

**BIOLOGICAL RESOURCES ASSESSMENT,
JURISDICTIONAL DELINEATION, AND
CVMSHCP CONSISTENCY ANALYSIS FOR THE
NEW COMMERCIAL DEVELOPMENT PROJECT ON THE NWC OF INDIAN CANYON
AND PIERSON BLVD
CITY OF DESERT HOT SPRINGS, RIVERSIDE COUNTY, CALIFORNIA**

Prepared for:

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SECTION 1.0 - INTRODUCTION

Jennings Environmental, LLC (Jennings) was retained by Amir Butt (Owner) to conduct a literature review and reconnaissance-level survey for the proposed New Commercial Development Project (Project) located on the northwest corner of the intersection of Indian Canyon and Pierson Blvd in the city of Desert Hot Springs. The survey identified vegetation communities, the potential for the occurrence of special status species, or habitats that could support special status wildlife species, and recorded all plants and animals observed or detected within the Project boundary. This biological resources assessment is designed to address potential effects of the proposed project on designated critical habitats and/or any species currently listed or formally proposed for listing as endangered or threatened under the federal Endangered Species Act (ESA) and the California Endangered Species Act (CESA) or species designated as sensitive by the California Department of Fish and Wildlife (CDFW) or the California Native Plant Society (CNPS).

Information contained in this document is in accordance with accepted scientific and technical standards that are consistent with the requirements of the United States Fish and Wildlife Service (USFWS) and CDFW. Additionally, the site was surveyed for any drainage features that would meet the definition of the Waters of the US (WOUS), Waters of the State (WOS), or CDFW jurisdiction. Additionally, the project is located within the Coachella Valley Multiple Species Habitat Conservation Plan (CVM SHCP). As such, this report also contains the results of the consistency analysis performed for the project.

1.1 PROJECT LOCATION

The project is generally located in the southwest corner of Section 26, Township 2 South, Range 4 East, and is depicted on the *Desert Hot Springs* U.S. Geological Survey's (USGS) 7.5-minute topographic map. More specifically the project is located within APN 664-080-017, within the city of Desert Hot Springs, Riverside County, California. The site is surrounded by open space to the north, east, and west, with rural residential developments to the south. (Figures 1 and 2 in Appendix A).

1.2 PROJECT DESCRIPTION

The proposed Project is to develop the site with a gas station, car wash, convenience store, and drive-through style restaurants. The gas station canopy will be approximately 5,971 square feet, the convenience store will be approximately 7,460 square feet, the car wash will be approximately 1,790 square feet, and the two restaurants will each be approximately 2,00 square feet.

2.0 – METHODOLOGY

2.1 LITERATURE REVIEW

Prior to performing the field survey, existing documentation relevant to the Project site was reviewed. The most recent records of the California Natural Diversity Database (CNDDDB) managed by CDFW (CDFW 2022), the USFWS Critical Habitat Mapper (USFWS 2022), and the California Native Plant Society's Electronic Inventory (CNPSEI) of Rare and Endangered Vascular Plants of California (CNPS 2022) were reviewed for the following quadrangles containing and surrounding the Project site: *Desert Hot Springs* and *Morongo Valley*, USGS 7.5-minute quadrangle. The *Morongo Valley* quad was included in the search

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due to the site's proximity to its border. These databases contain records of reported occurrences of federal- or state-listed endangered or threatened species, California Species of Concern (SSC), or otherwise special status species or habitats that may occur within or in the immediate vicinity of the Project site.

2.2 SOILS

Before conducting the surveys, soil maps for Riverside County were referenced online to determine the types of soil found within the Project site. Soils were determined in accordance with categories set forth by the United States Department of Agriculture (USDA) Soil Conservation Service and by referencing the USDA Natural Resources Conservation Service (NRCS) Web Soil Survey (USDA 2022).

2.3 BIOLOGICAL RECONNAISSANCE-LEVEL SURVEY

Jennings biologist, Gene Jennings, conducted the general reconnaissance survey within the Project site to identify the potential for the occurrence of special status species, vegetation communities, or habitats that could support special status wildlife species. The surveys were conducted on foot, throughout the Project site between 0730 and 0845 hours on July 18, 2022. Weather conditions during the survey included temperatures ranging from 80.2 to 83.7 degrees Fahrenheit, with no cloud cover, no precipitation, and 3.3 to 9.5 mile per hour winds. Photographs of the Project site were taken to document existing conditions (Appendix B) with a photo point map (Figure 3) in Appendix A.

2.4 JURISDICTIONAL FEATURES

A general assessment of jurisdictional waters regulated by the United States Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), and CDFW was conducted for the proposed Project area. Pursuant to Section 404 of the Clean Water Act, USACE regulates the discharge of dredged and/or fill material into waters of the United States. The State of California (State) regulates the discharge of material into waters of the State pursuant to Section 401 of the Clean Water Act and the California Porter-Cologne Water Quality Control Act (California Water Code, Division 7, §13000 et seq.). Pursuant to Division 2, Chapter 6, Sections 1600-1602 of the California Fish and Game Code, CDFW regulates all substantial diversions, obstructions, or changes to the natural flow or bed, channel, or bank of any river, stream, or lake, which supports fish or wildlife. The initial assessment was conducted by a desktop survey through the USGS National Hydrography Dataset for hydrological connectivity. Additional assessment findings are discussed in Sections 3.1.2 and 3.2.5. A discussion of the regulatory framework is provided in Appendix C.

2.5 COACHELLA VALLEY MULTIPLE SPECIES HABITAT CONSERVATION PLAN (CVMSHCP)

The CVMSHCP is a regional multi-agency conservation plan that provides for the long-term conservation of approximately 240,000 acres of open space and 27 plant and animal species in the Coachella Valley. The stated overall goal of the CVMSHCP is, "... to enhance and maintain biological diversity and ecosystem processes while allowing future economic growth." The CVMSHCP balances environmental protection and economic development objectives in the plan area and simplifies compliance with endangered species laws.

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The Plan is subdivided according to specific resource conservation goals that have been organized according to geographic areas defined as Conservation Areas that serve as natural habitat for covered species. These areas are identified as Core, Essential, or Other Conserved Habitat for special-status plant, invertebrate, amphibian, reptile, bird, and mammal species, Essential Ecological Process Areas, and Biological Corridors and Linkages. For each Conservation Area, Conservation Objectives and required measures are articulated for conserving Core Habitat for covered species, Essential Ecological Processes necessary to maintain habitat viability, Biological Corridors, and Linkages as needed, and the less common Conserved Natural Communities.

Conservation Goals are managed within the Conservation Areas as a Reserve System. The Conservation Goals of the CVMSHCP Reserve System are:

- Represent native ecosystem types or natural communities across their natural range of variation in a system of conserved areas.
- Maintain or restore self-sustaining populations or metapopulations of the species included in the Plan to ensure permanent Conservation so that Take Authorization can be obtained for currently Listed Species (animal species) and Non-listed Species can be covered in case they are listed in the future.
- Sustain ecological and evolutionary processes necessary to maintain the functionality of the conserved natural communities and Habitats for the species included in the Plan.
- Maximize connectivity among populations and avoid Habitat fragmentation within Conservation Areas to conserve biological diversity, ecological balance, and connected populations of Covered Species.
- Minimize adverse impacts from OHV use, illegal dumping, edge effects, exotic species, and other disturbances in accordance with the Management and Monitoring Programs.
- Manage the Conservation Areas adaptively to be responsive to short-term and long-term environmental change and new science.

Under the CVMSHCP, a Take Authorization, except for three of the covered species, is allowed for covered activities in accordance with the federal Endangered Species Act (ESA) and the California Natural Community Conservation Planning Act. Covered activities include development permitted or approved by local permittees, which includes new projects approved pursuant to county and city general plans. Take activities are limited within Conservation Areas.

Mitigation for the impacts of development on the covered species and their habitats is through payment of a fee to the City of Desert Hot Springs which is in turn used by the Coachella Valley Conservation Commission to minimize and mitigate impacts of the Taking and provide for the conservation of the covered and non-covered species through the acquisition and maintenance of habitat.

2.6 VEGETATION

All plant species observed within the Project site were recorded. Vegetation communities within the Project site were identified, qualitatively described, and mapped onto a high-resolution imagery aerial photograph. Plant communities were determined in accordance with the *Manual of California Vegetation, Second Edition* (Sawyer et al. 2009). Plant nomenclature follows that of *The Jepson Manual, Second Edition* (Baldwin et al. 2012). A comprehensive list of the plant species observed during the survey is provided in Appendix D.

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2.7 WILDLIFE

All wildlife and wildlife signs observed and detected, including tracks, scat, carcasses, burrows, excavations, and vocalizations, were recorded. Additional survey time was spent in those habitats most likely to be utilized by wildlife (native vegetation, wildlife trails, etc.) or in habitats with the potential to support state- and/or federally listed or otherwise special status species. Notes were made on the general habitat types, species observed, and the conditions of the Project site. A comprehensive list of the wildlife species observed during the survey is provided in Appendix D.

SECTION 3.0 – RESULTS

3.1 LITERATURE REVIEW RESULTS

According to the CNDDDB and CNPSEI, 48 sensitive species were documented in the CNDDDB and 4 were documented in the CNPSEI. Including 7 listed species and 3 sensitive habitats, have been documented in the *Desert Hot Springs and Morongo Valley* quads. This list of sensitive species and habitats includes any State and/or federally listed threatened or endangered species, CDFW designated Species of Special Concern (SSC), and otherwise Special Animals. “Special Animals” is a general term that refers to all of the taxa the CNDDDB is interested in tracking, regardless of their legal or protection status. This list is also referred to as the list of “species at risk” or “special status species.” The CDFW considers the taxa on this list to be those of greatest conservation need.

An analysis of the likelihood for the occurrence of all CNDDDB and CNPSEI sensitive species documented in the *Desert Hot Springs and Morongo Valley* quads is provided in Table 2, in Appendix D. This analysis takes into account species range as well as documentation within the vicinity of the project area and includes the habitat requirements for each species and the potential for their occurrence on the site, based on required habitat elements and range relative to the current site conditions. According to the databases, no USFWS designated critical habitat occurs within or adjacent to the project site.

3.1.1 SOILS

After a review of the USDA Soil Conservation Service and by referencing the USDA NRCS Web Soil Survey (USDA 2021), it was determined that the Project site is located within the Riverside County, Coachella Valley Area, California (Area CA680). The Project site contains two (2) soil types (Figure 4 in Appendix A):

Carsitas fine sand, 0 to 5 percent slopes (CkB). This soil is excessively drained with a high to very high capacity to transmit water. This soil consists of sandy alluvium derived from granite, typically ranges in elevations around 800 feet above mean sea level (amsl), and is not considered prime farmland.

Myoma fines sand, 0 to 5 percent slopes (MaB). This soil is somewhat excessively drained with a high to very high capacity to transmit water. This soil consists of windblown sandy alluvium, typically ranges in elevation from -200 to 1,800 feet amsl, and is considered prime farmland if irrigated.

3.1.2 JURISDICTIONAL WATERS

Aerial imagery of the site was examined and compared with the surrounding USGS 7.5-minute topographic quadrangle maps to identify drainage features within the survey area as indicated by

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topographic changes, blue-line features, or visible drainage patterns. The U.S. Fish and Wildlife Service National Wetland Inventory and Environmental Protection Agency (EPA) Water Program “My Waters” data layers were also reviewed to determine whether any hydrologic features and wetland areas had been documented within the vicinity of the site. Similarly, the Soil maps from the U.S. Department of Agriculture (USDA) - Natural Resources Conservation Service (NRCS) Web Soil Survey (USDA 2021) were reviewed to identify the soil series on-site and to check if they have been identified regionally as hydric soils. Upstream and downstream connectivity of waterways (if present) was reviewed in the field, on aerial imagery, and topographic maps to determine jurisdictional status. No obvious signs of jurisdictional features were observed during the literature review.

3.1.3 HYDROLOGY AND HYDROLOGIC CONNECTIVITY

Hydrologically, the project site is located within the Mission Creek Hydrologic Sub-Area (HSA 719.42) which comprises a 73,873-acre drainage area within the larger Headwaters Whitewater River Hydrologic Area (Hydrologic Unit Code [HUC10] 1810020103) (CalTrans, 2022). The Headwaters Whitewater River watershed in Desert Springs is bordered to the north by the Headwaters Santa Ana River watershed, to the east by the Little Morongo Creek-Morongos Wash watershed, to south by the Upper Whitewater River and Palm Canyon Wash watersheds, and to the west by the San Geronio River watershed (Figure 4 in Appendix A).

3.1.4 SPECIAL STATUS SPECIES BACKGROUND

Desert Tortoise

The desert tortoise is a State and federally listed threatened species. Throughout its range, it is threatened by habitat loss, domestic grazing, predation, collections, and increased mortality rates. The desert tortoise is typically found in creosote bush scrub. They are most often found on level or sloped ground where the substrate is firm but not too rocky. Tortoise burrows are typically found at the base of shrubs, in the sides of washes and hillsides. Because a single tortoise may have many burrows distributed throughout its home range, it is not possible to predict the exact numbers of individuals on a site based upon burrow numbers.

In 1992 the US Bureau of Land Management issued the *California Statewide Desert Tortoise Management Policy* which included categorizing habitat into three levels of classification. The management goal for Category I areas is to maintain stable, viable populations and to increase the population where possible. The management goal for Category II areas is to maintain stable, viable populations. The management goal for Category III areas is to limit population declines to the extent feasible. In April 1993, the BLM amended the CDCA plan to delineate these three categories of desert tortoise habitat on public lands. Although habitat categories apply only to public lands administered by the BLM, regulatory agencies typically determine habitat compensation ratios based on the nearest BLM habitat categories (Desert Tortoise Compensation Team 1991). With the adoption of the West Mojave Plan (U.S. Bureau of Land Management 2005), all lands that are outside Desert Wildlife Management Areas, including the subject parcel, are characterized as Category 3 Habitat, which is the lowest priority management area for viable populations of the desert tortoise.

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Burrowing owl (BUOW)

The BUOW is a state and federal SSC. This owl is a mottled, brownish and sand-colored, dove-sized raptor, with large, yellow eyes, a rounded head lacking ear tufts, white eyebrows, and long legs compared to other owl species. It is a ground-dwelling owl typically found in arid prairies, fields, and open areas where vegetation is sparse and low to the ground. The BUOW is heavily dependent upon the presence of mammal burrows, with ground squirrel burrows being a common choice, in its habitat to provide shelter from predators, inclement weather, and to provide a nesting place (Coulombe 1971). They are also known to make use of human-created structures, such as cement culverts and pipes, for burrows.

BUOW spends a great deal of time standing on dirt mounds at the entrance to a burrow or perched on a fence post or other low to the ground perch from which they hunt for prey. BUOW frequently hunt by hovering in place above the ground and dropping on their prey from above. They feed primarily on insects such as grasshoppers, June beetles, and moths, but will also take small rodents, birds, and reptiles. They are active during the day and night but are considered a crepuscular owl; generally observed in the early morning hours or at twilight. The breeding season for BUOW is February 1 through August 31. Up to 11, but typically 7 to 9, eggs are laid in a burrow, abandoned pipe, or other subterranean hollows where incubation is complete in 28-30 days. Young BUOW fledge in 44 days. The BUOW is considered a migratory species in portions of its range, which includes western North America from Canada to Mexico, and east to Texas and Louisiana. BUOW populations in California are considered to be sedentary or locally migratory.

Throughout its range, the BUOW is vulnerable to habitat loss, predation, vehicular collisions, and destruction of burrow sites, and the poisoning of ground squirrels (Grinnell and Miller 1944, Zarn 1974, Remsen 1978). BUOW has disappeared from significant portions of their range in the last 15 years and, overall, nearly 60% of the breeding groups of owls known to have existed in California during the 1980s had disappeared by the early 1990s (Burrowing Owl Consortium 1993). The BUOW is not listed under the state or federal Endangered Species Act but is considered both a federal and state Species of Special Concern. The BUOW is a migratory bird protected by the international treaty under the Migratory Bird Treaty Act of 1918 and by State law under the California Fish and Game Code (CDFG Code #3513 & #3503.5).

3.1.5 CVMSHCP

Prior to the field visit, the CVMSHCP website and databases were searched. This includes the CVMSHCP plan itself and any relevant protocol survey requirements. The database also includes a mapping program that contains site-specific information related to criteria cell location, special survey areas for plants and animals, and vegetation mapping.

3.2 FIELD STUDY RESULTS

3.2.1 HABITAT

The habitat on-site consists of a mix of *Larrea tridentata* - *Ambrosia dumosa* Shrubland Alliance (Creosote bush – white bursage scrub) and bare ground. Table 1 in Appendix D contains a list of all plants found on-site. The site is relatively undisturbed with the exception of the dirt roads that transect the property. There was also evidence of human disturbance in the form of foot traffic and bicycle traffic.

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3.2.2 WILDLIFE

Species observed or otherwise detected on or in the vicinity of the project site during the surveys included; mourning dove (*Zenaida macroura*) and common raven (*Corvus corax*). Table 1 in Appendix D contains a list of all animal species found on-site.

3.2.3 SPECIAL STATUS SPECIES

Desert Tortoise

No suitable habitat for desert tortoises exists within the Project site. There are documented desert tortoise occurrences within 5 miles of the Project site. However, these occurrences are within suitable habitat. This species is not expected to occur within the Project area. Additionally, the Project site is outside of the Designated Critical Habitat for this species. Therefore, no potential direct or indirect impacts on desert tortoise can be identified, and presence/absence surveys for this species are not warranted or recommended.

Burrowing owl (BUOW)

Based on the July 2022 field survey, the site does not contain suitable habitat for this species. No burrowing owls were observed during the site visit. No burrows of any kind were located within the Project site. No portion of the Project site showed any evidence of past or present BUOW activity. No feathers, whitewash, or castings were found and no suitable burrow surrogate species are present on-site. Therefore, no suitable habitat exists on-site and no focused surveys are required.

Designated Critical Habitat

The site is not located within or adjacent to any USFWS designated Critical Habitat. No further action is required.

3.2.4 NESTING BIRDS

The Project site and immediate surrounding area does contain habitat suitable for nesting birds. As such the Project is subject to the following nesting bird regulations. Recommendations for avoidance and minimization are in section 4.

Migratory Bird Treaty Act

The Migratory Bird Treaty Act of 1918. This Act implements four international conservation treaties that the U.S. entered into with Canada in 1916, Mexico in 1936, Japan in 1972, and Russia in 1976. It is intended to ensure the sustainability of populations of all protected migratory bird species. The Act has been amended with the signing of each treaty, as well as when any of the treaties were amended, such as with Mexico in 1976 and Canada in 1995. The Act prohibits the take (including killing, capturing, selling, trading, and transport) of protected migratory bird species without prior authorization by the Department of Interior U.S. Fish and Wildlife Service.

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California Fish and Game Code

The Project site is also subject to Sections 3503 and 3503.5 of the Fish and Game Code. Section 3503 states, "It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto". And Section 3503.5 states, "It is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto".

3.2.5 JURISDICTIONAL WATERS

Waters of the United States and Waters of the State

The USACE has the authority to permit the discharge of dredged or fill material in Waters of the U.S. (WOUS) under Section 404 CWA. While the Regional Water Quality Board has authority over the discharge of dredged or fill material in Waters of the State under Section 401 CWA as well as the Porter-Cologne Water Quality Control Act. The Project area was surveyed with 100 percent visual coverage and no drainage features were present on site that met the definition for WOUS. As such, the subject parcel does not contain any wetlands, Waters of the U.S., or Waters of the State.

Fish and Game Code Section 1602 - State Lake and/or Streambed

The CDFW asserts jurisdiction over any drainage feature that contains a definable bed and bank or associated riparian vegetation. The Project area was surveyed with 100 percent visual coverage and no definable bed or bank features exist on the project site. As such, the subject parcel does not contain any areas under CDFW jurisdiction.

3.2.6 WETLANDS

NWI maps did not identify portions within the Project site as a Riverine/Riparian system. Additionally, none of the requirements for wetland designation (hydric vegetation, hydric soils, and/or wetland hydrology) were present on site. As such, there are no wetlands currently present on site.

3.3 CVMSHCP CONSISTENCY ANALYSIS

The entire subject parcel falls within the boundaries of the CVMSHCP. However, the project site is not located within a Conservation Area (Figure 5 in Appendix A). As such, there are no conservation requirements for the Project under the CVMSHCP. However, every Project completed within the boundaries of the CVMSHCP is required to pay a Development Impact Fee to the City or County, depending on location, prior to obtaining permits. Because this Project is within the boundaries of the CVMSHCP, it will be required to submit this fee to the City. The amount of the fee will be determined by the City.

SECTION 4.0 - CONCLUSIONS AND RECOMMENDATIONS

Based on the literature review and personal observations made in the immediate vicinity, no State and/or federally listed threatened or endangered species are documented/or expected to occur within the

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Project site. Additionally, no plant species with the California Rare Plant Rank (CRPR) of 1 or 2 were observed on-site or documented/expected to occur on-site.

Jurisdictional Delineation

There are no streams, channels, washes, or swales that meet the definitions of Section 1600 of the State of California Fish and Game Code (FGC) under the jurisdiction of the CDFW, Section 401 (“Waters of the State”) of the Clean Water Act (CWA) under the jurisdiction of the Regional Water Quality Control Board (RWQCB), or “Waters of the United States” (WoUS) as defined by Section 404 of the CWA under the jurisdiction of the U.S. Army Corps of Engineers (Corps) within the subject parcel. Therefore, no permit from any regulatory agency will be required.

Nesting Birds

Since there is some habitat within the Project site and adjacent area that is suitable for nesting birds in general, the following mitigation measure should be implemented.

Nesting bird nesting season generally extends from February 1 through September 15 in southern California and specifically, March 15 through August 31 for migratory passerine birds. To avoid impacts to nesting birds (common and special status) during the nesting season, a qualified Avian Biologist will conduct pre-construction Nesting Bird Surveys (NBS) no more than 3-days prior to Project-related disturbance to nestable vegetation to identify any active nests. If no active nests are found, no further action will be required. If an active nest is found, the biologist will set appropriate no-work buffers around the nest which will be based upon the nesting species, its sensitivity to disturbance, nesting stage, and expected types, intensity, and duration of the disturbance. The nests and buffer zones shall be field-checked weekly by a qualified biological monitor. The approved no-work buffer zone shall be clearly marked in the field, within which no disturbance activity shall commence until the qualified biologist has determined the young birds have successfully fledged and the nest is inactive.

CVMSHCP

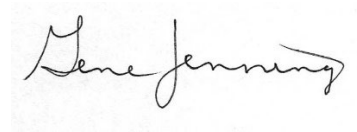
The Project is considered consistent with the CVMSHCP as long as the Development Impact Fees are paid to the City, prior to obtaining permits.

I hereby certify that the statements furnished herein, and in the attached exhibits present data and information required for this analysis to the best of my ability, and the facts, statements, and information presented are true and correct to the best of my knowledge and belief. This report was prepared in accordance with professional requirements and standards. Fieldwork conducted for this assessment was performed by me. I certify that I have not signed a non-disclosure or consultant confidentiality agreement with the project proponent and that I have no financial interest in the project.

Please do not hesitate to contact me at 909-534-4547 should you have any questions or require further information.

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Sincerely,

A handwritten signature in black ink that reads "Gene Jennings". The signature is written in a cursive style with a large, stylized "G" and "J".

Gene Jennings
Principal/Regulatory Specialist

Appendices:

- Appendix A – Figures
- Appendix B – Site Photos
- Appendix C – Regulatory Framework
- Appendix D – Tables

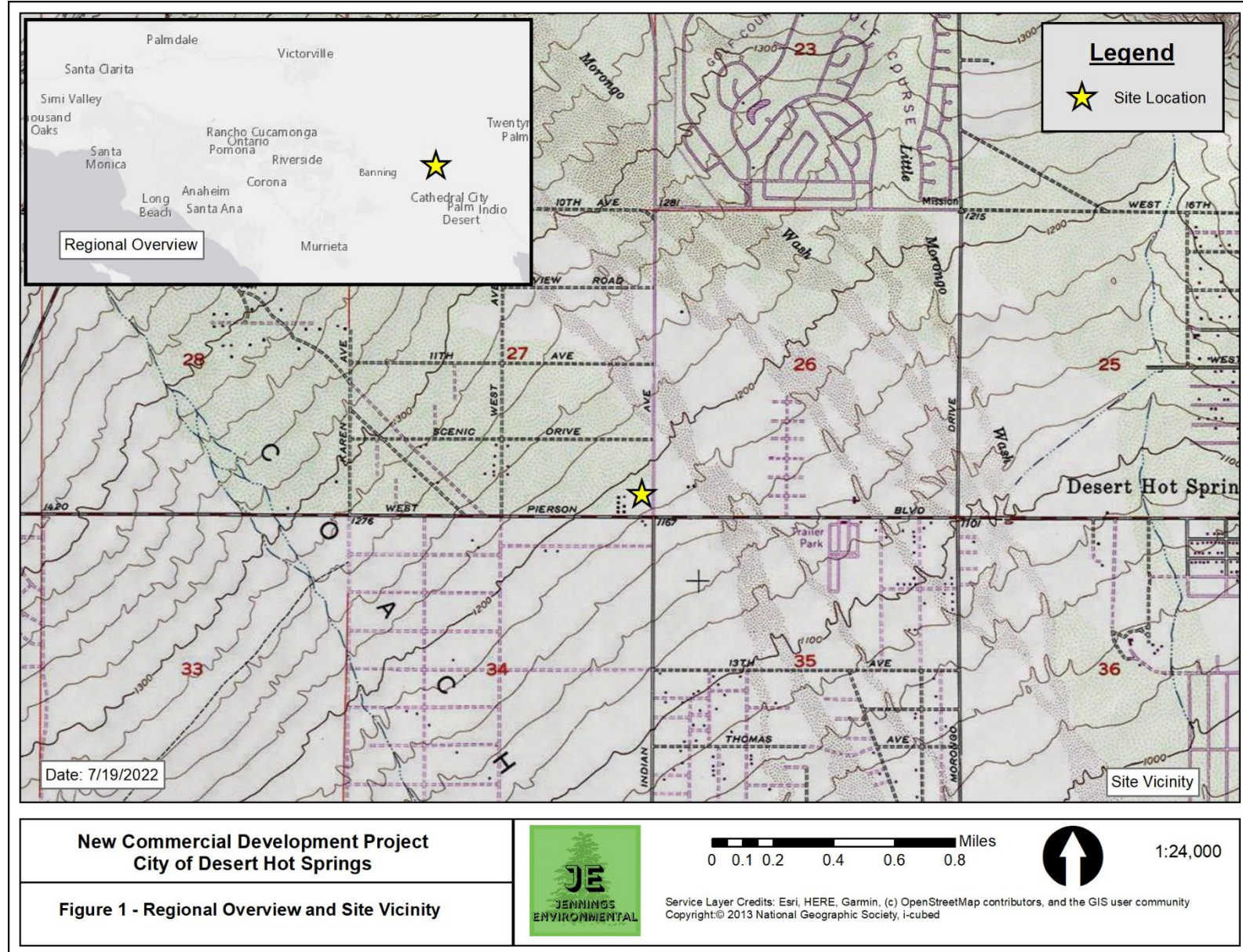
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Section 5 – REFERENCES

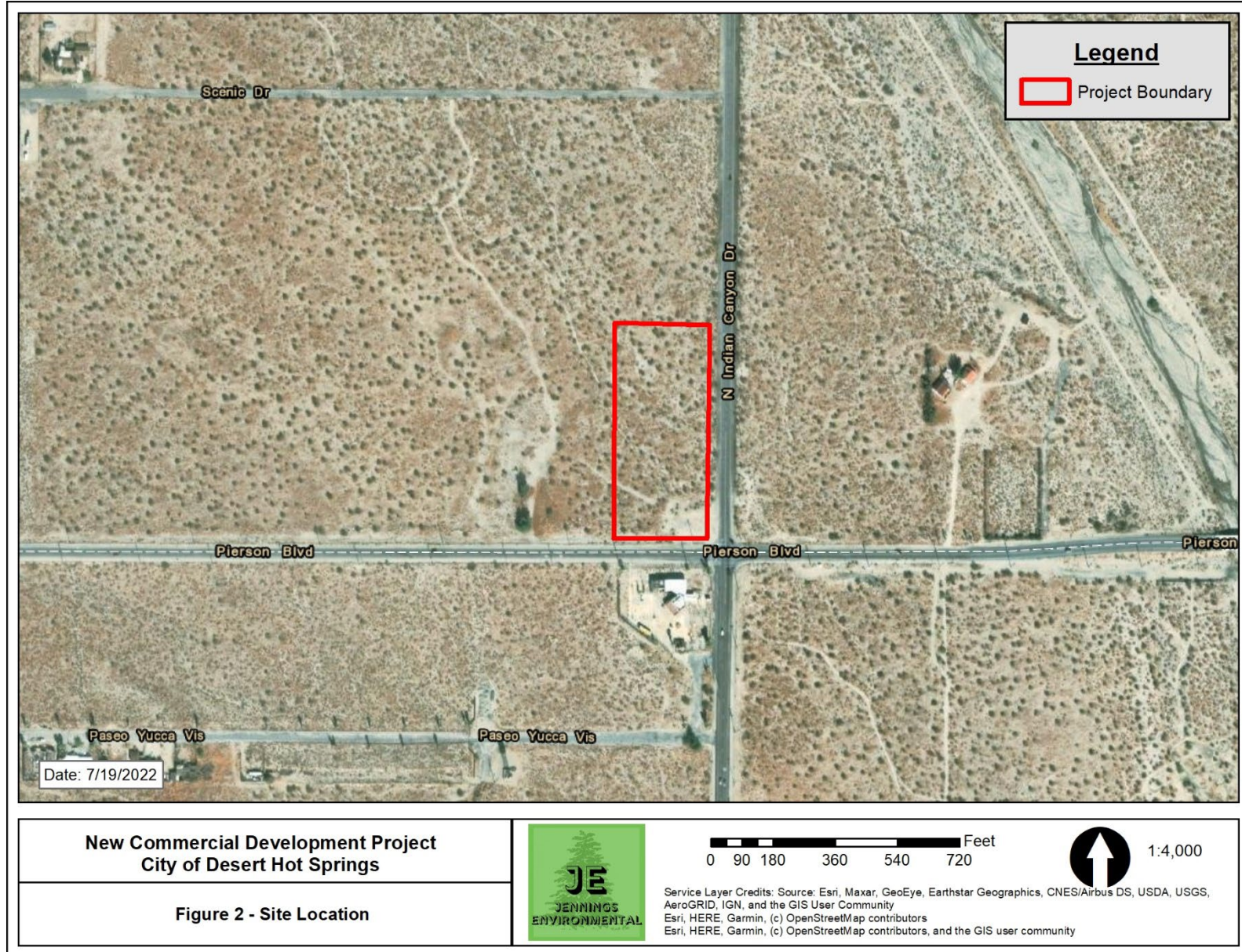
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Appendix A - Figures

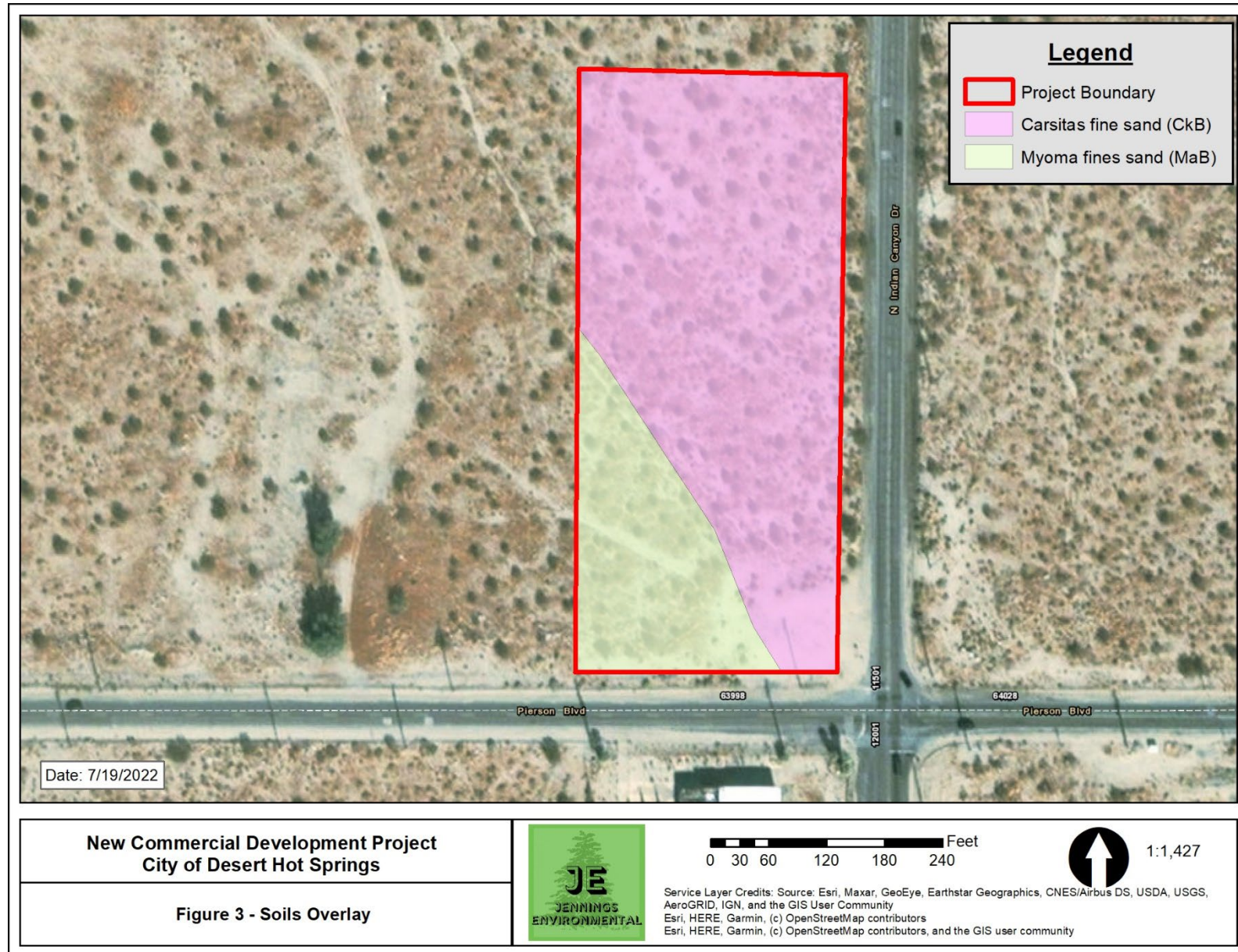
BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND CVMSHCP CONSISTENCY ANALYSIS FOR THE NEW COMMERCIAL DEVELOPMENT PROJECT ON THE NWC OF INDIAN CANYON AND PIERSON BLVD



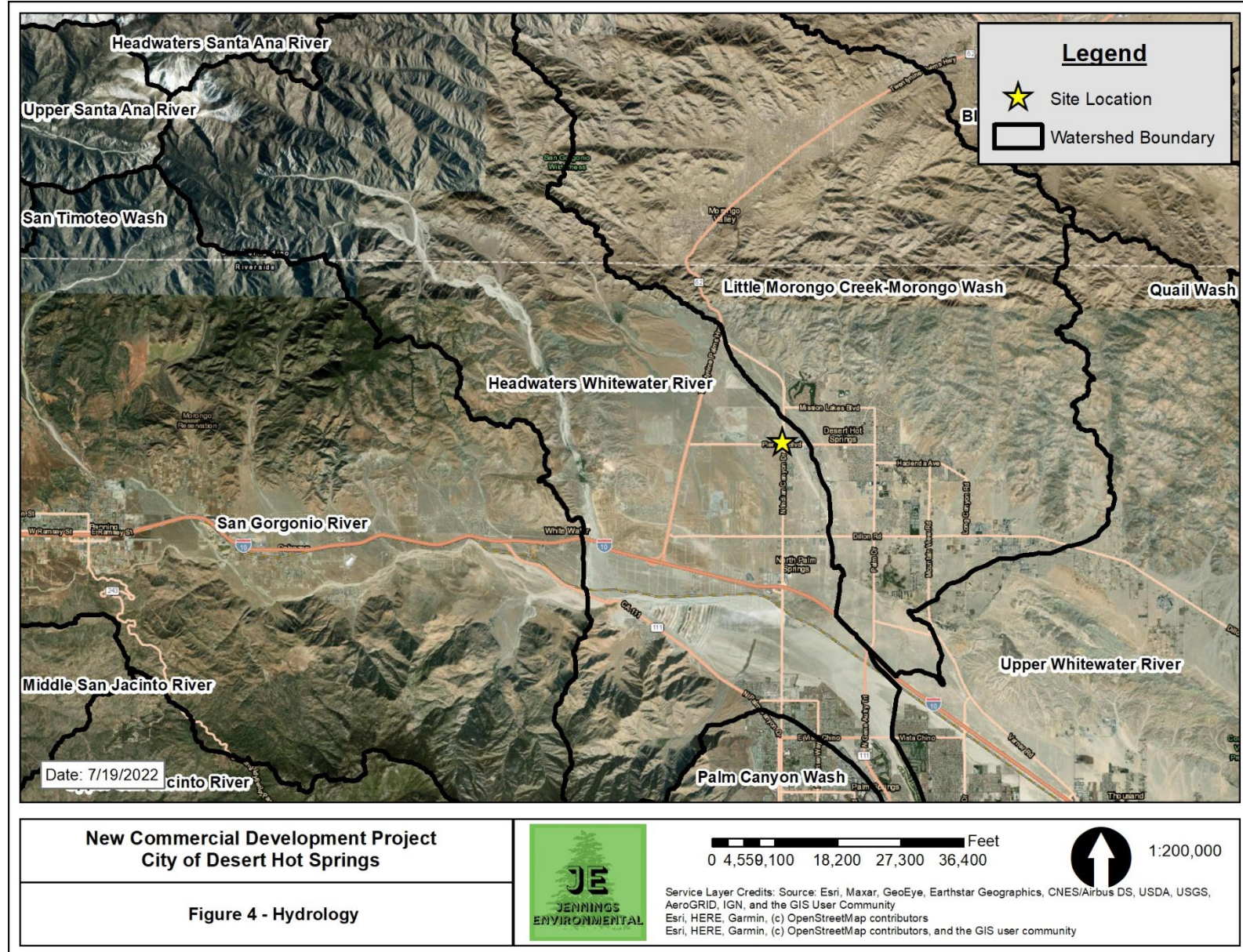
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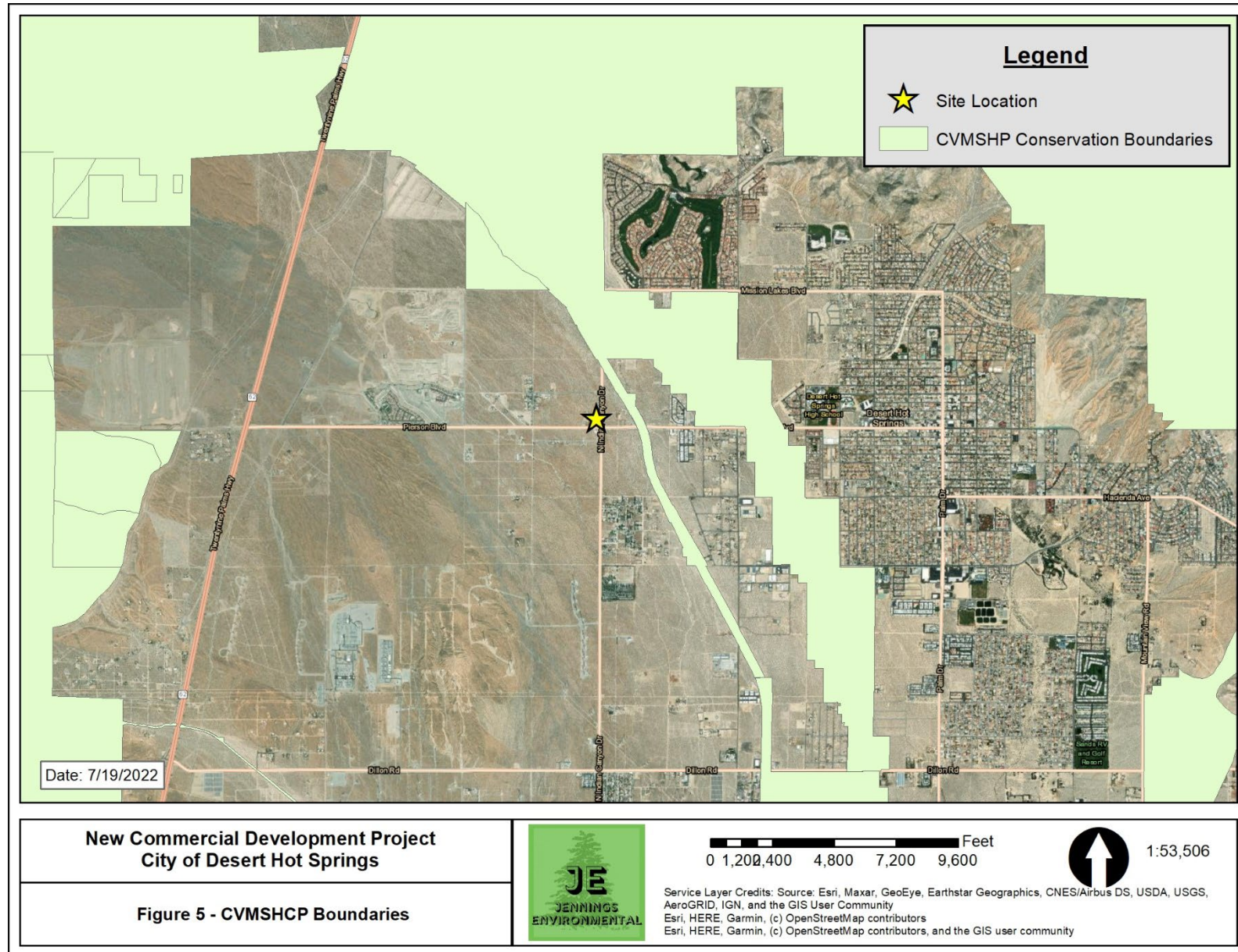
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Appendix B - Photos

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Photo 1 – Southeast corner of parcel, facing northwest. Showing bare ground and Creosote bush – white bursage scrub.



Photo 2 – Northeast corner of parcel, facing southwest. Showing bare ground, ruderal vegetation, and Creosote bush – white bursage scrub.

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Photo 3 –
Northwest corner
of parcel, facing
southeast.
Showing bare
ground, ruderal
vegetation, and
Creosote bush –
white bursage
scrub.



Photo 4 – Eastern
edge of parcel, in
the center facing
west. Showing
bareground and
Creosote bush –
white bursage
scrub.

Appendix C – Regulatory Framework

1.1 FEDERAL JURISDICTION

1.1.1 United States Army Corps of Engineers

Activities within inland streams, wetlands, and riparian areas in California are regulated by agencies at the federal, state, and regional levels. At the federal level, the U.S. Army Corps of Engineers (USACE) Regulatory Program regulates activities within wetlands and waters of the US pursuant to Section 404 of the Federal Clean Water Act (CWA).

At the state level, the California Department of Fish and Wildlife (CDFW) regulates activities within the bed, bank, and associated habitat of a stream under the Fish and Game Code §§ 1600–1616. The California State Water Resources Board (SWRB) delegates authority at the regional level to Regional Water Quality Control Boards (RWQCB) that are responsible for regulating discharge into waters of the US under Section 401 of the federal CWA and waters of the State under the California Porter-Cologne Water Quality Act.

The CWA was implemented to maintain and restore the chemical, physical, and biological integrity of the Waters of the United States (33 Code of Federal Regulations [CFR] Part 328 Section 328.3). “Waters of the US” are defined as follows:

(a) *Jurisdictional waters*. For purposes of the Clean Water Act, 33 U.S.C. 1251 *et seq.* and its implementing regulations, subject to the exclusions in paragraph (b) of this section, the term “waters of the United States” means:

- (1) The territorial seas, and waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including waters which are subject to the ebb and flow of the tide;
- (2) Tributaries;
- (3) Lakes and ponds, and impoundments of jurisdictional waters; and
- (4) Adjacent wetlands.

(b) *Non-jurisdictional waters*. The following are not “waters of the United States”:

- (1) Waters or water features that are not identified in paragraph (a)(1), (2), (3), or (4) of this section;
- (2) Groundwater, including groundwater drained through subsurface drainage systems;
- (3) Ephemeral features, including ephemeral streams, swales, gullies, rills, and pools;
- (4) Diffuse stormwater run-off and directional sheet flow over upland;
- (5) Ditches that are not waters identified in paragraph (a)(1) or (2) of this section, and those portions of ditches constructed in waters identified in paragraph (a)(4) of this section that do not satisfy the conditions of paragraph (c)(1) of this section;
- (6) Prior converted cropland;
- (7) Artificially irrigated areas, including fields flooded for agricultural production, that would revert to upland should application of irrigation water to that area cease; Artificial lakes and ponds, including water storage reservoirs and farm, irrigation, stock watering, and log cleaning ponds, constructed or excavated in

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upland or in nonjurisdictional waters, so long as those artificial lakes and ponds are not impoundments of jurisdictional waters that meet the conditions of paragraph (c)(6) of this section;

(8) Water-filled depressions constructed or excavated in upland or in non-jurisdictional waters incidental to mining or construction activity, and pits excavated in upland or in nonjurisdictional waters for the purpose of obtaining fill, sand, or gravel;

(9) Stormwater control features constructed or excavated in upland or in non-jurisdictional waters to convey, treat, infiltrate, or store stormwater runoff;

(10) Groundwater recharge, water reuse, and wastewater recycling structures, including detention, retention, and infiltration basins and ponds, constructed or excavated in upland or in non-jurisdictional waters; and

(11) Waste treatment systems.

(c) *Definitions.* In this section, the following definitions apply:

(1) *Adjacent wetlands.* The term *adjacent wetlands* means wetlands that:

(i) Abut, meaning to touch at least at one point or side of, a water identified in paragraph (a)(1), (2), or (3) of this section;

(ii) Are inundated by flooding from a water identified in paragraph (a)(1), (2), or (3) of this section in a typical year;

(iii) Are physically separated from a water identified in paragraph (a)(1), (2), or (3) of this section only by a natural berm, bank, dune, or similar natural feature; or

(iv) Are physically separated from a water identified in paragraph (a)(1), (2), or (3) of this section only by an artificial dike, barrier, or similar artificial structure so long as that structure allows for a direct hydrologic surface connection between the wetlands and the water identified in paragraph (a)(1), (2), or (3) of this section in a typical year, such as through a culvert, flood or tide gate, pump, or similar artificial feature. An adjacent wetland is jurisdictional in its entirety when a road or similar artificial structure divides the wetland, as long as the structure allows for a direct hydrologic surface connection through or over that structure in a typical year.

(2) *Ditch.* The term *ditch* means a constructed or excavated channel used to convey water.

(3) *Ephemeral.* The term *ephemeral* means surface water flowing or pooling only in direct response to precipitation (e.g., rain or snow fall).

(4) *High tide line.* The term *high tide line* means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a

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departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds, such as those accompanying a hurricane or other intense storm.

(5) *Intermittent*. The term *intermittent* means surface water flowing continuously during certain times of the year and more than in direct response to precipitation (e.g., seasonally when the groundwater table is elevated or when snowpack melts).

(6) *Lakes and ponds, and impoundments of jurisdictional waters*. The term *lakes and ponds, and impoundments of jurisdictional waters* means standing bodies of open water that contribute surface water flow to a water identified in paragraph (a)(1) of this section in a typical year either directly or through one or more waters identified in paragraph (a)(2), (3), or (4) of this section. A lake, pond, or impoundment of a jurisdictional water does not lose its jurisdictional status if it contributes surface water flow to a downstream jurisdictional water in a typical year through a channelized non-jurisdictional surface water feature, through a culvert, dike, spillway, or similar artificial feature, or through a debris pile, boulder field, or similar natural feature. A lake or pond, or impoundment of a jurisdictional water is also jurisdictional if it is inundated by flooding from a water identified in paragraph (a)(1), (2), or (3) of this section in a typical year.

(7) *Ordinary high water mark*. The term *ordinary high water mark* means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

(8) *Perennial*. The term *perennial* means surface water flowing continuously year-round.

(9) *Prior converted cropland*. The term *prior converted cropland* means any area that, prior to December 23, 1985, was drained or otherwise manipulated for the purpose, or having the effect, of making production of an agricultural product possible. EPA and the Corps will recognize designations of prior converted cropland made by the Secretary of Agriculture. An area is no longer considered prior converted cropland for purposes of the Clean Water Act when the area is abandoned and has reverted to wetlands, as defined in paragraph (c)(16) of this section. Abandonment occurs when prior converted cropland is not used for, or in support of, agricultural purposes at least once in the immediately preceding five years. For the purposes of the Clean Water Act, the EPA Administrator shall have the final authority to determine whether prior converted cropland has been abandoned.

(10) *Snowpack*. The term *snowpack* means layers of snow that accumulate over extended periods of time in certain geographic regions or at high elevation (e.g., in northern climes or mountainous regions).

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(11) *Tidal waters and waters subject to the ebb and flow of the tide.* The terms *tidal waters and waters subject to the ebb and flow of the tide* mean those waters that rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters and waters subject to the ebb and flow of the tide end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by hydrologic, wind, or other effects.

(12) *Tributary.* The term *tributary* means a river, stream, or similar naturally occurring surface water channel that contributes surface water flow to a water identified in paragraph (a)(1) of this section in a typical year either directly or through one or more waters identified in paragraph (a)(2), (3), or (4) of this section. A tributary must be perennial or intermittent in a typical year. The alteration or relocation of a tributary does not modify its jurisdictional status as long as it continues to satisfy the flow conditions of this definition. A tributary does not lose its jurisdictional status if it contributes surface water flow to a downstream jurisdictional water in a typical year through a channelized non-jurisdictional surface water feature, through a subterranean river, through a culvert, dam, tunnel, or similar artificial feature, or through a debris pile, boulder field, or similar natural feature. The term tributary includes a ditch that either relocates a tributary, is constructed in a tributary, or is constructed in an adjacent wetland as long as the ditch satisfies the flow conditions of this definition.

(13) *Typical year.* The term *typical year* means when precipitation and other climatic variables are within the normal periodic range (e.g., seasonally, annually) for the geographic area of the applicable aquatic resource based on a rolling thirty-year period.

(14) *Upland.* The term *upland* means any land area that under normal circumstances does not satisfy all three wetland factors (i.e., hydrology, hydrophytic vegetation, hydric soils) identified in paragraph (c)(16) of this section, and does not lie below the ordinary high water mark or the high tide line of a jurisdictional water.

(15) *Waste treatment system.* The term *waste treatment system* includes all components, including lagoons and treatment ponds (such as settling or cooling ponds), designed to either convey or retain, concentrate, settle, reduce, or remove pollutants, either actively or passively, from wastewater prior to discharge (or eliminating any such discharge).

(16) *Wetlands.* The term *wetlands* means areas that are inundated or saturated by surface or ground water 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. Wetlands generally include swamps, marshes, bogs, and similar areas.

Section 404 (b)(1) compliance must be demonstrated before a Section 404 permit can be issued. Guidelines for a Section 404(b)(1) analysis were developed by the EPA in conjunction with USACE

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(40 CFR Parts 230). The guidelines allow the discharge of dredged or fill material into the aquatic system only if there is no practicable alternative that would have less adverse impacts.

1.2 STATE JURISDICTION

The State of California (State) regulates discharge of material into waters of the State pursuant to Section 401 of the CWA as well as the California Porter-Cologne Water Quality Control Act (Porter-Cologne; California Water Code, Division 7, §13000 et seq.). Waters of the State are defined by Porter-Cologne as “any surface water or groundwater, including saline waters, within the boundaries of the state” (Water Code Section 13050(e)). Waters of the State broadly includes all waters within the State’s boundaries (public or private), including waters in both natural and artificial channels.

1.2.1 Regional Water Quality Control Board

Under Porter-Cologne, the State Water Resources Control Board (SWRCB) and the local Regional Water Quality Control Boards (RWQCB) regulate the discharge of waste into waters of the State. Discharges of waste include “fill, any material resulting from human activity, or any other ‘discharge’ that may directly or indirectly impact ‘waters of the state.’” Porter-Cologne reserves the right for the State to regulate activities that could affect the quantity and/or quality of surface and/or groundwaters, including isolated wetlands, within the State. Wetlands were defined as waters of the State if they demonstrated both wetland hydrology and hydric soils. Waters of the State determined to be jurisdictional for these purposes require, if impacted, waste discharge requirements (WDRs).

When an activity results in fill or discharge directly below the OHWM of jurisdictional waters of the United States (federal jurisdiction), including wetlands, a CWA Section 401 Water Quality Certification is required. If a proposed project is not subject to CWA Section 401 certification but involves activities that may result in a discharge to waters of the State, the project may still be regulated under Porter-Cologne and may be subject to waste discharge requirements. In cases where waters apply to both CWA and Porter-Cologne, RWQCB may consolidate permitting requirements to one permit.

1.2.2 California Department of Fish and Wildlife

Pursuant to Division 2, Chapter 6, Sections 1600-1602 of the California Fish and Game Code, the California Department of Fish and Wildlife (CDFW) regulates all diversions, obstructions, or changes to the natural flow or bed, channel, or bank of any river, stream, or lake, which supports fish or wildlife.

CDFW defines a “stream” (including creeks and rivers) as “a body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life. This includes watercourses having surface or subsurface flow that supports or has

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supported riparian vegetation” (California Code of Regulations, Title 14, Section 1.72). The jurisdiction of CDFW may include areas in or near intermittent streams, ephemeral streams, rivers, creeks, dry washes, sloughs, blue-line streams that are indicated on USGS maps, watercourses that may contain subsurface flows, or within the flood plain of a water body. CDFW’s definition of “lake” includes “natural lakes or man-made reservoirs.” CDFW limits of jurisdiction typically include the maximum extents of the uppermost bank-to-bank distance and/or the outermost extent of riparian vegetation dripline, whichever measurement is greater.

In a CDFW guidance of stream processes and forms in dryland watersheds (Vyverberg 2010), streams are identified as having one or more channels that may all be active or receive water only during some high flow event. Subordinate features, such as low flow channels, active channels, banks associated with secondary channels, floodplains, and stream-associated vegetation, may occur within the bounds of a single, larger channel. The water course is defined by the topography or elevations of land that confine a stream to a definite course when its waters rise to their highest level. A watercourse is defined as a stream with boundaries defined by the maximal extent or expression on the landscape even though flow may otherwise be intermittent or ephemeral.

Artificial waterways such as ditches (including roadside ditches), canals, aqueducts, irrigation ditches, and other artificially created water conveyance systems also may be under the jurisdiction of CDFW. CDFW may claim jurisdiction over these features based on the presence of habitat characteristics suitable to support aquatic life, riparian vegetation, and/or stream-dependent terrestrial wildlife. As with natural waterways, the limit of CDFW jurisdiction of artificial waterways includes the uppermost bank-to-bank distance and/or the outermost extent of riparian vegetation dripline, whichever measurement is greater.

CDFW does not have jurisdiction over wetlands but has jurisdiction to protect against a net loss of wetlands. CDFW supports the wetland criteria recognized by USFWS; one or more indicators of wetland conditions must exist for wetlands conditions to be considered present. The following is the USFWS accepted definition of a wetland:

Wetlands are lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification, wetlands must have one or more of the following three attributes: (1) at least periodically, the land supports hydrophytes, (2) the substrate is predominantly undrained hydric soil; and (3) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year (Cowardin et al. 1979).

In A Clarification of the U.S. Fish and Wildlife Service’s Wetland Definition (Tiner 1989), the USFWS definition was further clarified “that in order for any area to be classified as wetland by the Service, the area must be periodically saturated or covered by shallow water, whether wetland vegetation and/or hydric soils are present or not; this hydrologic requirement is

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addressed in the first sentence of the definition.” When considering whether an action would result in a net loss of wetlands, CDFW will extend jurisdiction to USFWS-defined wetland conditions where such conditions exist within the riparian vegetation that is associated with a stream or lake and does not depend on whether those features meet the three-parameter USACE methodology of wetland determination. If impacts to wetlands under the jurisdiction of CDFW are unavoidable, a mitigation plan will be implemented in coordination with CDFW to support the CDFW policy of “no net loss” of wetland habitat.

Appendix D – Tables

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Table 1. Species Observed On-Site

Common Name	Scientific Name
<u>Plants</u>	
White bursage	<i>Ambrosia dumosa</i>
Creosote bush	<i>Larrea tridentata</i>
Schismus grass	<i>Schismus sp.</i>
London rocket	<i>Sisymbrium irio</i>
4-winged saltbush	<i>Atriplex canescens</i>
Golden cholla	<i>Salvia columbariae</i>
Brittlebush	<i>Encelia farinosa</i>
<u>Birds</u>	
Mourning dove	<i>Zenaida macroura</i>
Common raven	<i>Corvus corax</i>
<u>Mammals</u>	
Black-tailed jackrabbit	<i>Lepus californicus</i>

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Table 2 – CNDDDB Potential to Occur

<u>Scientific Name</u>	<u>Common Name</u>	<u>Federal/State Status</u>	<u>Other Status</u>	<u>Habitat</u>	<u>Potential to Occur</u>
Accipiter cooperii	Cooper's hawk	None, None	G5, S4, CDFW-WL	Woodland, chiefly of open, interrupted or marginal type. Nest sites mainly in riparian growths of deciduous trees, as in canyon bottoms on river flood-plains; also, live oaks.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Anniella stebbinsi	Southern California legless lizard	None, None	G3, S3, CDFW-SSC	Generally south of the Transverse Range, extending to northwestern Baja California. Occurs in sandy or loose loamy soils under sparse vegetation. Disjunct populations in the Tehachapi and Piute Mountains in Kern County. Variety of habitats; generally in moist, loose soil. They prefer soils with a high moisture content.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Antrozous pallidus	pallid bat	None, None	G4, S3, CDFW-SSC	Deserts, grasslands, shrublands, woodlands and forests. Most common in open, dry habitats with rocky areas for roosting. Roosts must protect bats from high temperatures. Very sensitive to disturbance of roosting sites.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.

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<u>Scientific Name</u>	<u>Common Name</u>	<u>Federal/State Status</u>	<u>Other Status</u>	<u>Habitat</u>	<u>Potential to Occur</u>
Aquila chrysaetos	golden eagle	None, None	G5, S3, CDFW-FP, CDFW-WL	Rolling foothills, mountain areas, sage-juniper flats, and desert. Cliff-walled canyons provide nesting habitat in most parts of range; also, large trees in open areas.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Asio otus	long-eared owl	None, None	G5, S3?, CDFW-SSC	Riparian bottomlands grown to tall willows and cottonwoods; also, belts of live oak paralleling stream courses. Require adjacent open land, productive of mice and the presence of old nests of crows, hawks, or magpies for breeding.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Astragalus lentiginosus var. coachellae	Coachella Valley milk-vetch	Endangered, None	G5T1, S1, 1B.2	Sonoran desert scrub, desert dunes. Sandy flats, washes, outwash fans, sometimes on dunes. 35-695 m.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Astragalus tricarinatus	triple-ribbed milk-vetch	Endangered, None	G2, S2, 1B.2	Joshua tree woodland, Sonoran desert scrub. Hot, rocky slopes in canyons and along edge of boulder-strewn desert washes, with Larrea and Encelia. 455-1585 m.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.

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<u>Scientific Name</u>	<u>Common Name</u>	<u>Federal/State Status</u>	<u>Other Status</u>	<u>Habitat</u>	<u>Potential to Occur</u>
Athene cunicularia	burrowing owl	None, None	G4, S2, CDFW-SSC	Open, dry annual or perennial grasslands, deserts, and scrublands characterized by low-growing vegetation. Subterranean nester, dependent upon burrowing mammals, most notably, the California ground squirrel.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Boechera lincolnensis	Lincoln rockcress	None, None	G4G5, S3, 2B.3	Chenopod scrub, Mojavean desert scrub. On limestone. 880-2410 m.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Bombus crotchii	Crotch bumble bee	None, Candidate Endangered	G2, S2	Coastal California east to the Sierra-Cascade crest and south into Mexico. Food plant genera include Antirrhinum, Phacelia, Clarkia, Dendromecon, Eschscholzia, and Eriogonum.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Calochortus palmeri var. palmeri	Palmer's mariposa-lily	None, None	G3T2, S2, 1B.2	Meadows and seeps, chaparral, lower montane coniferous forest. Vernal moist places in yellow-pine forest, chaparral. 195-2530 m.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.

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<u>Scientific Name</u>	<u>Common Name</u>	<u>Federal/State Status</u>	<u>Other Status</u>	<u>Habitat</u>	<u>Potential to Occur</u>
Chaetodipus fallax pallidus	pallid San Diego pocket mouse	None, None	G5T3T4, S3S4	Desert border areas in eastern San Diego County in desert wash, desert scrub, desert succulent scrub, pinyon-juniper, etc. Sandy, herbaceous areas, usually in association with rocks or coarse gravel.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Chorizanthe xanti var. leucotheca	white-bracted spineflower	None, None	G4T3, S3, 1B.2	Mojavean desert scrub, pinyon and juniper woodland, coastal scrub (alluvial fans). Sandy or gravelly places. 365-1830 m.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Corynorhinus townsendii	Townsend's big-eared bat	None, None	G4, S2, CDFW-SSC	Throughout California in a wide variety of habitats. Most common in mesic sites. Roosts in the open, hanging from walls and ceilings. Roosting sites limiting. Extremely sensitive to human disturbance.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Crotalus ruber	red-diamond rattlesnake	None, None	G4, S3, CDFW-SSC	Chaparral, woodland, grassland, and desert areas from coastal San Diego County to the eastern slopes of the mountains. Occurs in rocky areas and dense vegetation. Needs rodent burrows, cracks in rocks or surface cover objects.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.

BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND CVM SHCP CONSISTENCY ANALYSIS FOR THE NEW COMMERCIAL DEVELOPMENT PROJECT ON THE NWC OF INDIAN CANYON AND PIERSON BLVD

<u>Scientific Name</u>	<u>Common Name</u>	<u>Federal/State Status</u>	<u>Other Status</u>	<u>Habitat</u>	<u>Potential to Occur</u>
Desert Fan Palm Oasis Woodland	Desert Fan Palm Oasis Woodland	None, None	G3, S3.2	Riparian woodland	This habitat is absent from the Project site.
Dodecahema leptoceras	slender- horned spineflower	Endangered, Endangered	G1, S1, 1B.1	Chaparral, cismontane woodland, coastal scrub (alluvial fan sage scrub). Flood deposited terraces and washes; associates include Encelia, Dalea, Lepidospartum, etc. Sandy soils. 200-765 m.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Eremarionta morongoana	Morongo (=Colorado) desertsnaill	None, None	G1G3, S1	Found in the eastern San Bernardino Mountains, the Little San Bernardino Mountains, and Mecca Hills along the the edge of the Coachella Valley and southern Mojave Desert. Occur in rockslides with deep talus surrounded by desert scrub, or under beds of fallen palm fronds where tumbled rocks are present at palm oases.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Eriastrum harwoodii	Harwood's eriastrum	None, None	G2, S2, 1B.2	Desert dunes. Sandy soils. 15-1100m.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.

BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND CVMShCP CONSISTENCY ANALYSIS FOR THE NEW COMMERCIAL DEVELOPMENT PROJECT ON THE NWC OF INDIAN CANYON AND PIERSON BLVD

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Euphorbia misera	cliff spurge	None, None	G5, S2, 2B.2	Coastal bluff scrub, coastal scrub, Mojavean desert scrub. Rocky sites. 3-430 m.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Gopherus agassizii	desert tortoise	Threatened, Endangered	G3, S2S3	Most common in desert scrub, desert wash, and Joshua tree habitats; occurs in almost every desert habitat. Require friable soil for burrow and nest construction. Creosote bush habitat with large annual wildflower blooms preferred.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Icteria virens	yellow-breasted chat	None, None	G5, S4, CDFW-SSC	Summer resident; inhabits riparian thickets of willow and other brushy tangles near watercourses. Nests in low, dense riparian, consisting of willow, blackberry, wild grape; forages and nests within 10 ft of ground.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Linanthus maculatus ssp. maculatus	Little San Bernardino Mtns. linanthus	None, None	G2T2, S2, 1B.2	Desert dunes, Sonoran desert scrub, Mojavean desert scrub, Joshua tree woodland. Sandy places. Usually in light-colored quartz sand; often in wash or bajada. 135-1220 m.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.

BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND CVMShCP CONSISTENCY ANALYSIS FOR THE NEW COMMERCIAL DEVELOPMENT PROJECT ON THE NWC OF INDIAN CANYON AND PIERSON BLVD

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Mentzelia tricuspis	spiny-hair blazing star	None, None	G4, S2, 2B.1	Mojavean desert scrub. Sandy or gravelly slopes and washes. 150-1280 m.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Mesquite Bosque	Mesquite Bosque	None, None	G3, S2.1	Riparian forest	This habitat is absent from the Project site.
Mojave Riparian Forest	Mojave Riparian Forest	None, None	G1, S1.1	Riparian forest	This habitat is absent from the Project site.
Monardella robisonii	Robison's monardella	None, None	G3, S3, 1B.3	Pinyon and juniper woodland. Rocky desert slopes, often among granitic boulders. 610-1615 m.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Myiarchus tyrannulus	brown-crested flycatcher	None, None	G5, S3, CDFW-WL	Inhabits desert riparian areas along the Colorado River, as well as other desert oases and riparian areas NW to Victorville. Requires riparian thickets, trees, snags, and shrubs for foraging perches, nesting cavities, and cover.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Nemacaulis denudata var. gracilis	slender cottonheads	None, None	G3G4T3?, S2, 2B.2	Coastal dunes, desert dunes, Sonoran desert scrub. In dunes or sand. -45-745 m.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.

BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND CVM SHCP CONSISTENCY ANALYSIS FOR THE NEW COMMERCIAL DEVELOPMENT PROJECT ON THE NWC OF INDIAN CANYON AND PIERSON BLVD

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Neotoma lepida intermedia	San Diego desert woodrat	None, None	G5T3T4, S3S4, CDFW-SSC	Coastal scrub of Southern California from San Diego County to San Luis Obispo County. Moderate to dense canopies preferred. They are particularly abundant in rock outcrops, rocky cliffs, and slopes.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Ovis canadensis nelsoni	desert bighorn sheep	None, None	G4T4, S3, CDFW-FP	Widely distributed from the White Mtns in Mono Co. to the Chocolate Mts in Imperial Co. Open, rocky, steep areas with available water and herbaceous forage.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Ovis canadensis nelsoni pop. 2	Peninsular bighorn sheep DPS	Endangered, Threatened	G4T3Q, S2, CDFW-FP	Eastern slopes of the Peninsular Ranges below 4,600 ft elevation. This DPS of the subspecies inhabits the Peninsular Ranges in southern California from the San Jacinto Mountains south to the US-Mexico International Border. Optimal habitat includes steep walled canyons and ridges bisected by rocky or sandy washes, with available water.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Parnopes borregoensis	Borrego parnopes cuckoo wasp	None, None	G1G2, S1S2	Known from San Diego, San Bernardino, and Inyo counties.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.

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Perognathus longimembris bangsi	Palm Springs pocket mouse	None, None	G5T2, S1, CDFW-SSC	Desert riparian, desert scrub, desert wash and sagebrush habitats. Most common in creosote-dominated desert scrub. Rarely found on rocky sites. Occurs in all canopy coverage classes.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Phrynosoma blainvillii	coast horned lizard	None, None	G4, S4, CDFW-SSC	Frequents a wide variety of habitats, most common in lowlands along sandy washes with scattered low bushes. Open areas for sunning, bushes for cover, patches of loose soil for burial, and abundant supply of ants and other insects.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Phrynosoma mcallii	flat-tailed horned lizard	None, None	G3, S3, CDFW-SSC	Restricted to desert washes and desert flats in central Riverside, eastern San Diego, and Imperial counties. Critical habitat element is fine sand, into which lizards burrow to avoid temperature extremes; requires vegetative cover and ants.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.

BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND CVM SHCP CONSISTENCY ANALYSIS FOR THE NEW COMMERCIAL DEVELOPMENT PROJECT ON THE NWC OF INDIAN CANYON AND PIERSON BLVD

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Piranga rubra	summer tanager	None, None	G5, S1, CDFW-SSC	Summer resident of desert riparian along lower Colorado River, and locally elsewhere in California deserts. Requires cottonwood-willow riparian for nesting and foraging; prefers older, dense stands along streams.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Pyrocephalus rubinus	vermillion flycatcher	None, None	G5, S2S3, CDFW-SSC	During nesting, inhabits desert riparian adjacent to irrigated fields, irrigation ditches, pastures, and other open, mesic areas. Nest in cottonwood, willow, mesquite, and other large desert riparian trees.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Saltugilia latimeri	Latimer's woodland-gilia	None, None	G3, S3, 1B.2	Chaparral, Mojavean desert scrub, pinyon and juniper woodland. Rocky or sandy substrate; sometimes in washes, sometimes limestone. 120-2200 m.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Selaginella eremophila	desert spike-moss	None, None	G4, S2S3, 2B.2	Sonoran desert scrub, chaparral. Shaded sites, gravelly soils; crevices or among rocks. 225-1570 m.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.

BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND CVM SHCP CONSISTENCY ANALYSIS FOR THE NEW COMMERCIAL DEVELOPMENT PROJECT ON THE NWC OF INDIAN CANYON AND PIERSON BLVD

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Setophaga petechia	yellow warbler	None, None	G5, S3, CDFW-SSC	Riparian plant associations in close proximity to water. Also nests in montane shrubbery in open conifer forests in Cascades and Sierra Nevada. Frequently found nesting and foraging in willow shrubs and thickets, and in other riparian plants including cottonwoods, sycamores, ash, and alders.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Stenopelmatus calhouni	Coachella Valley jerusalem cricket	None, None	G1G2, S2	Inhabits a small segment of the sand and dune areas of the Coachella Valley, in the vicinity of Palm Springs. Found in the large, undulating dunes piled up at the north base of Mt San Jacinto.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Taxidea taxus	American badger	None, None	G5, S3, CDFW-SSC	Most abundant in drier open stages of most shrub, forest, and herbaceous habitats, with friable soils. Needs sufficient food, friable soils and open, uncultivated ground. Preys on burrowing rodents. Digs burrows.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.

BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND CVM SHCP CONSISTENCY ANALYSIS FOR THE NEW COMMERCIAL DEVELOPMENT PROJECT ON THE NWC OF INDIAN CANYON AND PIERSON BLVD

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Toxostoma lecontei	Le Conte's thrasher	None, None	G4, S3, CDFW-SSC	Desert resident; primarily of open desert wash, desert scrub, alkali desert scrub, and desert succulent scrub habitats. Commonly nests in a dense, spiny shrub or densely branched cactus in desert wash habitat, usually 2-8 feet above ground.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Uma inornata	Coachella Valley fringe-toed lizard	Threatened, Endangered	G1Q, S1	Limited to sandy areas in the Coachella Valley, Riverside County. Requires fine, loose, windblown sand (for burrowing), interspersed with hardpan and widely-spaced desert shrubs.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Vireo bellii pusillus	least Bell's vireo	Endangered, Endangered	G5T2, S3	Summer resident of Southern California in low riparian in vicinity of water or in dry river bottoms; below 2000 ft. Nests placed along margins of bushes or on twigs projecting into pathways, usually willow, Baccharis, mesquite.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Xerospermophilus tereticaudus chlorus	Palm Springs round-tailed ground squirrel	None, None	G5T2Q, S2, CDFW-SSC	Restricted to the Coachella Valley. Prefers desert succulent scrub, desert wash, desert scrub, alkali scrub, and levees. Prefers open, flat, grassy areas in fine-textured, sandy soil. Density correlated with winter rainfall.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.

BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND CVM SHCP CONSISTENCY ANALYSIS FOR THE NEW COMMERCIAL DEVELOPMENT PROJECT ON THE NWC OF INDIAN CANYON AND PIERSON BLVD

<u>Scientific Name</u>	<u>Common Name</u>	<u>Federal/State Status</u>	<u>Other Status</u>	<u>Habitat</u>	<u>Potential to Occur</u>
<u>Potential To Occur for CNPSEI Species not Found in CNDDB</u>					
Abronia villosa var. aurita	chaparral sand- verbena	None, None	G5T2?, S2, 1B.1	Chaparral, Coastal scrub, Desert dunes	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Aloysia wrightii	Wright's beebrush	None, None	G5, S4, 4.3	Joshua tree "woodland", Pinyon and juniper woodland	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Galium angustifolium ssp. gracillimum	slender bedstraw	None, None	G5T4, S4, 4.2	Joshua tree "woodland", Sonoran desert scrub	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Galium johnstonii	Johnston's bedstraw	None, None	G5, S4, 4.3	Chaparral, Lower montane coniferous forest, Pinyon and juniper woodland, Riparian woodland	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.

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Coding and Terms

E = Endangered T = Threatened C = Candidate FP = Fully Protected SSC = Species of Special Concern R = Rare

State Species of Special Concern: An administrative designation given to vertebrate species that appear to be vulnerable to extinction because of declining populations, limited acreages, and/or continuing threats. Raptor and owls are protected under section 3502.5 of the California Fish and Game code: "It is unlawful to take, possess or destroy any birds in the orders Falconiformes or Strigiformes or to take, possess or destroy the nest or eggs of any such bird."

State Fully Protected: The classification of Fully Protected was the State's initial effort in the 1960's to identify and provide additional protection to those animals that were rare or faced possible extinction. Lists were created for fish, mammals, amphibians and reptiles. Fully Protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except for collecting these species for necessary scientific research and relocation of the bird species for the protection of livestock.

Global Rankings (Species or Natural Community Level):

G1 = Critically Imperiled – At very high risk of extinction due to extreme rarity (often 5 or fewer populations), very steep declines, or other factors.

G2 = Imperiled – At high risk of extinction due to very restricted range, very few populations (often 20 or fewer), steep declines, or other factors.

G3 = Vulnerable – At moderate risk of extinction due to a restricted range, relatively few populations (often 80 or fewer), recent and widespread declines, or other factors.

G4 = Apparently Secure – Uncommon but not rare; some cause for long-term concern due to declines or other factors.

G5 = Secure – Common; widespread and abundant.

? = Uncertainty in the exact status of an element (could move up or down one direction from current rank)

Subspecies Level: Taxa which are subspecies or varieties receive a taxon rank (T-rank) attached to their G-rank. Where the G-rank reflects the condition of the entire species, the T-rank reflects the global situation of just the subspecies. For example: the Point Reyes mountain beaver, *Aplodontia rufa* ssp. *phaea* is ranked G5T2. The G-rank refers to the whole species range i.e., *Aplodontia rufa*. The T-rank refers only to the global condition of ssp. *phaea*.

State Ranking:

S1 = Critically Imperiled – Critically imperiled in the State because of extreme rarity (often 5 or fewer populations) or because of factor(s) such as very steep declines making it especially vulnerable to extirpation from the State.

S2 = Imperiled – Imperiled in the State because of rarity due to very restricted range, very few populations (often 20 or fewer), steep declines, or other factors making it very vulnerable to extirpation from the State.

S3 = Vulnerable – Vulnerable in the State due to a restricted range, relatively few populations (often 80 or fewer), recent and widespread declines, or other factors making it vulnerable to extirpation from the State.

S4 = Apparently Secure – Uncommon but not rare in the State; some cause for long-term concern due to declines or other factors.

S5 = Secure – Common, widespread, and abundant in the State.

California Rare Plant Rankings (CNPS List):

1A = Plants presumed extirpated in California and either rare or extinct elsewhere.

1B = Plants rare, threatened, or endangered in California and elsewhere.

2A = Plants presumed extirpated in California, but common elsewhere.

2B = Plants rare, threatened, or endangered in California, but more common elsewhere.

3 = Plants about which more information is needed; a review list.

4 = Plants of limited distribution; a watch list.

Threat Ranks:

.1 = Seriously threatened in California (over 80% of occurrences threatened / high degree and immediacy of threat)

.2 = Moderately threatened in California (20-80% occurrences threatened / moderate degree and immediacy of threat)

.3 = Not very threatened in California (less than 20% of occurrences threatened / low degree and immediacy of threat or no current threats known)