



COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING
Initial Study – Environmental Checklist

PLN-####
##/##/2019

Project Title & No. Neufeld Minor Use Permit N-DRC2024-00047 ED25-0129

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED: The proposed project could have a "Potentially Significant Impact" for environmental factors checked below. Please refer to the attached pages for discussion on mitigation measures or project revisions to either reduce these impacts to less than significant levels or require further study.

☐ Aesthetics	☐ Greenhouse Gas Emissions	☐ Public Services
☐ Agriculture & Forestry Resources	☐ Hazards & Hazardous Materials	☐ Recreation
☐ Air Quality	☐ Hydrology & Water Quality	☐ Transportation
☒ Biological Resources	☐ Land Use & Planning	☐ Tribal Cultural Resources
☐ Cultural Resources	☐ Mineral Resources	☐ Utilities & Service Systems
☐ Energy	☐ Noise	☐ Wildfire
☐ Geology & Soils	☐ Population & Housing	☐ Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation, the Environmental Coordinator finds that:

- ☒ The proposed project is a housing development that qualifies for a CEQA exemption pursuant to a statutory or categorical exemption (Class 1-5, inclusive, 12, 15, 20, 27, 30 or 32) adopted prior to January 1, 2026, with the exception of a single condition as described within the sections of these listed classes or a condition described in Section 15300.2 (Exceptions to Categorical Exemptions). A FOCUSED INITIAL STUDY concentrating on the potential environmental effects caused by the single, unmet condition will be prepared pursuant to PRC 21080.1.
- ☐ The proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☐ Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ The proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ The proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ Although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Project Number

Project Name

PLN-2039
04/2019

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Kerry Brown

Kerry Brown

10/30/2025

Prepared by (Print)

Signature

Date

Eric Hughes



Environmental
Coordinator

10/28/25

Reviewed by (Print)

Signature

Date

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A. Project

DESCRIPTION: Request by **Mark Neufeld** for a Minor Use Permit (MUP) to allow the construction of a 4,749 square foot (sf) single-family residence with attached garage and a 2,100-sf workshop building, as well as other site improvements that will include an all-weather access driveway, water storage tank and septic leach field. The project will result in an area of disturbance of approximately 39,777 square feet and will include 237 cubic yards (cy) of cut, 211 cy of fill, the earthwork will be balanced on site (when subsidence and losses are considered). The project will be served by an existing well. An existing agricultural road will be improved to meet CalFire standards to serve the residence and accessory building. The project site consists of 24.5 acres located at 5425 Martingale Circle about two miles east of the City of Paso Robles. The site is within the Agriculture land use category and the El Pomar/Estrella Sub-Area of the North County Planning Area.

Baseline Conditions

The project site consists of an irregularly shaped parcel of 24.5 acres located on the west side of Martingale Court which extends southward in a loop from Estrella Road. The northeastern portion of the site is developed with a vineyard (approximately 12.5 acres). There is an ephemeral stream (and associated floodplain) with grassland and oak woodland in the southern portion of the site. The topography of the upper portion of the site is level. The topography in the southern portion along the edge of the stream's floodplain is relatively steep. Site improvements include a vineyard, existing access road, a well, water storage tank, electrical service, shed, vineyard materials, equipment storage and a shipping container. The 12.5 acres of irrigated wine grapes consume an estimated 19.2 acre-feet of water per year (AFY) (16 acres x 1.2 AFY per acre = 15 AFY).

Surrounding parcels range in size from 20 to over 160 acres; many have been planted with wine grapes and contain residences and accessory buildings. Others are used for equestrian facilities, grazing and rural residences.

ASSESSOR PARCEL NUMBER(S): 015-023-006

Latitude: 35° 67 '704 " N **Longitude:** 120°56 ' 694 " W **SUPERVISORIAL DISTRICT #** 1

B. Existing Setting

Plan Area: North County **Sub:** El Pomar/Estrella **Comm:** N/A

Land Use Category: Agriculture

Combining Designation: Renewable Energy Overlay

Parcel Size: 24.5 acres

Topography: Nearly level to steeply sloping

Vegetation: Vineyard, grassland, oak woodland, and riparian vegetation

Existing Uses: Undeveloped

Surrounding Land Use Categories and Uses:

North: Agriculture; agricultural uses **East:** Agriculture; agricultural uses

South: Agriculture; agricultural uses **West:** Agriculture; agricultural uses

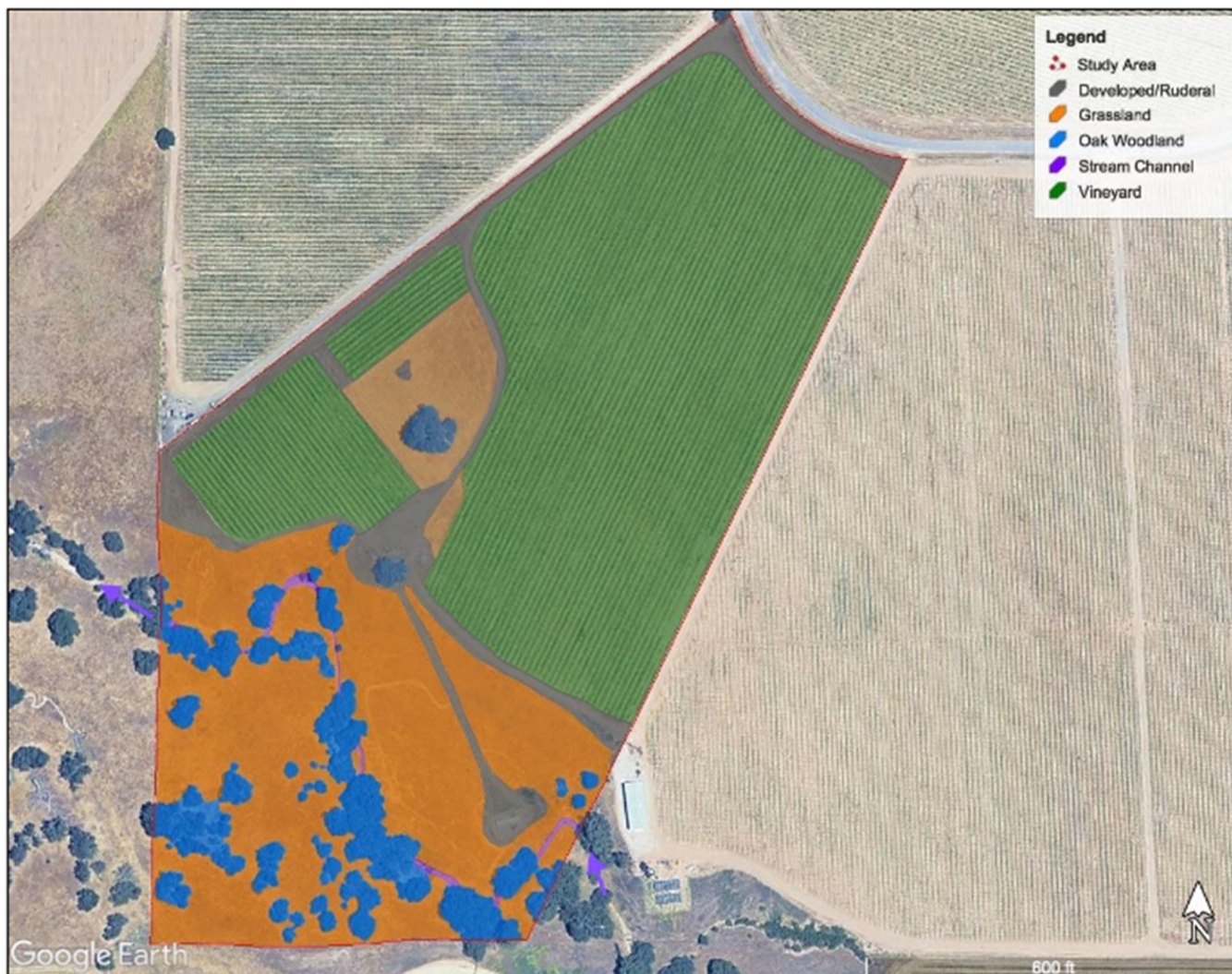
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Project Location



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Existing Conditions

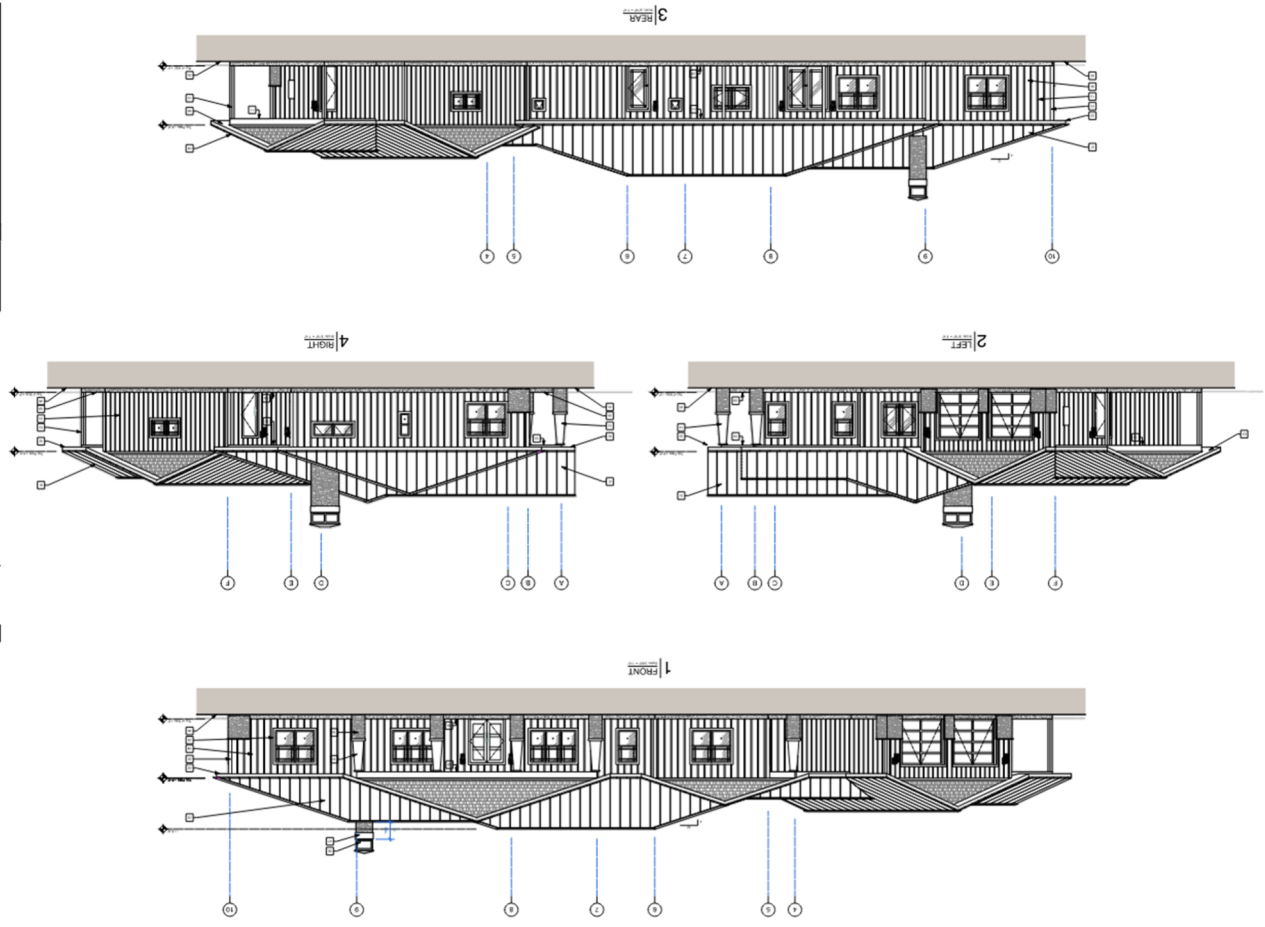


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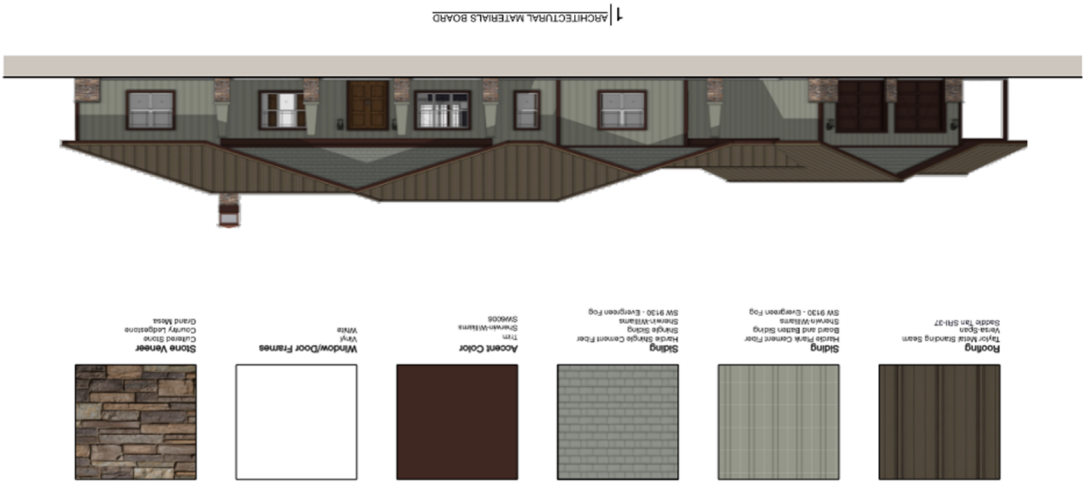
Site Plan



Elevations - Residence

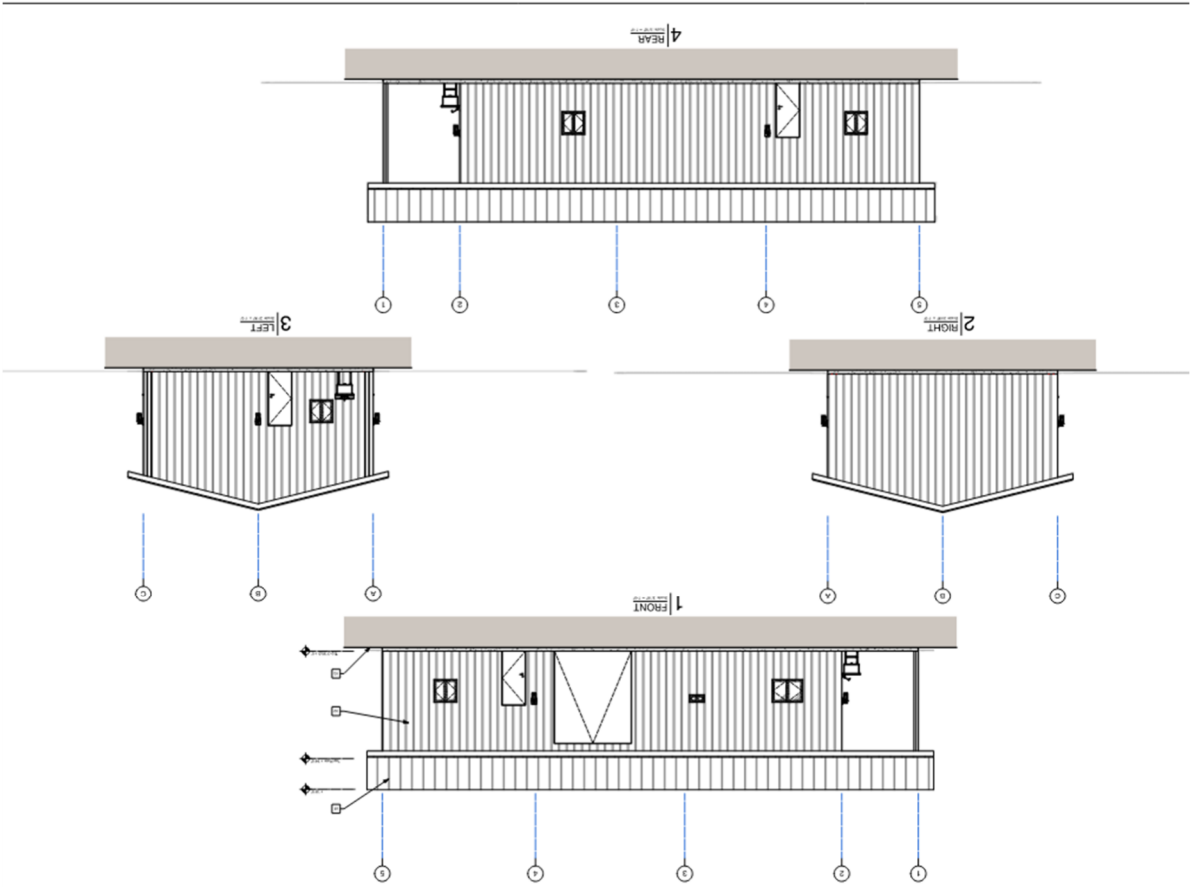


Architectural Materials



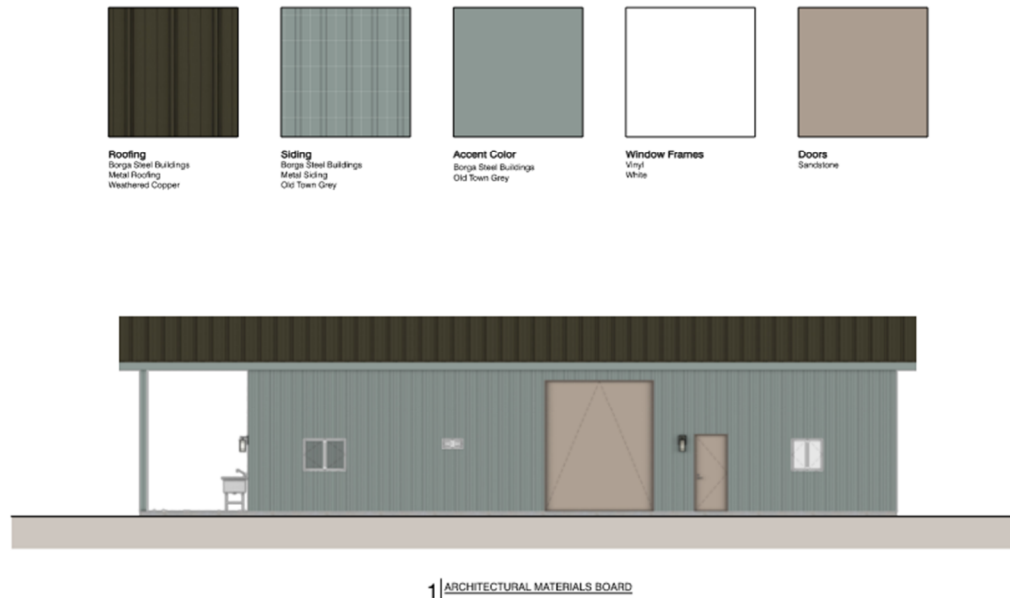
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Elevations – workshop



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Architectural Materials – Workshop



C. Environmental Analysis

Regulatory Background

Senate Bill 131 (SB 131) was signed into law (PRC 21080.1) by Governor Newsom on June 30, 2025. PRC 21080.1 requires the lead agency to be responsible for determining if a project is exempt from the California Environmental Quality Act (CEQA) and that the determination is final unless challenged as provided by PRC 21167. PRC 21080.1 also states that if a proposed housing development would otherwise be exempt from CEQA pursuant to a statutory or categorical exemption Class 1-5, inclusive, 12, 15, 20, 27, 30 or 32 (adopted prior to January 1, 2026), except for a single condition as described within the sections of these listed classes or a condition described in Section 15300.2 (Exceptions to Categorical Exemptions), then the approval of the proposed housing development project shall be limited to effects upon the environment that are caused solely by that single condition, known as a "Near Miss Exemption". Therefore, the level of environmental review consistent with a Near Miss Exemption is a Focused Initial Study/Mitigated Negative Declaration (IS/MND) that addresses the environmental impacts caused by the single, unmet condition.

Near Miss Exemption Status/Findings

The project qualifies for a Near Miss Exemption pursuant to PRC 21080.1 because the project will result in the development of a single-family residence. The project meets all conditions for a Class 3 Exemption pursuant to CEQA Guidelines Sections 15303 (New Construction or Conversion of Small Structures), and all but one condition for the exemption criteria under Section 15300.2. The project does not meet Condition (c) Significant Effect under Section 15300.2 because it may result in a significant impact to biological resources due to an unusual circumstance. The project site is within a mitigation area for San Joaquin Kit Fox habitat. Pursuant to

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PRC 21080.1, the scope of environmental review is limited to potential impacts to biological resources, the non-compliant condition. Therefore, a Focused IS/MND has been prepared (see IV. Biological Resources).

Environmental Review Process

The County's environmental review process incorporates all of the requirements for completing the Focused Initial Study as required by the California Environmental Quality Act (CEQA) and the CEQA Guidelines. The Focused Initial Study includes staff's on-site inspection of the project site and surroundings and a detailed review of the information in the file for the project. In addition, available background information is reviewed for each project. Relevant information regarding soil types and characteristics, geologic information, significant vegetation and/or wildlife resources, water availability, wastewater disposal services, existing land uses and surrounding land use categories and other information relevant to the environmental review process are evaluated for each project. The County Planning Department uses the checklist to summarize the results of the research accomplished during the initial environmental review of the project.

Persons, agencies, or organizations interested in obtaining more information regarding the environmental review process for a project should contact the County of San Luis Obispo Planning Department, 976 Osos Street, Rm. 200, San Luis Obispo, CA, 93408-2040 or call (805) 781-5600.

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I. BIOLOGICAL RESOURCES

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<i>Would the project:</i>				
(a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☒	☐	☐
(b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	☐	☐	☒	☐
(c) Have a substantial adverse effect on 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?	☐	☐	☐	☒

Regulatory Setting

Federal Laws and Regulations

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Bald and Golden Eagle Protection Act.

The Bald and Golden Eagle Protection Act (BGEPA) prohibits anyone, without a permit issued by the Secretary of the Interior, from taking (pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest, or disturb) bald or golden eagles, including their parts, nests, or eggs. This includes substantially interfering with normal breeding, feeding, or sheltering behavior. Activities that may result in the take of a bald or golden eagle require permits; the three activities eligible for permits include to remove or relocate an eagle nest; to transport, exhibit, collect, or control eagles or eagle parts, and for incidental take of eagles.

Clean Water Act.

The Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters. The purpose of the CWA is to restore and maintain the chemical, physical, and biological integrity of all waters of the U.S. Permitting is required for filling waters of the U.S. (including wetlands). Permits may be issued on an individual basis or may be covered under approved nationwide permits.

Endangered Species Act.

The federal Endangered Species Act (FESA) provides the legal framework for the listing and protection of species (and their habitats) identified as being endangered or threatened with extinction. "Critical Habitat" is a term within the FESA designed to guide actions by federal agencies and is defined as "an area occupied by a species listed as threatened or endangered within which are found physical or geographical features essential to the conservation of the species, or an area not currently occupied by the species which is itself essential to the conservation of the species." Actions that jeopardize endangered or threatened species and/or critical habitat are considered a 'take' under the FESA. "Take" under federal definition means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

Projects that would result in "take" of any federally listed threatened or endangered species, or critical habitats, are required to obtain permits from the USFWS through either Section 7 (interagency consultation with a federal nexus) or Section 10 (Habitat Conservation Plan) of FESA, depending on the involvement by the federal government in permitting and/or funding of the project. Through Section 10, it is required to prepare a Habitat Conservation Plan (HCP) to be approved by the United States Fish and Wildlife Service (USFWS), which results in the issuance of an Incidental Take Permit (ITP). Through Section 7, which can only occur when a separate federal nexus in a project exists (prompting interagency consultation), a consultation by the various federal agencies involved can take place to determine appropriate actions to mitigate negative effects on endangered and threatened species and their habitat.

Migratory Bird Treaty Act.

All migratory, non-game bird species that are native to the U.S. or its territories are protected under the federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. Section 10.13), as amended under the Migratory Bird Treaty Reform Act of 2004. MBTA makes it illegal to purposefully take (pursue, hunt, shoot, wound, kill, trap, capture, or collect) any migratory bird, or the parts, nests, or eggs of such a bird, except under the terms of a valid Federal permit. Migratory non-game native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA).

State Law and Regulations

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California Endangered Species Act.

The California Endangered Species Act (CESA), similar to FESA, contains a process for listing of species and regulating potential impacts to listed species. State threatened and endangered species include both plants and wildlife, but do not include invertebrates. The designation “rare species” applies only to California native plants. State threatened and endangered plant species are regulated largely under the Native Plant Preservation Act in conjunction with the CESA. State threatened and endangered animal species are legally protected against “take.” The CESA authorizes the California Department of Fish and Wildlife (CDFW) to enter into a memorandum of agreement for take of listed species to issue an incidental take permit for a state-listed threatened and endangered species only if specific criteria are met.

Section 2080 of the CESA prohibits the take of species listed as threatened or endangered pursuant to the Act. Section 2081 allows CDFW to authorize take prohibited under Section 2080 provided that: 1) the taking is incidental to an otherwise lawful activity; 2) the taking will be minimized and fully mitigated; 3) the applicant ensures adequate funding for minimization and mitigation; and 4) the authorization will not jeopardize the continued existence of the listed species.

California Environmental Quality Act (CEQA).

CEQA defines a “project” as any action undertaken from public or private entity that requires discretionary governmental review (a non-ministerial permittable action). All “projects” are required to undergo some level of environmental review pursuant to CEQA, unless an exemption applies. CEQA’s environmental review process includes an assessment of existing resources, broken up by categories (i.e., air quality, aesthetics, etc.), a catalog of potential impacts to those resources caused by the proposed project, and a quantifiable result determining the level of significance an impact would generate. The goal of environmental review under CEQA is to avoid or mitigate impacts that would lead to a “significant effect” on a given resource; section 15382 of the CEQA Guidelines defines a “significant effect” as *a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment, but may be considered in determining whether the physical change is significant.*

California Fish and Game Code (CFGC).

The California Fish and Game Code (CFGC) is one of the 29 legal codes that form the general statutory law of California. A myriad of statutes regarding fish and game are specified in the CFGC; the following codes are specifically relevant to the proposed Project:

California Native Plant Protection Act.

Sections 1900-1913 of the California Fish and Game Code contain the regulations of the Native Plant Protection Act of 1977. The intent of this act is to help conserve and protect rare and endangered plants in the state. The act allowed the CFGC to designate plants as rare or endangered.

Lake and Streambed Alteration.

Section 1602 of the CFGC requires any person, state, or local governmental agency to provide advance written notification to CDFW prior to initiating any activity that would: 1) divert or obstruct the natural flow of, or substantially change or remove material from the bed, channel, or bank of any river, stream, or lake; or 2) result in the disposal or deposition of debris, waste, or other material into any river, stream, or lake. The state definition of “lakes, rivers, and streams” includes all rivers or streams that flow at least periodically or

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permanently through a well-defined bed or channel with banks that support fish or other aquatic life, and watercourses with surface or subsurface flows that support or have supported riparian vegetation.

Nesting Birds

Sections 3503, 3503.5 and 3513 of CFGC states that it is “unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto,” and “unlawful to take, possess, or destroy any birds of prey or to take, possess, or destroy the nest or eggs of any such bird” unless authorized.

Regional Water Quality Control Board

The Regional Water Quality Control Board (RWQCB) not only regulates impacts to water quality in federal waters of the U.S. under Section 401 of the Clean Water Act, but also regulates any isolated waters that are impacted under the state Porter Cologne Act utilizing a Waste Discharge Requirement. Discharge of fill material into waters of the State not subject to the jurisdiction of the USACE pursuant to Section 401 of the Clean Water Act may require authorization pursuant to the Porter Cologne Act through application for waste discharge requirements or through waiver of waste discharge requirements.

Special Status Species and Sensitive Habitat Regulations

For the purposes of this biological resources assessment, special status species are those plants and animals listed, proposed for listing, or candidates for listing as threatened or endangered by the USFWS under the FESA; those listed or proposed for listing as rare, threatened, or endangered by the CDFW under the CESA; animals designated as “Species of Special Concern,” “Fully Protected,” or “Watch List” by the CDFW; and plants with a California Rare Plant Rank (CRPR) of 1, 2, 3, or 4.

California Natural Diversity Database (CNDDDB)

“Special Plants” and “Special Animals” are broad terms used to refer to all the plant and animal taxa inventoried by the CNDDDB, regardless of their legal or protection status (CNDDDB 2020a and 2020b). The Special Plants list includes vascular plants, high priority bryophytes (mosses, liverworts, and hornworts), and lichens. The Special Animals list is also referred to by the California Department of Fish and Wildlife (CDFW) as the list of “species at risk” or “special status species.”

According to the CNDDDB (2020a, 2020b), Special Plants and Animals lists include: taxa that are officially listed or proposed for listing by California or the Federal Government as Endangered, Threatened, or Rare; taxa which meet the criteria for listing, as described in Section 15380 of CEQA Guidelines; taxa deemed biologically rare, restricted in range, declining in abundance, or otherwise vulnerable; population(s) in California that may be marginal to the taxon’s entire range but are threatened with extirpation in California; and/or taxa closely associated with a habitat that is declining in California at a significant rate. Separately, the Special Plants List includes taxa listed in the California Native Plant Society’s Inventory of Rare and Endangered Plants of California, as well as taxa determined to be Sensitive Species by the Bureau of Land Management, U.S. Fish and Wildlife Service, or U.S. Forest Service. The Special Animals List distinctively includes taxa considered by the CDFW to be a Species of Special Concern (SSC) and taxa designated as a special status, sensitive, or declining species by other state or federal agencies.

Federal and State Endangered Species Listings

The Federal and California Endangered Species Acts are the regulatory documents that govern the listing and protection of species, and their habitats, identified as being endangered or threatened with extinction (see Sections 1.5.1 and 1.5.2). Possible listing status under both Federal and California ESA includes Endangered

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and Threatened (FE, FT, CE, or CT). Species in the process of being listed are given the status of either Proposed Federally Endangered/Threatened, Candidate for California Endangered/Threatened (PE, PT, CCE, or CCT). The CESA has one additional status: Rare (CR).

Global and State Ranks

Global and State Ranks reflect an assessment of the condition of the species (or habitats, see 1.6.6 below) across its entire range. Basic ranks assign a numerical value from 1 to 5, respectively for species with highest risk to most secure. Other ranking variations include rank ranges, rank qualifiers, and infraspecific taxon ranks. All Heritage Programs, such as the CNDDDB use the same ranking methodology, originally developed by The Nature Conservancy, and now maintained and recently revised by NatureServe. Procedurally, state programs such as the CNDDDB develop the State ranks. The Global ranks are determined collaboratively among the Heritage Programs for the states/provinces containing the species. Rank definitions, where G represents Global and S represents State, are as follows:

- **G1/S1:** Critically imperiled globally/in state because of extreme rarity (5 or fewer populations).
- **G2/S2:** Imperiled globally/in state because of rarity (6 to 20 populations).
- **G3/S3:** Vulnerable; rare and local throughout range or in a special habitat or narrowly endemic (on the order of 21 to 100 populations).
- **G4/S4:** Apparently secure globally/in state; uncommon but not rare (of no immediate conservation concern).
- **G5/S5:** Secure; common, widespread, and abundant.
- **G#G#/S#S#:** Rank range - numerical range indicating uncertainty in the status of a species, (e.g., G2G3 more certain than G3, but less certain than G2).
- **G/S#?:** Inexact numeric rank
- **Q:** Questionable taxonomy - Taxonomic distinctiveness of this entity is questionable.
- **T#:** Infraspecific taxa (subspecies or varieties) – indicating an infraspecific taxon that has a lower numerical ranking (rarer) than the given global rank of species.

California Rare Plant Ranks

Plant species are considered rare when their distribution is confined to localized areas, their habitat is threatened, they are declining in abundance, or they are threatened in a portion of their range.

The California Rare Plant Rank (CRPR) categories range from species with a low threat (4) to species that are presumed extinct (1A). All but a few species are endemic to California. All of them are judged to be vulnerable under present circumstances, or to have a high potential for becoming vulnerable. Threat ranks are assigned as decimal values to a CRPR to further define the level of threat to a given species. The rare plant ranks and threat levels are defined below.

- **1A:** Plants presumed extirpated in California and either rare or extinct elsewhere.
- **1B:** Plants rare, threatened, or endangered in California and elsewhere.
- **2A:** Plants presumed extirpated in California, but common elsewhere
- **2B:** Plants rare, threatened, or endangered in California, but more common elsewhere
- **4:** Plants of limited distribution - a watch list

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- **0.1:** Seriously threatened in California (over 80% of occurrences threatened/high degree and immediacy of threat)
- **0.2:** Moderately threatened in California (20-80% occurrences threatened/moderate degree and immediacy of threat)
- **0.3:** Not very threatened in California (less than 20% of occurrences threatened/low degree and immediacy of threat or no current threats known)

California Department of Fish and Wildlife Animal Rank

The California Department of Fish and Wildlife (CDFW) assigns one of three ranks to Special Animals: Watch List (WL), Species of Special Concern (SSC), or Fully Protected (FP). Unranked species are referred to by the term Special Animal (SA).

Animals listed as Watch List (WL) are taxa that were previously designated as SSC, but no longer merit that status, or taxa that do not yet meet SSC criteria, but for which there is concern and a need for additional information to clarify status.

Animals listed as California Species of Special Concern (SSC) may or may not be listed under California or federal Endangered Species Acts. They are considered rare or declining in abundance in California. The Special Concern designation is intended to provide the CDFW biologists, land planners, and managers with lists of species that require special consideration during the planning process to avert continued population declines and potential costly listing under federal and state endangered species laws. For many species of birds, the primary emphasis is on the breeding population in California. For some species that do not breed in California but winter here, emphasis is on wintering range. The SSC designation thus may include a comment regarding the specific protection provided such as nesting or wintering.

Animals listed as Fully Protected (FP) are those species considered by CDFW as rare or faced with possible extinction. Most, but not all, have subsequently been listed under the CESA or FESA. Fully Protected species may not be taken or possessed at any time and no provision of the California Fish and Game code authorizes the issuance of permits or licenses to take any Fully Protected species.

Sensitive Habitats

Sensitive Natural Community is a state-wide designation given by CDFW to specific vegetation associations of ecological importance. Sensitive Natural Communities rarity and ranking involves the knowledge of range and distribution of a given type of vegetation, and the proportion of occurrences that are of good ecological integrity (CDFW 2018a). Evaluation is conducted at both the Global (G) and State (S) levels, resulting in a rank ranging from 1 for very rare and threatened to 5 for demonstrably secure. Natural Communities with ranks of S1-S3 are considered Sensitive Natural Communities in California and may need to be addressed in the environmental review processes of CEQA and its equivalents.

County Regulations

Sensitive Resource Area Designations

The County of San Luis Obispo Land Use Ordinance (LUO) Sensitive Resource Area (SRA) combining designation applies to areas of the county with special environmental qualities, or areas containing unique or sensitive endangered vegetation or habitat resources. The combining designation standards established in the LUO require that proposed uses be designed with consideration of the identified sensitive resources and the need for their protection.

Oak Woodland Ordinance

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The County of San Luis Obispo Oak Woodland Ordinance was adopted in April 2017 to regulate the clear-cutting of oak woodlands. This ordinance applies to sites located outside of Urban or Village areas within the inland portions of the county (not within the Coastal Zone). "Clear-cutting" is defined as the removal of one acre or more of contiguous trees within an oak woodland from a site or portion of a site for any reason, including harvesting of wood, or to enable the conversion of land to other land uses. "Oak woodland" includes the following species: Blue oak (*Quercus douglasii*), coast live oak (*Quercus agrifolia*), interior live oak (*Quercus wislizeni*), valley oak (*Quercus lobata*), and California black oak (*Quercus kelloggii*). The ordinance applies to clear-cutting of oak woodland only and does not apply to the removal of other species of trees, individual oak trees (except for Heritage Oaks), or the thinning, tree trimming, or removal of oak woodland trees that are diseased, dead, or creating a hazardous condition. Heritage oaks are any individual oak species, as defined in the Oak Woodland Ordinance, of 48 inches diameter at breast height (dbh) or greater, separated from all Stands and Oak Woodlands by at least 500 feet. Minor Use Permit approval is required to remove any Heritage Oak.

County of San Luis Obispo General Plan Conservation and Open Space Element

The intent of the goals, policies, and implementation strategies in the COSE is to identify and protect biological resources that are a critical component of the county's environmental, social, and economic well-being. Biological resources include major ecosystems; threatened, rare, and endangered species and their habitats; native trees and vegetation; creeks and riparian areas; wetlands; fisheries; and marine resources. Individual species, habitat areas, ecosystems and migration patterns must be considered together in order to sustain biological resources. The COSE identifies Critical Habitat areas for sensitive species including California condor, California red legged frog, vernal pool fairy shrimp, La Graciosa thistle, Morro Bay kangaroo rat, Morro shoulderband snail, tiger salamander, and western snowy plover. The COSE also identifies features of particular importance to wildlife for movement corridors such as riparian corridors, shorelines of the coast and bay, and ridgelines. Additionally, the County COSE identifies several key goals pertaining to biological resources within the county:

- **Goal BR 1:** Native habitat and biodiversity will be protected, restored, and enhanced.
- **Goal BR 2:** Threatened, rare, endangered, and sensitive species will be protected.
- **Goal BR 3:** Maintain the acreage of native woodlands, forests, and trees at 2008 levels.
- **Goal BR 4:** The natural structure and function of streams and riparian habitat will be protected and restored.
- **Goal BR 5:** Wetlands will be preserved, enhanced, and restored.
- **Goal BR 6:** The County's fisheries and aquatic habitats will be preserved and improved.
- **Goal BR 7:** Significant marine resources will be protected.

Environmental Setting

A biological resources assessment (BRA) was prepared for the project site in 2025 (Susan V. Christopher) which is incorporated herein by reference and available for review in its entirety at the Department of Planning and Building. The BRA included field surveys and an assessment of potential project impacts to sensitive biological resources within the project site. The BRA assumed an area of disturbance of approximately 39,777 square feet based on the proposed site plan.

The following is a summary of the findings and recommendations of that study.

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The Project Site consists of approximately 0.9 acre within the 24.5 acre site. The site is primarily composed of active agriculture (12.5 acres of planted wine grapes). Approximately 9 acres of the site in the southern portion is undisturbed natural area and floodplain with an un-named tributary of the Estrella River. There is an existing agricultural road that runs along the northwestern edge of the property and then curves toward the center of the property to a water storage tank with vineyard materials storage area. Topography is relatively level in the Project site, with a relatively steep slope along the northeastern edge of the stream's floodplain. The floodplain topography is gently sloping. Study area elevations range from 831 to 887 feet above mean sea level (amsl).

Soils in the study area consist of Arbuckle-San Ysidro complex (58%) and Arbuckle-Positas complex (42%). Arbuckle-San Ysidro complex consists of very deep, moderately well drained soils that formed in alluvium from sedimentary rocks and are fan remnants of stream terraces and have slopes of 0 to 9 %. Arbuckle-Positas soils are very deep, well drained soils that formed in alluvium from sedimentary and metamorphic rocks weathered from alfisol deposits and typically occur on low terraces with slopes up to 75%. These soils are found on terraces and are alluvium from mixed rock sources.

Methodology

Prior to performing the field survey, the biologists performed a records search for special-status plant and wildlife species potentially occurring in the Project region. Sources utilized during the records search included the California Natural Diversity Database (CNDDB) (CDFW 2025a). Additional species records from online sources were included in the focus list (CNPS 2025b, The Cornell Lab of Ornithology 2025a, iNaturalist 2025, Bumble Bee Watch 2025, Consortium of California Herbaria [CCH] 2025, CDFW 2025f). Additionally, unpublished biological reports from the local area were also included in the background review. The CNDDB records search was performed on a 5-mile radius around the study area in the eight cardinal directions.

Surveys

A reconnaissance-level survey was performed on May 7, 2025. The study area consisted of the entire 24.5 acre parcel. Habitat types representing plant communities and land use were evaluated in the field and mapped. Habitat types, representing plant communities (Holland 1986) and land use (CDFW 2025c), were evaluated in the field and mapped on Google Earth aerial photography. Plant communities were characterized following Preliminary Descriptions of the Terrestrial Natural Communities of California (Holland 1986), A Manual of California Vegetation Online (CNPS 2025a), and VegCAMP (CDFW 2025d). Plant communities were evaluated as to whether or not they met the criteria of sensitive natural communities.

Botanical survey methodology followed the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018) and Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed, and Candidate Plants (USFWS 2000). The entire study area was walked to detect and document all plant species present.

Based upon the results of the background review, field survey, and the site's existing conditions, an evaluation was performed of whether special-status plant and animal species, designated critical habitat, sensitive natural communities, and potentially jurisdictional areas could or do occur in the study area.

The site was fully accessible, and several transects were walked throughout the project area to ensure that any special status species would be found if present. Scientific nomenclature follows the Jepson Interchange List of Currently Accepted Names of Native and Naturalized Plants of California (eFlora 2021).

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Habitats

Vegetation in the study area is representative of repeated disturbance and was dominated by active agriculture.

Vineyard

The Vineyard habitat type had cultivated grape (*Vitis vinifera*) planted in tubes along irrigated wire trellis rows. The grape vines were young and appeared to have been replaced recently after the original planting around 2004. A row of mature grape vines was along the entrance drive, possibly from the earlier planting. There was mostly bare ground along the rows of grapes, and mowed grassland in between the rows. The species composition was the same as the disturbed Grassland, except that there was also barley (*Hordeum vulgare*) that had persisted as a "waif" or escaped from cultivation. This land use type is not a native plant community and would fall under the Vineyard habitat type in the CWHR System (CDFW 2024e).

Oak Woodland

The only tree species in the Oak Woodland habitat was blue oak. Mistletoe (*Phoradendron leucarpum* ssp. *tomentosum*), which is a parasitic shrub, and lace lichen (*Ramalina menziesii*), a fruticose lichen, hung from the branches. As described above in Section 3.5.1 of the BRA, there was no vegetation in the understory of the two blue oak trees adjacent to the project area. The understory of the Oak Woodland along the stream corridor had dense cover by non-native Italian thistle (*Carduus pycnocephalus*; Cal-IPC Moderate) and ripgut brome. Other species found in the understory at lower density were blue wild rye (*Elymus glaucus*), hog fennel (*Lomatium utriculatum*), California melic (*Melica californica*), Johnston's honeysuckle (*Lonicera subspicata* var. *denudata*), sourclover, and western vervain. This habitat type corresponds to the Blue Oak Woodland community (Holland 1986) and the Blue Oak Woodland and Forest alliance (CNPS 2025a).

Ruderal

Ruderal areas are unclassified habitat type that are primarily composed of nonnative plant species that are adopted to disturbance. Plant species in this area include tumbleweed (*Amaranthus albus*), big heron bill (*Erodium botrys*; California Invasive Plant Council [Cal-IPC; 2025] Limited), summer mustard (*Hirschfeldia incana*; Cal-IPC Moderate), cheeseweed (*Malva parviflora*), prickly lettuce (*Lactuca serriola*), horseweed (*Erigeron canadensis*), Russian thistle (*Salsola australis*; Cal-IPC Limited), knotweed (*Polygonum aviculare*), and pineapple weed (*Matricaria discoidea*). Ruderal habitats are not a native plant community and would fall under the Barren habitat type in the CWHR System (CDFW 2024e).

Stream Channel

In the middle and upper reaches onsite, the ephemeral stream channel was densely vegetated by upland Grassland plant species in areas outside of the oak canopy, and had dense Italian thistle and ripgut brome under the oak canopy. In its downstream reach onsite, there was mostly bare sand and gravel with very sparse cover by grasses, sacred datura (*Datura wrightii*) and scarlet pimpernel (*Lysimachia arvensis*). No hydrophytic plant species were present. The stream channel would be considered a Riverine habitat type, as described in Section 3.4 of the BRA, and as classified in the CWHR System (CDFW 2024e).

Grassland

The Grassland habitat onsite was composed almost exclusively of non-native, invasive species

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that are adapted to disturbance. Within and adjacent to the project area, the "disturbed Grassland" community was dominated by hare barley (*Hordeum murinum* ssp. *leporinum*; Cal-IPC Moderate), slender wild oat (*Avena barbata*; Cal-IPC Moderate), red brome (*Bromus rubens*), soft chess (*Bromus hordeaceus*; Cal-IPC Limited), summer mustard, big heron bill, and riggut brome (*Bromus diandrus*; Cal-IPC Moderate). Other non-native species present at lower densities were red stemmed filaree (*Erodium cicutarium*; Cal-IPC Limited), common sow thistle (*Sonchus oleraceus*), and rattail sixweeks grass (*Festuca myuros*; Cal-IPC Moderate). The only native species found were Spanish lotus (*Acmispon americanus* var. *americanus*), turkey mullein (*Croton setiger*), and western vervain (*Verbena lasiostachys*), each of which tolerate disturbance.

Aquatic Resources

Wetlands are protected under Section 404 of the Clean Water Act (CWA) and are under the jurisdiction of the United States Army Corps of Engineers (USACE). According to the USACE, areas considered to be a "wetland" (and subject to the regulatory jurisdiction of the USACE) must exhibit hydrology, hydric soils, and hydrophilic vegetation that meet federal criteria, as indicated in the Corps of Engineers Wetlands Delineation Manual (Environmental Laboratory 1987) and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (USACE 2008).

In addition, if drainages meet the criteria established by Section 1600 of the California Fish and Game Code, the CDFW may require a Streambed Alteration Agreement prior to any modification of the bed, bank, or channel of streambeds. CDFW jurisdiction generally includes the streambed and the canopy of associated riparian vegetation.

An unnamed, ephemeral stream meanders through the southwestern part of the property, flowing from east to west. It originates to the southeast of the intersection of Highway 46 with Union Road, and flows northwest to empty into the Estrella River. It is shown as an intermittent (i.e., broken blue line) stream on the USGS (1948, 2015). It is mapped as Riverine habitat (R4SBJ) in the NWI (USFWS 2025a). Riverine systems are freshwater wetlands and deepwater habitats contained within a channel that are not dominated by trees, shrubs, or persistent emergent vegetation (Cowardin et al. 1992). The subsystem onsite is Intermittent, which are channels that contain flowing water for only part of the year. The class is Streambed and the water regime is Intermittently Flooded. Field observations of the channel indicated that it likely carries ephemeral flows, which can be flashy during large rain events, and may not flow during years with low rainfall. As observed in the field, large materials had washed downstream and were deposited onsite (washed out culvert, children's playset, bucket), and there was no evidence of flowing water from the 2024/2025 rainy season. Additionally, no hydrophytes were present that would indicate water persisting longer than during storm events. On the eastern (upstream) side of the property, the channel width at the OHWM ranged from 2 ½ to 7 feet, and the width of the top of bank was approximately 20 feet. On the western (downstream) side of the property, the width at the OHWM was 3 to 5 feet and the width of the top of bank was approximately 9 feet. Blue oak trees were along the channel, and although there were a few different understory species close to the channel versus the understory away from the channel (see Section 3.5.3), no hydrophytic vegetation was present. There were no willows or other riparian shrubs along the drainage onsite, and no riparian habitat in adjacent areas.

Special Status Resources

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The following discussion addresses special-status biological resources having the potential to occur in the Project study area. These resources include plant and wildlife species and habitats that have been afforded special status and/or recognition by the U.S. Fish and Wildlife Service (USFWS), CDFW, and California Native Plant Society (CNPS). In general, the principal reason an individual taxon (i.e., species, subspecies, or variety) is given such recognition is the documented or perceived decline or limitations of its population size, geographic range, and/or distribution resulting in most cases from habitat loss.

Special-status plant species considered by the analysis include those potentially occurring within the direct impact footprint that are listed as Threatened and/or Endangered by the California or federal Endangered Species Act(s), as well as those assigned a California Rare Plant Rank (CRPR) by the CNPS that clearly meet the definition of Rare or Endangered under Guideline §15380 of the California Environmental Quality Act (CEQA).

Table 1 of the BRA, Special-Status Plant Species, and Table 2 of the BRA, Special-Status Wildlife Species, provide a summary of special-status plant and wildlife species known to occur in the Project region including information on the status, potential for occurrence within the Project site, and definitions for the various status designations. Figures 4 and 5 of the BRA presents the locations of special-status resources in proximity to the Project site, as determined by records searches.

Critical Habitats and Special Status Natural Communities

The study area is located within Unit 29C of vernal pool fairy shrimp (*Branchinecta lynchi*) critical habitat (USFWS 2006). Critical habitat areas are designated based on physical and biological features essential for the conservation of the species, and these features are called Primary Constituent Elements (PCEs). The PCEs for vernal pool fairy shrimp include the following habitat components: 1) topographic features characterized by mounds and swales that are intermittently connected, holding surface water for an adequate amount of time for the species' lifecycle (see number 3); 2) isolated vernal pools or depressions underlain with restrictive soil layers that create ponding; 3) these features become inundated after winter rains and hold water for at least 18 days in all but the driest years but dry seasonally; 4) food sources for vernal pool fairy shrimp, including upland detritus, single-celled bacteria, algae, and dead organic matter; and 5) habitat structure for vernal pool fairy shrimp, including living and dead plants, rocks, and inorganic debris (USFWS 2006). The study area does not have any topographic depressions or impermeable soil layers that could support ponding water, and none of the PCEs of critical habitat for this species are present onsite. Decades of farming practices would have eliminated the topographic structure of mounds and swales. Deep ripping usually conducted for vineyard planting would disrupt the water holding capacity of any hardpan soils. No vernal pool habitat was observed onsite during the survey.

Critical habitat has not been designated for the SJKF.

The Blue Oak Woodland community/Blue Oak Woodland and Forest alliance (71.020.00) has a State Rarity Rank of S4 (CDFW 2025d), and does not meet the threshold under CEQA to be considered a sensitive natural community. The Non-native Grassland community/Wild Oats and Annual Brome Grasslands alliance (42.027.00) is a semi-natural alliance, and is not considered sensitive. The Developed/Ruderal areas and Vineyard are anthropogenic land uses that do not contain native plant communities. The Stream Channel habitat does not have wetland vegetation that would be considered a sensitive natural community (potential jurisdictional status is discussed further in Section 3.6.7). Other sensitive natural communities that are known to occur in the site vicinity, but which are not present in the study area, are described in Appendix D of the BRA.

Special-status Plant Species

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The CNDDDB and CNPS on-line inventory listed 6 plants occurring in the Project region which are considered special status (CNPS List 1 and 2 species). No special-status plant species were found during the focused botanical survey (see Appendix C of the BRA for a complete list). Although the project area had been mowed prior to the survey, there was enough remaining plant material to identify the species present. Due to the disturbed conditions observed during the survey, the long history of disturbance shown on time-series aerial photography (Google Earth 2025), and the species composition of almost exclusively non-native species, no special-status plant species are expected to occur within the project impact area. Additionally, no special-status plant species were found in other areas on the property that had not been disturbed. The dense cover by non-native species, including many invasive species, is negatively correlated with rare plant occurrences.

Special-status Wildlife Species

The CNDDDB on-line inventory listed 38 special status wildlife species in the region. One special status wildlife species was observed on the Project site during the survey, the oak titmouse (see complete list in Appendix C). It was found at the large blue oak tree located near the center of the study area, and there was high activity of other species of birds associated with this tree and bird nests were seen. A wooden owl box was in the blue oak tree near the roof structure, and numerous owl pellets were on the ground in this area. Bait traps observed in the vineyard appeared to be effective at controlling California ground squirrels (*Otospermophilus beecheyi*) in this area; however, there was a very large population of ground squirrels along the drainage corridor. Botta's pocket gopher (*Thomomys bottae*) mounds and burrows were seen in the disturbed Grassland within the project site and in the floodplain area. These rodents along with a brush rabbit (*Sylvilagus bachmani*) observed represent a suitable prey base for carnivorous mammals and raptors.

San Joaquin Kit Fox

The County has identified a kit fox habitat area where remaining SJKF habitat is known to occur. New development within the kit fox habitat area may be subject to standard mitigation measures that, when implemented, will avoid take and reduce impacts to kit fox habitat to an insignificant level. The kit fox habitat area has been assigned mitigation ratios that reflect the quality of remaining SJKF habitat: higher quality habitat is subject to a higher mitigation ratio.

If the project site lies within the kit fox habitat area, and is less than 40 acres in size, the County will inform the project applicant of the pre-determined standard mitigation ratio for the project area. The standard ratio is based on the results of previous kit fox habitat evaluations and determines the amount of mitigation acreage based on the total area of disturbance from project activities. For example, if a project results in 2 acres of permanent disturbance and the standard mitigation ratio is 3:1, the applicant must mitigate for a total of 6 acres (2 acres X 3:1 ratio = 6 acres). If the project occurs on a site at least 40 acres in size, a habitat evaluation must be done.

The project site is within the kit fox habitat mitigation area where the standard mitigation ratio is 3:1. It is within the species' range mapped in USFWS (2020), and outside of the boundaries of the Salinas Valley satellite population. The southwestern portion of the property is modeled as moderately suitable SJKF habitat by Cypher et al. (2013), and is surrounded by a fragmented patchwork of other moderately suitable habitat areas. The site is within 10 miles of at least one recorded SJKF observation; therefore, completion of the habitat evaluation form is warranted. The project area is within a corridor that historically linked the Carrizo Plain core population with the Salinas Valley satellite population.

The entire parcel is approximately 24.5-acres. The proposed project would affect approximately 0.29-acre of Barren habitat, 0.54-acre of Annual Grassland habitat, and 0.07-acre of Vineyard habitat for a total project size of 0.90-acre. Barren areas are not considered SJKF habitat; therefore, the project would affect 0.61-acre

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of SJKF habitat. Annual Grassland represents 60% of the project area. Of the amount of SJKF habitat affected, there would be approximately 0.3-acre of permanent disturbance for the structures and PCC flatwork (total impervious area = 13,174 sf). Temporary impacts would be for the leach fields, construction materials storage area, and concrete washout. CDFW must concur with these results.

The project area is located within an area that is predominantly vineyards, patches of grassland and oak woodland, and scattered residential development and industrial uses to the south. The undeveloped habitat types are considered SJKF habitat. The nearest potential movement corridor is the Estrella River, which is located approximately 0.75-mile to the north. The floodplain surrounding the ephemeral stream onsite has connectivity to the Estrella River and is the most likely area for SJKF movement on the property. There are 5.5 acres along the ephemeral stream onsite that would not be affected by the project.

The proposed project is the construction of a single-family residence and detached workshop. As defined in County (2002), mortality effects for smaller projects including the single-family residences should be considered "unknown". Such mortality could be from increased vehicle strikes or rodent control measures (County 2002). Implementation of the project will convert a single block (0.61-acre) of suitable habitat to residential development.

Discussion

A biological resource impact evaluation must consider both the resource itself and how that resource fits into a regional or local context. Impacts that diminish or eliminate a regionally important biological resource, or conflict with local, state, or federal resource conservation plans designed to protect said resources are considered substantial. Whereas impacts to resources considered locally important may not be significant according to CEQA if there is not a regional effect.

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

The project site has been farmed for decades, and the history of ground disturbance and vegetation management dramatically reduce the chance that special-status plant species would occur onsite. Ruderal areas that are frequently disturbed by vehicle use were mostly barren and would not be suitable habitat for special-status plant species. The disturbed Grassland habitat in the project area was thoroughly surveyed during the blooming period, and no special-status plant species were found. Additionally, no special-status plant species were found in other areas on the property that were undisturbed and outside of agricultural development. The dense cover by non-native species in these areas, including many invasive species, is also negatively correlated with rare plant occurrences. This evaluation determined that the project would have no effect on special-status plant species.

Several special-status animal species have potential to occur in the study area at some point in the year or in their life history. The evaluation of the animal species considered to have Potential to occur further separates them into two categories: 1) those that would only use the site periodically while foraging or moving through the site without using the area for breeding or other key life history traits, or would only use the southwestern part of the property outside of the project area, and for which project impacts would be less than significant; or 2) those that could be present on a more permanent basis or individuals that are not mobile enough to be able to escape mortality or injury, and in which there may be potentially significant impacts.

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Invertebrates and birds that use the site for foraging or on a transitory basis are expected to move away from any temporary disturbance during construction activities. Although disruption of normal activities would be a temporary "effect", the impact would be less than significant under CEQA as long as they are not injured or killed. If an active bird nest was destroyed during vegetation removal, then impacts on nesting birds would be out of compliance with the MBTA and significant under CEQA. Passerine birds that nest in the Oak Woodland habitat in the floodplain would be far enough from construction disturbance that they would not be impacted; however, raptors may be more sensitive to construction disturbance and generally require a larger buffer. There would be no impact on the foraging behavior of special-status bat species because construction activities will be conducted during the day and bats are nocturnal. Additionally, no potential bat roost sites will be affected including those species that roost in tree cavities because no trees will be removed. The disturbed and developed habitats in the northeastern two-thirds of the property where the project is located do not have the resources required by many of the species determined to have Potential to occur on the property as a whole. For example, special-status reptile species require vegetative cover and objects or burrows that can be used as refuge from predators, and while these features are present in the floodplain area in the southwestern portion of the site, it is unlikely that individuals would use the upper portion of the property. Additionally, bumble bees create nests in vegetated areas such as forest edges or unmowed areas, which are not present in the project area.

There may be potentially significant impacts of the project on the California horned lark, Cooper's hawk, golden eagle, Lawrence's goldfinch, loggerhead shrike, oak titmouse, Swainson's hawk, white-tailed kite, yellow-billed magpie, San Joaquin kit fox, San Joaquin pocket mouse and other protected nesting birds, as follows.

Special-status bird species, as well as other common bird species that are protected under the MBTA and California Fish and Game Code, could nest in the oak trees adjacent to the project area and construction disturbance could affect nesting activity resulting in nest abandonment. Bird nests and an actively used owl box were observed in two oak trees adjacent to the project impact area during the survey. The large blue oak tree near the proposed residence site had particularly high usage by several bird species, including a special-status species, and is expected to be used for nesting annually. The California horned lark can nest on the ground in Ruderal areas or Grassland habitat, and their nests could be directly affected if construction took place during the nesting season. Raptors could nest in the Oak Woodland habitat in the floodplain area and be in close enough proximity that construction disturbance could affect nesting activity resulting in nest abandonment. Project impacts on nesting birds would potentially be significant under CEQA, and mitigation to avoid effects would be required as described below.

The San Joaquin kit fox could potentially move through the project area during dispersal, although the chance is very low. While undergoing dispersal, individuals could create temporary dens. Because the study area is greatly outside of a SJKF population and lacks appropriate habitat, maternal dens are not expected. Avoidance measures are required by the County and CDFW because the site falls within the SJKF habitat area. Implementation of these measures for SJKF, as outlined below, should include searches for burrows and monitoring for the San Joaquin pocket mouse. Additionally, mitigation will be required because the project would affect SJKF habitat.

With recommended mitigation measures, project impacts to special status plant and wildlife species is considered *less than significant with mitigation*.

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

The CNDDDB records search did not identify any special status natural communities occurring in the Project region. The Project site consists of active agriculture, a non- natural community that is dominated by non-native, weedy species, and disturbed/barren areas. No sensitive natural communities were identified during the survey. One riverine feature was identified in the NHD and NWI. Project implementation would not have direct or indirect impacts to this feature based on the distance from the proposed development. Therefore, the project will have *no impact* to riparian habitat or other sensitive natural communities.

- (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?*

There are no wetland or vernal pool resources within the area of disturbance or on nearby properties that would be impacted by the project. Therefore, there would be *no impact* to state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.).

- (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?*

Wildlife Corridors

Maintaining connectivity between areas of suitable habitat is critical for dispersal, migration, foraging, and genetic health of plant and wildlife species. A functional network of connected habitats is essential to the continued existence of California's diverse species and natural communities in the face of both human land use and climate change. Terrestrial species must navigate a habitat landscape that meets their needs for breeding, feeding and shelter. Projects that introduce substantial barriers to movement of resident or migratory wildlife species or hinder the normal activities of wildlife require mitigation to offset Project effects.

The study area is surrounded by undeveloped areas and active agriculture with some natural habitats. Project implementation would not directly impact the area and development would not be expected to substantially inhibit wildlife movement through the area. The Project does not introduce significant features that would be expected to affect wildlife movement through surrounding natural habitats and impacts to wildlife movement are considered *less than significant*.

Migratory Nesting Birds and Sensitive Avian Species

In addition to those species protected by the state or federal government, all native avian species are protected by state and federal legislation, most notably the Migratory Bird Treaty Act (MBTA) and the CDFW Fish and Game code. Collectively, these and other international regulations make it unlawful to collect, sell, pursue, hunt, or kill native migratory birds, their eggs, nests, or any parts thereof. The laws were adopted to eliminate the commercial market for migratory bird feathers and parts, especially those of raptors and other birds of prey.

Migratory bird species may utilize the project site for foraging; however, the usage is likely transient and limited to species that forage over open grassland areas. The project site does not possess any characteristics that would indicate a locally significant stopover point for migratory species including raptors or waterfowl.

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The project site contains suitable nesting habitat for ground-nesting birds and for other birds that are protected while nesting. Blue oak woodland serve as suitable nesting habitat for various common and special-status bird species, including raptors. Construction activities that occur during the nesting bird season (January 1 through September 15) have potential to result in the direct or indirect take of nesting birds.

With implementation of the recommended mitigation measures, impacts related to interference with the movement of migratory fish or wildlife would be *less than significant with mitigation*.

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

Impacts to, or removal of, mature oak trees (i.e., greater than six inches in diameter at breast height [DBH]) or oak woodland habitat is evaluated under CEQA. As a CEQA Lead Agency, the County of San Luis Obispo currently applies a 4:1 mitigation ratio for removed trees and a 2:1 mitigation ratio for impacted trees.

No oak trees or other native trees are proposed for removal. Therefore, there would be *no impacts* associated with conflict with local ordinances or policies protecting biological resources.

- (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?*

The project site is not located within an area subject to an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. Therefore, the project would not conflict with the provisions of an adopted plan and there would be no impact.

Conclusion

Upon implementation of mitigation measures BR-1 through BR-15, impacts to biological resources would be less than significant.

Mitigation

BIO-1 Prior to issuance of grading and/or construction permits, the applicant shall provide evidence that they have retained a qualified biologist acceptable to the County Department of Planning and Building to perform the training and monitoring activities described in the adopted mitigation measures for biological resources.

BIO-2 Environmental Awareness Training – Prior to major construction activities (e.g., site mobilization, clearing, grubbing, preparation for installing new facilities, etc.), an environmental awareness training shall be presented to all project personnel by a qualified biologist prior to the start of any project activities. The training shall include color photographs and a description of the ecology of all special-status species known or determined to have potential to occur, as well as other sensitive resources requiring avoidance near project impact areas. The training shall also include a description of protection measures required by the project's discretionary permits, an overview of the federal Endangered Species Act, the California Endangered Species Act, and implications of noncompliance

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with these regulations, as well as an overview of the required avoidance and minimization measures. A sign-in sheet with the name and signature of the qualified biologist who presented the training and the names and signatures of the trainees will be kept and provided to the County of San Luis Obispo (County). If new project personnel join the project after the initial training period, they will receive the environmental awareness training from a designated crew member on site before beginning work. A qualified biologist will provide refresher trainings during site visits or other monitoring events.

BIO-3 Prior to issuance of grading and/or construction permits, all SJKF protection measures required before construction (prior to any project activities) and during construction shall be included as a note on all project plans.

BIO-4 San Joaquin Kit Fox (*Vulpes macrotis mutica*; SJKF) Habitat Mitigation Measures - Prior to issuance of grading and/or construction permits, the applicant shall submit evidence to the County and CDFW that one or a combination of the following three SJKF mitigation measures for loss of SJKF habitat has been implemented:

- a. Habitat Set Aside. Provide for the protection in perpetuity, through acquisition of fee or a conservation easement of 0.9 acre (exact size to be confirmed by CDFW) of suitable habitat in the kit fox corridor area (e.g. within the San Luis Obispo County kit fox habitat area), either on site or off site, and provide for a non-wasting endowment to provide for management and monitoring of the property in perpetuity. Lands to be conserved shall be subject to the review and approval of CDFW and the County.

Mitigation alternative (a.) requires that all aspects of this program be in place before County permit issuance or initiation of any ground-disturbing activities.

- b. In Lieu Fee. Deposit funds into an approved in-lieu fee program, which would provide for the protection in perpetuity of suitable habitat in the kit fox corridor area within San Luis Obispo County and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

Mitigation alternative (b.) can be completed by providing funds to The Nature Conservancy (TNC) pursuant to the Voluntary Fee-Based Compensatory Mitigation Program (Program). The Program was established in agreement between CDFW and TNC to preserve SJKF habitat, and to provide a voluntary mitigation alternative to project proponents who must mitigate the impacts of projects in accordance with the CEQA. This fee is calculated based on the current cost-per-unit of \$2,500 per acre of mitigation, which is scheduled to be adjusted to address the increasing cost of property in San Luis Obispo County; the actual cost may increase depending on the timing of payment. This fee must be paid after CDFW provides written notification about mitigation options but prior to County permit issuance and initiation of any ground disturbing activities. The fee, payable to "The Nature Conservancy", would total \$2,250 based on \$2,500 per acre 0.9 acres impacted * 3:1* \$2,500 per acre (fee amount to be determined by CDFW).

Purchase Mitigation Credits. Purchase 0.9 credits in a CDFW-approved conservation bank (exact amount to be determined by CDFW), which would provide for the protection in perpetuity of suitable habitat within the kit fox corridor area and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

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Mitigation alternative (c.) can be completed by purchasing credits from the Palo Prieto Conservation Bank. The Palo Prieto Conservation Bank was established to preserve SJKF habitat, and to provide a voluntary mitigation alternative to project proponents who must mitigate the impacts of projects in accordance with CEQA. The cost for purchasing credits is payable to the owners of The Palo Prieto Conservation Bank and would total \$7,500 (1.0 acres impacted * 3:1 * \$2,500 per acre). This fee is calculated based on the current cost-per-credit of \$2,500 per acre of mitigation. The fee is established by the conservation bank owner and may change at any time. The actual cost may increase depending on the timing of payment. Purchase of credits must be completed prior to County permit issuance and initiation of any ground-disturbing activities.

It should be noted that the estimated area of SJKF habitat mitigation required (3.0 acres) is a conservative estimate based on the preliminary plans used for CEQA compliance. A final quantification of the area of kit fox habitat impacted by the project, and the corresponding mitigation requirements, will be made based on the construction plans approved by the County through the building permit process. If the final construction plans indicate that the project may impact more than 1.0 acres of SJKF habitat, the project may require additional environmental review before a building permit will be issued. Such additional review may also require coordination with CDFW.

BIO-5 Pre-construction survey for SJKF. A qualified biologist shall complete a pre-construction survey for SJKF no less than 14 days and no more than 30 days prior to the start of initial project activities to ensure SJKF is not present within all proposed work areas and at least a 200-foot buffer around work areas per USFWS Standard Recommendations (2011). The biologist will survey for sign of SJKF and known or potential SJKF dens. The result of the survey shall be submitted to the County within 5 days of the survey and prior to the start of initial project activities. The submittal shall include the date the survey was conducted, survey method, and survey results, including a map of the location of any SJKF sign, and/or known or potential SJKF dens, if present. If no SJKF sign, potential or known SJKF dens are identified, then the SJKF Standard Protection Avoidance and Protection Measure shall be applied.

- If the qualified biologist identifies potential SJKF den(s), the den(s) will be monitored for 3 consecutive nights with an infra-red camera, prior to any project activities, to determine if the den is being used by SJKF. If no SJKF activity is observed during the 3 consecutive nights of camera placement, then project work can begin with the Standard SJKF Avoidance and Protection Measures and the SJKF Protection Measures if SJKF are observed.
- If a known den is identified within 200-feet of any proposed project work areas, no work may start in that area.

If 30 days lapse between different phases of project activities (e.g., vegetation trimming and the start of grading), where no or minimal work activity occurs, the SJKF survey shall be updated.

BIO-6 Standard SJKF Avoidance and Protection Measures

- If a SJKF is discovered at any time to be occupying an area within the project boundaries, all work must stop. The County will be notified, and they will consult with other agencies as needed.
- A maximum of 25 mph speed limit shall be required at the project site during project activities. Speed limit signs shall be installed on the project site prior to the start of all work.

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- All project activities shall cease at dusk and not start before dawn. This includes driving on the site for security purposes.
- To prevent entrapment of SJKF and other special-status wildlife, all excavations, steep-walled holes or trenches greater than two feet deep shall be completely covered at the end of each workday by plywood or similar materials, or one or more escape ramps constructed of earth fill or wooden planks shall be installed a minimum of every 200 feet. All escape ramps shall be angled such that wildlife can feasibly use them to climb out of an area. All excavations, holes, and trenches shall be inspected daily for SJKF or other special-status species and immediately prior to being covered or filled. If a SJKF is entrapped, CDFW, USFWS, and the County will be contacted immediately to document the incident and advise on removal of the entrapped SJKF.
- All pipes, culverts, or similar structures with a diameter of 4 inches or greater, stored overnight at the project site shall be thoroughly inspected for sheltering SJKF before burying, capping, or moving. All exposed openings of pipes, culverts, or similar structures shall be capped or temporarily sealed prior to the end of each working day. No pipes, culverts, similar structures, or materials stored on site shall be moved if there is a SJKF present within or under the material. A 50-foot exclusion buffer will be established around the location of the SJKF until it leaves. The SJKF shall be allowed to leave on its own before the material is moved.
- All food-related trash items such as wrappers, cans, bottles, and food scraps shall be disposed of in animal-proof closed containers only and regularly removed from the site.
- No deliberate feeding of wildlife shall be allowed.
- Water sources shall be managed to ensure no leaks occur or are fixed immediately upon discovery in order to prevent SJKF from being drawn to the project area to drink water.
- Trash will be disposed of into containers rather than stockpiling on site prior to removal.
- Materials or other stockpiles will be managed in a manner that will prevent SJKF from inhabiting them. Any materials or stockpiles that may have had SJKF take up residence shall be surveyed (consistent with pre-construction survey requirements) by a qualified biologist before they are moved.
- The use of pesticides or herbicides shall be in compliance with all local, state, and federal regulations so as to avoid primary or secondary poisoning of endangered species and the depletion of prey upon which SJKF depend.
- Permanent fences shall allow for SJKF passage through or underneath by providing frequent openings (8-inch x 12-inch) or an approximately 4-inch or greater passage gap between the ground and the bottom of the fence. Any fencing constructed after issuance of a final permit shall follow the above guidelines.
- During project activities and/or the operation phase, any contractor or employee that inadvertently kills or injures a SJKF or who finds any such animal either dead, injured, or entrapped shall be required to report the incident immediately to the applicant and County. In the event that any observations are made of injured or dead SJKF, the applicant shall immediately notify the USFWS, CDFW, and the County by telephone. In addition, formal notification shall be

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provided in writing within 3 working days of the finding of any such animal(s). Notification shall include the date, time, location, and circumstances of the incident.

- If potential SJKF dens are identified on site during the pre-construction survey, a qualified biologist shall be on site immediately prior to the initiation of project activities to inspect the site and dens for SJKF activity. If a potential den appears to be active or there is sign of SJKF activity on site and within the above-recommended buffers, no work can begin.
- A qualified biologist shall conduct weekly site visits during site-disturbance activities (e.g., clearing, grading, disk, excavation, stock piling of dirt or gravel, etc.) that proceed longer than 14 days, to check the site for special-status species. Site-disturbance activities lasting up to 14 days do not require weekly monitoring by a biologist unless a potential SJKF den was identified on-site, or the qualified biologist recommends monitoring for other sensitive species protection. When weekly monitoring is required, the biologist shall submit weekly monitoring reports to the County.

BIO-7 Site Maintenance and General Operations - The following measures are required to minimize impacts during active construction and ongoing operations. All measures applicable during construction shall be included on the plans. All measures applicable to operation shall be clearly posted on-site in a location(s) visible to workers and anyone visiting the site:

- The use of heavy equipment and vehicles shall be limited to the proposed project limits and defined staging areas/access points. The boundaries of each work area shall be clearly defined and marked with high visibility fencing (e.g., t-posts and yellow rope) and/or flagging. No work or travel shall occur outside these limits.
- Project plans, drawings, and specifications shall show the boundaries of all work areas on site and the location of erosion and sediment controls, limit delineation, and other pertinent measures to ensure the protection of sensitive habitat areas and associated resources.
- Staging of equipment and materials shall occur in designated areas at least 100 feet from aquatic habitat (e.g., swales, drainages, ponds, vernal pools, if identified on site).
- Secondary containment such as drip pans shall be used to prevent leaks and spills of potential contaminants.
- Washing of concrete, paint, equipment, and refueling and maintenance of equipment shall occur only in designated areas. Sandbags and/or absorbent pads shall be available to prevent water and/or spilled fuel from leaving the site.
- Equipment shall be inspected by the operator daily to ensure that equipment is in good working order and no fuel or lubricant leaks are present.

BIO-8 Noxious Weed Species. To prevent the potential spread of invasive botanical species identified within the Project site, all vehicles and equipment used at the site shall be cleaned of all dirt, mud, and plant debris prior to entering or exiting the site (e.g., driven over rumble strips) to prevent tracking of potential seed stock to or from the property. Rumble strips will also be regularly cleaned and maintained to prevent the accumulation of non-native seed stock.

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BIO-9 Pre-construction Survey for Sensitive and Nesting Birds. If work is planned to occur between February 1 and September 15, a qualified biologist shall survey the area for nesting birds within one week prior to initial project activity beginning, including ground disturbance and/or vegetation removal/trimming. If nesting birds are located on or near the proposed project site, they shall be avoided until they have successfully fledged, or the nest is no longer deemed active.

- A 50-foot exclusion zone shall be placed around non-listed, passerine species, and a 250-foot exclusion zone will be implemented for raptor species. Each exclusion zone shall encircle the nest and have a radius of 50 feet (non-listed passerine species) or 250 feet (raptor species). All project activities, including foot and vehicle traffic and storage of supplies and equipment, are prohibited inside exclusion zones. Exclusion zones shall be maintained until all project-related disturbances have been terminated, or it has been determined by a qualified biologist that the young have fledged or that proposed project activities would not cause adverse impacts to the nest, adults, eggs, or young.
- If special-status avian species (aside from the burrowing owl or tricolored blackbird [if identified in biological report]) are identified and nesting within the work area, no work will begin until an appropriate exclusion zone is determined in consultation with the County and any relevant resource agencies.
- The results of the survey shall be provided to the County prior to initial project activities. The results shall detail appropriate fencing or flagging of exclusion zones and include recommendations for additional monitoring requirements. A map of the project site and nest locations shall be included with the results. The qualified biologist conducting the nesting survey shall have the authority to reduce or increase the recommended exclusion zone depending on site conditions and species (if non-listed).

If two weeks lapse between different phases of project activities (e.g., vegetation trimming and the start of grading), during which no or minimal work activity occurs, the nesting bird survey shall be repeated.