

Appendix D

Rose Orchard Court Annexation and Urban Service Area Amendment Biological
Resources Assessment



Rose Orchard Court Annexation and Urban Service Area Amendment

Biological Resources Assessment

prepared for

City of Morgan Hill

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Executive Summary

This document provides the findings of a Biological Resources Assessment prepared by Rincon Consultants, Inc. for the proposed Rose Orchard Court annexation area for the City of Morgan Hill, Santa Clara County, California. This report documents existing conditions within the project site (Assessor Parcel Numbers 773-32-015 [16A] and 773-32-016 [4A]) and provides an assessment of potential impacts to sensitive biological resources based on proposed project activities. The project is located within the Santa Clara Valley Habitat Plan (SCVHP) boundary and may be eligible for coverage under the SCVHP and subject to its requirements.

The project site is located at the end of Rose Orchard Court, adjacent to the City of Morgan Hill jurisdiction in southern Santa Clara County. The property owner has requested annexation into the City's Urban Service Area to facilitate future residential development. Upon annexation, the owner proposes to develop four new residences on approximately one-acre lots near Rose Orchard Court, excluding the existing residence which will remain. The approximately 10 acres of upper hillside land remaining are proposed for donation to either the Open Space Authority or the Santa Clara Valley Habitat Agency, as the property is adjacent to designated open space on the flanks of El Toro, a prominent hill west of the city.

Rincon conducted a reconnaissance-level field survey of the Biological Study Area (BSA), which included all areas of proposed development or disturbance, to document existing conditions and potential presence of sensitive biological resources. The BSA includes native and non-native vegetation communities, including coast live oak (*Quercus agrifolia*) woodland, valley oak (*Quercus lobata*), annual grassland, coyote brush, and developed areas.

No special-status plant species were observed during the reconnaissance survey, and all special-status plant species with potential to occur have a low potential to occur or are not expected to occur within the BSA.

Two special-status wildlife species were found to have a high potential to occur: California tiger salamander (*Ambystoma californiense* Pop. 1, federally proposed threatened; state threatened; SCVHP) and Crotch's bumble bee (*Bombus crotchii*, state candidate for listing — endangered).

Three special-status wildlife species have a moderate potential to occur: burrowing owl (*Athene cunicularia*, CDFW species of special concern [SSC]; SCVHP), loggerhead shrike (*Lanius ludovicianus*, SSC), and San Francisco dusky-footed woodrat (*Neotoma fuscipes annectens*, SSC).

Six special-status wildlife species were determined to have a low potential to occur in the BSA: grasshopper sparrow (*Ammodramus savannarum*, SSC), Swainson's hawk (*Buteo swainsoni*, state threatened), white-tailed kite (*Elanus leucurus*, state fully protected), mountain lion, Central Coast ESU (*Felis concolor*, state candidate), pallid bat (*Antrozous pallidus*, SSC), and American badger (*Taxidea taxus*, SSC).

Impacts to California tiger salamander, a SCVHP covered species, could occur if individuals are present in the work area during construction, and development would result in some loss of marginal upland habitat; however, these impacts would be fully mitigated to less than significant levels through approval and payment of SCVHP fees.

Impacts to Crotch's bumble bee, burrowing owl (under the migratory bird treaty act and California fish and game code), and nesting birds could occur if active nests or burrows are present in the work

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area or vicinity during construction, and these impacts would be potentially significant. Implementation of mitigation measures BIO-1 through BIO-5 would reduce these impacts to less than significant through a worker environmental awareness training; Crotch's bumble bee habitat assessment, surveys and avoidance; burrowing owl surveys, avoidance, and exclusion; and a preconstruction nesting bird survey.

Impacts to the remaining special-status wildlife species would be less than significant due to the lack of specific habitat features, low habitat quality, and nocturnal nature of the species.

Sensitive natural communities known to occur within the BSA include valley oak and coast live oak alliances. Additionally, the ridgetop and slope at the southeast end of the BSA may serve as small corridors for local movement within the BSA, between undeveloped areas around El Toro (a prominent hill west of the city) and County parks and open space to the west. However, given the site's surrounding residential use and proximity to urban development, the BSA does not constitute a significant corridor for wildlife movement. The project proposes to conserve and donate most of the areas containing valley oak, and slopes and ridge top. Therefore, impacts to sensitive natural communities and wildlife movement would be less than significant, and result in a net increase in conservation.

Protected trees under the City of Morgan Hill Municipal Code (MHMC) Section 12.32 are present within the BSA, and potential development of four new residences near Rose Orchard Court could require tree removal. Through approval of a tree removal permit and corresponding tree mitigation requirements, the project would not conflict with local policies or ordinances protecting trees.

MHMC Section 18.92.110 requires a development setback of 80 feet (ft) from ridgetops. The area proposed for development is not within 80-ft of the ridgeline at the south end of the BSA. Therefore, there would be no conflict with this ordinance.

The project is within the SCVHP covered area and the project would be required to obtain coverage under the plan. As such, the project would follow all applicable avoidance and minimization measures and conform to the permit conditions, including avoiding and minimizing impacts to listed species. Therefore, no conflicts with state, regional, or local habitat conservation plans are expected.

1 Introduction

1.1 Project Location

The proposed annexation parcels are located within unincorporated Santa Clara County just west of Morgan Hill city limits (Figure 1). The project site is bordered by single-family residences to the north; steep terrain and trees to the east and south; and vacant land and trees to the west.

1.2 Project Description

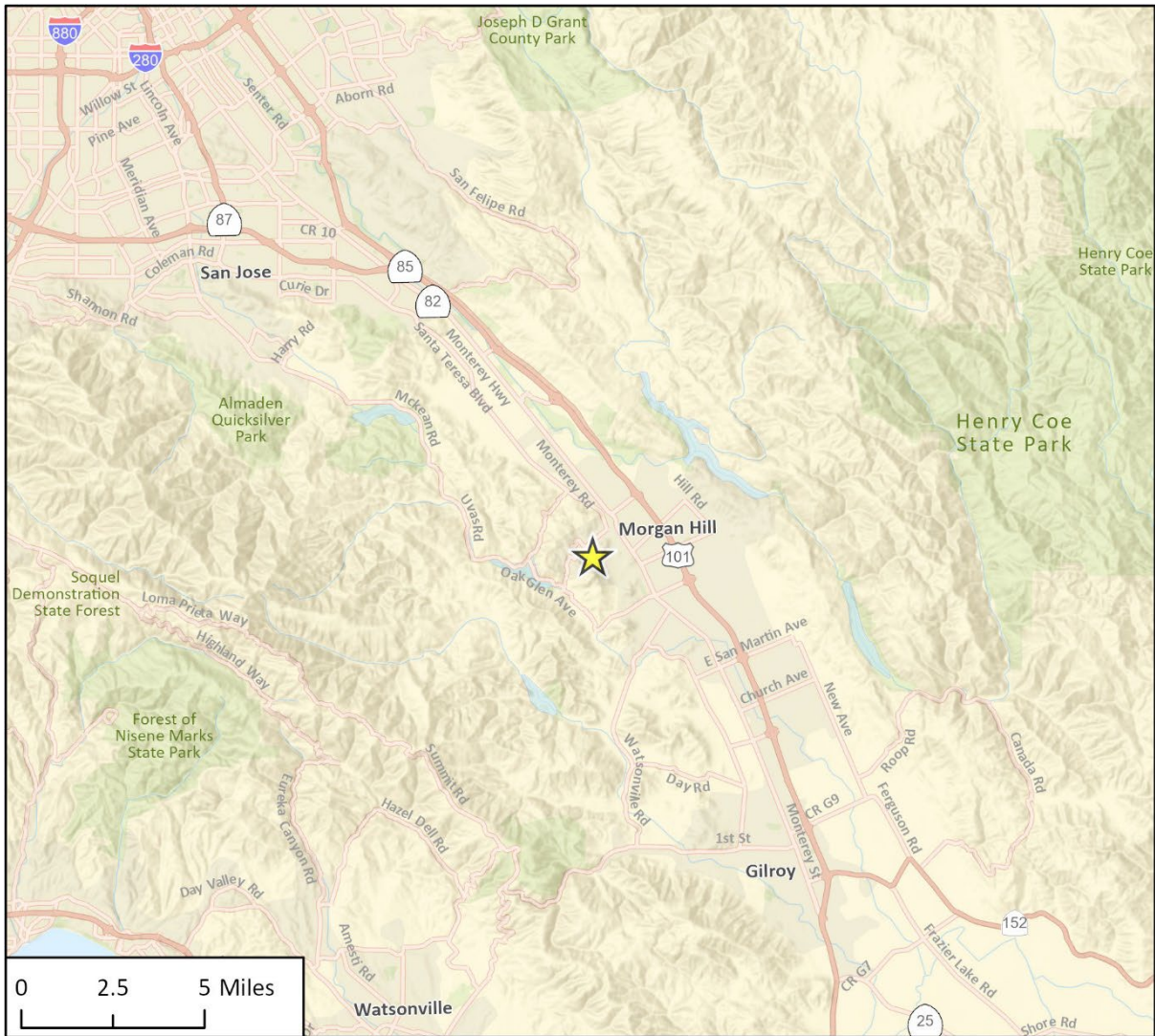
The proposed Rose Orchard Court annexation area includes Assessor Parcel Numbers 773-32-015 (16A) and 773-32-016 (4A) (the Auclair property, [Figure 2]). The property owner has requested annexation and an urban service area amendment into the City to facilitate future residential development. The Rose Orchard Court annexation area would have a General Plan land use designation of Residential Estate and a zoning designation of Residential Estate (RE-1).

Upon annexation, the owner proposes to:

- Develop four new residences on approximately one-acre lots near Rose Orchard Court, excluding the existing residence, which will remain (Figure 3).
- Donate approximately 10 acres of upper hillside land to either the Open Space Authority or the Santa Clara Valley Habitat Agency, as the property is adjacent to designated open space on the flanks of El Toro.

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Figure 1 Regional Location



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25-17449 EPS
Fig 1 Regional Location - Auclair Property

★ Project Location

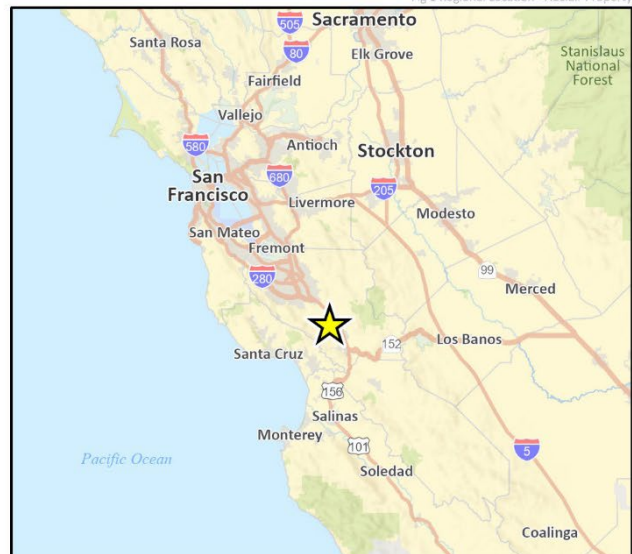
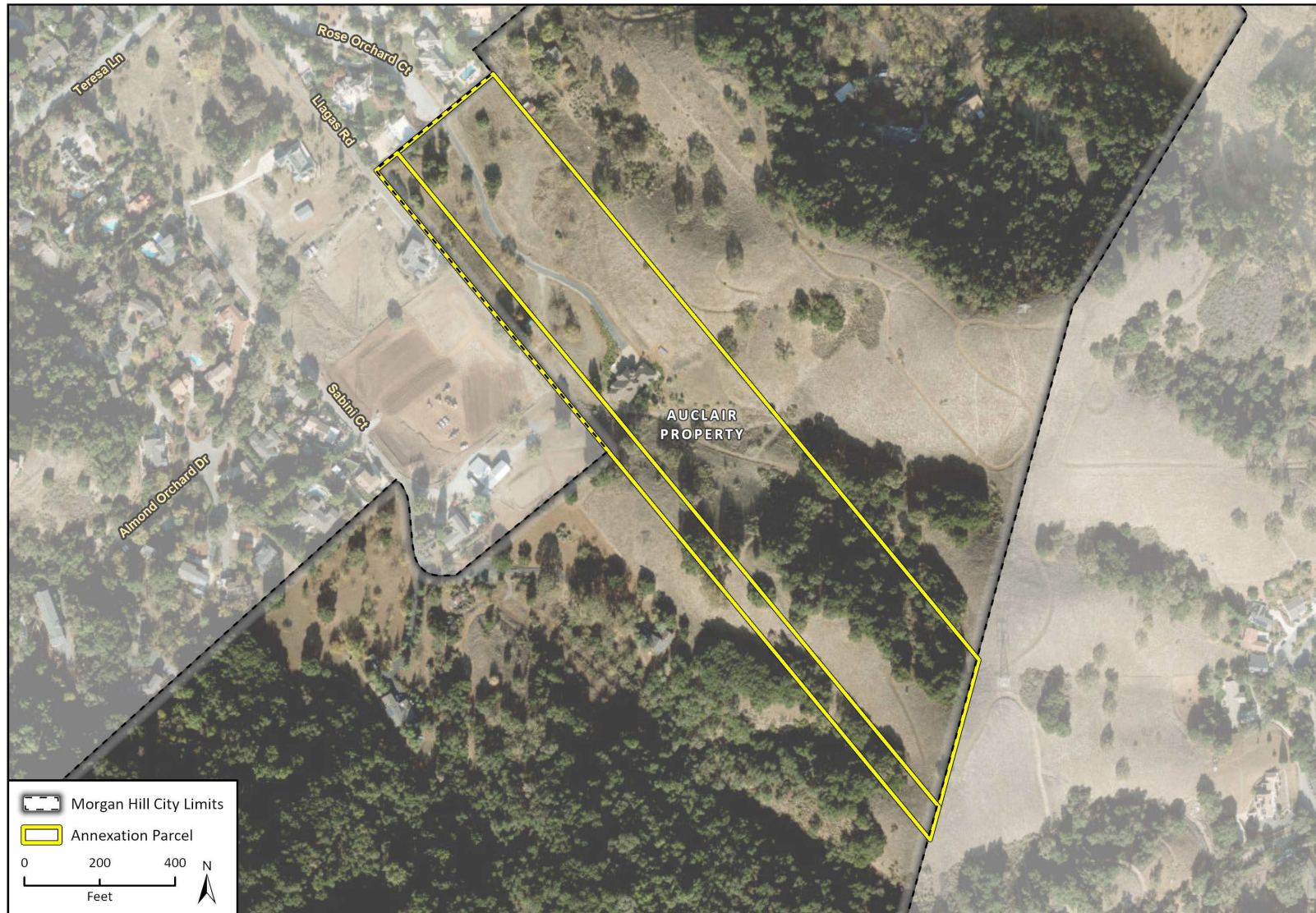


Figure 2 Project Site Annexation Parcels



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Additional data provided by Santa Clara County, 2025.

25-17449 BIO
Fig X Project Site

Figure 3 Potential Future Development



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Additional data provided by Santa Clara County, 2025.

25-17449 B10
Fig X Conceptual Development

1.3 Regulatory Summary

Regulated or sensitive resources studied and analyzed herein include special-status plant and wildlife species, nesting birds and raptors, sensitive plant communities, jurisdictional waters and wetlands, wildlife movement corridors, regionally protected resources (e.g., from county-wide Habitat Conservation Plans [HCPs] and Natural Community Conservation Plans [NCCPs]), and locally protected resources, such as protected trees. Regulatory authority over biological resources is shared by federal, state, and local authorities. Primary authority for regulation of general biological resources lies within the land use control and planning authority of local jurisdictions (in this instance, the City of Morgan Hill). The site is within the Santa Clara Valley Habitat Plan (SCVHP) boundary and may be eligible for coverage under the SCVHP and subject to its requirements.

1.3.1 Definition of Special-status Species

For the purposes of this report, special-status species include:

- Species listed as threatened or endangered under the Federal Endangered Species Act (ESA); including proposed and candidate species
- Species listed as candidate, threatened, or endangered under the California Endangered Species Act (CESA)
- Species designated as Fully Protected by the California Fish and Game Code (CFGC), and Species of Special Concern or Watch List by the California Department of Fish and Wildlife (CDFW)
- Native Plant Protection Act (NPPA) – State Rare (SR)
- California Native Plant Society (CNPS) California Rare Plant Ranks (CRPR) 1A, 1B, 2A and 2B
- Species designated as sensitive by the U.S. Forest Service or Bureau of Land Management, if the project would affect lands administered by these agencies
- Species designated as locally important by the Local Agency and/or otherwise protected through ordinance, local policy, or HCPs/NCCPs

1.3.2 Environmental Statutes

For the purpose of this report, potential impacts to biological resources were analyzed based on the following statutes (Appendix A):

- California Environmental Quality Act (CEQA)
- Federal Endangered Species Act (ESA)
- California Endangered Species Act (CESA)
- Federal Clean Water Act (CWA)
- California Fish and Game Code (CFGC)
- Migratory Bird Treaty Act (MBTA)
- The Bald and Golden Eagle Protection Act
- Porter-Cologne Water Quality Control Act
- Santa Clara Valley Habitat Conservation Plan (SCVHP)
- City of Morgan Hill Municipal Code
- City of Morgan Hill 2035 General Plan

1.3.3 Guidelines for Determining CEQA Significance

The following threshold criteria, as defined by the CEQA Guidelines Appendix G Initial Study Checklist, were used to evaluate potential environmental effects. Based on these criteria, the proposed project would have a significant effect on biological resources if it would:

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

2 Methodology

2.1 Biological Study Area

The Biological Study Area (BSA) for this project is defined as the limits of the annexation parcels (773-32-015 and 773-32-016). The BSA is shown in Figure 2, representative site photos are included in Appendix B, and a compendium of species observed within the BSA is included in Appendix C.

2.2 Literature Review

Rincon conducted a literature review to characterize the nature and extent of biological resources on and adjacent to the BSA. The literature review included an evaluation of current and historical aerial photographs of the site (Google Earth), regional and site-specific topographic maps, and climatic data.

Queries of the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation system (IPaC; UFWS 2025a), CDFW California Natural Diversity Database (CNDDDB; 2025a), and California Native Plant Society (CNPS) online Inventory of Rare and Endangered Plants of California (2025a) were conducted to obtain comprehensive information regarding state and federally listed species, and other special-status species, considered to have potential to occur within the *Morgan Hill, California* USGS 7.5-minute topographic quadrangle and the surrounding eight quadrangles (*Mt. Madonna, Gilroy, Mt. Sizer, Isabel Valley, Lick Observatory, Loma Prieta, Santa Terisa Hills, and San Jose East*). The results of database-queries and lists of special-status species were reviewed by Rincon's regional biological experts for accuracy and completeness. The final list of special-status biological resources (species and sensitive natural communities) was evaluated based on documented occurrences within the nine-quadrangle search area and biologists' expert opinions on species known to occur in the region. The evaluation results and justification were compiled into a table (Appendix D).

The following resources were reviewed for additional information on existing conditions relating to biological resources within the BSA:

- United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) Web Soil Survey (2024)
- USFWS Critical Habitat Portal (2025b)
- CDFW Biogeographic Information and Observation System (2025b)
- CDFW Special Vascular Plants, Bryophytes, and Lichens List (2025c)
- CDFW Special Animals List (2025d)
- CDFW Natural Communities List (2025e)

The vegetation community characterizations for this analysis were based on the classification systems presented in *A Manual of California Vegetation Online Edition* (MCV; CNPS 2025b).

The potential for wildlife movement corridors was evaluated based on the California Essential Habitat Connectivity Project commissioned by the California Department of Transportation and CDFW (Spencer et al. 2010).

2.3 Field Reconnaissance Survey

A reconnaissance-level field survey was conducted within the BSA by Rincon Biologist Samantha Kehr on September 30, 2025. The field survey was conducted on foot to record all biological resources, document existing site conditions, and to evaluate the potential for presence of regulated biological resources, including special-status plant and animal species, sensitive plant communities, and habitat for nesting birds protected by federal and state laws. Animal species were identified by direct observation, vocalization, or sign (e.g., tracks, scat, or burrows). Site photographs taken during the survey are included in Appendix B. During the survey, an inventory of all plant and animal species observed was compiled (Appendix C).

2.4 Impact Evaluation

Impacts are defined as project-related activities that destroy, damage, alter, or otherwise affect biological resources. This may include injury or mortality to plant or wildlife species, effects on an animal's behavior (such as through harassment or frightening off an animal by construction noise), as well as the loss, modification, or disturbance of natural resources or habitats. Impacts are defined as either direct or indirect, and either permanent or temporary. This section can include a brief overview of the types of impacts analyzed in Section 5 (Impact Analysis and Mitigation Measures) of the BRA.

Direct impacts are generally those that occur during project implementation and at the same time and location as the cause of the impact. Direct impacts for this project may include injury, death, and/or harassment of special-status wildlife species, if present in the work areas or vicinity. Direct impacts may also include the destruction of vegetation communities necessary for special-status species breeding, feeding, or sheltering. Direct impacts to plants can include crushing of plants, bulbs, or seeds where present in the impact areas.

Indirect impacts are those that are reasonably foreseeable and caused by a project but occur later in time and/or potentially at locations of some distance from the source of the impact. If a direct physical change in the environment in turn causes another change in the environment, then the other change is an indirect impact. Specific examples for this project may include soil compaction that, in the future, following completion of the project, prevents wildlife from digging burrows or allows weedy plant species to thrive. Other examples may include dust that drifts outside of project disturbance areas and covers native plants, thereby decreasing their photosynthetic capacity, and unintentional introduction of invasive species (particularly weedy plant species that outcompete native plant species) that over time negatively affect the local ecology.

Permanent impacts are those that result in the long-term or irreversible loss of biological resources are considered permanent. For example, construction of a new electrical substation, which would result in a large, developed, and fenced property where native vegetation may have existed before would be a permanent impact.

Temporary impacts to biological resources are those that are reversible over time, with or without implementation of mitigation measures. Examples include the generation of fugitive dust and noise during project implementation, trimming or crushing vegetation that will regrow following project completion, and removed vegetation that will be actively restored. These temporary impacts are anticipated to last during project implementation and shortly thereafter. However, the biological resources are anticipated to return to baseline after project completion.

3 Existing Conditions

3.1 Physical Characteristics

3.1.1 Topography and Geography

The BSA occurs along the western edge of the north end of the Coyote Valley, a narrow valley between the Diablo Range to the east and the Santa Cruz Mountains to the west. The BSA is located along the northern slope of a ridge, leading southwest to El Toro, a prominent hill west of the City. The BSA is generally flat at the north end where an existing residence and driveways are located, then sloping up toward the ridge top, with an elevation ranging from approximately 455 feet to 845 feet above mean sea level. The BSA is bordered by residential development at the west end, and open oak woodlands and grassland on the slope above the residence and ridge top.

3.1.2 Watershed and Drainages

The BSA is within the 24 square mile little Llagas Creek Watershed (HUC 12- 180600020303) (USGS 2025). No aquatic features or drainages are mapped in the BSA in the National Wetlands Inventory (USFWS 2025c).

3.1.3 Soils

Based on the most recent soil survey for Eastern Santa Clara County (USDA, NRCS 2024), the BSA contains two soil map units:

Gilroy clay loam, 15 to 30 percent slopes, eroded; 30 to 50 slopes; and 50 to 75 percent slopes.

This soil map unit is not designated as a hydric soil in Eastern Santa Clara County (USDA, NRCS 2025). Gilroy clay loam is a well-drained soil that occurs on Mountain slopes and hills. It is formed in residuum weathered from greenstone. A typical soil profile consists of clay loam to a depth of 21 inches, and unweathered bedrock from 21 to 25 inches. Available water storage is low (about 3.8 inches). The runoff class is very high.

Keefers clay loam, 2 to 9 percent slopes, eroded. This soil map unit is designated as a hydric soil in Eastern Santa Clara County (USDA, NRCS 2025). Keefers clay loam is a well-drained soil that occurs on fan terraces and alluvial fans, and is derived of residuum weathered from sedimentary rock. A typical soil profile consists of silty clay loam to depth of 21 inches, silty clay between 21 and 53 inches, and silty clay loam from 53 to 80 inches. The runoff class is medium.

3.2 Vegetation and Other Land Cover

Four vegetation communities and one land cover type were observed within the BSA as described below (Figure 4, Table 1). Habitat characterizations were based generally on the classification systems presented in MCV Online (CNPS 2025b) and *Preliminary Description of Terrestrial Natural Communities of California* (Holland 1986), but have been modified slightly to reflect existing site conditions accurately.

Figure 4 Vegetation Communities and Land Cover



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Additional data provided by Santa Clara County, 2025; National Hydrography Dataset, USGS, 2025.

25-17449 BIO
Fig X Vegetation Communities and Land Cover Types

Table 1 Vegetation Communities and Land Cover in the Project Site and Biological Study Area

Vegetation Community or Land Cover Type	Biological Study Area (acres)	Sensitive Natural Community?
Annual Grassland	35.29	No
Coast Live Oak Woodland	3.78	No
Coyote Brush	0.48	No
Valley Oak	1.50	Yes
Urban/Developed	13.57	No
Total	54.62	

Annual Grassland

This community most closely resembles the *Avena* spp. - *Bromus* spp. Herbaceous Semi-Natural Alliance (CNPS 2025b). Species composition and height in this community are highly variable and may contain occasional native or ornamental trees and shrubs; however, non-native grasses are dominant, including wild oats (*Avena* sp.) and Harding grass (*Phalaris aquatica*). Some weedy species were also observed in this community, including yellow starthistle (*Centaurea solstitialis*), English plantain (*Plantago lanceolata*), and stinkwort (*Dittrichia graveolens*). Some native species were also observed in this area, including hayfield tarweed (*Hemizonia congesta*) and narrowleaf milkweed (*Asclepias fascicularis*). Several non-native ornamental trees, remnant walnut orchard (California black walnut [*Juglans hindsii*] and English walnut [*J. regia*]), and coast live oak (*Quercus agrifolia*) trees were also observed in this community, mainly at the north end.

This community is disturbed by mowing and ornamental plantings at the west end, and by dominance of non-natives throughout. California ground squirrel (*Otospermophilus beecheyi*) burrows were observed in this area, and provide suitable habitat for wildlife.

Coast Live Oak Woodland

This vegetation community most closely corresponds with the *Quercus agrifolia* Forest and Woodland Alliance in MCV Online (CNPS 2025b). This community occurs within the BSA at the southeast end, along the slope above the residence, and consists of a canopy dominated by coast live oak, with some bay laurel (*Umbellularia californica*) and California buckeye (*Aesculus californica*). The understory is typically open with orange bush monkeyflower (*Diplacus aurantiacus*) redberry buckthorn (*Rhamnus crocea*), toyon (*Heteromeles arbutifolia*), and blue elderberry (*Sambucus mexicana*).

This community consists of a dense canopy and somewhat open understory, and is largely undisturbed with one dirt access road running from the residence up to the ridgetop.

Valley Oak Woodland

This vegetation community most closely corresponds with the *Quercus lobata* Forest and Woodland Alliance in MCV Online (CNPS 2025b). This community is dominated by valley Oak (*Quercus lobata*) and coast live oak, and within the BSA occurs primarily along the southwest side. The understory in this community is largely open, with annual grasses and forbes that are consistent with the species composition described above for annual grasslands. This community consists of an open canopy

with annual grassland in the understory, occurs on steep slopes above the residence, and is disturbed.

Coyote Brush Scrub

This vegetation community most closely corresponds with the *Baccharis pilularis* Shrubland Alliance in MCV Online (CNPS 2025b). This community is dominated by coyote brush (*Baccharis pilularis*) with annual grasses underneath. This community occurs near the center of the BSA, along the lower slope just south of the residence.

This community is also largely undisturbed, consists of dense stands of coyote brush, and occurs along the margins of coast live oak woodlands.

Developed

This land cover type is not described in the MCV2, and consists of paved and dirt roads, an existing residence, and a landscaped yard.

3.3 General Wildlife

General wildlife observed during the field survey is constant with species found in oak woodlands and habitat edges in urban areas. Avian species observed on or adjacent to the site include American crow (*Corvus brachyrhynchos*), red-tailed hawk (*Buteo jamaicensis*), California quail (*Callipepla californica*), wild turkey (*Meleagris gallopavo*), oak titmouse (*Baeolophus inornatus*), and acorn woodpecker (*Melanerpes formicivorus*). Mammal species observed/detected include black-tailed deer (*Odocoileus hemionus columbianus*), coyote (*Canis latrans*), racoon (*Procyon lotor*), and California ground squirrel.

4 Regulated Biological Resources

This section discusses special-status species and sensitive biological resources observed on the project site and evaluates the potential for the project site to support additional sensitive biological resources. Assessments for the potential occurrence of special-status species are based upon known ranges, habitat preferences for the species, species occurrence records from the CNDDDB and other sources, species occurrence records from other sites in the vicinity of the survey area, previous reports for the project site, and the results of surveys of the project site. The potential for each special-status species to occur in the BSA was evaluated according to the following criteria:

- **Not Expected.** Habitat on and adjacent to the site is clearly unsuitable for the species requirements (foraging, breeding, cover, substrate, elevation, hydrology, plant community, site history, disturbance regime), and species would have been identifiable on the site if present (e.g., oak trees). Protocol surveys (if conducted) did not detect species. The species is not expected to be found on the site.
- **Low Potential.** Few of the habitat components (foraging, breeding, cover, substrate, elevation, hydrology, plant community, site history, disturbance regime) meeting the species requirements are present, and/or the majority of habitat on and adjacent to the site is unsuitable or of very poor quality. Protocol surveys (if conducted) did not detect species. The species has a low probability of being found on the site.
- **Moderate Potential.** Some of the habitat components (foraging, breeding, cover, substrate, elevation, hydrology, plant community, site history, disturbance regime) meeting the species requirements are present, and/or only some of the habitat on or adjacent to the site is unsuitable. The species has a moderate probability of being found on the site.
- **High Potential.** All the habitat components (foraging, breeding, cover, substrate, elevation, hydrology, plant community, site history, disturbance regime) meeting the species requirements are present and/or most of the habitat on or adjacent to the site is highly suitable. The species has been reported on or adjacent to the project site in the last 2-5 years and suitable habitat is still present on site. The species has a high probability of being found on the site.
- **Present.** The species was observed on the site or has been recorded (e.g., CNDDDB, other reports) on the site recently (within the last 2 years).

4.1 Special-status Species

4.1.1 Special-status Plant Species

Forty-one (41) special-status plant species known to occur in the region were evaluated for their potential to occur in the BSA (Appendix D). Special-status plant species typically have specialized habitat requirements, including plant community types, soils, and/or elevational ranges. Based on the lack of generally required habitat types or features in the project area, such as coniferous forest, chaparral, rocky outcrops, serpentine soils, and other species-specific habitat requirements, 38 special-status plant species were excluded from further evaluation. Three species were determined to have a low potential to occur within the BSA: bent-flowered fiddleneck (*Amsinckia lunaris*, 1B.2) smooth lessingia (*Lessingia micradenia* var. *glabrata*, 1B.2, SCVHP covered), and most beautiful jewelflower (*Streptanthus albidus* ssp. *peramoenus*, 1B.2, SCVHP covered).

4.1.2 Special-status Wildlife Species

Thirty-five (35) special-status wildlife species were evaluated for their potential to occur within the BSA (Appendix D). Of the 35 species, two species were determined to have a high potential to occur, three species were found to have a moderate potential to occur, and six species have a low potential to occur (Table 2). The remaining 24 species could be eliminated based on the lack of species-specific habitat requirements, including the absence of perennial streams and rivers, native coastal marsh and coastal dune habitats, rocky outcrops and cliffs, and riparian areas.

Table 2 Special-status Animals with Potential to Occur in the Biological Study Area

Common Name	Scientific Name	Status	Suitable Habitat in the Study Area
High Potential to Occur			
California tiger salamander – central California DPS	<i>Ambystoma californiense</i> Pop. 1	FT, ST, SCVHP	Annual grassland with small mammal burrows provide upland habitat within dispersal distance of a known breeding site (approximately 1.3 miles from the BSA).
Crotch’s bumble bee	<i>Bombus crotchii</i>	SCE	Small mammal burrows provide refugia and annual grassland and oak woodlands provide floral resources.
Moderate Potential to Occur			
Burrowing owl	<i>Athene cunicularia</i>	SSC, SCVHP	Suitable foraging habitat in annual grasslands, where small mammal burrows are present.
Loggerhead shrike	<i>Lanius ludovicianus</i>	SSC	Dense shrubs and trees may provide suitable nest sites, however the site is disturbed by residential use and human presence.
San Francisco dusky-footed woodrat	<i>Neotoma fuscipes annectens</i>	SSC	Suitable oak woodlands are present.
Low Potential to Occur			
grasshopper sparrow	<i>Ammodramus savannarum</i>	SSC	Marginally suitable annual grasslands are present;; however the site is disturbed by residential use and human presence.
Swainson's hawk	<i>Buteo swainsoni</i>	ST	Large oak trees may provide suitable nest sites, however the site is disturbed by residential use and human presence.
White-tailed kite	<i>Elanus leucurus</i>	FP	Large oak trees may provide suitable nest sites, however the site is disturbed by residential use and human presence.
mountain lion, Central Coast evolutionarily significant unit	<i>Felis concolor</i>	SC	Suitable foraging habitat in annual grasslands is present; however the site is disturbed by residential use and human presence.
pallid bat	<i>Antrozous pallidus</i>	SSC	Large oak trees may provide suitable roost sites, however the site is disturbed by residential use and human presence.
American badger	<i>Taxidea taxus</i>	SSC	Suitable foraging habitat in annual grasslands is present; however the site is disturbed by residential use and human presence, and no large dens were observed.
FT = federally proposed threatened ST = State threatened SCE = state candidate endangered SC = state candidate SSC = CDFW species of special concern FP = state fully SCVHP = SCVHP covered species			

4.1.3 Birds Protected by the California Fish and Game Code and Migratory Bird Treaty Act

Suitable nesting habitat for native birds protected under CFGC and the MBTA is also present throughout the BSA, in trees, shrubs, grass, bare ground, and man-made structures.

4.2 Critical Habitat

Federally designated habitat under the ESA are specific geographic areas that contain physical or biological features essential to the conservation of a listed species, and that may require special management or agency consultation requirements for federal actions that may destroy or adversely modify critical habitats.

Federally designated critical habitat is established through formal rulemaking published in the Federal Register by USFWS. The final rule designating critical habitat is issued by the federal agency responsible for the species: the U.S. Fish and Wildlife Service for terrestrial and freshwater species and the National Marine Fisheries Service (NOAA Fisheries) for marine species.

There are no federally designated critical habitats within the BSA (USFWS 2025b).

4.3 Sensitive Natural Communities and Critical Habitat

Plant communities are considered sensitive biological resources if they have limited distributions, have high wildlife value, include sensitive species, or are particularly susceptible to disturbance. CDFW ranks sensitive communities as “threatened” or “very threatened”. Currently, CDFW publishes the California Natural Community List online (CDFW 2025e). Vegetation rarity ranking in that list is based on a rank calculator developed by NatureServe. According to CDFW Vegetation Program, alliances with state ranks of S1 to S3, as well as certain additional associations specifically noted as sensitive in the list, are considered imperiled, and thus, potentially of special concern.

Valley oak (*Quercus lobata* / grass) and valley oak and coast live oak (*Quercus lobata* / *Quercus agrifolia* / grass) vegetation alliances (S3) are considered sensitive by CDFW and are present within the BSA (CDFW 2025e).

4.4 Jurisdictional Waters and Wetlands

No jurisdictional waters or wetlands were observed within the BSA.

4.5 Wildlife Movement

Wildlife movement corridors, or habitat linkages, are generally defined as connections between habitat patches that allow for physical and genetic exchange between otherwise isolated animal populations. Such linkages may serve a local purpose, such as providing a linkage between foraging and denning areas, or they may be regional in nature. Some habitat linkages may serve as migration corridors, wherein animals periodically move away from an area and then subsequently return. Other corridors may be important as dispersal corridors for young animals. A group of habitat linkages in an area can form a wildlife corridor network.

Habitat within a habitat linkage does not necessarily need to be identical to that habitat being linked. Rather, the linkage needs only to contain sufficient cover and forage to allow temporary utilization by species moving between core habitat areas. Habitat linkages are typically contiguous strips of natural areas, though dense plantings of landscape vegetation can be used by certain disturbance-tolerant species. Some species may require specific physical resources (such as rock outcroppings, vernal pools, or oak trees) within the habitat link for the linkage to serve as an effective movement corridor, while other more mobile or aerial species may only require discontinuous patches of suitable habitat to permit effective dispersal and/or migration. Wildlife movement corridors may occur at either large or small scales. The mountainous regions of the County may support wildlife movement on a regional scale, while riparian corridors and waterways may provide local small-scale dispersal corridors for wildlife movement among habitat patches throughout the County.

The BSA and most of the City of Morgan Hill are mapped as “Essential Connectivity Areas” which link “Natural Landscape Blocks” between the Santa Cruz Mountains and the Diablo Range (CDFW 2025b, Spencer et al. 2010). The Coyote Valley between Morgan Hill and San Jose has also been identified as an important corridor for wildlife movement by the SCVHA, and several studies have been conducted to identify potential corridors and barriers for wildlife movement. The main barriers for movement within Coyote Valley are transportation related, including Interstate Highway 101, Monterey Road, the Union Pacific Railroad, and the future High Speed Rail alignment (Jodi McGraw Consulting 2024).

The ridgetop and slope at the southeast end of the BSA may serve as small corridors for local movement within the BSA, between undeveloped areas around El Toro and County parks and open space to the west. However, given the sites surrounding residential use and proximity to urban development, the BSA does not constitute a significant corridor for wildlife movement.

4.6 Resources Protected by Local Policies and Ordinances

Protected Trees

MHMC Section 12.32 (Protected and Significant Trees) requires a tree removal permit for the removal of protected trees. Protected trees are defined as:

- any live woody plant rising above the ground with a single stem or trunk a diameter at breast height (DBH) of thirteen inches or more for nonnative tree species and a DBH of six inches or more for native tree species,
- trees of certain species or historical significance as designated by the City,
- any tree designated for protecting during review and approval of a development project, public or street trees, and otherwise designated as significant status.

Removal or pruning of such trees requires a tree removal permit issued by the City. To apply for a tree removal permit, the permit application must include an arborist report, site plan, and justification for removal. The approval process involves review by City staff or the Planning Commission, depending on the scope and impact. If removal is approved, applicants must comply with replacement requirements, typically involving a 1:1 or greater replacement ratio based on trunk diameter, species, and site conditions, as approved by the City. Alternatively, the City may

allow payment of an in-lieu fee to support urban forestry efforts when on-site replacement is not feasible. Protected trees of sufficient size are present within the BSA.

Natural Resource and Hazard Setbacks

MHMC Section 18.92.110 (Natural Resource and Hazard Setbacks) also includes the requirement for a minimum setback from Category 1 and Category 2 streams as defined, and consistent within the SCVHP. This section also includes a minimum development setback of 80 feet from ridgelines, and requires development be situated outside of the 100-year floodplain. No Category 1 or Category 2 streams are present in the BSA, or within 150 feet of the BSA, and the BSA is not located within the 100-year floodplain. The south end of the BSA includes a ridgeline below El Toro.

Habitat Conservation

Chapter 18.132 of the MHMC implements the Santa Clara SCVHP and the associated implementing agreement in order to provide a regulatory framework for promoting the protection and recovery of natural resources, including covered species, while streamlining the permitting process for both publicly funded and privately funded planned development in the City of Morgan Hill.

4.7 Habitat Conservation Plans

The BSA is located within the SCVHP covered area. The SCVHP is a HCP and NCCP. The SCVHA is responsible for implementation of the SCVHP. The SCVHP includes the requirements and criteria for covered activities. Annexation of a parcel alone may not be considered a covered activity under the SCVHP as it does not cause ground disturbance, however any development proposed within the annexed parcels would require coverage. The SCVHA is preparing an amendment to the SCVHP, and is expected to include coverage of seven new special-status species and updated conditions. However, the amendment is still in draft form and is not expected to be finalized until the second quarter of 2026. As described in Chapter 2 of the SCVHP *Private Development Subject to the Plan*, private development activities that require ground disturbance are subject to the SCVHP if the activity meets the following criteria:

1. The activity is subject to either ministerial or discretionary approval by the County or one of the cities;
2. The activity is described in Section 2.3.2, *Urban Development*, or in Section 2.3.7, *Rural Development*; and
3. The activity is located in an area identified as “Private Development is Covered (Figure 2-58 of the SCVHP),” OR

The activity is equal to or greater than 2 acres AND the project is located in an area identified as “Rural Development Equal to or Greater than 2 Acres is “Covered,” or “Urban Development Equal to or Greater than 2 Acres is Covered” OR

The activity is located in an area identified as “Rural Development is not Covered” but, based on land cover verification of the development area (for rural development projects), the project is found to impact serpentine, wetland, stream, riparian, or pond land cover types; or the project is located in occupied or occupied nesting habitat for western burrowing owl.

The SCVHP permit application process includes:

Rose Orchard Court Annexation and Urban Service Area Amendment

1. Complete and submit the Habitat Plan Coverage Screening Form (to the planning or building office with the planning application (such as use permit, subdivision, etc.).
2. Complete and submit the Habitat Plan Fees and Conditions Worksheet, including verification of land cover on the project site (to the planning or building office and receive confirmation of applicable fees).
3. Prepare and submit the Habitat Plan Application Package with all supporting materials (online form).
4. Pay Habitat Plan fees, agree to conditions of approval, and obtain permits.

The SCVHP includes permit conditions for avoidance and minimization of impacts to covered species. These conditions are applied based on certain criteria, including project specific location and impacts. The BSA is located within Fee Zone A (Ranchlands and Natural Lands) Fee Zone B (Agricultural and Valley Floor Lands). Under the SCVHP, the proposed project is considered a rural development project. Applicable general avoidance and minimization measures and permit conditions for rural development projects include, but are not limited to:

Avoidance and Minimization Measures

- Personnel shall prevent the accidental release of chemicals, fuels, lubricants, and non-storm drainage water into channels.
- Spill prevention kits shall always be in close proximity when using hazardous materials (e.g., crew trucks and other logical locations)
- Maintenance of natural stream characteristics, such as riffle-pool sequences, riparian canopy, sinuosity, floodplain, and a natural channel bed, will be incorporated into the project design.
- The project or activity must be designed to avoid the removal of riparian vegetation, if feasible. If the removal of riparian vegetation is necessary, the amount shall be minimized to the amount necessary to accomplish the required activity and comply with public health and safety directives.
- Minimize ground disturbance to the smallest area feasible.
- Use existing roads for access and disturbed areas for staging as site constraints allow. Off-road travel will avoid sensitive communities such as wetlands and known occurrences of covered plants.
- Prepare and implement sediment erosion control plan
- Equipment storage, fueling and staging areas will be sited on disturbed areas or non-sensitive habitat outside of a stream channel.
- Avoid wet season construction
- Seed mixtures applied for erosion control will not contain invasive nonnative species and will be composed of native species or sterile nonnative species. If sterile nonnative species are used for temporary erosion control, native seed mixtures must be used in subsequent treatments to provide long-term erosion control and slow colonization by invasive nonnatives.
- Vehicles operated within and adjacent to streams will be checked and maintained daily to prevent leaks of materials that, if introduced to the water, could be deleterious to aquatic life.
- To prevent the spread of exotic species and reduce the loss of native species, aquatic species will be netted at the drain outlet when draining reservoirs or ponds to surface waters. Captured

native fish, native amphibians, and western pond turtles will be relocated if ecologically appropriate. Exotic species will be dispatched.

- To minimize the spread of pathogens all staff working in aquatic systems (i.e., streams, ponds, and wetlands)— including site monitors, construction crews, and surveyors—will adhere to the most current guidance for equipment decontamination provided by the Wildlife Agencies at the time of activity implementation. Guidance may require that all materials that come in contact with water or potentially contaminated sediments, including boot and tire treads, be cleaned of all organic matter and scrubbed with an appropriate cleansing solution, and that disposable gloves be worn and changed between handling equipment or animals. Care should be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.
- To prevent inadvertent entrapment of animals during excavation, all excavated, steep-walled holes or trenches more than 2-feet deep will be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks.
- Pumps and generators shall be maintained and operated in a manner that minimizes impacts to water quality and aquatic species.
- All construction pipes, culverts, or similar structures with a diameter of 4 inches or greater that are stored at a construction site for one or more overnight periods will be thoroughly inspected for wildlife by properly trained construction personnel before the pipe is subsequently buried, capped, or otherwise used or moved in anyway.

Condition 1: Avoid Direct Impacts on Legally Protected Plant and Wildlife Species

This permit condition applies to all covered activities and requires avoidance of Contra Costa goldfields (*Lasthenia conjugens*), a federally endangered species not included for coverage under the HCP; and species that are fully protected by CFGC (Sections 3511 and 4700), the MBTA, and Bald and Golden Eagle Protection Act.

Condition 3: Maintain Hydrologic Conditions and Protect Water Quality

This condition applies to all covered activities and requires compliance with regulations under National Pollutant Discharge Elimination System (NPDES) permit requirements. The Central Coast Regional Water Quality Control Board administers the NPDES program for the Pajaro Watershed, which includes the Llagas Creek subbasin.

Condition 7: Rural Development Design and Construction Requirements

This condition addresses rural development projects outside the urban service area. Condition 7 requires low impact design and construction best management practices (limiting disturbance footprint, stream setbacks and buffers, invasive species avoidance, etc.) to avoid and minimize impacts to sensitive communities (including wetlands and hydrology) and covered species.

Condition 14: Valley Oak and Blue Oak Woodland Avoidance and Minimization

This condition applies to all covered activities and requires avoidance and minimization measures for stands of valley oak and blue oak, including protection of root zones and pruning under the direction of a certified arborist.

5 Impact Analysis and Mitigation Measures

5.1 Special-Status Species

The proposed project would have a significant effect on biological resources if it would:

- a) *Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.*

5.1.1 Special-Status Plants

No state- or federally listed plant species are expected to occur within the BSA. All special-status plant species considered have a low potential or are not expected to occur within the BSA due to the lack of species-specific habitat requirements and lack of known occurrences in the vicinity. Additionally, the project proposes to develop approximately four acres of the lower north end near Rose Orchard Court, in areas previously developed as a walnut orchard, and conserve and donate 10 acres of higher quality less disturbed habitat on the upper slope. Smooth lessingia and most beautiful jewelflower are covered species under the SCVHP; however, the site is not located within a SCVHP plant survey area and species-specific habitat (serpentine bunchgrass grassland) is not present. Additionally, there are no known occurrences of covered plant species within 0.25 mile. Therefore, impacts to special-status plant species would be less than significant.

5.1.2 Special-Status Wildlife

California Tiger Salamander

California tiger salamander has a high potential to occur within the project area. Suitable upland habitat with small mammal burrows is present in annual grasslands within the BSA, including the lower portion proposed for development. Impacts to California tiger salamander could occur if individuals are present in the work area during construction and may include direct mortality during ground disturbance and vegetation removal. Impacts may also occur if individuals move into the work area after initial clearing and grubbing. Development would also result in some loss of marginal upland habitat, however higher quality upland habitat occurs along the slope above the residence and the flanks of El Toro provide large contiguous areas of suitable habitat. Therefore, impacts due to loss of marginal habitat would be less than significant. Additionally, the area proposed for development would be located along the existing edge of a residential area and would not significantly contribute to habitat fragmentation or edge effects. Impacts to California tiger salamander individuals would be potentially significant; however, the project would be required to comply with the SCVHP conditions, including: Condition 1 *Avoid Direct Impacts to Legally Protected Wildlife Species*. Potential "Take" of California tiger salamander would be approved under the SCVHP. With implementation of SCVHP Conditions, AMMs, and payment of the SCVHP impact fees, which fund the SCVHA's conservation strategy, impacts to California tiger salamander would be less than significant.

Crotch's bumble bee

Crotch's bumble bee has a moderate potential to occur. Impacts to Crotch's bumble bee could occur if bumble bee nests are present in the work area during initial ground disturbance, clearing, and grubbing. This impact would be potentially significant. Development would also result in some loss of marginal foraging habitat, however higher quality foraging habitat occurs along the slope above the residence, and the flanks of El Toro provide large contiguous areas of suitable habitat. Therefore, impacts due to loss of marginal habitat would be less than significant. Additionally, the area proposed for development would be located along the existing edge of a residential area and would not significantly contribute to habitat fragmentation or edge effects. Crotch's bumble bee is proposed for coverage under the SCVHP but is not a covered species yet. To reduce these impacts, Mitigation Measures BIO-1 (Worker Environmental Awareness Program) and BIO-2 (Crotch's Bumble Bee Habitat Assessment and Avoidance) would be implemented. However, if this species becomes a covered species under the SCVHP, additional conditions may also be required. With implementation of mitigation measures BIO-1 and BIO-2, impacts on Crotch's bumble bee would be less than significant.

Burrowing owl

Burrowing owl has a moderate potential to occur. Suitable foraging habitat for burrowing owl occurs in annual grassland and California ground squirrel burrows were observed, primarily in the lower portion proposed for development. No burrows with sign of owls were observed during the survey; however, impacts could occur if individuals are present in the work area during construction due to direct mortality or disturbance. This impact would be potentially significant. Development would also result in some loss of marginal foraging habitat, however higher quality foraging habitat occurs along the slope above the residence, and the flanks of El Toro provide large contiguous areas of suitable habitat. Therefore, impacts due to loss of marginal habitat would be less than significant. Additionally, the area proposed for development would be located along the existing edge of a residential area, and would not significantly contribute to habitat fragmentation or edge effects. Burrowing owl is a covered species under the SCVHP; Condition 1 *Avoid Direct Impacts to Legally Protected Wildlife Species* requires protection of migratory birds under the MBTA, including burrowing owl.¹ Even with implementation of these measures, impacts on burrowing owl would remain potentially significant. To reduce these impacts Mitigation Measure BIO-1 (Worker Environmental Awareness Program), Mitigation Measure BIO-3 (Burrowing Owl Pre-Construction Survey), and Mitigation Measure BIO-4 (Burrowing Owl Exclusion) would be implemented. With implementation of mitigation measures BIO-1, BIO-3, and BIO-4, impacts on burrowing owl would be less than significant.

Loggerhead Shrike, Grasshopper Sparrow, Swainson's Hawk, White Tailed Kite, and Nesting Birds

Loggerhead shrike has a moderate potential to nest in dense shrubs or trees within the BSA or immediate vicinity, including areas proposed for development. Marginally suitable nesting habitat occurs in tall grass for grasshopper sparrow. Suitable foraging habitat for grasshopper sparrow, Swainson's hawk, and white-tailed kite occurs in annual grasslands, and oak woodland margins. Large coast live oak and valley oak trees may also provide suitable nest trees for raptors; however,

¹ Note: the SCVHP administers fees for burrowing owl impacts; however, the project site is not within the burrowing owl fee zone, thus additional mitigation measures are required, as described below.

the site is heavily disturbed by residential use and human presence, therefore sensitive bird species are less likely to nest in the vicinity. Impacts to nesting birds could occur if active nests occur within the BSA or vicinity during construction and could result in direct mortality if loggerhead shrike or grasshopper sparrow nests are present in the work area during ground disturbance and vegetation removal, or nest abandonment due to disturbance if active nests of passerines or raptors are present in the vicinity due to construction noise and vibration. This impact would be potentially significant. Development would also result in some loss of marginal nesting and foraging habitat, however higher quality habitat occurs along the slope above the residence, and the flanks of El Toro provide large contiguous areas of suitable habitat. Therefore, impacts due to loss of marginal habitat would be less than significant. Additionally, the area proposed for development would be located along the existing edge of a residential area, and would not significantly contribute to habitat fragmentation or edge effects.

None of these species are covered species under the SCVHP, however Condition 1 *Avoid Direct Impacts to Legally Protected Wildlife Species* requires protection of migratory birds under the MBTA. Loggerhead shrike and Swainson's hawk are proposed for coverage under the SCVHP but are not covered species yet. Therefore, impacts to loggerhead shrike, grasshopper sparrow, Swainson's hawk, white tailed kite, and native nesting birds would be potentially significant. To reduce impacts, Mitigation Measure BIO-1 (Worker Environmental Awareness Program) and Mitigation Measure BIO-5 (Preconstruction Nesting Bird Survey(s)) would be implemented to reduce impacts on nesting birds to less than significant levels by conducting preconstruction nesting bird surveys and non-disturbance buffers. If loggerhead shrike and Swainson's hawk become covered species under the SCVHP, additional conditions may also be required.

San Francisco dusky-footed woodrat

Suitable habitat for San Francisco dusky-footed woodrat occurs within oak woodlands on the slope above the residence, where there is a shrubby understory, and this species has a moderate potential to occur. However, because no suitable habitat occurs within the area proposed for development, no impacts to this species are expected. San Francisco dusky-footed woodrat is not a SCVHP covered species.

Mountain Lion

Suitable foraging habitat is present, and prey species (deer) were observed in the BSA. However, the level of disturbance due to human presence is high in residential areas, and this species is typically wary of human interactions and is more likely to utilize the upper slope and ridge top nocturnally, outside areas proposed for development. Therefore, no impacts to this species are expected. Mountain lion (Central Coast Distinct Population Segment) is proposed for coverage under the SCVHP but is not a covered species yet.

Pallid Bat

Suitable day roosting sites may occur within large oak trees in the BSA, primarily around and above the residence on the slope and ridge top. Impacts could occur through disturbance if bats are roosting in trees during tree removal. Oak woodlands on the slope above the residence within the BSA also provide habitat, and would not be developed however, and surrounding woodlands along the flanks of El Toro provide large contiguous areas of suitable habitat. Additionally, the area proposed for development would be located along the existing edge of a residential area and would not significantly contribute to habitat fragmentation or edge effects. Therefore, since there is a low

potential, no suitable habitat for breeding colonies is present, and there are large areas of suitable habitat in and adjacent to the BSA that would not be developed. These impacts would be less than significant. Pallid bat is not a SCVHP covered species.

American badger

While foraging habitat for American badger is present, this species is nocturnal, highly mobile, and generally shy of human activity. This species may occur incidentally while foraging at night, primarily on the slopes above the residence, however, is not expected to occur in the area proposed for development during construction, and impacts to this species are unlikely. Project implementation would not adversely affect the species, and any impacts would be less than significant. Additionally, the area proposed for development would be located along the existing edge of a residential area and would not significantly contribute to habitat fragmentation or edge effects. American badger is proposed for coverage under the SCVHP but is not a covered species yet.

Additionally, the BSA is not located within any SCVHP Wildlife Survey Areas (SCVHA 2024).

Recommended Mitigation Measures

BIO-1 Worker Environmental Awareness Program (WEAP)

Prior to initiation of construction activities (including staging and mobilization) all personnel associated with project construction should attend a Worker Environmental Awareness Program (WEAP) training, conducted by a qualified biologist, to aid workers in recognizing special-status resources that may occur in the construction area. This program should include identification of the sensitive species and habitats, a description of the regulatory status and general ecological characteristics of sensitive resources, and review of the limits of construction and measures required to reduce impacts to biological resources within the work area. A fact sheet conveying this information should also be prepared for distribution to all contractors, their employers, and other personnel involved with construction.

All employees should sign a form provided by the qualified biologist to document that they have attended the WEAP and understand the information presented to them. The crew foreman should be responsible for ensuring crew members adhere to the guidelines and restrictions designed to avoid impacts to special-status species. If new construction personnel are added to the project, the crew foreman should ensure that the new personnel receive the WEAP training before starting work.

BIO-2 Crotch's Bumble Bee Habitat Assessment and Avoidance

Prior to any vegetation removal, clearing, grading or grubbing, focused surveys for Crotch's bumble bee should be conducted within the proposed Project disturbance area by a qualified biologist with expertise in surveying for bumble bees. The focused surveys should include: (1) a habitat assessment, (2) foraging surveys, and (3) nesting surveys, in accordance with the recommendations described in the Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species, released by the CDFW on June 6, 2023. If more than one year after the completion of focused Crotch's bumble bee surveys (i.e., date of last survey) has passed before ground disturbance has been initiated, the focused surveys should be repeated. The habitat assessment will be conducted concurrently with the foraging and nesting surveys, and should at a minimum, include historical and current species occurrences; document potential on-site habitat, including foraging, nesting, and/or overwintering resources; and identify which plant species are in

bloom during the foraging and nesting surveys, as well as their percent cover. Nesting surveys should occur during the Queen Flight Season through the Colony Active Period (February 1 through August 31 for Crotch's bumble bee). Potential nesting sites should be surveyed for active Crotch's bumble bee colonies either through observations of queens searching for nesting sites or by looking for concentrated bumble bee activity entering and exiting a given area. Potential nesting sites investigated by colony finding queens should be GPS marked if the queen exhibits signs of interest in the potential site (e.g., she doesn't emerge from the site within a few minutes and then continues to nest search). Potential nesting sites identified during the queen nest searching phase should be evaluated later during the Colony Active Period to determine whether an active colony has been established. Potential nest sites in project areas should be observed for up to five minutes during the Colony Active Period to monitor for Crotch's bumble bees entering or exiting. If a nest site is confirmed to be occupied by Crotch's bumble bees, the location GPS coordinates should be recorded. A qualified biologist who is in possession of a valid Memorandum of Understanding with the CDFW (and valid Scientific Collecting Permit, if applicable) should conduct capture foraging surveys and record nonlethal photo vouchers of all captured bumble bees in accordance with the CDFW Survey Considerations for California Endangered Species Act (CEQA) Candidate Bumble Bee Species document (June 2023). Foraging surveys should include at least three on-site surveys that are spaced two to four weeks apart. The timing of these surveys should coincide with the Colony Active Period (April 1 through August 31 for Crotch's bumble bee). Surveys may occur between one hour after sunrise and two hours before sunset. Surveys should not be conducted during wet conditions (e.g., foggy, raining, or drizzling) and surveyors should wait at least one hour following rain. Optimal surveys are conducted when there are sunny to partly sunny skies, temperatures are between 65 degrees Fahrenheit and 90 degrees Fahrenheit, and winds are less than 8 miles per hour. Surveys may be conducted outside these weather parameters if other bees or butterflies are observed flying.

If Crotch's bumble bee is detected during the focused surveys, an Avoidance Plan to fully avoid impacts to Crotch's bumble bee should be developed. If impacts to Crotch's bumble bee cannot be fully avoided, an Incidental Take Permit should be obtained from CDFW.

If Crotch's bumble bee is not detected during the focused surveys, or if this species is no longer listed or a Candidate under CESA at the time of construction, no further action or mitigation would be required.

BIO-3 Burrowing Owl Pre-Construction Survey

A pre-construction survey should be conducted within 500 feet of the project disturbance footprint to identify burrows that could be utilized by burrowing owl. Potentially suitable burrows should be checked by a qualified biologist to see if they are occupied prior to the start of project disturbance activities. If the burrow is unoccupied, the burrow should be made inaccessible to BUOW, and the project may proceed. If either a nesting or escape burrow is occupied, BUOW should be relocated pursuant to accepted Wildlife Agency protocols and the passive relocation plan described in Mitigation Measure BIO-4. A burrow is assumed occupied if records indicate that at least one BUOW has been observed occupying a burrow on site during the past three years. Active burrows should be avoided during the BUOW breeding season (February 1 to August 31) with an appropriate buffer zone as determined by a qualified biologist based on behavior observations and project activities. Hay bales and other potential acoustic and visual buffers may be used to reduce the buffer zone. If occupied burrows cannot be avoided determination of the appropriate method of relocation, such as eviction/passive relocation or active relocation, should be based on the specific site conditions (e.g., distance to nearest suitable habitat and presence of burrows) and in coordination with CDFW

and the City. Passive relocation may only occur in the non-breeding season (September to January) and in accordance with an approved passive relocation plan as required by Mitigation Measure BIO-4.

BIO-4 Burrowing Owl Exclusion

If occupied burrowing owl burrows cannot be adequately avoided by the project, a burrowing owl relocation plan should be prepared by a qualified biologist. The relocation plan should include the methods and timing of burrowing owl relocation consistent with Appendix E of the 2012 CDFW Staff Report on Burrowing Owl Mitigation (CDFW 2012) or most current CDFW guidance document. The plan should include a map of all known and potential burrows within the project site and 500-foot buffer, as accessible. The plan should be submitted to the Habitat Agency for review and approval prior to implementation. The plan should include the following methodology at a minimum:

- Prior to construction, occupied burrows should be excluded by a qualified biologist during the non-breeding season (September 1 to January 31).
- The biologist should survey and monitor known and potential burrows for at least three days prior to installation of one-way exclusion doors.
- One-way doors should be left in place for 48 hours before excavation and monitored twice daily. Following successful exclusion, the burrows should be excavated using hand tools as feasible, and back-filling to prevent reoccupation.

BIO-5 Pre-construction Nesting Bird Survey(s)

To avoid disturbance of nesting birds, including special-status species and birds protected by the MBTA and CFGC Section 3503, project activities should occur outside of the breeding season for migratory birds (generally February 1 through August 31), if feasible.

If construction must occur within the breeding season, then a pre-construction nesting bird survey should be conducted. A qualified biologist should conduct the preconstruction nesting bird survey within seven days of ground disturbance to evaluate the presence/absence, location, and status of any active nests on or adjacent to the project area. The extent of the survey area surrounding the project area should be determined by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. At a minimum the survey area should include the project footprint and a 100-foot buffer for passerine species, a 500-foot buffer for raptor species, and a 0.5-mile buffer for Swainson's hawk. If an active nest(s) is discovered, a suitable buffer should be established around the active nests and construction activity should not occur within the buffer until the biologist has determined that the nest is no longer active. Buffer size should consider the species involved and relevant level of tolerance to adjacent activity, the location of the nest relative to proposed activities, and site conditions that naturally buffer the location, such as vegetation screening, topography, etc. The minimum buffer for Swainson's hawk should be 0.5-mile from an active nest. If construction activities are delayed or paused for more than 14 days during the nesting season, the nest survey should be re-initiated for areas that still contain potential nesting habitat.

5.2 Sensitive Natural Communities and Critical Habitat

The proposed project would have a significant effect on biological resources if it would:

- b) *Have a substantial adverse impact on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or US Fish and Wildlife Service.*

Sensitive valley oak and coast live oak alliances are present in the BSA on the slope above the residence. However, no sensitive communities occur within the area proposed for development, and the project proposes to conserve and donate most of the areas containing valley oak and coast live oak. Therefore, impacts to sensitive natural communities would be less than significant, and result in a net increase in conservation.

5.3 Jurisdictional Waters and Wetlands

The proposed project would have a significant effect on biological resources if it would:

- c) *Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.*

No jurisdictional waters or wetlands occur within the BSA, therefore, there would be no impacts.

5.4 Wildlife Movement

The proposed project would have a significant effect on biological resources if it would:

- d) *Interfere substantially with the movement of any resident or migratory fish or wildlife species or with established resident or migratory wildlife corridors, or impede the use of wildlife nursery sites.*

Although Coyote Valley has been identified as an important corridor for wildlife movement, the BSA is located largely within existing residential development, and is along the margins of the urban center of the City, therefore would only function as a small local opportunity for wildlife movement. Additionally, the proposed project would limit development to the lower northern end of the BSA, while approximately 10 acres of open hills and ridgetop at the southern end are proposed for donation to either the Open Space Authority or the Santa Clara Valley Habitat Agency, preserving any local opportunities for movement. Therefore, impacts to wildlife movement would be less than significant.

5.5 Resources Protected by Local Policies and Ordinances

The proposed project would have a significant effect on biological resources if it would:

- e) *Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance*

Protected Trees

Protected trees under the MHMC Section 12.32 are present within the BSA, and potential development of four new residences near Rose Orchard Court could require tree removal. Trees species include coast live oak, silktree (*Albizia julibrissin*), silkoak (*Grevillea robusta*), Northern

California black walnut, English walnut, olive (*Olea europaea*), Canary island date palm (*Phoenix canariensis*), and Peruvian pepper tree (*Schinus molle*). If trees are proposed to be removed, the project applicant would be required to comply with the City's Municipal Code, and a tree removal permit application would be required to include:

- A. The diameter and height of the tree;
- B. The species of each tree;
- C. A site plan or accurate sketch of location and trees proposed to be cut down, pruned, removed, or destroyed (showing other significant trees, shrubs, buildings or proposed buildings; photographs may be used to show the area);
- D. Method for marking the tree proposed to be cut down, pruned, removed, or destroyed;
- E. Description of methods to be used in cutting down, pruning, removing, or destroying the tree;
- F. Description of tree planting or replacement program;
- G. Reasons for proposing to cut down, prune, remove, or destroy the tree;
- H. Address where tree is located;
- I. Percentage of tree canopy to be removed or pruned;
- J. Arborist report indicating general health of tree to be cut down, pruned, removed, or destroyed; and
- K. Other information or materials which the development services director may require.
- L. Payment of fees shall be due upon submittal of a tree removal application as designated on the current fee schedule. The date of submittal shall be designated by receipt of payment.

Pending approval of the development services director or their designee, removed trees must be replaced at a 1:1 ratio with a similar native tree species of at least minimum fifteen-gallon in size. In the case of nonnative trees to be removed, the replacement tree shall be a native species and at least minimum fifteen-gallon in size. The development services director may require additional replacement trees as necessary to mitigate the impact from the loss of tree canopy. Through approval of the tree removal permit and corresponding tree mitigation requirements, the project would not conflict with local policies or ordinances protecting trees.

Natural Resource and Hazard Setbacks

No streams protected under MHMC Section 18.92.110 occur within 150 feet of the BSA and the BSA is not located within the 100-year floodplain (FEMA 2025). Additionally, the area proposed for development is not within 80-ft of the ridgeline at the south end of the BSA. Therefore, there would be no conflict with this ordinance.

5.6 Habitat Conservation Plans

The proposed project would have a significant effect on biological resources if it would:

- f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, or other approved local, regional, or state habitat conservation plan.*

The project is within the SCVHP covered area and the project would be required to obtain coverage under the plan (see Section 4.6). As such, the project would follow all applicable AMMs and conform

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to the permit conditions, including avoiding and minimizing impacts to listed species. SCVHP conditions required for the proposed project include conditions 1, 3, 7, 11, 12, and 14. In accordance with the MHMC Chapter 18.132 and the City's "Habitat Plan" Standard Condition of Approval. future development on the annexation sites would be required to complete and submit a Habitat Plan Application Package, pay all required fees prior to the issuance of a grading permit, comply with the applicable SCVHP conditions, and state conditions required by the SCVHP on all plans that involve any ground disturbing activity. With compliance with these requirements, therefore, no conflicts with state, regional, or local habitat conservation plans would occur.

6 Limitations, Assumptions, and Use Reliance

This Biological Resources Assessment has been performed in accordance with professionally accepted biological investigation practices conducted at this time and in this geographic area. The biological investigation is limited by the scope of work performed. Reconnaissance biological surveys for certain taxa may have been conducted as part of this assessment but were not performed during a particular blooming period, nesting period, or particular portion of the season when positive identification would be expected if present, and therefore, cannot be considered definitive. The biological surveys are limited also by the environmental conditions present at the time of the surveys. In addition, general biological (or protocol) surveys do not guarantee that the organisms are not present and will not be discovered in the future within the site. In particular, mobile wildlife species could occupy the site on a transient basis, or re-establish populations in the future. Our field studies were based on current industry practices, which change over time and may not be applicable in the future. No other guarantees or warranties, expressed or implied, are provided. The findings and opinions conveyed in this report are based on findings derived from site reconnaissance, jurisdictional areas, review of CNDDDB RareFind5, and specified historical and literature sources. Standard data sources relied upon during the completion of this report, such as the CNDDDB, may vary with regard to accuracy and completeness. In particular, the CNDDDB is compiled from research and observations reported to CDFW that may or may not have been the result of comprehensive or site-specific field surveys. Although Rincon believes the data sources are reasonably reliable, Rincon cannot and does not guarantee the authenticity or reliability of the data sources it has used. Additionally, pursuant to our contract, the data sources reviewed included only those that are practically reviewable without the need for extraordinary research and analysis.

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Appendix A

Regulatory Setting

Regulatory Setting

The following is a brief summary of the regulatory context under which biological resources are managed at the federal, state, and local levels. A number of federal and state statutes provide a regulatory structure that guides the protection of biological resources. Agencies with the responsibility for protection of biological resources within the project site include the following:

- U.S. Army Corps of Engineers (wetlands and other waters of the United States)
- U.S. Fish and Wildlife Service (federally listed species and migratory birds)
- National Marine Fisheries Service (marine wildlife and anadromous fishes)
- San Francisco Bay Regional Water Quality Control Board (waters of the State)
- California Department Fish and Wildlife (riparian areas, streambeds, and lakes; state-listed species; nesting birds, marine resources)
- City of Morgan Hill
- Santa Clara Valley Habitat Agency

United States Army Corps of Engineers

The United States Army Corps of Engineers (USACE) is responsible for administering several federal programs related to ensuring the quality and navigability of the nation's waters.

Clean Water Act Section 404

Congress enacted the Clean Water Act (CWA) "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." Section 404 of the CWA authorizes the Secretary of the Army, acting through the USACE, to issue permits regulating the discharge of dredged or fill materials into the "navigable waters at specified disposal sites."

Section 502 of the CWA further defines "navigable waters" as "waters of the United States, including the territorial seas." "Waters of the United States" are broadly defined at 33 CFR Part 328.3 to include navigable waters, perennial and intermittent streams, lakes, rivers, ponds, as well as wetlands, marshes, and wet meadows. In recent years, the USACE and US Environmental Protection Agency (USEPA) have undertaken several efforts to modernize their regulations defining "waters of the United States" (e.g., the 2015 Clean Water Rule and 2020 Navigable Waters Protection Rule), but these efforts have been frustrated by legal challenges which have invalidated the updated regulations. Thus, the agencies' longstanding definition of "waters of the United States," which dates from 1986, remains in effect albeit with supplemental guidance interpreting applicable court decisions as described below.

Waters of the U.S.

In summary, USACE and USEPA regulations define "waters of the United States" as follows:

1. All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
2. All interstate waters including interstate wetlands;

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3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce including any such waters:
 - i. Which are or could be used by interstate or foreign travelers for recreational or other purposes; or
 - ii. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - iii. Which are used or could be used for industrial purpose by industries in interstate commerce;
4. All impoundments of waters otherwise defined as waters of the United States;
5. Tributaries of waters identified in paragraphs (a)(1)-(4) of this section;
6. The territorial sea;
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in items 1-6 above.

Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the CWA, the final authority regarding CWA jurisdiction remains with the USEPA.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA are not waters of the United States.

The lateral limits of USACE jurisdiction in non-tidal waters is defined by the "ordinary high-water mark" (OHWM) unless adjacent wetlands are present. The OHWM is a line on the shore or edge of a channel established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed upon the bank, shelving, changes in the character of soil, destruction of vegetation, or the presence of debris (33 CFR 328.3(e)). As such, waters are recognized in the field by the presence of a defined watercourse with appropriate physical and topographic features. If wetlands occur within, or adjacent to, waters of the United States, the lateral limits of USACE jurisdiction extend beyond the OHWM to the outer edge of the wetlands (33 CFR 328.4 (c)). The upstream limit of jurisdiction in the absence of adjacent wetlands is the point beyond which the OHWM is no longer perceptible (33 CFR 328.4; see also 51 FR 41217).

Wetlands

The USACE defines wetlands as "those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions" (33 CFR 328.3). The USACE's delineation procedures identify wetlands in the field based on indicators of three wetland parameters: hydrophytic vegetation, hydric soils, and wetland hydrology. The following is a discussion of each of these parameters.

Hydrophytic Vegetation

Hydrophytic vegetation dominates areas where frequency and duration of inundation or soil saturation exerts a controlling influence on the plant species present. Plant species are assigned wetland indicator status according to the probability of their occurring in wetlands. More than fifty

percent of the dominant plant species must have a wetland indicator status to meet the hydrophytic vegetation criterion. The USACE published the National Wetland Plant List (USACE 2018), which separates vascular plants into the following four basic categories based on plant species frequency of occurrence in wetlands:

- **Obligate Wetland (OBL).** Almost always occur in wetlands
- **Facultative Wetland (FACW).** Usually occur in wetlands, but occasionally found in non-wetlands
- **Facultative (FAC).** Occur in wetlands or non-wetlands
- **Facultative Upland (FACU).** Usually occur in non-wetlands, but may occur in wetlands
- **Obligate Upland (UPL).** Almost never occur in wetlands

The USACE considers OBL, FACW and FAC species to be indicators of wetlands. An area is considered to have hydrophytic vegetation when greater than 50 percent of the dominant species in each vegetative stratum (tree, shrub, and herb) fall within these categories. Any species not appearing on the United States Fish and Wildlife Service's list is assumed to be an upland species, almost never occurring in wetlands. In addition, an area needs to contain at least 5% vegetative cover to be considered as a vegetated wetland.

Hydric Soils

Hydric soils are saturated or inundated for a sufficient duration during the growing season to develop anaerobic or reducing conditions that favor the growth and regeneration of hydrophytic vegetation. Field indicators of wetland soils include observations of ponding, inundation, saturation, dark (low chroma) soil colors, bright mottles (concentrations of oxidized minerals such as iron), gleying (indicates reducing conditions by a blue-grey color), or accumulation of organic material. Additional supporting information includes documentation of soil as hydric or reference to wet conditions in the local soils survey, both of which must be verified in the field.

Wetland Hydrology

Wetland hydrology is inundation or soil saturation with a frequency and duration long enough to cause the development of hydric soils and plant communities dominated by hydrophytic vegetation. If direct observation of wetland hydrology is not possible (as in seasonal wetlands), or records of wetland hydrology are not available (such as stream gauges), assessment of wetland hydrology is frequently supported by field indicators, such as water marks, drift lines, sediment deposits, or drainage patterns in wetlands.

Limitations on Jurisdiction based on Sackett v. USEPA Supreme Court

On May 25, 2023, the Supreme Court issued its decision on the petition from the Sacketts, a family in Idaho that was subject to a compliance order from the USEPA for backfilling their lot near Priest Lake, which the USEPA claimed contained federally regulated wetlands. The wetlands in question were adjacent to a ditch that fed a creek that ultimately drained into Priest Lake, a navigable water body. The USEPA asserted that the Sacketts had violated the law by filling the wetlands on their property without a permit. The Court's decision addressed controversy over whether, and under what conditions, the CWA reaches navigable waters' tributaries or adjacent wetlands. The Supreme Court's decision in Sackett provides definitive guidance to the agencies in determining the limits of their Clean Water Act authority. Prioritizing a need for clarity and regulatory certainty, the Court set forth an interpretation of Clean Water Act jurisdiction that can be applied without the need for

lengthy case-by-case evaluations. This interpretation will have the effect of reducing the Clean Water Act's geographic reach.

The Court decided:

- "Adjacent wetlands" are WOTUS only if there is a continuous surface connection between the wetland and a navigable or relatively permanent water body, such that it is difficult to determine the boundary between the wetland and the water body. The opinion notes that "temporary interruptions to surface connection may sometimes occur because of phenomena like low tides or dry spells".
- The Significant Nexus Standard, introduced by the Court in prior decisions, is not mentioned in the Clean Water Act and should not be used. Additionally, the standard includes ecological factors whose use in determining jurisdiction is not supported by the statute.
- Although jurisdiction over tributaries was not addressed by the Court, current agency guidance relies upon the Significant Nexus Standard to establish jurisdiction over tributaries that flow infrequently. In disallowing the use of that standard the decision suggests that non-relatively permanent tributaries will be non-jurisdictional going forward, stating, "...the [Clean Water Act's] use of "waters" encompasses only those relatively permanent, standing or continuously flowing bodies of water forming geographical features that are described in ordinary parlance as streams, oceans, rivers, and lakes."

Rivers and Harbors Act Section 10

Section 10 of the Rivers and Harbors Act of 1899 requires authorization from the USACE for the construction of any structure in or over any navigable water of the United States. Structures or work outside the limits defined for navigable waters of the United States require a Section 10 permit if the structure or work affects the course, location, or condition of the water body. The law applies to any dredging or disposal of dredged materials, excavation, filling, re-channelization, or any other modification of a navigable water of the United States, and applies to all structures and work. It further includes, without limitation, any wharf, dolphin, weir, boom breakwater, jetty, groin, bank protection (e.g., riprap, revetment, bulkhead), mooring structures such as pilings, aerial or subaqueous power transmission lines, intake or outfall pipes, permanently moored floating vessel, tunnel, artificial canal, boat ramp, aids to navigation, and any other permanent, or semi-permanent obstacle or obstruction. It is important to note that Section 10 applies only to navigable waters, and thus does not apply to work in non-navigable wetlands or tributaries. In some cases, Section 10 authorization is issued by the USACE concurrently with CWA Section 404 authorization, such as when certain Nationwide Permits are used.

Regional Water Quality Control Board

The State Water Resources Control Board (SWRCB) and nine Regional Water Quality Control Boards (RWQCBs) have jurisdiction over "waters of the State," which are defined as any surface water or groundwater, including saline waters, within the boundaries of the state (California Water Code sec. 13050(e)). These agencies also have responsibilities for administering portions of the CWA.

Clean Water Act Section 401

Section 401 of the CWA requires an applicant requesting a federal license or permit for an activity that may result in any discharge into navigable waters (such as a Section 404 Permit) to provide

state certification that the proposed activity will not violate state and federal water quality standards. In California, CWA Section 401 Water Quality Certification (Section 401 Certification) is issued by the RWQCBs and by the SWRCB for multi-region projects. The process begins when an applicant submits an application to the RWQCB and informs the USACE (or the applicable agency from which a license or permit was requested) that an application has been submitted. The USACE will then determine a “reasonable period of time” for the RWQCB to act on the application; this is typically 60 days for routine projects and longer for complex projects but may not exceed one year. When the period has elapsed, if the RWQCB has not either issued or denied the application for Section 401 Certification, the USACE may determine that Certification has been waived and issue the requested permit. If a Section 401 Certification is issued it may include binding conditions, imposed either through the Certification itself or through the requested federal license or permit.

Porter-Cologne Water Quality Control Act

The Porter-Cologne Water Quality Control Act (Porter-Cologne Act) is the principal law governing water quality regulation in California. It establishes a comprehensive program to protect water quality and the beneficial uses of water. The Porter-Cologne Act applies to surface waters, wetlands, and ground water and to both point and nonpoint sources of pollution. Pursuant to the Porter-Cologne Act (California Water Code section 13000 et seq.), the policy of the State is as follows:

- The quality of all the waters of the State shall be protected
- All activities and factors affecting the quality of water shall be regulated to attain the highest water quality within reason
- The State must be prepared to exercise its full power and jurisdiction to protect the quality of water in the State from degradation

The Porter-Cologne Act established nine RWQCBs (based on watershed boundaries) and the SWRCB, which are charged with implementing its provisions and which have primary responsibility for protecting water quality in California. The SWRCB provides program guidance and oversight, allocates funds, and reviews RWQCB decisions. In addition, the SWRCB allocates rights to the use of surface water. The RWQCBs have primary responsibility for individual permitting, inspection, and enforcement actions within each of nine hydrologic regions. The SWRCB and RWQCBs have numerous nonpoint source related responsibilities, including monitoring and assessment, planning, financial assistance, and management.

Section 13260 of the Porter-Cologne Act requires any person discharging or proposing to discharge waste that could affect the quality of waters of the State to file a Report of Waste Discharge with the appropriate RWQCB. The RWQCB may then authorize the discharge, subject to conditions, by issuing Waste Discharge Requirements (WDRs). While this requirement was historically applied primarily to outfalls and similar point source discharges, the SWRCB’s *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State*, effective May 2020, make it clear that the agency will apply the Porter-Cologne Act’s requirements to discharges of dredge and fill material as well. The *Procedures* state that they are to be used in issuing CWA Section 401 Certifications and WDRs, and largely mirror the existing review requirements for CWA Section 404 Permits and Section 401 Certifications, incorporating most elements of the USEPA’s *Section 404(b)(1) Guidelines*. Following issuance of the *Procedures*, the SWRCB produced a consolidated application form for dredge/fill discharges that can be used to obtain a CWA Section 401 Water Quality Certification, WDRs, or both.

Non-Wetland Waters of the State

The SWRCB and RWQCBs have not established regulations for field determinations of waters of the state except for wetlands currently. In many cases the RWQCBs interpret the limits of waters of the State to be bounded by the OHWM unless isolated conditions or ephemeral waters are present. However, in the absence of statewide guidance each RWQCB may interpret jurisdictional boundaries within their region and the SWRCB has encouraged applicants to confirm jurisdictional limits with their RWQCB before submitting applications. As determined by the RWQCB, waters of the State may include riparian areas or other locations outside the OHWM, leading to a larger jurisdictional area over a given water body compared to the USACE.

Wetland Waters of the State

Procedures for defining wetland waters of the State pursuant to the SWRCB's *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* went into effect May 28, 2020. The SWRCB defines an area as wetland if, under normal circumstances:

- (i) the area has continuous or recurrent saturation of the upper substrate caused by groundwater, or shallow surface water, or both;
- (ii) the duration of such saturation is sufficient to cause anaerobic conditions in the upper substrate; and
- (iii) the area's vegetation is dominated by hydrophytes or the area lacks vegetation.

The SWRCB's *Implementation Guidance for the Wetland Definition and Procedures for Discharges of Dredge and Fill Material to Waters of the State* (2020), states that waters of the U.S. and waters of the State should be delineated using the standard USACE delineation procedures, taking into consideration that the methods shall be modified only to allow for the fact that a lack of vegetation does not preclude an area from meeting the definition of a wetland.

United States Fish and Wildlife Service

The United States Fish and Wildlife Service (USFWS) implements several laws protecting the Nation's fish and wildlife resources, including the Endangered Species Act (ESA; 16 United States Code [USC] Sections 153 et seq.), the Migratory Bird Treaty Act (MBTA; 16 USC Sections 703-711) and the Bald and Golden Eagle Protection Act (16 USC Section 668).

Endangered Species Act

The USFWS and National Marine Fisheries Service (NMFS) share responsibility for implementing the ESA. Generally, the USFWS implements the FESA for terrestrial and freshwater species, while the NMFS implements the FESA for marine and anadromous species. Projects that would result in "take" of any threatened or endangered wildlife species, or a threatened or endangered plant species if occurring on federal land, are required to obtain permits from the USFWS or NMFS through either Section 7 (interagency consultation with a federal nexus) or Section 10 (Habitat Conservation Plan) of the ESA, depending on the involvement by the federal government in funding, authorizing, or carrying out the project. The permitting process is used to determine if a project would jeopardize the continued existence of a listed species and what measures would be required to avoid jeopardizing the species. "Take" under federal definition means to harass, harm (which includes habitat modification), pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to

engage in any such conduct. Proposed or candidate species do not have the full protection of the ESA; however, the USFWS and NMFS advise project applicants that they could be elevated to listed status at any time.

Migratory Bird Treaty Act

The MBTA of 1918 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 law 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 MBTA prohibits the take (including killing, capturing, selling, trading, and transport) of protected migratory bird species without prior authorization by the USFWS.

The list of migratory bird species protected by the law, in regulations at 50 CFR Part 10.13, is primarily based on bird families and species included in the four international treaties. A migratory bird species is included on the list if it meets one or more of the following criteria:

1. It occurs in the United States or U.S. territories as the result of natural biological or ecological processes and is currently, or was previously listed as, a species or part of a family protected by one of the four international treaties or their amendments.
2. Revised taxonomy results in it being newly split from a species that was previously on the list, and the new species occurs in the United States or U.S. territories as the result of natural biological or ecological processes.
3. New evidence exists for its natural occurrence in the United States or U.S. territories resulting from natural distributional changes and the species occurs in a protected family.

In 2004, the Migratory Bird Treaty Reform Act limited the scope of the MBTA by stating the MBTA applies only to migratory bird species that are native to the United States or U.S. territories, and that a native migratory bird species is one that is present as a result of natural biological or ecological processes. The MBTRA requires the USFWS to publish a list of all nonnative, human-introduced bird species to which the MBTA does not apply, and an updated list was published in 2020. The 2020 update identifies species belonging to biological families referred to in treaties the MBTA implements but are not protected because their presence in the United States or U.S. territories is solely the result of intentional or unintentional human-assisted introductions.

Bald and Golden Eagle Protection Act

The Bald and Golden Eagle Protection Act prohibits anyone, without a permit issued by the USFWS, from "taking" bald or golden eagles, including their parts (including feathers), nests, or eggs. The Act provides criminal penalties for persons who "take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or any manner, any bald eagle ... [or any golden eagle], alive or dead, or any part, nest, or egg thereof." The Act defines "take" as "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb."

"Disturb" means "to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior."

In addition to immediate impacts, this definition also covers impacts that result from human-induced alterations initiated around a previously used nest site during a time when eagles are not present, if, upon the eagle's return, such alterations agitate or bother an eagle to a degree that interferes with or interrupts normal breeding, feeding, or sheltering habits, and causes injury, death or nest abandonment.

California Department of Fish and Wildlife

The California Department of Fish and Wildlife (CDFW) derives its authority from the Fish and Game Code of California and administers several State laws protecting fish and wildlife resources and the habitats upon which they depend.

California Endangered Species Act

The California Endangered Species Act (CESA) (Fish and Game Code Section 2050 et. seq.) prohibits take of state listed threatened or endangered. Take under CESA is defined as "Hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill" (Fish and Game Code sec. 86). This definition does not prohibit indirect harm by way of habitat modification, except where such harm is the proximate cause of death of a listed species. Where incidental take would occur during construction or other lawful activities, CESA allows the CDFW to issue an Incidental Take Permit upon finding, among other requirements, that impacts to the species have been minimized and fully mitigated. Unlike the federal ESA, CESA's protections extend to candidate species during the period (typically one year) while the California Fish and Game Commission decides whether the species warrants CESA listing.

Native Plant Protection Act

The CDFW also has authority to administer the Native Plant Protection Act (NPPA) (Fish and Game Code Section 1900 et seq.). The NPPA requires the CDFW to establish criteria for determining if a species, subspecies, or variety of native plant is endangered or rare, and prohibits the take of listed plant species. Effective in 2015, CDFW promulgated regulations (14 CCR 786.9) under the authority of the NPPA, establishing that the CESA's permitting procedures would be applied to plants listed under the NPPA as "Rare." With this change, there is little practical difference for the regulated public between plants listed under CESA and those listed under the NPPA.

Fully Protected Species Laws

The CDFW enforces Sections 3511, 4700, 5050, and 5515 of the Fish and Game Code, which prohibit take of species designated as Fully Protected. The CDFW is not allowed to issue an Incidental Take Permit for Fully Protected species; therefore, impacts to these species must be avoided. The exception is situations where a Natural Community Conservation Plan (NCCP) is in place that authorizes take of the fully protected species.

Avian Protection Laws

California Fish and Game Code sections 3503, 3503.5, and 3513 describe unlawful take, possession, or destruction of native birds, nests, and eggs. Section 3503.5 of the Code protects all birds-of-prey and their eggs and nests against take, possession, or destruction of nests or eggs. Section 3513 makes it a state-level offense to take any bird in violation of the federal Migratory Bird Treaty Act.

Protection of Lakes and Streambeds

California Fish and Game Code section 1602 states that it is unlawful for any person to "substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake" without first notifying the California Department of Fish and Wildlife (CDFW) of that activity. Thereafter, if CDFW determines and informs the entity that the activity will not substantially adversely affect any existing fish or wildlife resources, the entity may commence the activity. If, however, CDFW determines that the activity may substantially adversely affect an existing fish or wildlife resource, the entity may be required to obtain from CDFW a Streambed Alteration Agreement (SAA), which will include reasonable measures necessary to protect the affected resource(s), before the entity may conduct the activity described in the notification. Upon receiving a complete Notification of Lake/Streambed Alteration, CDFW has 60 days to present the entity with a Draft SAA. Upon review of the Draft SAA by the applicant, any problematic terms are negotiated with CDFW and a final SAA is executed.

The CDFW has not defined the term "stream" for the purposes of implementing its regulatory program under Section 1602, and the agency has not promulgated regulations directing how jurisdictional streambeds may be identified, or how their limits should be delineated. However, four relevant sources of information offer insight as to the appropriate limits of CDFW jurisdiction as discussed below.

- **The plain language of Section 1602 of CFGC** establishes the following general concepts:
 - References "river," "stream," and "lake"
 - References "natural flow"
 - References "bed," "bank," and "channel"
- **Applicable court decisions**, in particular *Rutherford v. State of California* (188 Cal App. 3d 1276 (1987)), which interpreted Section 1602's use of "stream" to be as defined in common law. The Court indicated that a "stream" is commonly understood to:
 - Have a source and a terminus
 - Have banks and a channel
 - Convey flow at least periodically, but need not flow continuously and may at times appear outwardly dry
 - Represent the depression between the banks worn by the regular and usual flow of the water
 - Include the area between the opposing banks measured from the foot of the banks from the top of the water at its ordinary stage, including intervening sand bars
 - Include the land that is covered by the water in its ordinary low stage
 - Include lands below the OHWM
- **CDFW regulations** defining "stream" for other purposes, including sport fishing (14 CCR 1.72) and streambed alterations associated with cannabis production (14 CCR 722(c)(21)), which indicate that a stream:
 - Flows at least periodically or intermittently
 - Flows through a bed or channel having banks
 - Supports fish or aquatic life
 - Can be dry for a period of time

- Includes watercourses where surface or subsurface flow supports or has supported riparian vegetation
- **Guidance documents**, including *A Field Guide to Lake and Streambed Alteration Agreements* (CDFG 1994) and *Methods to Describe and Delineate Episodic Stream Processes on Arid Landscapes for Permitting Utility-Scale Solar Power Plants* (Brady and Vyverberg 2013), which suggest the following:
 - A stream may flow perennially or episodically
 - A stream is defined by the course in which water currently flows, or has flowed during the historic hydrologic course regime (approximately the last 200 years)
 - Width of a stream course can reasonably be identified by physical or biological indicators
 - A stream may have one or more channels (single thread vs. compound form)
 - Features such as braided channels, low-flow channels, active channels, banks associated with secondary channels, floodplains, islands, and stream-associated vegetation, are interconnected parts of the watercourse
 - Canals, aqueducts, irrigation ditches, and other means of water conveyance can be considered streams if they support aquatic life, riparian vegetation, or stream-dependent terrestrial wildlife
 - Biologic components of a stream may include aquatic and riparian vegetation, all aquatic wildlife including fish, amphibians, reptiles, invertebrates, and terrestrial species which derive benefits from the stream system
 - The lateral extent of a stream can be measured in different ways depending on the particular situation and the type of fish or wildlife resource at risk

The tenets listed above, among others, are applied to establish the boundaries of streambeds in various environments. Importance of each factor may be weighted based on site-specific considerations and the applicability of the indicators to the streambed at hand.

Local Jurisdiction

The Santa Clara Valley Habitat Plan

The Santa Clara Valley Habitat Plan (SCVHP) is a Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP). The Habitat Plan includes the requirements and criteria for coverage under the terms of the Habitat Plan.

The Habitat Plan includes permit conditions and avoidance and minimization of impacts to covered species. Avoidance and minimization measures included in Table 6-2 of the SCVHP would be required, and include general construction best management practices. The conditions are applied based on certain criteria, including project specific location and impacts. Under the Habitat Plan, the proposed project is considered a *rural development project*. Applicable permit conditions *rural development projects* include:

Condition 1. Avoid Direct Impacts to Legally Protected Plant and Wildlife Species

This permit condition applies to all covered activities and requires avoidance of Contra Costa goldfields (*Lasthenia conjugens*), a federally endangered species not included for coverage under

the HCP; and species that are fully protected by CFGC (Sections 3511 and 4700), the MBTA, and Bald and Golden Eagle Protection Act. These species including but not limited to:

- Golden eagle.
- Bald eagle.
- American peregrine falcon.
- Southern bald eagle.
- White-tailed kite.
- California condor.
- Ring-tailed cat
- Migratory birds (including western burrowing owl, least Bell's vireo, and tricolored blackbird)

Condition 3. Maintain Hydrologic Conditions and Protect Water Quality.

This condition applies to all covered activities and requires compliance with regulations under National Pollutant Discharge Elimination System (NPDES) permit requirements. The Central Coast Regional Board administers the NPDES program for the Pajaro Watershed which includes the Llagas Creek subbasin. NPDES compliance will be assured, and the following will be implemented to protect watershed health and reduce stormwater discharge and pollutant runoff:

- To the extent possible, restore the hydrograph to more closely resemble predevelopment conditions.
- Invasive plant species removed during maintenance will be handled and disposed of in such a manner as to prevent further spread of the invasive species.
- When possible, maintain a vegetated buffer strip between staging/excavation areas and receiving waters.
- Use existing roads for access and disturbed area for staging as site constraints allow. Off-road travel will avoid sensitive communities such as wetlands to the maximum extent possible.
- Only clear/prepare land which will be actively under construction in the near term.
- When possible, avoid wet season construction.
- Fiber rolls used for erosion control will be certified as free of noxious weed seed.
- Filter fences and mesh will be of material that will not entrap reptiles and amphibians.
- Seed mixtures applied for erosion control will not contain invasive nonnative species and will be composed of native species or sterile nonnative species. If sterile nonnative species are used for temporary erosion control, native seed mixtures must be used in subsequent treatments to provide long-term erosion control and slow colonization by invasive nonnatives.
- Topsoil removed during soil excavation will be preserved and used as topsoil during revegetation when it is necessary to conserve the natural seed bank and aid in revegetation of the site.
- To the extent feasible, vehicles and equipment will be parked on pavement, existing roads, and previously disturbed areas.
- The potential for traffic impacts on terrestrial animal species will be minimized by adopting traffic speed limits.

Rose Orchard Court Annexation and Urban Service Area Amendment

- All trash will be removed from the site daily to avoid attracting potential predators to the site. Personnel will clean the work site before leaving each day by removing all litter and construction-related materials.
- To prevent inadvertent entrapment of animals during excavation, all excavated, steep-walled holes or trenches more than 2-feet deep will be covered at the close of each working day by plywood or similar materials or provided with one or more escape ramps constructed of earth fill or wooden planks.
- All disturbed soils will be revegetated with native plants and/or grasses or sterile nonnative species suitable for the altered soil conditions upon completion of construction. Local watershed native plants will be used if available. If sterile nonnative species are used for temporary erosion control, native seed mixtures must be used in subsequent treatments to provide long-term erosion control and slow colonization by invasive nonnatives. All disturbed areas that have been compacted should be de-compacted prior to planting or seeding. Cut-and-fill slopes will be planted with local native or non-invasive plants suitable for the altered soil conditions.
- All construction pipes, culverts, or similar structures with a diameter of 4 inches or greater that are stored at a construction site for one or more overnight periods will be thoroughly inspected for wildlife by properly trained construction personnel before the pipe is subsequently buried, capped, or otherwise used or moved in anyway.

Condition 7. Rural Development Design and Construction Requirements

This condition addresses rural development projects outside the urban service area. Condition 7 requires low impact design and construction best management practices (limiting disturbance foot print, stream setbacks and buffers, invasive species avoidance, etc.) to avoid and minimize impacts to sensitive communities (including wetlands and hydrology) and covered species.

The following measures will be implemented to lessen the impacts of rural development:

- At project sites that are adjacent to any drainage, natural or manmade, exposed soils will be stabilized or otherwise contained on site to prevent excessive sediment from entering a waterway.
- Ground-disturbing activities should be timed to occur during dry weather months to reduce the possibility of landslides or other sediment being transported to local streams during wet weather.
- If construction extends into wet weather, appropriate erosion control materials will be implemented to prevent loss of soil and sediment.
- Construction on steep slopes will be timed for dry weather months to reduce the potential for landslides.
- All temporarily disturbed soils will be revegetated with native plants and/or grasses to provide long-term erosion control and slow colonization by invasive nonnatives. All disturbed areas that have been compacted should be de-compacted prior to planting or seeding.
- All temporarily disturbed areas, such as staging areas, will be returned to pre- project or ecologically improved conditions within 1 year of completing construction or the impact will be considered permanent.
- No plants identified by the California Invasive Plant Council as invasive will be planted on the project site.

Condition 11. Stream and Riparian Setbacks

This condition applies to all covered activities that may impact streams. Outside the urban service area, this includes all covered activities where a stream or stream setback overlaps any portion of the development area or project footprint. Outside of the urban service area, setback requirements are 150 feet for Category 1 streams, and 35 feet for Category 2 streams. If the site supports riparian vegetation, the setback will extend from the riparian edge plus a 35-foot buffer.

Unless a covered activity meets the “Exemption” criteria or is granted a stream setback exception, implementation of covered activities is prohibited within the stream setback.

Project proponents of projects located outside the urban service area must ensure that the development area does not encroach into the stream setback unless an exemption or an exception is applied.

Condition 12. Wetland and Pond Avoidance and Minimization

This condition requires minimization of direct and indirect impacts to wetlands and ponds and in some cases, avoidance of direct and indirect impacts to high quality wetlands and ponds, and includes a wetland fee for impacts. This condition also requires low impact design and construction BMPs for the protection of wetlands and ponds. The the following measures should be implemented as feasible, to minimize additional negative impacts:

- Personnel conducting ground-disturbing activities in or adjacent to wetlands and ponds will attend the worker environmental awareness training conducted by a qualified biologist so that they will understand appropriate avoidance and minimization measures necessary to reduce impacts to sensitive wetland and pond habitat which may support protected wildlife species.
- The limits of work should be clearly defined in the field with high visibility fencing where practical to avoid encroachment and unnecessary impacts.
- Silt fencing will be erected around the project site to reduce erosion where necessary.
- In addition to silt fencing, appropriate erosion control measures (e.g., fiber rolls, filter fences, vegetative buffer strips) will be used on site to reduce siltation and runoff of contaminants into wetlands, ponds, streams, or riparian woodlands. Filter fences and mesh will be of material that will not trap reptiles and amphibians. Erosion control blankets will be used as a last resort because of their tendency to biodegrade slowly and trap reptiles and amphibians.
- Erosion-control measures will be placed at the outer edge of the project site.
- Fiber rolls used for erosion control will be certified as free of noxious weed seed.
- Seed mixtures applied for erosion control will not contain invasive nonnative species and should be composed of native species appropriate for the site or sterile, nonnative species. If sterile, nonnative species are used for temporary erosion control, native seed mixtures must be used in subsequent treatments to provide long-term erosion control and slow colonization by invasive nonnatives.
- No construction or maintenance vehicles will be refueled within 200 feet of avoided wetlands and ponds unless a bermed and lined refueling area is constructed and hazardous material absorbent pads are available in the event of a spill.
- Where appropriate to control serious invasive plants, herbicides that have been approved by the U.S. Environmental Protection Agency for use in or adjacent to aquatic habitats may be used as long as label instructions are followed, and applications avoid or minimize impacts on covered species and their habitats. In wetland environments, appropriate herbicides may be

applied during the dry season to control nonnative invasive species (e.g.: yellow star-thistle). Herbicide drift will be minimized by applying the herbicide as close to the target area as possible. Herbicides will only be applied by certified personnel in accordance with label instructions.

- All equipment brought into the site should be clean and free of contaminated sediments and weeds. All organic matter should be removed from boots, vehicle tires, construction equipment, and all other surfaces that have come into contact with ponds, wetlands, or potentially contaminated sediments. Equipment should be rinsed with clean water before leaving the project site.
- Measures will be implemented to minimize the spread of disease (such as Phytophthora and chytrid fungus) and nonnative species based on current wildlife agency protocols and other best available science.

Condition 14. Valley Oak and Blue Oak Woodland Avoidance and Minimization

This condition applies to all covered activities and requires avoidance and minimization measures for stands of valley oak and blue oak, including protection of root zones and pruning under the direction of a certified arborist.

- Temporary project access points will be constructed as close as possible to the work area to minimize necessity for tree removal.
- Roads and pathways will be aligned outside of the tree's root protection zone whenever possible.
- Roads and pathways designed beneath or within 25 feet of the dripline of oak trees will be graded using hand-held equipment and will use permeable surfacing (e.g., grass pavers that allow runoff to infiltrate the ground).
- Alteration of natural grade through fill or other means within the root protection zone of oak trees will be minimized.
- Trenching for utility lines and other purposes will be minimized within root protection zones. Utilities may be installed in these areas by boring below the root zone.
- If extensive pruning of blue oaks and valley oaks is necessary, pruning will be conducted during the winter dormant period for these species and under the supervision of an arborist certified to International Society of Arboriculture or similar standards.

Condition 16. Least Bell's Vireo

This condition requires least Bell's vireo surveys and habitat assessments for projects within 250 feet of riparian land cover types. Covered activities must avoid active least Bell's vireo nests during the breeding season (March 15–July 31) by maintaining at least a 250-foot no-activity buffer around all active nests. Disturbance to previous nesting sites (for up to 3 years) will also be avoided during the breeding season unless the disturbance is required for the conservation strategy or to maintain public safety. Least Bell's vireos use previous nesting sites, and disturbance during the breeding season may preclude birds from using existing nests.

If occupied nests are identified, a qualified biologist will monitor construction to ensure that the 250-foot no-activity buffer around all active least Bell's vireo nests is maintained to ensure that covered activities do not affect nest success. I

Condition 17. Tricolored Blackbird

In areas mapped as suitable habitat (freshwater marsh with cattails, tule, etc.) in the Habitat Plan or identified during the project specific evaluation, preconstruction surveys are required 2 days prior to on-site disturbance for work within 250 feet. A 250-foot avoidance buffer is required for active tricolored blackbird colonies, and the SCVHA must be notified immediately. A biological monitor will also be required to ensure the buffer is enforced and is sufficient to prevent disturbance.

Morgan Hill

Morgan Hill 2035 General Plan

The City of Morgan Hill General Plan's Natural Resources and Environment element's goals and policies include the following for managing biological resources:

GOAL NRE-5 Preservation and reclamation of streams and riparian areas as open space.

- **Policy NRE-5.1 Reclamation of Streams and Riparian Areas.** Encourage reclamation of degraded streams and riparian areas.
- **Policy NRE-5.2 Other Agencies and Environmental Review.** Coordinate with jurisdictional agencies, as required, as part of the environmental review process for development projects.
- **Policy NRE-5.3 Natural State of Streamside and Riparian Areas.** Retain natural streamside and riparian areas in their natural state in order to preserve their value as percolation and recharge areas, natural habitat, scenic resources, and recreation corridors, and to stabilize banks. (South County Joint Area Plan 15.08)
- **Policy NRE-5.4 Development Impacts in Riparian Areas.** Consider development impacts upon wildlife in riparian areas and mitigate those environmental impacts.
- **Policy NRE-5.6 Stream Channel Protection.** Protect existing stream channels and riparian vegetation by requiring buffering or landscaped setbacks and storm runoff interception consistent with the Santa Clara Valley Habitat Plan (as specified in Table NRE-1).
- **Policy NRE-5.7 Creek Visibility.** Require creek areas in new developments to be visible from the public right-of-way to ensure safety, maintenance, access, and integration into the neighborhood.
- **Policy NRE-5.8 Creeks Access.** Access to creeks should be of sufficient width to accommodate trails, flood control access, and protection of riparian habitat. (South County Joint Area Plan 16.11)
- **Action NRE-5.A West Little Llagas Creek.** A proposed streamside park along West Little Llagas Creek should be actively implemented and connected to the County trail system. (South County Joint Area Plan 16.10 & 16.12)
- **Action NRE-5.B Design Guidelines for Riparian Features.** Develop Design Guidelines for preserving, reclaiming and incorporating riparian features into development.
- **Action NRE-5.C Riparian Preservation and Reclamation Programs.** Develop programs for the preservation and reclamation of degraded riparian areas.

GOAL NRE-6 Protection of native plants, animals, and sensitive habitats.

- **Policy NRE-6.1 Natural State of Habitat.** Preserve all fish and wildlife habitats in their natural state whenever possible. Consider development impacts upon wildlife and utilize actions to mitigate those environmental impacts.
- **Policy NRE-6.2 Habitat Conservation Plan.** Support the implementation of the Santa Clara Valley Habitat Plan to protect wildlife, rare and endangered plants and animals, and sensitive habitats from loss and destruction.
- **Policy NRE-6.3 Urban Expansion Impacts.** Minimize impacts upon wildlife when considering annexations, urban service area extensions, and other governmental actions that permit urban development of previously undeveloped property.
- **Policy NRE-6.4 Tree Preservation and Protection.** Preserve and protect mature, healthy trees whenever feasible, particularly native trees, historically significant trees, and other trees which are of significant size or of significant aesthetic value to the immediate vicinity or to the community as a whole.
- **Policy NRE-6.5 Soil and Erosion.** Require development to be designed to conserve soil and avoid erosion. (South County Joint Area Plan 13.06)
- **Policy NRE-6.6 Use of Native Plants.** Encourage use of native plants, especially drought-resistant species, in landscaping.
- **Policy NRE-6.7 Habitat Protection and Enhancement.** Encourage the protection, restoration, and enhancement of remaining native grasslands, oak woodlands, marshlands, and riparian habitat.
- **Action NRE-6.A Standard Measures for Construction Activities.** Develop a set of standard measures requiring construction activities to avoid disturbance to natural features to the extent feasible.

Morgan Hill Municipal Code

The MHMC Section 12.32 - Protected and Significant Trees requires a tree removal permit for the removal of protected trees. Protected trees are defined as:

- any live woody plant rising above the ground with a single stem or trunk a diameter at breast height (DBH) of thirteen inches or more for nonnative tree species and a DBH of six inches or more for native tree species,
- trees of certain species or historical significance as designated by the city,
- any tree designated for protecting during review and approval of a development project, public or street trees, and otherwise designated as significant status.

Removal or pruning of such trees requires a tree removal permit issued by the City. To apply for a tree removal permit, the permit application must include an arborist report, site plan, and justification for removal. The approval process involves review by City staff or the Planning Commission, depending on the scope and impact. If removal is approved, applicants must comply with replacement requirements, typically involving a 1:1 ratio with a similar native tree species of at least minimum fifteen-gallon in size. In the case of nonnative trees to be removed, the replacement tree shall be a native species and at least minimum fifteen-gallon in size. The development services director may require additional replacement trees as necessary to mitigate the impact from the loss of tree canopy. Alternatively, the City may allow payment of an in-lieu fee to support urban forestry efforts when on-site replacement is not feasible.

The MHMC Section 18.92.110 - Natural resource and hazard setbacks also includes the requirement for a minimum setback from Category 1 and Category 2 streams as defined, and consistent with in the SCVHP. This section also includes a minimum development setback of 80 feet from ridgelines, and requires development be located outside of the 100-year floodplain. Development within the 100-year floodplain is allowed with specific development standards contained in Chapter 15.80, including a floodplain development permit, which includes an engineering analysis to document flood risk and affects of the proposed development.

MHMC Chapter 18.132 implements the Santa Clara SCVHP and the associated implementing agreement in order to provide a regulatory framework for promoting the protection and recovery of natural resources, including covered species, while streamlining the permitting process for both publicly funded and privately funded planned development in the City of Morgan Hill.

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Appendix B

Site Photographs



Photograph 1. Annual grassland and a paved driveway at the north end of the BSA, facing southeast.



Photograph 2. Annual grassland at the area proposed for development, at the north end of the BSA, facing south.



Photograph 3. The residence and paved driveways at the north end of the BSA, facing southeast.



Photograph 4. Annual grassland and valley oaks on the slope above the residence, facing south.



Photograph 5. Annual grassland, coyote brush, and valley oaks on the slope above the residence, facing south.



Photograph 6. Annual grassland, coyote brush, coast live oak woodland, and a dirt access road on the slope above the residence, facing east.



Photograph 7. Annual grassland, and a dirt access road on the slope below the ridgetop, facing east.



Photograph 8. Annual grassland, and coast live oak woodland, at the ridgetop, facing northeast.

Appendix C

Floral and Faunal Compendium

Plant Species Observed Within the Biological Study Area on September 30, 2025

Scientific Name	Common Name	Status	Native or Introduced
Trees			
<i>Aesculus californica</i>	California buckeye		Native
<i>Albizia julibrissin</i>	silktree		Introduced
<i>Ficus carica</i>	common fig		Introduced; Cal-IPC: Moderate
<i>Grevillea robusta</i>	silkoak		Introduced
<i>Juglans hindsii</i>	Northern California black walnut		Native
<i>Juglans regia</i>	English walnut		Introduced
<i>Olea europaea</i>	olive		Introduced, Cal-IPC: limited
<i>Phoenix canariensis</i>	Canary island date palm		Introduced, Cal-IPC: limited
<i>Schinus molle</i>	Peruvian pepper tree		Introduced; Cal-IPC: Moderate
<i>Quercus agrifolia</i>	coast live oak		Native
<i>Quercus lobata</i>	valley oak		Native
<i>Umbellularia californica</i>	bay laurel		Native
Shrubs			
<i>Baccharis pilularis</i>	coyote brush		Native
<i>Heteromeles arbutifolia</i>	toyon		Native
<i>Sambucus mexicana</i>	blue elderberry		Native
Herbs			
<i>Amaryllis belladonna</i>	Belladonna lily		Introduced
<i>Artemisia douglasiana</i>	mugwort		Native
<i>Asclepias fascicularis</i>	narrow leaf milkweed		Native
<i>Centaurea solstitialis</i>	yellow starthistle		Introduced; Cal-IPC: High
<i>Convolvulus arvensis</i>	field bindweed		Introduced
<i>Diplacus aurantiacus</i>	orange bush monkeyflower		Native
<i>Dittrichia graveolens</i>	stinkwort		Introduced; Cal-IPC: Moderate
<i>Eriogonum nudum</i>	naked buckwheat		Native
<i>Hemizonia congesta</i>	hayfield tarweed		Native
<i>Pentagramma triangularis</i>	gold back fern		Native
<i>Plantago lanceolata</i>	English plantain		Introduced, Cal-IPC: limited
<i>Rhamnus crocea</i>	redberry buckthorn		Native
<i>Spartium junceum</i>	Spanish broom		Introduced; Cal-IPC: High
<i>Trichostema lanceolatum</i>	vinegar weed		Native
<i>Vinca major</i>	greater periwinkle		Introduced; Cal-IPC: Moderate
Grasses			
<i>Avena sp.</i>	wild oats		Introduced; Cal-IPC: Moderate
<i>Phalaris aquatica</i>	Harding grass		Introduced; Cal-IPC: Moderate
California Invasive Plant Council (Cal-IPC)			

Wildlife Species Observed Within the Biological Study Area on September 30, 2025

Scientific Name	Common Name	Status	Native or Introduced
Birds			
<i>Aphelocoma californica</i>	California scrub jay		Native
<i>Baeolophus inornatus</i>	oak titmouse		Native
<i>Buteo jamaicensis</i>	red-tailed hawk		Native
<i>Callipepla californica</i>	California quail		Native
<i>Cathartes aura</i>	turkey vulture		Native
<i>Colaptes auratus</i>	northern flicker		Native
<i>Corvus brachyrhynchos</i>	American crow		Native
<i>Haemorhous mexicanus</i>	house finch		Native
<i>Melanerpes formicivorus</i>	acorn woodpecker		Native
<i>Meleagris gallopavo</i>	wild turkey		Introduced
<i>Melospiza crissalis</i>	California towhee		Native
<i>Mimus polyglottos</i>	northern mockingbird		Native
<i>Sayornis nigricans</i>	black phoebe		Native
<i>Sayornis saya</i>	Say's phoebe		Native
<i>Streptopelia decaocto</i>	Eurasian collared-dove		Introduced
<i>Sturnus vulgaris</i>	European starling		Introduced
<i>Thryomanes bewickii</i>	Bewick's wren		Native
<i>Zenaidura macroura</i>	mourning dove		Native
<i>Zonotrichia atricapilla</i>	golden-crowned sparrow		Native
Mammals			
<i>Canis latrans</i>	coyote		Native
<i>Odocoileus hemionus columbianus</i>	black-tailed deer		Native
<i>Procyon lotor</i>	northern racoon		native
<i>Spermophilus beecheyi</i>	California ground squirrel		Native

Appendix D

Special-status Species Evaluation Tables

Special-status Plant Species in the Regional Vicinity of the Project Site

Scientific Name Common Name	Status Fed/State ESA CRPR	Habitat Requirements	Potential to Occur	Rationale
<i>Amsinckia lunaris</i> bent-flowered fiddleneck	None/None G3/S3 1B.2	Annual herb. Cismontane woodland, coastal bluff scrub, valley and foothill grassland. Elevations: 10-1640ft. (3-500m.) Blooms Mar-Jun.	Low Potential	Suitable annual grassland is present; however there are no known occurrences within five miles and the grassland habitat is disturbed and primarily composed of nonnative species.
<i>Arctostaphylos andersonii</i> Anderson's manzanita	None/None G2/S2 1B.2	Perennial evergreen shrub. Broadleafed upland forest, chaparral, north coast coniferous forest. Edges, openings. Elevations: 195-2495ft. (60-760m.) Blooms Nov-May.	Not Expected	Chaparral and north coast coniferous forests are not present. There are no known occurrences within five miles, and manzanita species were not observed during the field survey.
<i>Balsamorhiza macrolepis</i> big-scale balsamroot	None/None G2/S2 1B.2	Perennial herb. Chaparral, cismontane woodland, valley and foothill grassland. Serpentinite (sometimes). Elevations: 150-5100ft. (45-1555m.) Blooms Mar-Jun.	Not Expected	Chaparral on serpentine soils are not present. There are no known occurrences within five miles, and balsamroots were not observed during the field survey.
<i>Calyptridium parryi</i> var. <i>hesseae</i> Santa Cruz Mountains pussypaws	None/None G3G4T2/S2 1B.1	Annual herb. Chaparral, cismontane woodland. Gravelly (sometimes), openings, sandy (sometimes). Elevations: 1000-5020ft. (305-1530m.) Blooms May-Aug.	Not Expected	Chaparral with gravelly or sandy openings are not present. There are no known occurrences within five miles, and the site is outside this species elevation range.
<i>Castilleja affinis</i> var. <i>neglecta</i> Tiburon paintbrush	FE/ST G4G5T1T2/S1S2 1B.2 SCVHP covered	Perennial herb (hemiparasitic). Valley and foothill grassland. Rocky serpentine sites. Elevations: 195-1310ft. (60-400m.) Blooms Apr-Jun.	Not Expected	There are two known occurrences within five miles. However rocky serpentine soils are not present.
<i>Castilleja rubicundula</i> var. <i>rubicundula</i> pink creamsacs	None/None G5T2/S2 1B.2	Annual herb (hemiparasitic). Chaparral, cismontane woodland, meadows and seeps, valley and foothill grassland. Serpentinite. Elevations: 65-2985ft. (20-910m.) Blooms Apr-Jun.	Not Expected	There is one known occurrence within five miles. However, chaparral, meadows and seeps, valley and foothill grassland on serpentinite soils are not present.
<i>Ceanothus ferrisiae</i> Coyote ceanothus	FE/None G1/S1 1B.1	Perennial evergreen shrub. Chaparral, coastal scrub, valley and foothill grassland. Serpentinite. Elevations: 395-1510ft. (120-460m.) Blooms Jan-May.	Not Expected	There are three known occurrences within five miles. However, chaparral, meadows and seeps on serpentinite soils are not present, and ceanothus were not observed during the field survey.

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Scientific Name Common Name	Status Fed/State ESA CRPR	Habitat Requirements	Potential to Occur	Rationale
<i>Centromadia parryi</i> ssp. <i>congdonii</i> Congdon's tarplant	None/None G3T2/S2 1B.1	Annual herb. Valley and foothill grassland. Alkaline soils, sometimes described as heavy white clay. Elevations: 0-755ft. (0-230m.) Blooms May-Oct(Nov).	Not Expected	Valley and foothill grasslands on alkaline soils are not present. There are no known occurrences within five miles, and tarplant were not observed during the field survey.
<i>Chlorogalum</i> <i>pomeridianum</i> var. <i>minus</i> dwarf soaproot	None/None G5T3/S3 1B.2	Perennial bulbiferous herb. Chaparral. Serpentine. Elevations: 1000-3280ft. (305-1000m.) Blooms May-Aug.	Not Expected	Chaparral on serpentinite soils are not present. There are no known occurrences within five miles, and soaproot were not observed during the field survey.
<i>Chorizanthe pungens</i> var. <i>pungens</i> Monterey spineflower	FT/None G2T2/S2 1B.2	Annual herb. Chaparral, cismontane woodland, coastal dunes, coastal scrub, valley and foothill grassland. Sandy. Elevations: 10-1475ft. (3-450m.) Blooms Apr-Jun(Jul-Aug).	Not Expected	Chaparral, coastal dunes, and coastal scrub with sandy soils are not present. There are no known occurrences within five miles.
<i>Chorizanthe robusta</i> var. <i>robusta</i> robust spineflower	FE/None G2T1/S1 1B.1	Annual herb. Chaparral, cismontane woodland, coastal dunes, coastal scrub. Gravelly (sometimes), sandy (sometimes). Elevations: 10-985ft. (3-300m.) Blooms Apr-Sep.	Not Expected	Chaparral, coastal dunes, and coastal scrub with sandy soils are not present. There are no known occurrences within five miles.
<i>Cirsium fontinale</i> var. <i>campylon</i> Mt. Hamilton thistle	None/None G2T2/S2 1B.2 SCVHP covered	Perennial herb. Chaparral, cismontane woodland, valley and foothill grassland. Seeps, serpentinite. Elevations: 330-2920ft. (100-890m.) Blooms (Feb)Apr-Oct.	Not Expected	There are ten known occurrences within five miles. However, chaparral, meadows and seeps on serpentinite soils are not present, and this species was not observed during the field survey.
<i>Collinsia multicolor</i> San Francisco collinsia	None/None G2/S2 1B.2	Annual herb. Closed-cone coniferous forest, coastal scrub. Serpentine (sometimes). Elevations: 100-900ft. (30-275m.) Blooms (Feb)Mar-May.	Not Expected	There is one known occurrence within five miles. However coniferous forest, and coastal scrub on serpentinite soils are not present.
<i>Delphinium californicum</i> ssp. <i>interius</i> Hospital Canyon larkspur	None/None G3T3/S3 1B.2	Perennial herb. Chaparral, cismontane woodland, coastal scrub. In wet, boggy meadows, openings in chaparral and in canyons. Elevations: 640-3595ft. (195-1095m.) Blooms Apr-Jun.	Not Expected	Chaparral, coastal scrub with wet, boggy meadows are not present. There are no known occurrences within five miles.
<i>Dudleya abramsii</i> ssp. <i>setchellii</i> Santa Clara Valley dudleya	FE/None G4T2/S2 1B.1 SCVHP covered	Perennial herb. Cismontane woodland, valley and foothill grassland. Rocky, serpentinite. Elevations: 195-1755ft. (60-535m.) Blooms Apr-Oct.	Not Expected	There are 17 known occurrences within five miles. However rocky serpentinite soils are not present, and this species was not observed during the field survey.

Scientific Name Common Name	Status Fed/State ESA CRPR	Habitat Requirements	Potential to Occur	Rationale
<i>Eriastrum tracyi</i> Tracy's eriastrum	None/SR G3Q/S3 3.2	Annual herb. Chaparral, cismontane woodland, valley and foothill grassland. Gravelly shale or clay; often in open areas. Elevations: 1035-5840ft. (315-1780m.) Blooms May-Jul.	Not Expected	Chaparral, cismontane woodland, valley and foothill grasslands with gravelly shale or clay are not present. There are no known occurrences within five miles.
<i>Eryngium aristulatum</i> var. <i>hooveri</i> Hoover's button-celery	None/None G5T1/S1 1B.1	Annual/perennial herb. Vernal pools. Alkaline depressions, vernal pools, roadside ditches and other wet places near the coast. Elevations: 10-150ft. (3-45m.) Blooms (Jun)Jul(Aug).	Not Expected	Vernal pools and alkaline depressions are not present. There are no known occurrences within five miles.
<i>Fritillaria liliacea</i> fragrant fritillary	None/None G2/S2 1B.2 SCVHP covered	Perennial bulbiferous herb. Cismontane woodland, coastal prairie, coastal scrub, valley and foothill grassland. Often on serpentine; various soils reported though usually on clay, in grassland. Elevations: 10-1345ft. (3-410m.) Blooms Feb-Apr.	Not Expected	Coastal prairie, coastal scrub, and valley and foothill grasslands on serpentine soils are not present. There are no known occurrences within five miles.
<i>Hoita strobilina</i> Loma Prieta hoita	None/None G2?/S2? 1B.1	Perennial herb. Chaparral, cismontane woodland, riparian woodland. Serpentine; mesic sites. Elevations: 100-2820ft. (30-860m.) Blooms May-Jul(Aug-Oct).	Not Expected	There are four known occurrences within five miles. However, chaparral, cismontane woodland, and riparian woodland on serpentine soils are not present.
<i>Lasthenia conjugens</i> Contra Costa goldfields	FE/None G1/S1 1B.1	Annual herb. Cismontane woodland, playas, valley and foothill grassland, vernal pools. Vernal pools, swales, low depressions, in open grassy areas. Elevations: 0-1540ft. (0-470m.) Blooms Mar-Jun.	Not Expected	Vernal pools are not present. There are no known occurrences within five miles.
<i>Legenere limosa</i> legenere	None/None G2/S2 1B.1	Annual herb. Vernal pools. In beds of vernal pools. 1-. Elevations: 5-2885ft. (1-880m.) Blooms Apr-Jun.	Not Expected	Vernal pools are not present. There are no known occurrences within five miles.
<i>Leptosyne hamiltonii</i> Mt. Hamilton coreopsis	None/None G2/S2 1B.2	Annual herb. Cismontane woodland. On steep shale talus with open southwestern exposure. Elevations: 1805-4265ft. (550-1300m.) Blooms Mar-May.	Not Expected	Woodlands on steep shale talus are not present. There are no known occurrences within five miles.
<i>Lessingia micradenia</i> var. <i>glabrata</i> smooth lessingia	None/None G2T2/S2 1B.2 SCVHP covered	Annual herb. Chaparral, cismontane woodland, valley and foothill grassland. Serpentine; often on roadsides. Elevations: 395-1380ft. (120-420m.) Blooms (Apr-Jun)Jul-Nov.	Low Potential	There are 20 known occurrences within five miles, and grasslands are present however serpentine soils are not present.

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<i>Lomatium observatorium</i> Mt. Hamilton lomatium	None/None G1/S1 1B.2	Perennial herb. Cismontane woodland. Open to partially shaded openings in Pinus coulteri-oak woodland. Sedimentary Franciscan rocks and volcanics. Elevations: 4000-4365ft. (1219-1330m.) Blooms Mar-May.	Not Expected	Woodlands on sedimentary Franciscan rocks and volcanics are not present. There are no known occurrences within five miles, and the site is outside this species elevation range.
<i>Malacothamnus arcuatus</i> var. <i>arcuatus</i> arcuate bushmallow	None/None G2Q/S2 1B.2	Chaparral, Cismontane woodland. Gravelly alluvium. 15-355m. Blooms Apr-Sep.	Not Expected	There are two known occurrences within five miles. However, chaparral, cismontane woodland, on gravelly soils are not present, and this species was not observed during the field survey.
<i>Malacothamnus hallii</i> Hall's bushmallow	None/None G2/S2 1B.2	Perennial deciduous shrub. Chaparral, coastal scrub. Some populations on serpentine. Elevations: 35-2495ft. (10-760m.) Blooms (Apr)May-Sep(Oct).	Not Expected	There are five known occurrences within five miles. However, chaparral, cismontane woodland, on gravelly soils are not present, and this species was not observed during the field survey.
<i>Meconella oregana</i> Oregon meconella	None/None G2/S2 1B.1	Annual herb. Coastal prairie, coastal scrub. Open, moist places. Elevations: 820-2035ft. (250-620m.) Blooms Mar-Apr.	Not Expected	Coastal prairie and coastal scrub are not present. There are no known occurrences within five miles.
<i>Monolopia gracilens</i> woodland woollythreads	None/None G3/S3 1B.2	Annual herb. Broadleafed upland forest, chaparral, cismontane woodland, north coast coniferous forest, valley and foothill grassland. Grassy sites, in openings; sandy to rocky soils. Often seen on serpentine after burns, but may have only weak affinity to serpentine. Elevations: 330-3935ft. (100-1200m.) Blooms (Feb)Mar-Jul.	Not Expected	There are five known occurrences within five miles. However, chaparral, cismontane woodland, on rocky or sandy serpentine soils are not present.
<i>Penstemon rattanii</i> var. <i>kleei</i> Santa Cruz Mountains beardtongue	None/None G4T2/S2 1B.2	Perennial herb. Chaparral, lower montane coniferous forest, north coast coniferous forest. Sandy shale slopes; sometimes in the transition between forest and chaparral. Elevations: 1310-3610ft. (400-1100m.) Blooms May-Jun.	Not Expected	Chaparral and coniferous forest with sandy shale slopes are not present. There are no known occurrences within five miles, and the site is outside this species elevation range.
<i>Pentachaeta exilis</i> ssp. <i>aeolica</i> San Benito pentachaeta	None/None G5T2/S2 1B.2	Annual herb. Cismontane woodland, valley and foothill grassland. Grassy areas. Elevations: 1575-2805ft. (480-855m.) Blooms Mar-May.	Not Expected	Grassland and woodlands are present; however, there are no known occurrences within five miles, and the site is outside this species elevation range.

Scientific Name Common Name	Status Fed/State ESA CRPR	Habitat Requirements	Potential to Occur	Rationale
<i>Phacelia phacelioides</i> Mt. Diablo phacelia	None/None G2/S2S3 1B.2	Annual herb. Chaparral, cismontane woodland. Adjacent to trails, on rock outcrops and talus slopes; sometimes on serpentine. Elevations: 1640-4495ft. (500-1370m.) Blooms Apr-May.	Not Expected	Rock outcrops and talus slopes are not present. There are no known occurrences within five miles, and the site is outside this species elevation range.
<i>Plagiobothrys glaber</i> hairless popcornflower	None/None GX/SX 1A	Annual herb. Marshes and swamps, meadows and seeps. Coastal salt marshes and alkaline meadows. Elevations: 50-590ft. (15-180m.) Blooms Mar-May.	Not Expected	Marshes and swamps, meadows and seeps, and coastal salt marshes and alkaline meadows are not present. There are no known occurrences within five miles.
<i>Plagiobothrys verrucosus</i> warty popcornflower	None/None G4G5/S1 2B.1	Annual herb. Chaparral. Shale substrate. Elevations: 2000-2495ft. (610-760m.) Blooms Apr-May.	Not Expected	Chaparral on shale substrate are not present. There are no known occurrences within five miles, and the site is outside this species elevation range.
<i>Ravenella exigua</i> chaparral harebell	None/None G2/S2 1B.2	Chaparral (rocky, usually serpentinite). Rocky sites, usually on serpentine in chaparral. 275-1250m. Blooms May-Jun.	Not Expected	Chaparral with rocky, serpentinite soils are not present. There are no known occurrences within five miles.
<i>Sanicula saxatilis</i> rock sanicle	None/SR G2/S2 1B.2	Perennial herb. Broadleafed upland forest, chaparral, valley and foothill grassland. Bedrock outcrops and talus slopes in chaparral or oak woodland habitat. Elevations: 2035-3855ft. (620-1175m.) Blooms Apr-May.	Not Expected	Bedrock outcrops and talus slopes in chaparral or oak woodland habitat are not present. There are no known occurrences within five miles, and the site is outside this species elevation range.
<i>Senecio aphanactis</i> chaparral ragwort	None/None G3/S2 1B.2	Annual herb. Chaparral, cismontane woodland, coastal scrub. Drying alkaline flats. Elevations: 50-2625ft. (15-800m.) Blooms Jan-Apr(May).	Not Expected	Chaparral and alkaline flats are not present. There are no known occurrences within five miles.
<i>Streptanthus albidus</i> ssp. <i>albidus</i> Metcalf Canyon jewelflower	FE/None G2T1/S1 1B.1	Annual herb. Valley and foothill grassland. Relatively open areas in dry grassy meadows on serpentine soils; also on serpentine balds. Elevations: 150-2625ft. (45-800m.) Blooms Apr-Jul.	Not Expected	Grasslands with serpentinite soils are not present. There are no known occurrences within five miles.
<i>Streptanthus albidus</i> ssp. <i>peramoenus</i> most beautiful jewelflower	None/None G2T2/S2 1B.2 SCVHP covered	Annual herb. Chaparral, cismontane woodland, valley and foothill grassland. Serpentine outcrops, on ridges and slopes. Elevations: 310-3280ft. (95-1000m.) Blooms (Mar)Apr-Sep(Oct).	Low Potential	There are 17 known occurrences within five miles, and grasslands and slopes are present however serpentinite soils are not present, and this species was not observed during the field survey.

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<i>Streptanthus callistus</i> Mt. Hamilton jewelflower	None/None G1/S1 1B.2	Annual herb. Chaparral, cismontane woodland. Open talus slopes on shale with grey pine and/or black oak. Elevations: 1970-2590ft. (600-790m.) Blooms Apr-May.	Not Expected	Chaparral, cismontane woodlands on open talus slopes on shale are not present. There are no known occurrences within five miles, and the site is outside this species elevation range.
<i>Trifolium buckwestiorum</i> Santa Cruz clover	None/None G2/S2 1B.1	Annual herb. Broadleafed upland forest, cismontane woodland, coastal prairie. Moist grassland. Gravelly margins. Elevations: 345-2000ft. (105-610m.) Blooms Apr-Oct.	Not Expected	Moist grasslands are not present. There are no known occurrences within five miles, and this species was not observed during the field survey.

Regional Vicinity refers to within a 9-quad search radius of the site.

Status (Federal/State)

- FE = Federal Endangered
- FT = Federal Threatened
- FPE = Federal Proposed Endangered
- FPT = Federal Proposed Threatened
- FD = Federal Delisted
- FC = Federal Candidate
- SE = State Endangered
- ST = State Threatened
- SCE = State Candidate Endangered
- SCT = State Candidate Threatened
- SR = State Rare
- SD = State Delisted

CRPR (CNPS California Rare Plant Rank)

- 1A = Presumed extirpated in California, and rare or extinct elsewhere
- 1B = Rare, Threatened, or Endangered in California and elsewhere
- 2A = Presumed extirpated in California, but common elsewhere
- 2B = Rare, Threatened, or Endangered in California, but more common elsewhere

CRPR Threat Code Extension

- .1 = Seriously endangered in California (>80% of occurrences threatened/high degree and immediacy of threat)
- .2 = Moderately threatened in California (20-80% of occurrences threatened/moderate degree and immediacy of threat)
- .3 = Not very endangered in California (<20% of occurrences threatened/low degree and immediacy of threat)

Other Statuses

- G1 or S1 Critically Imperiled Globally or Subnationally (state)
- G2 or S2 Imperiled Globally or Subnationally (state)
- G3 or S3 Vulnerable to extirpation or extinction Globally or Subnationally (state)
- G4/5 or S4/5 Apparently secure, common and abundant
- GH or SH Possibly Extirpated – missing; known from only historical occurrences but still some hope of rediscovery

Additional notations may be provided as follows

- T – Intraspecific Taxon (subspecies, varieties, and other designations below the level of species)
- Q – Questionable taxonomy that may reduce conservation priority
- ? – Inexact numeric rank

Special-status Wildlife Species in the Regional Vicinity of the Project Site

Scientific Name Common Name	Status Fed/State ESA CDFW	Habitat Requirements	Potential to Occur	Rationale
Invertebrates				
<i>Bombus crotchii</i> Crotch's bumble bee	None/SCE G2/S2	Coastal California east to the Sierra-Cascade crest and south into Mexico. Food plant genera include <i>Antirrhinum</i> , <i>Phacelia</i> , <i>Clarkia</i> , <i>Dendromecon</i> , <i>Eschscholzia</i> , and <i>Eriogonum</i> .	High Potential	Suitable habitat with nectar resources is present, and there are four known occurrences within five miles.
<i>Bombus occidentalis</i> western bumble bee	None/SCE G3/S1	Once common and widespread, species has declined precipitously from central CA to southern B.C., perhaps from disease.	Not Expected	There is one known occurrence within five miles. However, this occurrence is from 1940, and the site is outside the species' current range.
<i>Euphilotes enoptes smithi</i> Smith's blue butterfly	FE/None G5T2/S2	Most commonly associated with coastal dunes and coastal sage scrub plant communities in Monterey and Santa Cruz counties. Hostplant: <i>Eriogonum latifolium</i> and <i>Eriogonum parvifolium</i> are utilized as both larval and adult foodplants.	Not Expected	Coastal dunes and coastal sage scrub are not present. There are no known occurrences within five miles, and the site is outside the species range.
<i>Euphydryas editha bayensis</i> Bay checkerspot butterfly	FT/None G4G5T1/S3 SCVHP covered	Restricted to native grasslands on outcrops of serpentine soil in the vicinity of San Francisco Bay. <i>Plantago erecta</i> is the primary host plant; <i>Orthocarpus densiflorus</i> and <i>O. purpurascens</i> are the secondary host plants.	Not Expected	There are five known occurrences within five miles. However native grasslands on outcrops of serpentine soil are not present.
Fish				
<i>Hesperoleucus venustus subditus</i> southern coastal roach	None/None GNRT2/S2 SSC	Found in the drainages of Tomales Bay and northern San Francisco Bay in the north, and drainages of Monterey Bay in the south.	Not Expected	Aquatic habitats are not present.
<i>Lavinia exilicauda harengus</i> Monterey hitch	None/None G4T3/S3 SSC	Aquatic, Klamath/North coast flowing waters, Klamath/North coast standing waters, Riparian forest.	Not Expected	Aquatic habitats are not present.
<i>Oncorhynchus mykiss irideus</i> pop. 8 steelhead - central California coast DPS	FT/None G5T3Q/S3 SSC	DPS includes all naturally spawned populations of steelhead (and their progeny) in streams from the Russian River to Aptos Creek, Santa Cruz County, California (inclusive). Also includes the drainages of San Francisco and San Pablo Bays.	Not Expected	Aquatic habitats are not present.
<i>Oncorhynchus mykiss irideus</i> pop. 9 steelhead - south- central California coast DPS	FT/None G5T2Q/S2 SSC	Federal listing refers to runs in coastal basins from the Pajaro River south to, but not including, the Santa Maria River.	Not Expected	Aquatic habitats are not present.

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Scientific Name Common Name	Status Fed/State ESA CDFW	Habitat Requirements	Potential to Occur	Rationale
Amphibians				
<i>Ambystoma californiense</i> pop. 1 California tiger salamander - central California DPS	FT/ST G2G3T3/S3 WL SCVHP covered	Lives in vacant or mammal-occupied burrows throughout most of the year; in grassland, savanna, or open woodland habitats. Need underground refuges, especially ground squirrel burrows, and vernal pools or other seasonal water sources for breeding.	High Potential (upland)	Suitable grassland habitat is present and there is a known occurrence approximately 1.3 miles to the west at Chesbro Reservoir, and 21 occurrences within five miles.
<i>Ambystoma macrodactylum croceum</i> Santa Cruz long-toed salamander	FE/SE G5T1T2/S2 FP	Wet meadows near sea level in a few restricted locales in Santa Cruz and Monterey counties. Aquatic larvae prefer shallow (<12 inches) water, using clumps of vegetation or debris for cover. Adults use mammal burrows.	Not Expected	The site is outside this species' known range and suitable aquatic habitats are not present.
<i>Aneides niger</i> Santa Cruz black salamander	None/None G3/S3 SSC	Mixed deciduous and coniferous woodlands and coastal grasslands in San Mateo, Santa Cruz, and Santa Clara counties. Adults found under rocks, talus, and damp woody debris.	Not Expected	Suitable deciduous and coniferous woodlands are not present, and there are no known occurrences within five miles.
<i>Dicamptodon ensatus</i> California giant salamander	None/None G2G3/S2S3 SSC	Known from wet coastal forests near streams and seeps from Mendocino County south to Monterey County, and east to Napa County. Aquatic larvae found in cold, clear streams, occasionally in lakes and ponds. Adults known from wet forests under rocks and logs near streams and lakes.	Not Expected	There is one known occurrence within five miles. However suitable wet coastal forests with streams and seeps are not present.
<i>Rana boylei</i> pop. 4 foothill yellow-legged frog - central coast DPS	FT/SE G3T2/S2 SCVHP covered	San Francisco Peninsula and Diablo Range south of San Francisco Bay Estuary, and south through the Santa Cruz and Gabilan Mountains east of the Salinas River in the southern inner Coast Ranges. Partly shaded shallow streams and riffles with a rocky substrate in a variety of habitats. Needs at least some cobble-sized substrate for egg-laying and at least 15 weeks to attain metamorphosis.	Not Expected	There are three known occurrence within five miles. However, perennial streams and creeks are not present.
<i>Rana draytonii</i> California red-legged frog	FT/None G2G3/S2S3 SSC SCVHP covered	Lowlands and foothills in or near permanent sources of deep water with dense, shrubby or emergent riparian vegetation. Requires 11-20 weeks of permanent water for larval development. Must have access to estivation habitat.	Moderate Potential	Upland habitat is present and there is a known occurrence approximately 1.3 miles to the west at Chesbro Reservoir, and 18 occurrences within five miles. However suitable aquatic habitats are not present.

Scientific Name Common Name	Status Fed/State ESA CDFW	Habitat Requirements	Potential to Occur	Rationale
Reptiles				
<i>Actinemys marmorata</i> northwestern pond turtle	FPT/None G2/SNR SSC SCVHP covered	A thoroughly aquatic turtle of ponds, marshes, rivers, streams and irrigation ditches, usually with aquatic vegetation, below 6000-ft elevation. Needs basking sites and suitable (sandy banks or grassy open fields) upland habitat up to 0.3 miles (0.5 km) from water for egg-laying. Occurs in northern California, south along the Sierra Nevada Mountains and the Coast Range down to Monterey and Kern Counties.	Not Expected	There is a known occurrence approximately 1.3 miles to the west at Chesbro Reservoir, and 16 occurrences within five miles. However suitable ponds or lakes are not present.
<i>Anniella pulchra</i> Northern California legless lizard	None/None G3/S2S3 SSC	Sandy or loose loamy soils under sparse vegetation. Soil moisture is essential. They prefer soils with a high moisture content.	Not Expected	There is one known occurrence within five miles. However suitable wet coastal forests with streams and seeps are not present.
<i>Arizona elegans occidentalis</i> California glossy snake	None/None G5T2/S2 SSC	Patchily distributed from the eastern portion of San Francisco Bay, southern San Joaquin Valley, and the Coast, Transverse, and Peninsular ranges, south to Baja California. Generalist reported from a range of scrub and grassland habitats, often with loose or sandy soils.	Not Expected	Suitable grasslands are present; however the site is outside this species known range, and there are no known occurrences within five miles.
<i>Phrynosoma blainvillii</i> coast horned lizard	None/None G4/S4 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.	Not Expected	There is one known occurrence within five miles. However suitable dry sandy habitats are not present.
Birds				
<i>Agelaius tricolor</i> tricolored blackbird	None/ST G1G2/S2 SSC SCVHP covered	Highly colonial species, most numerous in Central Valley and vicinity. Largely endemic to California. Requires open water, protected nesting substrate, and foraging area with insect prey within a few km of the colony.	Not Expected	Suitable open water habitats with emergent vegetation are not present, and there are no known occurrences within five miles.
<i>Ammodramus savannarum</i> grasshopper sparrow	None/None G5/S3 SSC	Dense grasslands on rolling hills, lowland plains, in valleys and on hillsides on lower mountain slopes. Favors native grasslands with a mix of grasses, forbs and scattered shrubs. Loosely colonial when nesting.	Low Potential	Marginally suitable non-native annual grasslands are present, and there are occurrence reported in eBird in the regional vicinity, however the site is heavily disturbed by residential land use and human presence.

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<i>Aquila chrysaetos</i> golden eagle	None/None G5/S3 FP 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.	Not Expected	There is one known occurrence within five miles. However large trees and open habitats are not present.
<i>Athene cunicularia</i> burrowing owl	None/SCE G4/S2 SSC SCVHP covered	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.	Moderate Potential	Suitable grassland habitat with ground squirrel burrows is present, and there are eight known occurrences within five miles. However, the site is heavily disturbed by residential land use and human presence.
<i>Buteo swainsoni</i> Swainson's hawk	None/ST G5/S4	Breeds in grasslands with scattered trees, juniper-sage flats, riparian areas, savannahs, and agricultural or ranch lands with groves or lines of trees. Requires adjacent suitable foraging areas such as grasslands, or alfalfa or grain fields supporting rodent populations.	Low Potential	Marginally suitable nest trees are present, and there are occurrences reported in eBird in the regional vicinity, however the site is heavily disturbed by residential land use and human presence.
<i>Coturnicops noveboracensis</i> yellow rail	None/None G4/S2 SSC	Summer resident in eastern Sierra Nevada in Mono County. Freshwater marshlands.	Not Expected	Freshwater marshes are not present, and there are no known occurrences within five miles.
<i>Cypseloides niger</i> black swift	None/None G4/S3 SSC	Coastal belt of Santa Cruz and Monterey counties; central and southern Sierra Nevada; San Bernardino and San Jacinto mountains. Breeds in small colonies on cliffs behind or adjacent to waterfalls in deep canyons and sea-bluffs above the surf; forages widely.	Not Expected	Cliffs and waterfalls are not present, and there are no known occurrences within five miles.
<i>Elanus leucurus</i> white-tailed kite	None/None G5/S3S4 FP	Rolling foothills and valley margins with scattered oaks and river bottomlands or marshes next to deciduous woodland. Open grasslands, meadows, or marshes for foraging close to isolated, dense-topped trees for nesting and perching.	Low Potential	Marginally suitable nest trees are present, and there are four known occurrences within five miles. However, the site is heavily disturbed by residential land use and human presence.
<i>Icteria virens</i> yellow-breasted chat	None/None G5/S4 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.	Not Expected	Riparian habitats are not present, and there are no known occurrences within five miles.

Scientific Name Common Name	Status Fed/State ESA CDFW	Habitat Requirements	Potential to Occur	Rationale
<i>Lanius ludovicianus</i> loggerhead shrike	None/None G4/S4 SSC	Broken woodlands, savannah, pinyon-juniper, Joshua tree, and riparian woodlands, desert oases, scrub and washes. Prefers open country for hunting, with perches for scanning, and fairly dense shrubs and brush for nesting.	Moderate Potential	Suitable grassland and woodland habitats are present, and there are occurrences reported in eBird in the regional vicinity, however the site is heavily disturbed by residential land use and human presence.
<i>Vireo bellii pusillus</i> least Bell's vireo	FE/SE G5T2/S3 SCVHP covered	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.	Not Expected	Riparian habitats are not present, and there are no known occurrences within five miles.
Mammals				
<i>Antrozous pallidus</i> pallid bat	None/None G4/S3 SSC	Found in a variety of habitats including deserts, grasslands, shrublands, woodlands, and forests. Most common in open, dry habitats with rocky areas for roosting. Roosts in crevices of rock outcrops, caves, mine tunnels, buildings, bridges, and hollows of live and dead trees which must protect bats from high temperatures. Very sensitive to disturbance of roosting sites.	Low Potential	Suitable large oak trees are present, and there are occurrences reported in iNaturalist in the regional vicinity, however the site is heavily disturbed by residential land use and human presence.
<i>Corynorhinus townsendii</i> Townsend's big-eared bat	None/None G4/S2 SSC	Occurs throughout California in a wide variety of habitats. Most common in mesic sites, typically coniferous or deciduous forests. Roosts in the open, hanging from walls and ceilings in caves, lava tubes, bridges, and buildings. This species is extremely sensitive to human disturbance.	Not Expected	Mesic coniferous or deciduous habitats with caves or lava tubes are not present, and there are no known occurrences within five miles.
<i>Felis concolor</i> mountain lion, Central Coast evolutionarily significant unit	None/SC G5/S2	Carnivorous. Occurs in mountainous and remote areas. requires caves and other natural cavities, thickets in brush, and timber cover. Male home ranges are usually a minimum of 40 km ² (15 mi ²), and female home ranges usually are 8-32 km ² (3-12 mi ²).	Low Potential (foraging)	Suitable foraging habitat is present, and there are occurrences in iNaturalist within five miles. However, the site is heavily disturbed by residential land use and human presence.
<i>Neotoma fuscipes annectens</i> San Francisco dusky-footed woodrat	None/None G5T2T3/S2S3 SSC	Typically found in forest habitats with moderate to dense understory. Can occur in chaparral, riparian woodlands, and coniferous forests, particularly redwood. Builds middens out of grasses, leaves, and woody debris. This subspecies is found only in the San Francisco Bay region.	Moderate Potential	Suitable woodland habitat is present, and there are four known occurrences within five miles. However, the site is heavily disturbed by residential land use and human presence.

Rose Orchard Court Annexation and Urban Service Area Amendment

Scientific Name Common Name	Status Fed/State ESA CDFW	Habitat Requirements	Potential to Occur	Rationale
<i>Taxidea taxus</i> American badger	None/None G5/S3 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.	Low Potential	There are 16 known occurrences within five miles, and grassland habitat is present; however the site is heavily disturbed by residential land use and human presence.
<i>Vulpes macrotis mutica</i> San Joaquin kit fox	FE/ST G4T2/S3 SCVHP covered	Annual grasslands or grassy open stages with bare ground and scattered shrubby vegetation. Need loose-textured sandy soils for burrowing, and suitable prey base.	Not Expected	Suitable low grassland or desert habitats are not present, and there are no known occurrences within five miles.

Regional Vicinity refers to within a 9-quad search radius of the site.

Status (Federal/State)

- FE = Federal Endangered
- FT = Federal Threatened
- FPE = Federal Proposed Endangered
- FPT = Federal Proposed Threatened
- FD = Federal Delisted
- FC = Federal Candidate
- SE = State Endangered
- ST = State Threatened
- SCE = State Candidate Endangered
- SCT = State Candidate Threatened
- SR = State Rare
- SD = State Delisted
- SSC = CDFW Species of Special Concern
- FP = CDFW Fully Protected
- WL = CDFW Watch List

Other Statuses

- G1 or S1 Critically Imperiled Globally or Subnationally (state)
- G2 or S2 Imperiled Globally or Subnationally (state)
- G3 or S3 Vulnerable to extirpation or extinction Globally or Subnationally (state)
- G4/5 or S4/5 Apparently secure, common and abundant
- GH or SH Possibly Extirpated – missing; known from only historical occurrences but still some hope of rediscovery

Additional notations may be provided as follows

- T – Intraspecific Taxon (subspecies, varieties, and other designations below the level of species)
- Q – Questionable taxonomy that may reduce conservation priority
- ? – Inexact numeric rank