), California sagebrush (*Artemisia californica*), dune lupine (*Lupinus chamissonis*), veldt grass, and California croton (*Croton californicus*).

3.2.3 Occurrence in the Project Area

SWCA conducted three MSS surveys in the parcel during protocol conditions (Table 1). Four live MSS, one empty shell, and shell fragments were identified in and directly adjacent to the parcel. Due to the senescent condition of the shrubs on the site, there is minimal cover for MSS in the parcel; therefore, the population of MSS using the parcel appears to be very small. This is consistent with survey data from other parcels in the immediate area. The MSS were observed on the northern portion of the site in the general vicinity of the proposed leach field (Figure 3). The occurrences were associated with veldt grass, chamise (*Adenostoma fasciculata*), and mock heather.

Table 1. 2018, 2019, and 2022 Survey Dates, Time, and Findings

Survey Number	Survey Date and Time	Rainfall Activity	Survey Focus	Findings	Biologist
1	4/17/18 9:00 a.m.–11:00 a.m.	Clearing but wet conditions during survey; 0.25 inch of precipitation recorded the evening prior to and morning of survey.	MSS and Botanical	1 live MSS 1 Class B MSS shell MSS shell fragments Morro manzanita	T. Belt; B. Wagner
2	6/8/18 9:00 a.m.–11:00 a.m.	Clear dry conditions.	Botanical	Morro manzanita	T. Belt
3	12/5/18 8:30 a.m.–9:30 a.m.	Light showers during survey; 0.25 inches of rain the night before survey.	MSS and Botanical	1 live MSS Morro manzanita popcorn lichen	T. Belt
4	1/16/19 9:00 a.m.–10:30 a.m.	Clear conditions during survey; heavy rains the night prior to survey; very wet conditions.	MSS and Botanical	2 live MSS Morro manzanita popcorn lichen	T. Belt
5	1/24/22 10:00 a.m.–10:45 a.m.	Clear conditions prior to and during and the survey. Soil surface was dry.	Wildlife and Botanical	Inactive gopher holes, common avian species, and common plants	T. Belt

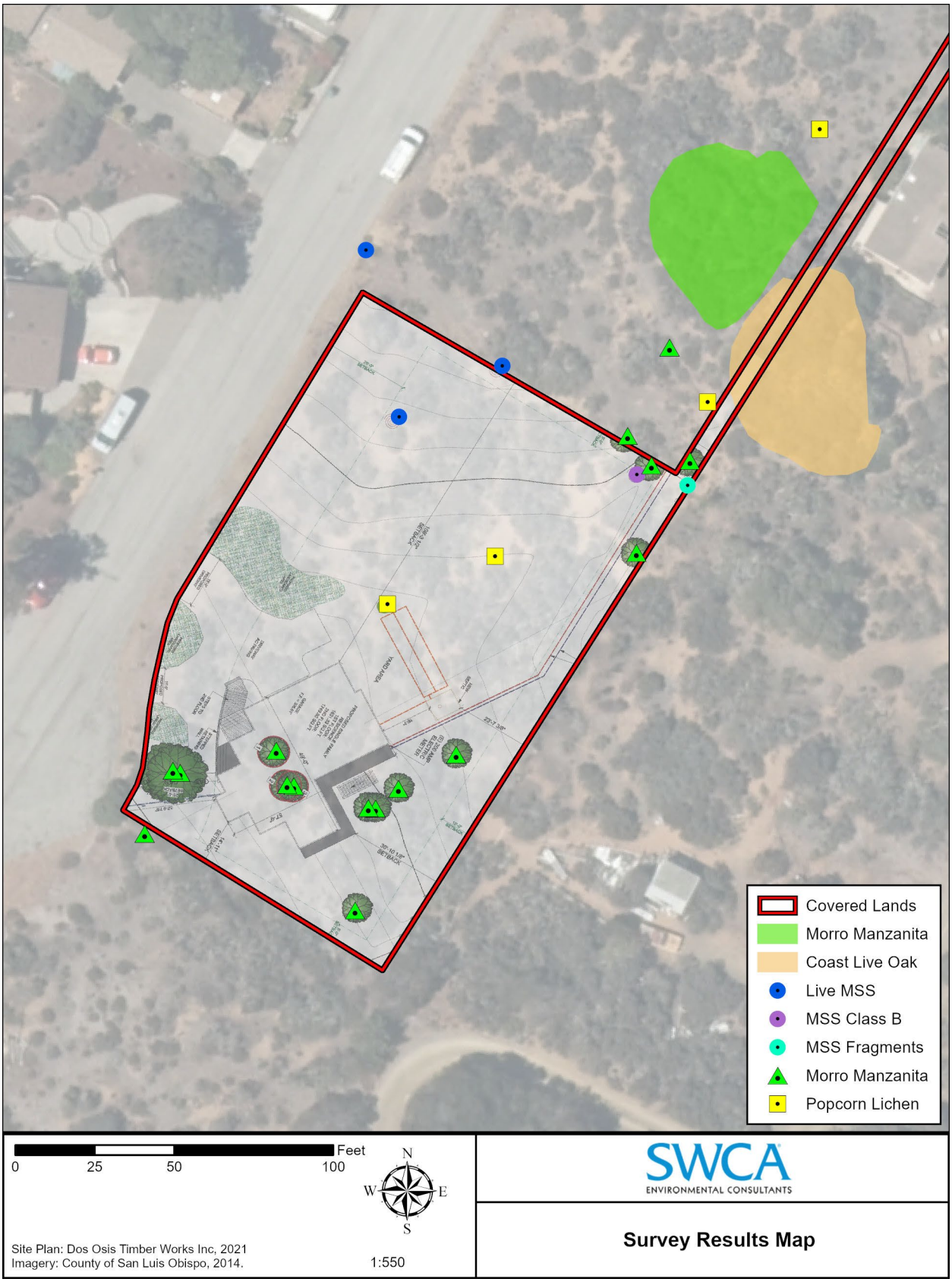


Figure 3. Survey results map.

3.3 Covered Plant Species: Morro Manzanita

Acknowledging that listed plants are not included in the FESA's prohibition on take of listed species, Morro manzanita, a federally Threatened plant species occurs on the parcel and will be subject to direct impacts. Morro manzanita is a CNPS Rank 1B.1 species; therefore, potential impacts to this species will be addressed in the County's CEQA document and subsequent project permitting. Morro manzanita is addressed in this HCP to disclose the anticipated impacts and proposed conservation/mitigation efforts to minimize the impacts.

3.3.1 Status and Distribution

Morro manzanita is a perennial shrub in the heath family (Ericaceae). It is listed as Threatened under the FESA and is a CNPS Rank 1B.1 species. The CNPS ranking indicates that Morro manzanita is Rare, Threatened, or Endangered in California, with over 80% of occurrences in immediate threat of disturbance (CNPS 2022). The historic distribution of Morro manzanita was estimated to cover between 2,000 and 2,700 acres (U.S. Fish and Wildlife Service 1998), based on the distribution of Baywood fine sands soil in the Los Osos area. Its current range includes Montaña de Oro State Park (Hazards Canyon area) in the south, Los Osos Valley in the east, and Morro Rock in the north. Remnant occurrences of Morro manzanita can be found in the developed parts of Los Osos on private parcels and in County right-of-way areas. Although most intact stands are above 200 feet in elevation, there are many remnant occurrences lower than 200 feet in elevation.

3.3.2 Habitat Characteristics and Use

Morro manzanita is a shrub endemic to coastal San Luis Obispo County, where it only occurs on lands surrounding Morro Bay. Most occurrences are associated with Baywood fine sand. Morro manzanita is typically associated with maritime chaparral plant communities with chamise, buckbrush, and black sage. Less commonly, Morro manzanita is an associate of coastal dune scrub intermixing with mock heather, dune lupine, and California sagebrush.

3.3.3 Occurrence in the Project Area

Fourteen Morro manzanita plants occur in the maritime chaparral on the covered lands, most of which are located adjacent to the proposed development area on the south side of the parcel. Four of the specimens are located at the northeast corner of the parcel (see Figure 3).

4 POTENTIAL BIOLOGICAL IMPACTS/TAKE ASSESSMENT

4.1 Direct and Indirect Impacts

Construction, maintenance, and occupation of the single-family residence could result in direct and indirect impacts to up to 0.47 acre of senescent maritime chaparral (Figure 4). Due to the low number of MSS observed on the parcel and the sparse aestivation habitat, the likelihood for take of MSS in association with the covered activities is low but not discountable. Most direct impacts would occur during vegetation removal and grading in the building envelope. Direct impacts could occur while conducting maintenance activities, including fuels reduction activities, in the open space areas around the development. Direct impacts may include trampling/crushing live MSS, exposing MSS to sunlight and subjecting them to desiccation, and altering drainage patterns on the parcel in a way that drowns or buries live MSS. Indirect impacts may occur over time due to the overall change in land use and human presence on the parcel. Indirect impacts may involve the introduction of pets or new weed species on the parcel that alter the covered land's ability to support the species.

Figure 4. Impacts map.

Direct impacts of the project will include:

- Permanent loss of 0.087 acre of maritime chaparral habitat from development of the house, driveway, and associated infrastructure; temporary disturbance to 0.101acre of MSS habitat associated with site grading, septic system installation, and landscaping; and 0.283 acre of ongoing maritime chaparral habitat degradation associated with Zone 1 and Zone 2 CAL FIRE Defensible Space vegetation management.
- Take in the form of harassment during the capture of MSS that are found in the impact areas relocating the individuals out of harm's way.
- Take in the form of injury or mortality to those MSS in the disturbance areas that are overlooked during the pre-disturbance capture and relocation efforts.

Indirect impacts of the project may include:

- Inadvertent trampling or displacement of MSS by domestic pets on the parcel.
- Mortality of MSS that are inadvertently drowned or buried when maintaining landscaping or the lands within the adjacent open space area.
- Changes in habitat conditions in and immediately adjacent to the new structures that may result from inadvertent introduction of new plant species or changes in soil moisture.

4.2 Anticipated Take of Morro Shoulderband Snail

Due to the open and senescent vegetative structure on the parcel, the number of individual MSS on the parcel appears to be very low. Three living MSS were observed on the parcel during the surveys; however, none of the live MSS were in the proposed development areas. The vegetation in the proposed development areas provides minimal aestivation habitat for MSS due to the open structure and lack of ground cover.

In addition to the proposed structure, vegetation within 100 feet of the structure will be managed pursuant to California Public Resource Code (PRC) 4291 to reduce the risk of wildfire. The existing vegetation within Zone 1 (0–30 feet from the structure) will be removed or pruned. The cleared (vegetation removed) areas in Zone 1 will be landscaped or maintained pursuant to PRC 4291 (see Appendix B). The vegetation in Zone 2 (31–100 feet from the structure) will be trimmed/pruned up from ground level to create vertical space between the ground level and the shrubs or trees. The vegetation management in Zone 1 would remove suitable MSS habitat from the development area. The vegetation management in Zone 2 would reduce but not eliminate the MSS habitat in the affected area. The reduction in MSS habitat will be a direct result of the reduction in vegetation at the ground level. Due to the senescent vegetative structure that currently exists in the parcel, the Zone 2 vegetation management would not result in a significant loss of MSS habitat in the Zone 2 management area.

Considering the low number of live MSS observed on the parcel and the lack of aestivation habitat in the development area and the fuel reduction zones, the anticipated take of MSS is less than five individuals.

4.3 Anticipated Impacts to Morro Manzanita

The proposed project will permanently remove three of the 14 Morro manzanita that occur on the covered lands. The three individuals will be removed during the clearing and grading for the house. The project site plan has been designed to avoid removal of the other 11 individuals that are on the parcel. Pursuant to PRC 4291, the 11 individuals that will remain after site clearing will be subject to pruning/trimming to

create vertical space between the ground level and the shrubs. The pruning/trimming would not remove the individuals.

As proposed, the project would permanently remove three Morro manzanita plants and subject the remaining 11 Morro manzanita plants to pruning and trimming.

4.4 Effects on Critical Habitat

The proposed project parcel does not include designated critical habitat for any species. The proposed project will have no effect on designated critical habitats.

4.5 Cumulative Impacts

In contrast with the analysis of cumulative impacts under Section 7 of the FESA, NEPA analysis of cumulative impacts account for incremental impacts of the action on the environment when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions. The geographic area for analysis may be defined by the manifestation of direct or indirect impacts because of covered activities.

For the purposes of this analysis, the geographic area of the cumulative impacts includes the covered lands and the immediately adjacent parcel to the north (APN 074-326-049). The two parcels support a contiguous stand of senescent maritime chaparral with similar habitat conditions and both parcels are currently proposed for development. Surveys for MSS on APN 074-326-049 identified a low number of MSS. During five protocol surveys for MSS conducted by Ecological Assets Management (EAM), no live or empty MSS were observed on the parcel (EAM 2021). During a follow-up survey of the same parcel, SWCA observed two Class A MSS empty shells and one live MSS on the parcel. SWCA's and EAM's combined survey results indicate that the two parcels support very low numbers of MSS and Morro manzanita.

Based on decades of survey work for MSS, it is known that thousands of MSS occur throughout their range (U.S. Fish and Wildlife Service 2020). Morro manzanita population estimates from 1992 range between 86,000 to 153,000 individuals in their current known range (U.S. Fish and Wildlife Service 1998).

Although the specifics of the proposed development on APN 074-326-049 are not known to SWCA, it is presumed that the development would result in take of MSS and MSS habitat. EAM stated that the proposed project was designed to avoid impacts to Morro manzanita (EAM 2021). When considering the cumulative effects of the two proposed projects on MSS and Morro manzanita, relative to the known numbers of occurrences throughout the species' ranges, it is evident that the taking of less than 10 MSS and three Morro manzanita that may occur due to the two proposed projects would not jeopardize the continued existence of MSS or Morro manzanita in Los Osos.

4.6 Anticipated Impacts of the Taking

The proposed project is expected to take less than five MSS, permanently remove 0.091 acre of low-quality native MSS habitat, remove three Morro manzanita shrubs, and result in ongoing degradation of 0.392 acre of maritime chaparral from the landscaping and CAL FIRE Defensible Space vegetation management. The proposed project has been designed to maintain native vegetation in the open space around the parcel, which will continue to provide low-quality native habitat for MSS. However, the value of the remaining habitat for MSS will decrease due to the loss of shelter habitat associated with the

defensible space vegetation management. In addition, 11 Morro manzanita shrubs will remain in the open space areas and will continue to contribute to the species' seed bank on the parcel. For these reasons, the level of take of MSS and impacts to Morro manzanita that would result from the proposed project is considered negligible.

5 CONSERVATION PROGRAM

5.1 Biological Goals and Objectives

Section 10(a)(2)(A) of the FESA requires that an HCP specify the measures that the permittee will take to minimize and mitigate to the maximum extent practicable the impacts of the taking of any federally listed animal species as a result of activities addressed by the plan.

As part of the "Five Point" Policy adopted by the Services in 2000, HCPs must establish biological goals and objectives (65 *Federal Register* 35242, June 1, 2000). The purpose of the biological goals is to ensure that the operating conservation program in the HCP is consistent with the conservation and recovery goals established for the species. The goals are also intended to provide to the applicant an understanding of why these actions are necessary. These goals are developed based on the species' biology, threats to the species, the potential effects of the covered activities, and the scope of the HCP.

The biological goals and objectives of this HCP are as follows:

- **Goal 1:** To minimize take of MSS and Morro manzanita within the project site.
    - **Objective 1.1:** The applicants, SWCA biologist, and project design team coordinated to design a project that avoided the known MSS occurrences on the parcel and reduced the number of removed Morro manzanita plants. The project design team designed the development to utilize as many of the existing Morro manzanita plants as landscape elements in the overall design.
    - **Objective 1.2:** Survey for, capture, and move MSS from impact areas by performing surveys prior to any activity that could result in take.
- **Goal 2:** Mitigate for unavoidable take
    - **Objective 2.1:** The applicant proposes to utilize the Service's existing National Fish and Wildlife Foundation Impact Directed Environmental Account (NFWF IDEA) program to compensate for the unavoidable impacts to 0.47 acre of MSS habitat and Morro manzanita at a 3:1 basis. The 3:1 basis is consistent with the stated mitigation in the Community-wide HCP for projects occurring in the designated Priority Conservation Area.

5.2 Avoidance, Minimization, and Mitigation Measures

5.2.1 Measures to Avoid Impacts

5.2.1.1 PROJECT DESIGN

Prior to designing the proposed development, the applicant retained SWCA to conduct biological surveys on the parcel to identify biologically sensitive resources on the parcel. The resulting data was then provided to the project design team, which designed the project to avoid the known MSS occurrences and most of the Morro manzanita plants on the parcel. The resulting project design situated the development

such that the least amount of MSS aestivation habitat would be removed and most of the Morro manzanita plants would be retained and utilized as landscape elements. However, due to PRC 4291 fuel reduction requirements for vegetation management, the parcel will not maintain its ecological value for MSS or Morro manzanita.

5.2.1.2 PROTECTIVE FENCING

Before any grading or materials delivery occurs at the project site, the construction areas will be fenced to establish the limits of construction activities. This fencing will consist of temporary orange construction fencing and will exclude the remaining Morro manzanita plants and the open space area from inadvertent disturbances during project construction. The temporary fencing will be removed upon completion of the project.

Pre-disturbance capture and relocation surveys for MSS will occur prior to the fencing installation.

5.2.2 Measures to Minimize Impacts

5.2.2.1 SURVEYS FOR AND CAPTURE AND MOVING OF MORRO SHOULDERBAND SNAIL

To reduce the potential for take of MSS in the form of injury or direct mortality, a Service-approved biologist will survey the disturbance area for individuals that may be present. Any identified individuals will be captured and moved out of harm's way. All efforts will be made to locate and move live snails as well as empty shells of the species.

All living native snails, in all life stages, that are identified will be captured and moved to suitable areas in a location approved by the Service prior to the initiation of pre-activity surveys. Thirty days prior to ground-distributing activities, the Service will be contacted by email to determine a relocation site for MSS. Since the project is designed to retain MSS shelter in the open space areas around the house, the open space areas will be considered for approval as a relocation site. The Morro Dunes Ecological Reserve may also be considered.

The size, location of capture, and release site location will be recorded for each individual MSS moved from the affected work areas. Empty shells will be noted on a map, counted, and classified by size and Class (A, B, or C). These shells will be placed within the open space area. The Service-approved biologist will document those activities associated with all surveys and a report will be submitted to the Service in accordance with Section 5.6, *Reporting*.

Surveys will be conducted within 1 week prior to commencement of vegetation removal and initial ground-disturbing activities. If precipitation or heavy fog conditions occur in the timeframe between survey completion and removal of habitat, the Service-approved biologist will resurvey the area to ensure MSS did not move into the site. If preconstruction surveys occur during the summer months (April–October), when MSS are typically aestivating, one intensive survey conducted by the Service-approved biologist(s) prior to construction should be sufficient to relocate MSS from the development areas. The survey process will involve moving and searching under all vegetation and anthropogenic artifacts present (e.g., woodpiles, debris, etc.), and may result in destruction or uprooting of vegetation. If preconstruction surveys occur during the rainy season (November–March) multiple surveys prior to initial disturbance may be needed to identify all MSS present in a work area.

The intent of the preconstruction survey(s) is to capture and move all MSS observed during an intensive search of the development area. However, previous experience has shown that due to the small size and

cryptic nature of the species, some individuals can be missed during even the most thorough effort and may then become visible during ground disturbance. To address this possibility, a Service-approved biologist will be present during the initial clearing and grading activities to capture and move any additional MSS that are discovered.

If land clearing, vegetation removal, trenching, or grading activities that have the potential to affect MSS or their habitat, occur during the rainy season, surveys will be conducted at the beginning of each workday that measurable precipitation (0.1 inch or greater) or heavy fog conditions precedes or occurs during the activities to check for and remove any MSS that may have entered the construction area.

5.2.2.2 CONTRACTOR AND EMPLOYEE TRAINING/EDUCATION

A Service-approved biologist with demonstrable knowledge and experience with MSS and its habitat will conduct a preconstruction environmental awareness training session for all construction personnel involved in site disturbance. The training is intended to inform the construction crews, field supervisors, and equipment operators about the status and presence of the MSS and Morro manzanita, grading and construction activity restrictions, and those minimization measures specified in the HCP.

5.2.3 Measures to Mitigate Unavoidable Impacts

5.2.3.1 MORRO SHOULDERBAND SNAIL

The Service has established the NFWF IDEA program, which would provide funds to benefit the recovery of MSS. This program requires preparation of an HCP with a mitigation mechanism that allows the applicant to contribute funds towards projects that include recovery actions for the species.

The NFWF IDEA program is available to applicants with projects that can be categorically excluded from NEPA; this determination is made by the Service. Since the Kasson's proposed project would not significantly affect sensitive cultural resources, it is likely that it would be categorically excluded from NEPA. If the project is determined to be categorically excluded from NEPA, it must also meet Criteria A through D below to be eligible for the NFWF IDEA program. SWCA's opinion is that the project does meet the following criteria and has provided reasons supporting our opinion.

A. The project site is outside of the boundaries of critical habitat units for MSS, designated on February 7, 2001 (66 *Federal Register* 9233), and/or Conservation Planning Areas intended to serve as de facto recovery units for the species, as identified in the Recovery Plan for Morro shoulderband snail and four plants from western San Luis Obispo County.

The Cottontail Lane parcel is not located in any of the Critical Habitat Units or MSS Conservation Planning Areas identified in the Species Recovery Plan. The parcel is approximately 0.47 acre, currently zoned for residential uses, and located among existing developments. The parcel is bordered by other developed properties, Cottontail Lane, and one undeveloped property that is currently proposed for development. In addition, the parcel habitat is sparse and does not provide ample MSS aestivation habitat. Therefore, the value of on-site conservation to MSS is low when compared to already established conservation areas that could be enhanced using NFWF IDEA funds.

B. The project site does not provide habitat suitable to sustain a population of Morro shoulderband snail of sufficient size to withstand the risk of extirpation in the short-term (i.e., 50 years).

The habitat on the parcel is sparse and provided limited opportunities for MSS to withstand drought years. This is made evident by the low number of MSS observed on the parcel during the surveys. Considering the relatively small MSS population and the lack of aestivation habitat on the parcel, it is reasonable to assume that the population is not of sufficient size to withstand the risk of extirpation in the short term, especially when considering the prolonged drought conditions California has been experiencing.

C. The project would not result in take of any other federally or state-listed species.

Based on the site conditions and proposed project plans, up to three Morro manzanita plants will be removed during project implementation. Morro manzanita is a federally listed species; however, there is no take prohibition for federally listed plants. Morro manzanita is not listed under the California Endangered Species Act (CESA). No other federally listed species occur on the parcel. Therefore, the proposed project would not result in take of any other federally or state-listed species.

D. Impacts to Morro shoulderband snail and its habitat must be minimized to the maximum extent practicable.

The applicant has designed the proposed project to minimize impacts to native vegetation on the parcel, which will reduce impacts to MSS. In addition, the proposed project is subject to discretionary approval by the County Planning and Building Department. Issuance of building permits would require the project to be conducted in accordance with all pertinent regulations, including the FESA. Permit requirements and this HCP include MSS avoidance measures designed to minimize impacts to MSS and its habitat. Such measures include but are not limited to capture and relocation of MSS prior to disturbance, NFWF IDEA payment for habitat impacts, and site monitoring during construction.

5.2.3.1.1 Compensatory Mitigation for Morro Shoulderband Snail and Morro Manzanita

Historically, the County has required applicants to mitigate for MSS at a 3:1 ratio into an in-lieu fee account and replace removed Morro manzanita plants on a 5:1 basis to reduce the impact to less than significant under CEQA. However, due to the size of the property, the entire parcel outside of the development envelope will be subject to PRC 4291 Zone 1 and Zone 2 fuels reduction requirements. The ongoing fuels reduction management will likely impact the ability of Morro manzanita to grow and reproduce on the parcel and would impact MSS occupying the native vegetation. Further, in order to implement the fire fuels reduction measures and on-site Morro manzanita mitigation planting, native vegetation occupied by MSS would need to be cleared to make room for the Morro manzanita individuals and allow the proper spacing between vegetation. Due to the effects of the PRC 4291 fuels reduction requirements, the parcel will experience a significant reduction in conservation value for MSS and Morro manzanita. Therefore, to ensure that the unavoidable impacts to MSS and Morro manzanita are adequately mitigated, the applicant proposes to pay into the NFWF IDEA.

Considering the site conditions, size of the parcel, and low number of MSS on the parcel, use of the NFWF IDEA mitigation is the recommended compensatory mitigation option for the proposed project. 0.47 acre (20,473 square feet)of low-value habitat (sparse maritime chaparral) that would be impacted by the project. These impacts include 0.0.087 acre of permanent impacts associated with development of the house, the driveway, and associated infrastructure; 0.101 acre of temporary impacts for the yard/septic system area; and 0.283 acre of ongoing habitat degradation for vegetation management pursuant to PRC 4291 (see Figure 4).

The applicants propose a 3:1 compensatory mitigation ratio for all impacts to previously undeveloped lands, which is commensurate with the mitigation requirements in the Community-wide HCP for projects in the Priority Conservation Area. The current Community-wide HCP has the fees set at $0.99/square foot for the Restoration/Management/Admin Fee + $0.17 for the Habitat Protection Fee for a total of $1.16/square foot. To meet the anticipated value of compensatory mitigation in the upcoming revised Community-wide HCP, the applicants are proposing $0.71/square foot of impact. This modified mitigation fee was determined by subtracting the $0.45 administration fee (administrative fees are estimated to be 39% of the total fee per square foot) from the combined $1.16 Habitat Restoration/Management /Administration Fee and Habitat Protection Fee. This amounts to $43,607.49, which was calculated as follows: ([20,473 square feet × 3] × $0.71).

5.3 Monitoring

Monitoring tracks compliance with the terms and conditions of the HCP and permit. There are three types of monitoring:

1. compliance monitoring tracks the permit holder's compliance with the requirements specified in the HCP and permit;
2. effects monitoring tracks the impacts of the covered activities on the covered species; and
3. effectiveness monitoring tracks the progress of the conservation strategy in meeting the HCP's biological goals and objectives (includes species surveys, reproductive success, etc.).

Monitoring provides information for making adaptive management decisions.

5.3.1 Compliance Monitoring

Upon issuance of a permit, the permittees will retain a Service-approved MSS biologist to conduct compliance monitoring during construction of the project and after construction completion for the term of the permit. The Service-approved biologist will ensure that the required minimization measures, such as protective fencing and environmental training, are implemented during construction. Once the initial disturbances are complete and all MSS habitat has been removed from the disturbance area, the Service-approved biologist will conduct monthly compliance monitoring visits until the construction of the residence is complete. General Permit Compliance Assessments will occur once annually throughout the permit term and will ensure that the applicants maintain compliance with the permit terms. Results of the compliance monitoring will be reported in the first annual report for the project.

5.3.2 Effects Monitoring

To quantify the amount of incidental take resulting from project implementation, the Service-approved biologist will document the number and age class of individual MSS that were captured and moved, as well as any MSS injured or killed during implementation of the minimization measures or any aspect of project implementation. This information will be included in the first annual report for the project.

5.3.3 Effectiveness Monitoring

Since the applicants will be mitigating the impacts to MSS and Morro manzanita via monetary contributions to the NFWF IDEA, tracking the effectiveness of the species conservation is not necessary in the covered lands. The Service, in coordination with NFWF IDEA program staff, will track the effectiveness of the conservation programs that will be implemented using NFWF IDEA funds. The applicants are not proposing effectiveness monitoring as part of this HCP.

5.4 Performance and Success Criteria

The overall goal of this HCP is to minimize impacts to MSS and replace Morro manzanita plants that are removed for the project development. Performance criteria for each objective are as follows:

- **Objective 1.1:** The applicants, SWCA's biologist, and project design team coordinated to design a project that avoided the known MSS occurrences on the parcel and reduced the number of removed Morro manzanita plants. The project design team designed the development to utilize as many of the existing Morro manzanita plants as landscape elements in the overall design.
    - **Performance Criteria 1.1:** The project design plans included in Appendix B show the development area situated south of the known MSS occurrences and in such a way that most of the existing Morro manzanita plants area being avoided.
- **Objective 1.2:** Survey for, capture, and relocate MSS from impact areas by performing surveys prior to any activity that could result in take.
    - **Performance Criteria 1.2:** A qualified biologist holding a valid Section 10(a)(1)(A) permit for MSS and that is Service approved will conduct pre-disturbance surveys for, capture of, and relocation of MSS out of harm's way. Upon completion of the surveys, the biologist will submit a report to the Service detailing survey methods; number, age class, and location of MSS found; number of MSS moved; relocation site; and any injury or mortality of MSS observed, including its cause.
- **Objective 2.1:** The applicants propose to utilize the Service's existing NFWF IDEA program to compensate for the unavoidable impacts to 0.47 acre of MSS habitat and Morro manzanita at a 3:1 basis.
    - **Performance Criteria 2.1:** The applicants will issue a valid payment to the Service for the agreed upon NFWF IDEA fee for compensatory mitigation prior to the applicants receiving a valid ITP from the Service.

5.5 Adaptive Management Strategy

For some HCPs, the adaptive management strategy will be an integral part of an operating conservation program that addresses the uncertainty in the conservation of a species covered by an HCP. Adaptive management should identify and address the uncertainty, incorporating a range of previously agreed-upon alternatives for addressing those uncertainties, integrating a monitoring program that detects the necessary information, and incorporating a feedback loop that links implementation and monitoring to a decision-making process that results in appropriate changes in management. Adaptive management should help the permittee achieve the biological goals and objectives of the HCP.

Since the compensatory mitigation for MSS and Morro manzanita involves use of the NFWF IDEA program, adaptive management procedures are not necessary for MSS and Morro manzanita.

5.6 Reporting

Project implementation and annual monitoring reports will be submitted to the Service during the 10-year ITP period. Annual reports to the Service will include:

- Brief summary or list of project activities accomplished during the reporting year (e.g., this includes development/construction activities, and other covered activities).
- Project impacts (e.g., number of acres graded, number of buildings constructed, etc.).

- Description of any take that occurred for each covered species (includes cause of take, form of take, take amount, location of take and time of day, and deposition of dead or injured individuals).
- Brief description of conservation strategy implemented.
- Monitoring results (compliance, effects and effectiveness monitoring) and survey information (if applicable).
- Description of circumstances that made adaptive management necessary and how it was implemented. A table including the cumulative totals by reporting period of all adaptive management changes to the HCP, including a very brief summary of the actions.
- Description of any changed or unforeseen circumstances that occurred and how they were dealt with.
- Funding expenditures, balance, and accrual.
- Description of any minor or major amendments.

6 PLAN IMPLEMENTATION

6.1 Changed Circumstances

6.1.1 Summary of Circumstances

Section 10 regulations (69 *Federal Register* 71723, December 10, 2004, as codified in 50 CFR Sections 17.22(b)(2) and 17.32(b)(2)) require that an HCP specify the procedures to be used for dealing with changed and unforeseen circumstances that may arise during the implementation of the HCP. In addition, the HCP No Surprises Rule (50 CFR 17.22 (b)(5) and 17.32 (b)(5)) describes the obligations of the permittee and the Service. The purpose of the No Surprises Rule is to provide assurance to the non-federal landowners participating in habitat conservation planning under the FESA that no additional land restrictions or financial compensation will be required for species adequately covered by a properly implemented HCP, in light of unforeseen circumstances, without the consent of the permittee.

Changed circumstances are defined in 50 CFR 17.3 as changes in circumstances affecting a species or geographic area covered by an HCP that can reasonably be anticipated by plan developers and the Service and for which contingency plans can be prepared (e.g., the new listing of species, a fire, other natural catastrophic event in areas prone to such event). If additional conservation and mitigation measures are deemed necessary to respond to changed circumstances and these additional measures were already provided for in the plan's operating conservation program (e.g., the conservation management activities or mitigation measures expressly agreed to in the HCP or IA), then the permittee will implement those measures as specified in the plan. However, if additional conservation management and mitigation measures are deemed necessary to respond to changed circumstances and such measures were not provided for in the plan's operating conservation program, the Service will not require these additional measures absent the consent of the permittee, provided that the HCP is being "properly implemented" (properly implemented means the commitments and the provisions of the HCP and the IA have been or are fully implemented).

Three changed circumstances have been identified for the Kasson HCP: (1) presence of a newly listed species, (2) a newly discovered listed species, and (3) fire.

6.1.2 Listing of New Species

If a new species that is not covered by the HCP but that may be affected by activities covered by the HCP is listed under the FESA during the term of the Section 10(a)(1)(B) permit, the Section 10 permit will be reevaluated by the Service and the HCP covered activities may be modified, as necessary, to ensure that the activities covered under the HCP are not likely to jeopardize or result in the take of the newly listed species or adverse modification of any newly designated critical habitat. The Kassons shall implement the modifications to the HCP covered activities identified by the Service as necessary to avoid the likelihood of jeopardy to or take of the newly listed species or adverse modification of newly designated critical habitat. The Kassons shall continue to implement such modifications until such time as the permittee has applied for and the Service has approved an amendment of the Section 10(a)(1)(B) permit, in accordance with applicable statutory and regulatory requirements, to cover the newly listed species or until the Service notifies the Kassons in writing that the modifications to the HCP covered activities are no longer required to avoid the likelihood of jeopardy of the newly listed species or adverse modification of newly designated critical habitat.

6.1.3 Newly Discovered Previously Listed Species

If one or more other already listed species is discovered at the project site during the term of the permit, the permittees will cease project activities that are likely to result in take and work with the Service to develop a permit amendment to address said species. For this project, it is extremely unlikely that any other listed species will be discovered at the project site due to the small size and location of the parcel and limited habitat area.

6.1.4 Fire

Fire is a common occurrence in California and is part of the natural ecology of native scrub habitats. A fire within the permit boundaries would be expected to remove vegetation necessary to the life cycle of MSS as well as to directly injure or kill individual MSS. Scrub habitat is adapted to this type of disturbance, and early successional plants quickly grow in burned areas. Burns can also open habitat for invasive, non-native weedy species, which can invade and overtake the burned area. If a fire occurs in the project area during the course of the permit, the permittees will contact the Service to determine appropriate measures, which may include revegetation efforts to reestablish native vegetative cover if such a procedure is deemed beneficial.

6.2 Unforeseen Circumstances

Unforeseen circumstances are defined in 50 CFR 17.3 as changes in circumstances that affect a species or geographic area covered by the HCP that could not reasonably be anticipated by plan developers and the Service at the time of the HCP's negotiation and development and that result in a substantial and adverse change in status of the covered species. The purpose of the No Surprises Rule is to provide assurances to non-federal landowners participating in habitat conservation planning under the FESA that no additional land restrictions or financial compensation will be required for species adequately covered by a properly implemented HCP, in light of unforeseen circumstances, without the consent of the permittee.

In case of an unforeseen event, the permittee shall immediately notify the Service staff who have functioned as the principal contacts for the proposed action. In determining whether such an event constitutes an unforeseen circumstance, the Service shall consider, but not be limited to, the following factors: size of the current range of the affected species; percentage of range adversely affected by the HCP; percentage of range conserved by the HCP; ecological significance of that portion of the range

affected by the HCP; level of knowledge about the affected species and the degree of specificity of the species' conservation program under the HCP; and whether failure to adopt additional conservation measures would appreciably reduce the likelihood of survival and recovery of the affected species in the wild.

If the Service determines that additional conservation and mitigation measures are necessary to respond to the unforeseen circumstances where the HCP is being properly implemented, the additional measures required of the permittee must be as close as possible to the terms of the original HCP and must be limited to modifications within any conserved habitat area or to adjustments within lands or waters that already set-aside in the HCP's operating conservation program. Additional conservation and mitigation measures shall involve the commitment of additional land or financial compensation or restrictions on the use of land or other natural resources otherwise available for development or use under original terms of the HCP only with the consent of the permittee.

6.3 Amendments

6.3.1 Minor Amendments

Minor amendments are changes that do not affect the scope of the HCP's impact and conservation strategy, change amount of take, add new species, and significantly change the boundaries of the HCP. Examples of minor amendments include correction of spelling errors or minor corrections in boundary descriptions. The minor amendment process is accomplished through an exchange of letters between the permit holder and the Service's Field Office.

6.3.2 Major Amendments

Major amendments to the HCP and permit are changes that do affect the scope of the HCP and conservation strategy, increase the amount of take, add new species, and significantly change the boundaries of the HCP. Major amendments often require amendments to the Service's decision documents, including the NEPA document, the biological opinion, and findings and recommendations document. Major amendments will often require additional public review and comment.

6.4 Suspension/Revocation

The Service may suspend or revoke their respective permits if the Kassons fail to implement the HCP in accordance with the terms and conditions of the permits or if suspension or revocation is otherwise required by law. Suspension or revocation of the Section 10(a)(1)(B) permit, in whole or in part, by the Service shall be in accordance with 50 CFR 13.27–29 and 17.32 (b)(8).

6.5 Renewal of the Section 10(a)(1)(B) Permit

The County and the Commission are currently debating the issuances of Minor Use Permits (MUPs) and CDPs regarding the local groundwater basin and local coastal plan constraints. There is a possibility that despite the Kassons receiving an ITP for their project, their project could be delayed at the County if it is appealed by the Commission. The duration of the potential delay is unknown and could extend into the ITP term. This could result in the Kasson's receiving the County CDP and MUP several years into the ITP term and not having sufficient time to complete the proposed project and implement the proposed mitigation measures during the remaining time in the ITP term. If this were the case, the applicants may

need to renew or extend the ITP to allow sufficient time to construct their project and implement the biological goals and objectives of this HCP.

Upon expiration, the Section 10(a)(1)(B) permit may be renewed without the issuance of a new permit, provided that the permit is renewable, and that biological circumstances and other pertinent factors affecting covered species are not significantly different than those described in the original HCP. To renew the permit, the Kassons shall submit to the Service, in writing:

- A request to renew the permit, reference to the original permit number.
- Certification that all statements and information provided in the original HCP and permit application, together with any approved HCP amendments, are still true and correct, and inclusion of a list of changes.
- A description of any take that has occurred under the existing permit; and
- A description of any portions of the project still to be completed, if applicable, or what activities under the original permit the renewal is intended to cover.

If the Service concurs with the information provided in the request, it shall renew the permit consistent with permit renewal procedures required by federal regulation (50 CFR 13.22). If the Kassons file a renewal request and the request is on file with the issuing Service office at least 30 days prior to the permit's expiration, the permit shall remain valid while the renewal is being processed, provided the existing permit is renewable. However, the Kasson's may not take listed species beyond the quantity authorized by the original permit or change the scope of the HCP. If the Kasson's fail to file a renewal request within 30 days prior to permit expiration, the permit shall become invalid upon expiration. Kassons must have complied with all annual reporting requirements to qualify for a permit renewal.

6.6 Permit Transfer

The applicants may need to transfer the ITP if the property is sold or otherwise changes ownership. In the event of a sale or transfer of ownership of the property during the life of the permit, the following will be submitted to the Service by the new owner(s): a new permit application, permit fee, and written documentation providing assurances pursuant to 50 CFR 13.25(b)(2) that the new owner will provide sufficient funding for the HCP and will implement the relevant terms and conditions of the permit, including any outstanding minimization and mitigation. The new owner(s) will commit to all requirements regarding the take authorization and mitigation obligations of this HCP unless otherwise specified in writing and agreed to in advance by the Service.

7 FUNDING

7.1 Costs of Habitat Conservation Plan Implementation

Table 2 shows the estimated costs for implementing the HCP as proposed.

Table 2. Habitat Conservation Plan Implementation Plan Estimated Costs

Activity	Unit Cost	One-Time Cost	Reoccurring Costs	Total (for 10 Years)
Conservation Strategy				
Pre-Disturbance MSS Capture and Relocation	$193/hour	12		$2,316
Contractor Environmental Awareness Training	$193/hour	4		$772
Protective Fencing	$50/100 feet	4		$200
MSS Survey During Initial Grading	$193/hour	8		$1,544
NFWF IDEA Compensatory MSS and Morro Manzanita Mitigation				$43,607
Subtotal				*$48,439*
Monitoring				
Compliance Monitoring During Construction	$193/hour		3 hours/month for 8 months	$4,632
Compliance Monitoring Post Construction	$193/hour		3 hours/year for 10 years	$5,790
Subtotal				*$10,422*
Reporting				
Annual Reports	$193/hour		4 hours/year for 10 years	$7,720
Subtotal				*$7,720*
Total				**$66,581**

7.2 Funding Source

Paul and Melanie Kasson, as the permittees, will be responsible for the full cost of implementing the minimization and mitigation measures as described in Section 7.1, *Costs of Habitat Conservation Plan Implementation*, Table 2, as well as those changed circumstances described in Section 6.2, *Unforeseen Circumstances*. The permittees understand that failure to provide adequate funding and consequent failure to implement the terms of this HCP and the ITP in full could result in temporary permit suspension or permit revocation.

8 ALTERNATIVES

Section 10(a)(2)(A)(iii) of the FESA, as amended (and 50 CFR 17.22(b)(1)(iii) and 17.32(b)(1)(iii)), requires that alternatives to the taking of species be considered and reasons why such alternatives are not implemented be discussed.

8.1 Alternative #1: No Action Alternative

The No Action Alternative means that an HCP would not be prepared, and no ITP would be issued. Site development would not occur and MSS and its habitat within the project area would not be impacted.

Under this alternative, $43,607.49 of in-lieu fee compensatory mitigation funds would not be contributed to the conservation benefit of MSS on off-site lands. Since the subject parcel provides low-value MSS habitat and supports very few live MSS, the loss of the compensatory mitigation funding could be detrimental to MSS conservation. Since the property is privately owned, there are ongoing economic considerations associated with retaining the property, including, but not limited to, payment of associated taxes. Because of economic considerations, and because this HCP results in a net benefit for the covered species, the No Action Alternative has been rejected.

8.2 Alternative #2: Larger Home and Footprint

Earlier designs for the proposed project included a larger home, a 660-square-foot detached metal building, a septic system removed from the home, and a larger driveway. This project design would have had a larger footprint and impacted more Morro manzanita plants and MSS habitat than the currently proposed project. Alternative 2 was rejected to better incorporate MSS, Morro manzanita, and maritime chaparral habitat.

8.3 Alternative #3: On-site Conservation to Mitigate Unavoidable Impacts

Under Alternative 3, the applicants would implement permittee-responsible MSS and Morro manzanita conservation on the undisturbed portions of the parcel. The parcel is senescent maritime chaparral dominated by chamise. The vegetative structure is open to sparse, providing ample bare ground and minimal MSS aestivation habitat. In addition, the parcel is small (0.47 acres). Due to these attributes, conserving habitat on the parcel would provide very little benefit to MSS and Morro manzanita. Whereas, contributing compensatory mitigation monies to the Service for the conservation of MSS and Morro manzanita in Los Osos on already established conservation lands with larger populations of MSS would provide a greater benefit to MSS. Alternative 3 was rejected to maximize the project's net benefit for MSS and Morro manzanita.

9 LITERATURE CITED

California Native Plant Society (CNPS). 2022. California Rare Plant Ranking Glossary. Available at: https://rareplants.cnps.org/Home/Glossary. Accessed June 1, 2022.

Ecological Assets Management (EAM). 2021. *Morro Shoulderband Snail Protocol Survey Results Report for 2640 Cottontail Lane (APN 074-326-049)*. Los Osos, California: Ecological Assets Management. May 27.

Holland, R.F. 1986. *Preliminary Descriptions of the Terrestrial Natural Communities of California*. Sacramento, CA: State of California, The Resources Agency, Department of Fish and Game.

U.S. Fish and Wildlife Service. 1998. *Recovery Plan for Morro Shoulderband Snail and Four Plants from Western San Luis Obispo County, California*. U.S. Fish and Wildlife Service Ventura California. September 1998.

———. 2018. *Species status assessment report for the Morro Shoulderband Snail (Helminthoglypta walkeriana) and the Chorro Shoulderband Snail (Helminthoglypta morroensis),* Version 1.0. Ventura, California. June.

———. 2022. *Endangered and Threatened Wildlife and Plants; Reclassification of Morro Shoulderband Snail (Helminthoglypta walkeriana) From Endangered to Threatened With a 4(d) Rule*. Final Rule. 50 CFR Part 17 [Docket No. FWS–R8–ES–2019–0025; FF09E22000 FXES11130900000 201] RIN 1018–BD45. *Federal Register* 87(23):6063–6077.

U.S. Geological Survey (USGS). 1994. Morro Bay South, California Topographic Map.

APPENDIX A

Cultural Resources Compliance Form

REQUEST FOR CULTURAL RESOURCE COMPLIANCE
U.S. Fish and Wildlife Service, Region 1

Project Name:	2680 Cottontail Land (Kasson) Residential Project				**FWS Program:** (ES, Refuges, Fisheries, Fire…)	
					Funding Program: (Partners, Refuges, TEA-21, HCP, NAWCA…)	
State: CA, ID, HI, NV, OR, WA	CA	**EcoRegion:** CBE, IPE,KCE, NCE			**FWS Unit: Org Code:**	
Project Location:	**County**	**Township**	**Range**	**Section**	**FWS Contact:** Name, Tel#, Address	
	San Luis Obispo	30 S	10 E	24		
USGS Quad:	Morro Bay South				**Date of Request:**	**Proposed Project Start Date:**
Total project acres/ linear ft/m:		**APE Acres / linear ft/m** (if different)			June 2022	**Summer 2023**
0.47		0.47				

Have you consulted with Tribe(s)?				Have you consulted with other interested parties?				**Is there another federal agency involved with this project?**	**x**	No	If yes, provide name:
Yes		No	X	Yes	X	No				Yes	

MAPS Attached	**Check below**		**If yes, which agency is taking lead for Section 106 compliance?**		FWS		Other Agency
Copy of portion of USGS Quad with project area marked clearly **(required)**	X		Project (sketch) map showing Area of Potential Effect with locations of specific ground altering activities **(required)**				
Photocopy of aerial photo showing location **(if available)**	X		Any other project plans, photographs, or drawings that may help CRT in making determination **(if available)**				

Directions to Project: (if not obvious)	Take Los Osos Valley Road west from Highway 101, turn left on Bayview Heights Drive, then right on Cottontail Lane. The parcel will be on the left.
Description of Undertaking:	Describe proposed project and means to facilitate (e.g., provide funds to revegetate 1 mile of riparian habitat, restore 250 acres of seasonal wetlands, and construct a 5-acre permanent pond). How is the project designed (e.g., install 2 miles of fence and create approximately 25' of 3' high check dam)?
	The applicant proposes to construct and live in a two-story single-family residence. The site plan includes an approximately 3,500-square-foot house with an attached garage, a deck, landscaped areas, a yard area, a septic system, and underground utilities. An asphalt-concrete driveway would have two points of ingress off Cottontail Lane and would provide access to the house. To reduce the total disturbance area, the septic and leach field system will be situated within the proposed yard area at the northwest side of the house.

Return Form and maps to: Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California 93003
Questions: 805-644-1766 or fax 805-644-3958

Area of Potential Effects (APE):	Describe where disturbance of the ground will occur. What are the dimensions of the area to be disturbed? How deep will you excavate? How far apart are fenceposts? What method are you using to plant vegetation? Where will fill be obtained? Where will soil be dumped? What tools or equipment will be used? Are you replacing or repairing a structure? Will you be moving dirt in a relatively undisturbed area? Will the project reach below or beyond the limits of prior land disturbance? Differentiate between areas slated for earth movement vs. areas to be inundated only. Is the area to be inundated different from the area inundated today, in the recent past, or under natural conditions? Provide acres and/or linear ft/m for all elements of the project.
	Activities associated with house construction will include grading, excavation, foundation pouring; framing; installation of siding, roofing, electrical, plumbing, insulation, and drywall; painting; and installation of a septic system. Normal construction methods and equipment will be used. No structures are currently present on the lot and all construction will be in undisturbed areas. Approximately 0.2-acre will be disturbed by proposed construction.
Environmental and Cultural Setting:	Briefly describe the environmental setting of the APE. **A)** What was the natural habitat prior to modifications, reclamation, agriculture, settlement? **B)** What is land-use history? When was it first settled, modified? How deep has it been cultivated, grazed, etc.? **C)** What is land use and habitat today? What natural agents (e.g., sedimentation, vegetation, inundation) or cultural agents (e.g., cultivation) might affect the ability to discover cultural resources? **D)** Do you (or does anybody else) know of cultural resources in or near the project area?
	The Los Osos area was first settled in 1769, and is currently dominated by residential development. Numerous prehistoric sites are located within the Los Osos area. No evidence of prehistoric use was observed on the site during biological surveys. A formal archaeological survey was conducted for the project in November 2011, by CRMS. The surface inventory survey conducted on the site found no evidence of archaeological materials, and no evidence of darkened soils. The report stated that "it is unlikely that subsurface remains are present….". The 0.47-acre parcel is in a residential area. Vegetation on the site consists of a senescent stand of maritime chaparral, with some coastal dune scrub associates present, and coast live oak (Quercus agrifolia) trees. The maritime chaparral habitat and associated coastal dune scrub vegetation on the site is senescent and relatively undisturbed.

Return Form and maps to: Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California 93003
Questions: 805-644-1766 or fax 805-644-3958

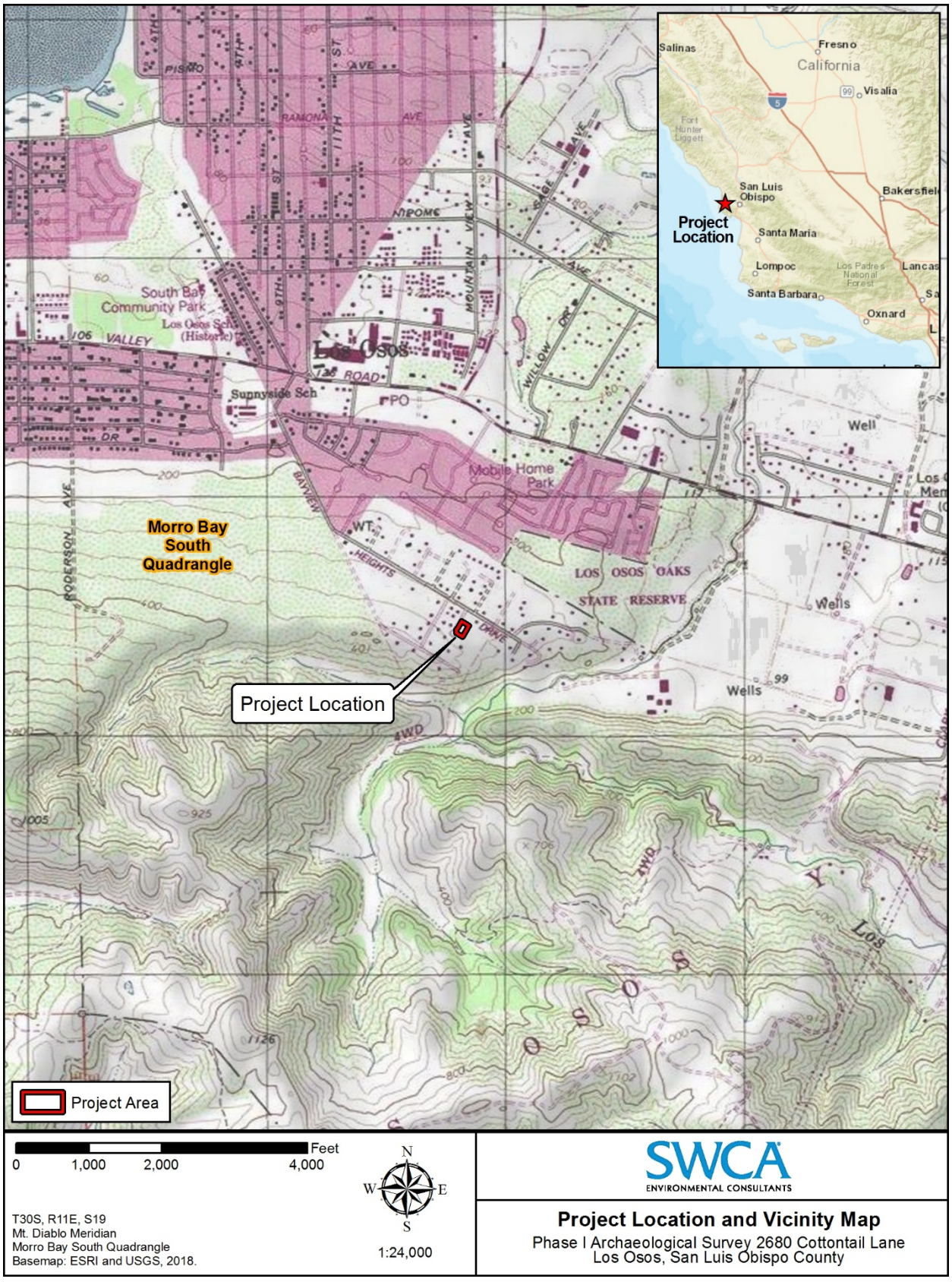


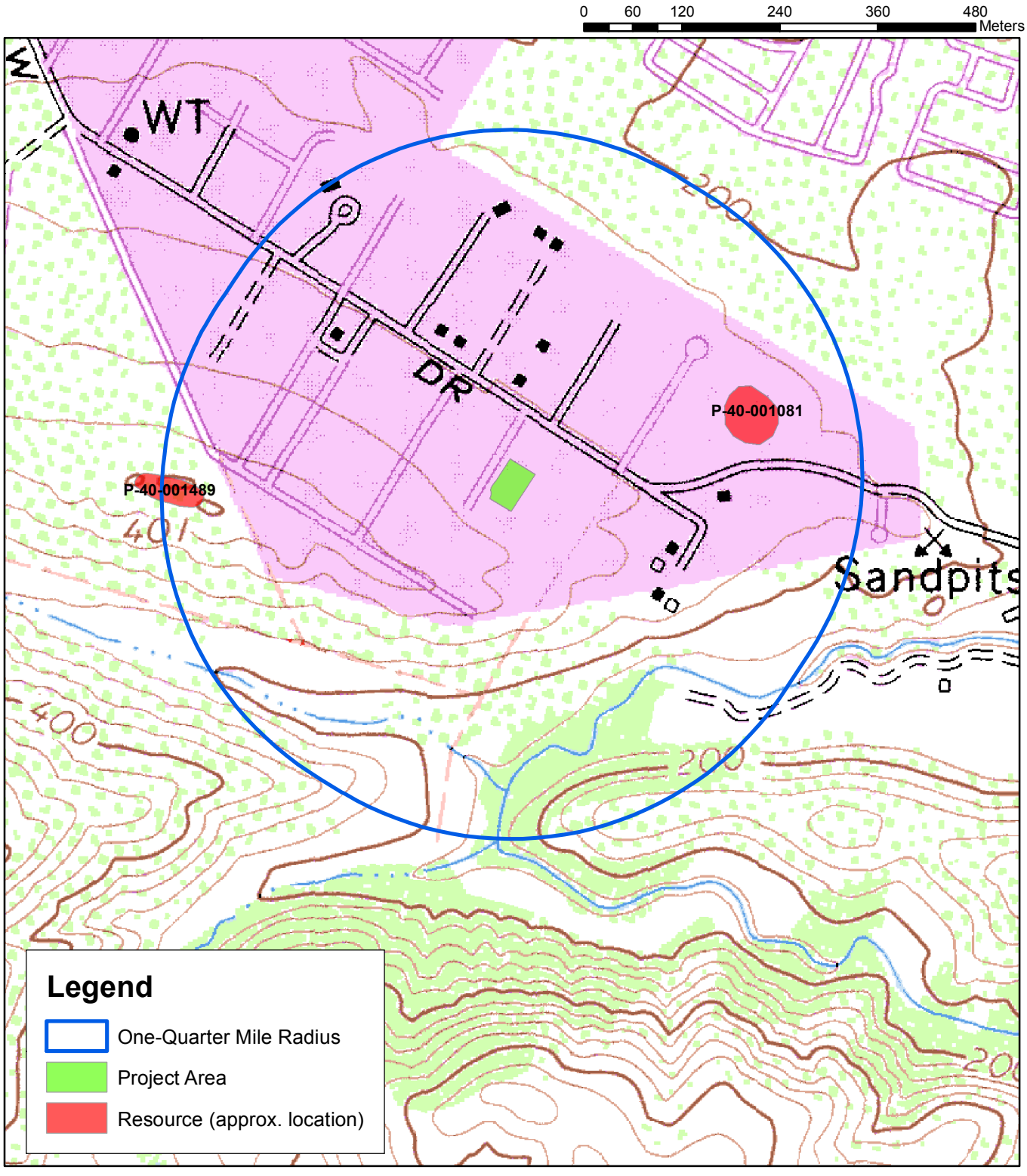
Figure A-1. Project vicinity and location map.

2860 Cottontail Lane (SWCA no. 42026)

Customer Name: Leroy Laurie - SWCA Environmental Consultants
Project Location: Morro Bay South USGS 7.5' Quad

Resource Map 1 of 1 (approximate locations)

Central Coast Information Center
Department of Anthropology
University of California
Santa Barbara, CA 93106-3210
(805) 893-2474
(805) 893-8707 FAX



APPENDIX B

Project Site Plan

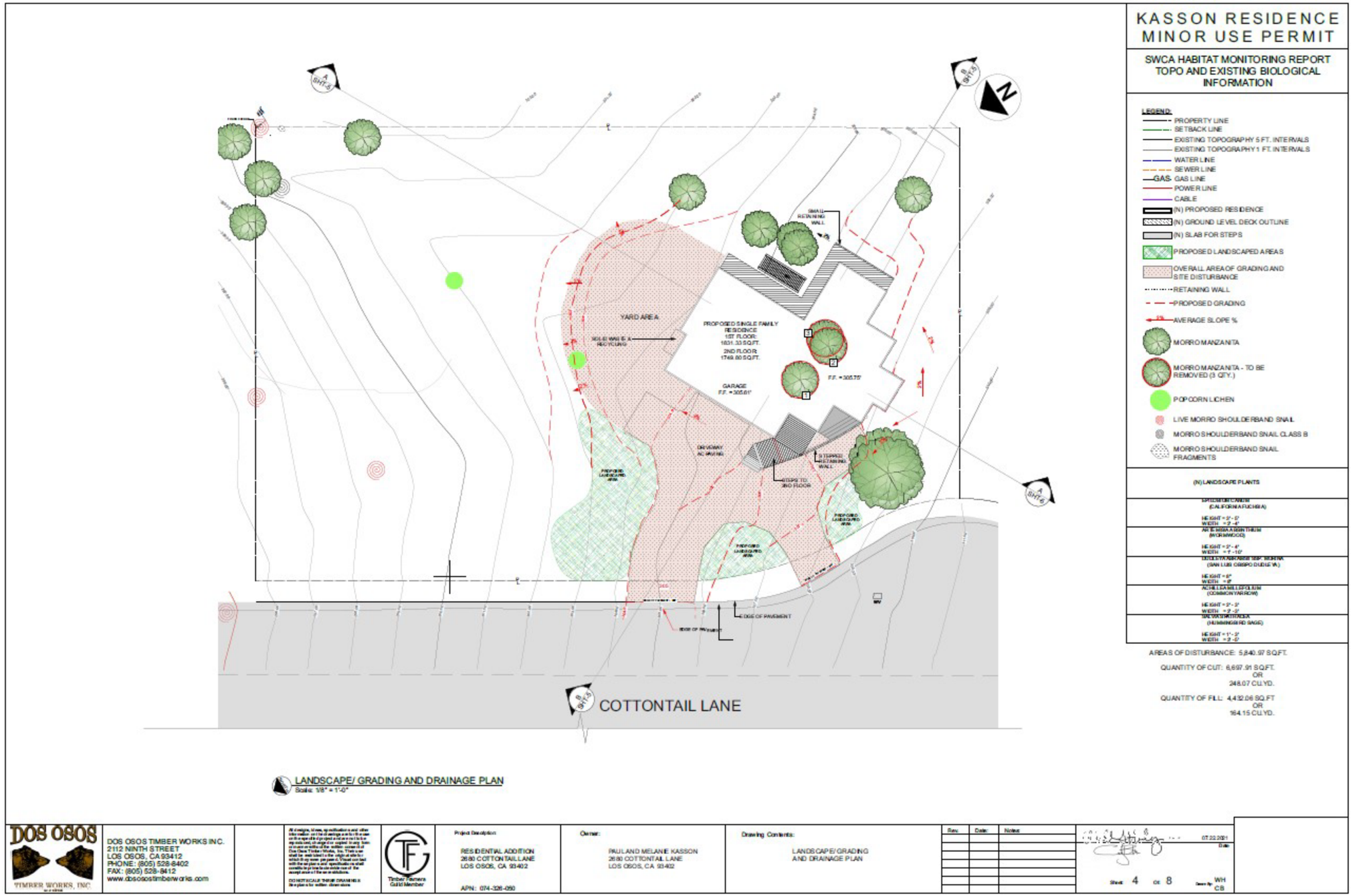


Figure B-1. Site plan.

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APPENDIX C

Site Photographs

Photo C-1. Representative view of the chamise chaparral habitat on the parcel. Photo taken January 24, 2022.

Photo C-2. Representative view of the chamise chaparral habitat on the parcel. Photo taken January 24, 2022.

Photo C-3. Representative view of the habitat in the County right-of-way on Cottontail Lane. Photo taken April 17, 2018.

Photo C-4. Representative view of the habitat near the existing power pole and in the utility easement. Photo taken January 16, 2019.

Photo C-5. View of an MSS on the parcel. Photo taken January 16, 2019.

Photo C-6. View of popcorn lichen on the parcel. Photo taken July 17, 2018.

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