

## APPENDIX 3



# Biological Resources Assessment & Aquatic Resources Delineation Technical Report

*Ossum Wash Repair Project*

*Victor Valley Wastewater Reclamation Authority*

*San Bernardino County, California*

August 5, 2026

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# 1 Introduction

On behalf of Tom Dodson & Associates, HDR has prepared this Biological Resources Assessment (BRA) and Aquatic Resources Delineation (ARD) technical report for the Victor Valley Wastewater Reclamation Authority's (VWVRA's) Ossum Wash Repair Project (Project). Victor Valley Wastewater Reclamation Authority (VWVRA) owns two existing gravity trunk sewer pipelines (36-in RCP and 42-in VCP) that cross Ossum Wash. Recent heavy rain events have substantially eroded the channel and only approximately 4-ft of cover remains. This limited cover puts the pipelines in jeopardy and at risk of a sewage spill. VWVRA is proposing to construct emergency improvements to the wash to mitigate the risk of pipe exposure and damage. The proposed project is located within Ossum Wash in Victorville, CA. Ossum Wash runs North-South, flowing northerly to its confluence with the Mojave River, approximately 850-feet north of Turner Road. Turner Road runs East-West and the project area is located north of where the wash crosses Turner Road. The location it depicted in location is Section 30, Township 6 North, Range 4 West, San Bernardino Meridian. The site can be viewed on the USGS – "Victorville" Quadrangle, 7.5 Minute Series topographic map. See Figure 1 Regional Location Map, Figure 2 Site Location Map, and Figure 3 Aerial View.

The BRA fieldwork was conducted by HDR biologist Lisa Patterson in April of 2026. The purpose of the BRA survey was to address potential effects of the emergency Project on designated Critical Habitats and/or any species currently listed or formally proposed for listing as endangered or threatened under the federal Endangered Species Act (ESA) and/or the California Endangered Species Act (CESA), as well as any species otherwise designated as sensitive by the California Department of Fish and Wildlife (CDFW [formerly California Department of Fish and Game]). The Project area was assessed for its potential to support sensitive species known to occur locally. Attention was focused on those state and/or federally listed as threatened or endangered species and California Fully Protected species that have been documented in the vicinity of the Project area, whose habitat requirements are present within or adjacent to the Project site. Results of the habitat assessment are intended to provide sufficient baseline information to the Project Proponent (VWVRA) and, if required, to County or other local government planning officials, and federal and state regulatory agencies, U.S. Fish and Wildlife Service (USFWS), and CDFW, respectively, to determine if the Project is likely to likely to affect sensitive biological resources and to identify potential mitigation measures to offset those effects.

In addition to the BRA survey, the Project area was also assessed for the presence of state and/or federal jurisdictional aquatic resources potentially subject to regulation by the U.S. Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act (CWA), Regional Water Quality Control Board (RWQCB) under Section 401 of the CWA and Porter-Cologne Water Quality Control Act (Porter-Cologne), and CDFW under Section 1602 of the California Fish and Game Code (FGC), respectively.

**Figure 1. Regional Location Map**

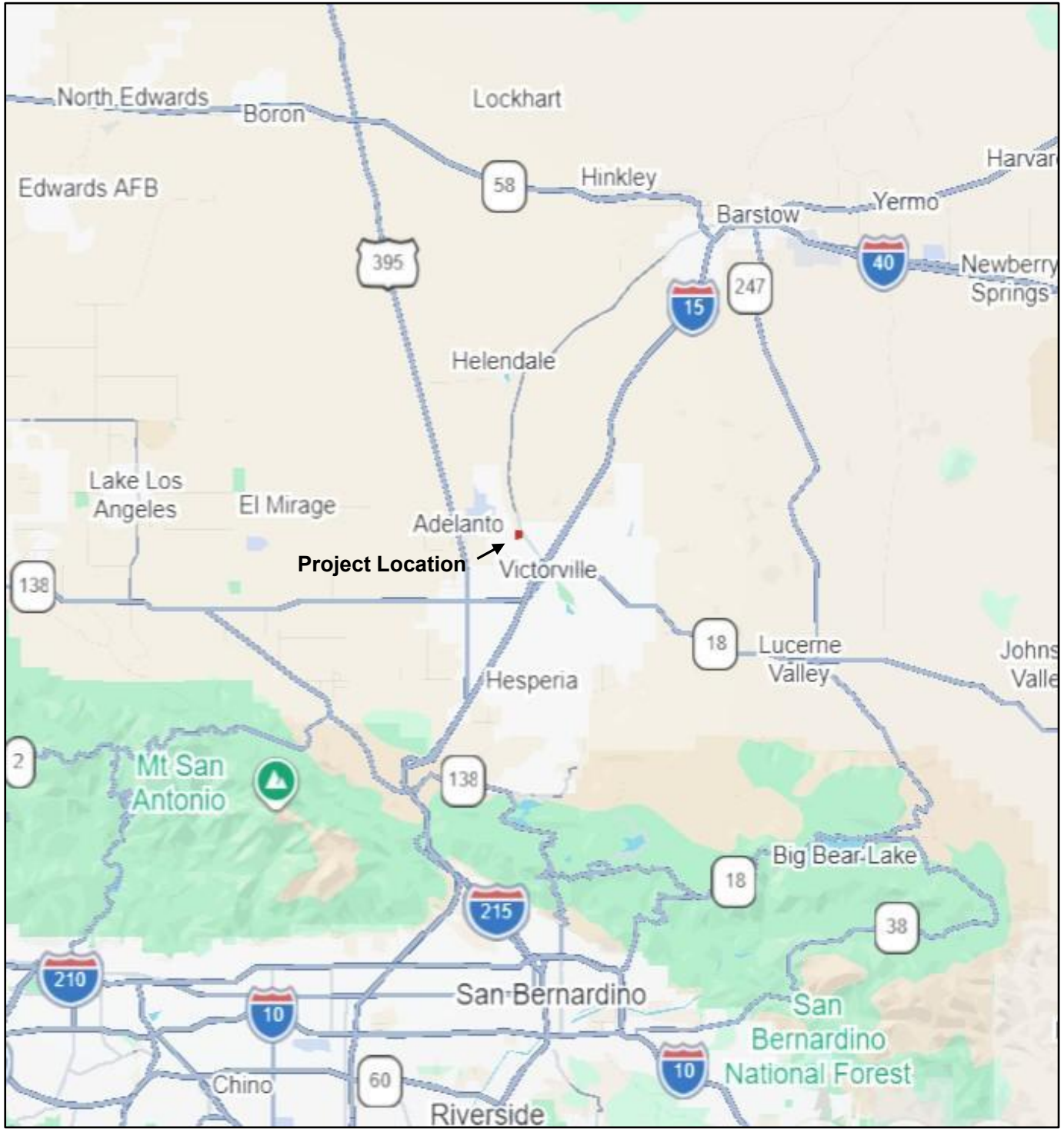


**Figure 2. Site Location Map**

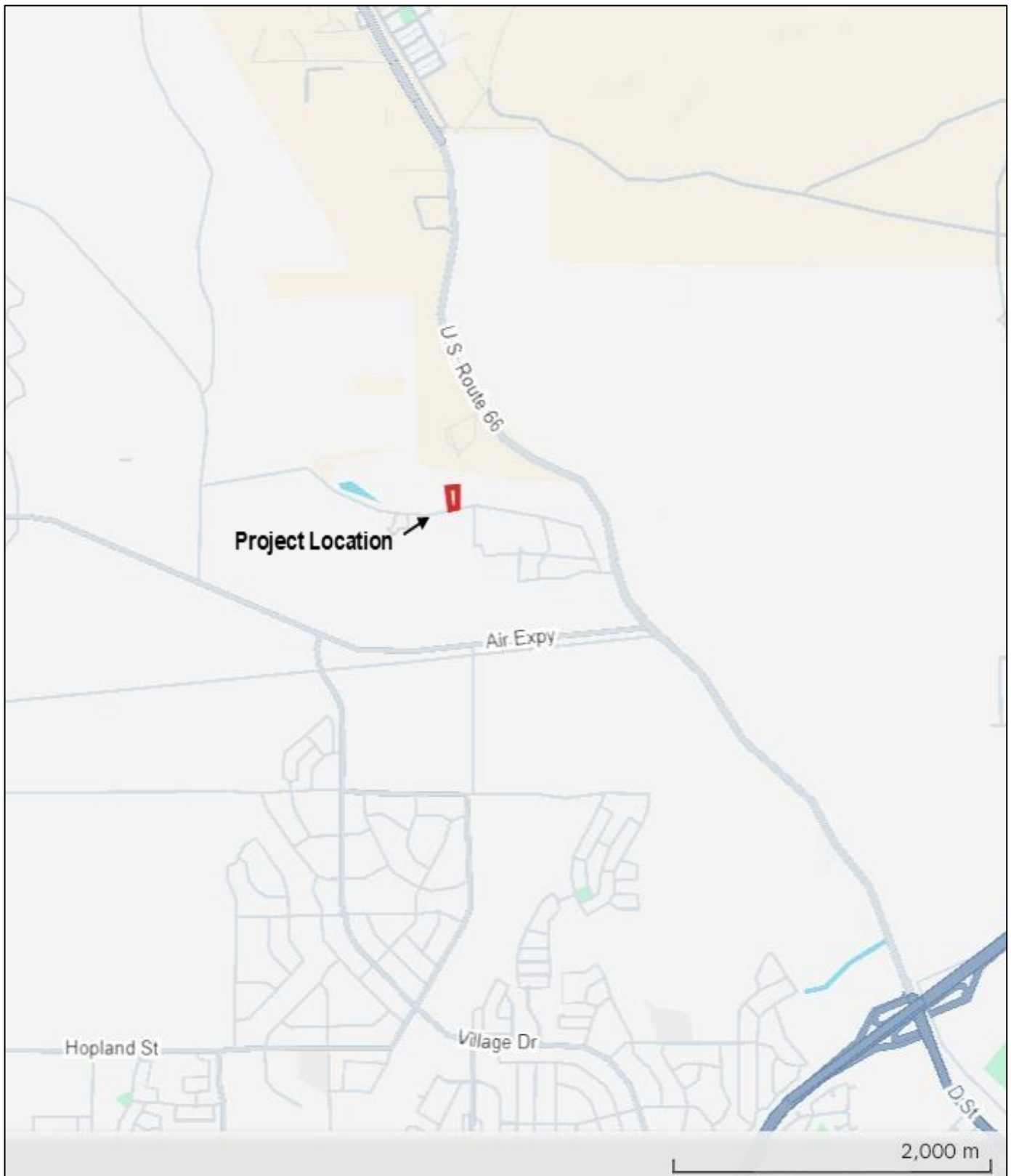
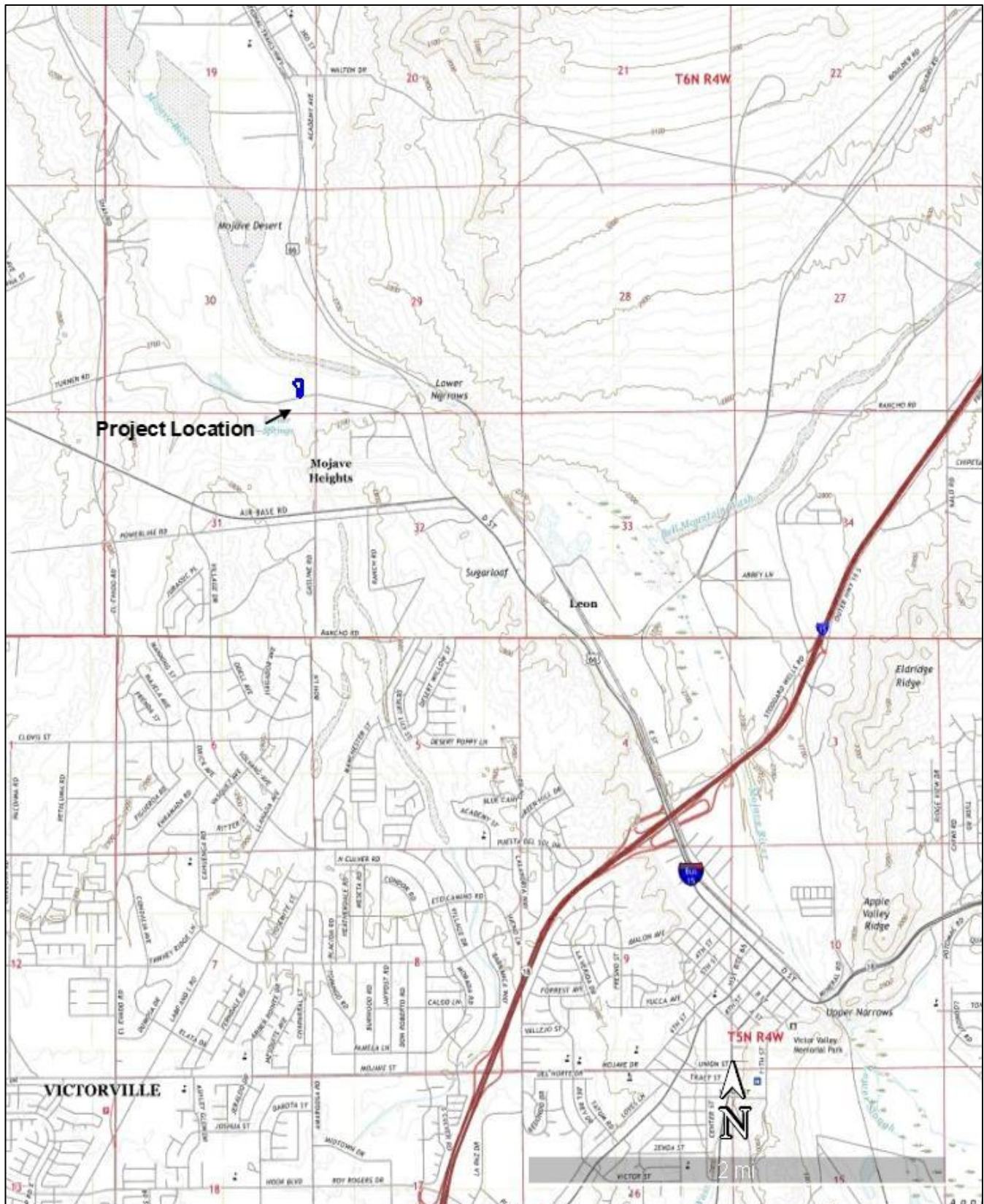


Figure. 3 USGS 7.5 Min Quad “Victorville” Site Location Map



## 1.1 Project Description

The proposed project has been designed by Dudek in order to address the existing erosion and to protect from further exposure and potential pipe failure.

The proposed improvements include the following:

- Installing grouted riprap on the channel side slope along the easterly side of the existing grouted riprap channel.
- Installing an extension of the grouted riprap channel from the downstream end of the existing grouted riprap to the northerly extent of the VVWRA pipeline easement.
- Installing loose riprap lined channel downstream of the proposed grouted riprap.

These proposed improvements are depicted on the site plans provided as **Figure 4**.

The above design was based on a report prepared by Dudek, dated October 2025 entitled “Ossum Wash Improvements/Basis of Design Report”. This report relied on the San Bernardino County design criteria, which references Los Angeles County Flood Control District’s (LACFCD) Hydraulic Design Manual (LACFCD HDM)(1982) and to the State of California Department of Transportation Highway Design Manual (Caltrans HDM).

A hydraulic analysis was performed using the Hydrologic Engineering Center River Analysis System (HEC-RAS) version 6.6 developed by the US Army Corps of Engineers (USACE). A proposed condition model was created to represent the proposed improvements. For details of proposed improvements.

The existing wash upstream of Turner Road is in a semi-natural state and is not sized to convey the 100-year event. The operating depth of the channel varies within the project reach. There is no minimum freeboard requirement because the channel is not a flood control structure. However, the average 100-year depth is 4.4 feet and the average channel depth is 8.6 feet resulting in an average freeboard of 4.2 feet.

The model resulted in a determination of riprap size as follows:

**Table 1: Riprap Size Determinations**

| Location       | Rock Size                 |
|----------------|---------------------------|
| Grouted Riprap | Class IV (300-pound)(15") |
| Exit Apron     | Class IX (2-ton)(36")     |

The cutoff wall depths were determined using LACFCD HDM methodology. The LACFCD HDM provides two options for riprap levee cutoff walls: (1) Case A: extend the riprap slope below the grade of the natural watercourse to the depth indicated in the table for cut-off depths or (2) Case B: extend the slope below grade to a depth of 18-in, with a  $(1.75 * t)^1$  thickness, and extend longitudinally for a distance equal to the cut-off depth plus 3-ft.

Where grouted riprap is proposed in the channel, Dudek designed the cutoff walls to model the Case A cutoff wall typical section. The riprap will extend to the determined cutoff wall depth at a 2:1 slope. For the loose riprap, Dudek developed a modified Case B cutoff wall to minimize the extents of

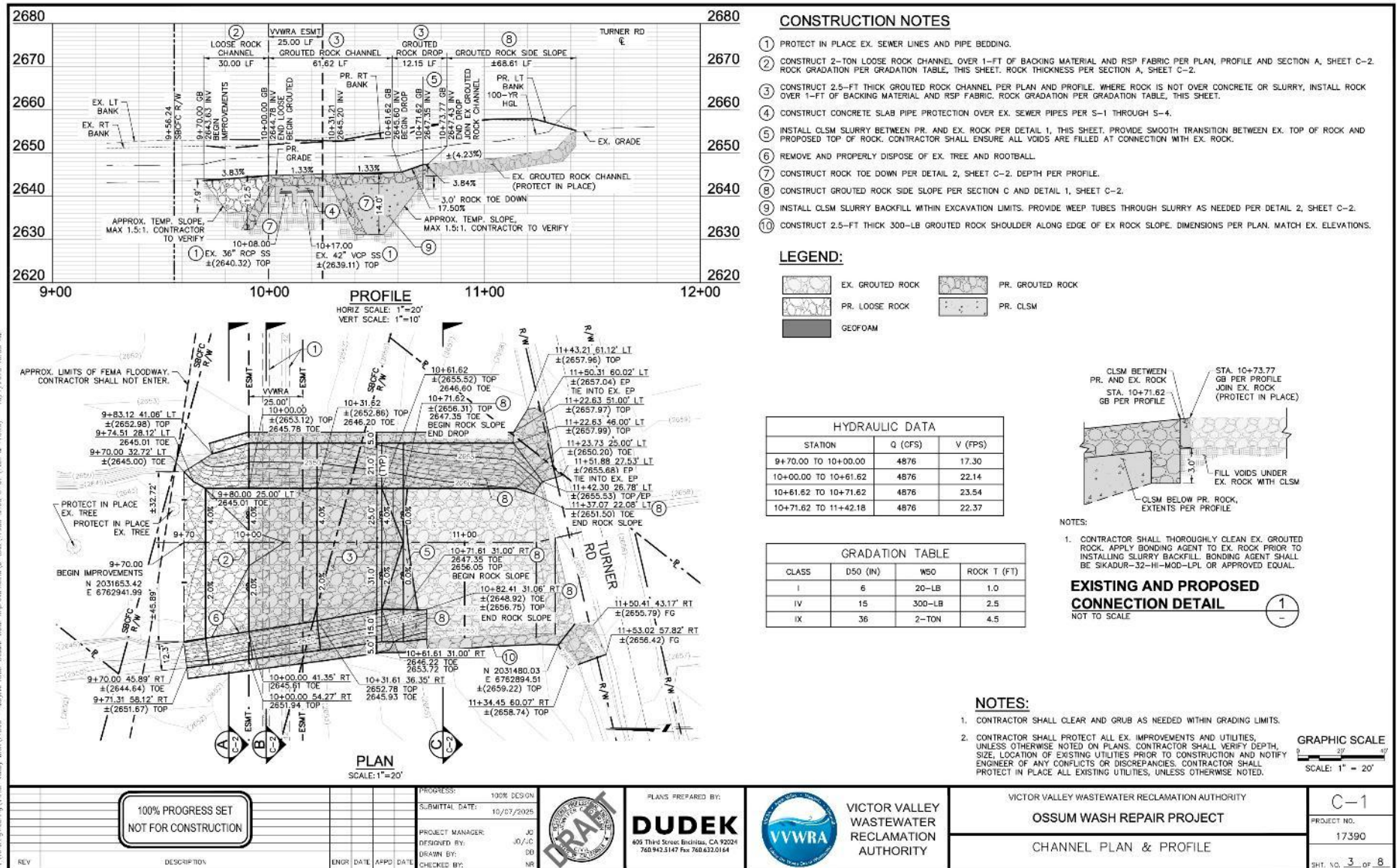
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The dimension is one-and-three-quarter times the base thickness

excavation. Dudek proposed to provide a “launchable” thickened riprap section within invert where the riprap slopes back up to grade at 2:1. As scour develops at the end of the loose riprap, rocks are able to “launch” or fall into the scour hole. Dudek is noting this style of cut-off wall as modified Case B because no cover is provided over the top of rock because this is located within the invert as part of a fully rock lined channel.

Additionally, the 16-inch Sanitary Main and 8-inch Gas Main will have rip rap and a mat protection system installed to protected from scour. Disturbed areas will be graded and stabilized following construction. Best Management Practices (BMPs) will be implemented as needed or required. The emergency repair Project is expected to take approximately four to six weeks to complete.

Figure 4. Ossum Wash Repair Plan – Plan and Profile



## 1.2 Project Location

The proposed Project is generally located in Section 30 of Township 6 North, Range 4 West, San Bernardino Base Meridian (SBBM), within the northern portion of the City of Victorville, San Bernardino County, California). The Project Area is depicted on the southeast corner of Section 30 of the Victorville U. S. Geological Survey's (USGS) 7.5-Minute Series Quadrangle map. The Project Area is east of Southern California Logistics Airport (SCLA) and southwest of the Town of Oro Grande, along the west side of the Mojave River. Specifically, the Project Area is located along Turner Road approximately 0.8 miles west from the intersection of Turner Road and D Street. The Project site consists of Assessor Parcel Numbers (APNs): 046811113 and 046811115).

The Project Area is defined as all areas that may be impacted directly or indirectly by the proposed Project. It encompasses the geographic extent of environmental changes (i.e. the physical, chemical and biotic effects) that will result directly and indirectly from the Project.

## 1.3 Environmental Setting

The Project Area is in the western portion of the Mojave Desert, along the west side of the Mojave River. The Victorville area is subject to both seasonal and annual variations in temperature and precipitation. Average annual maximum temperatures peak at 98.1 degrees Fahrenheit (° F) in July and fall to an average annual minimum temperature of 29.2° F in January. Average annual precipitation is greatest from November through March and reaches a peak in February (1.05 inches). Precipitation is lowest in the month of June (0.04 inches). Annual total precipitation averages 5.52 inches.

The topography of the Project Area is relatively flat on the eastern side to hilly on the western side. Elevation within the proposed Project Area ranges from approximately 2,658 feet above mean sea level (amsl) near the Turner Road to 2,646 feet amsl near the Mojave River.

Hydrologically, the Project Area is situated within an unnamed Hydrologic Sub-Area (HSA 628.20). This HSA comprises a 556,821-acre drainage area, within the larger Mojave Watershed (HUC 18090208). The Mojave River is the major hydrogeomorphic feature within the Mojave Watershed.

Soils within the Project Area are comprised of Villa loamy sand, 0 to 5 percent slopes consisting of sand and gravelly sand comprised of alluvium derived from granite sources and are somewhat excessively drained with a high to very high runoff class.

Land use within the Project Area and surrounding vicinity consists of the Mojave River floodplain to the north, agricultural/graded lands to the west, open space to the south, and rural residential and industry to the east (Figure 5). The project area is characterized by a predominantly unvegetated sandy wash with remnant Cottonwood trees (*Populus fremontii*). The area outside the APE is characterized by disturbed *Atriplex canescens* Shrubland Alliance (four-wing saltbush scrub), *Larrea tridentata* Shrubland Alliance (creosote bush scrub), Please refer to the attached Site Photographs at the end of this document for representative photos of the existing conditions within the Project Area at the time of survey.

## 2 Assessment Methodology

### 2.1 Biological Resources Assessment

Data regarding biological resources in the vicinity of the Project were obtained through literature review, desktop evaluation, and field investigation. Prior to performing the field survey, available databases, and documentation relevant to the Project area were reviewed for documented occurrences of sensitive species that could potentially occur in the Project vicinity. The USFWS Information for Planning and Consultation System (IPaC) and the most recent version of the California Natural Diversity Database (CNDDDB) were searched for sensitive species data in the *Victorville* USGS 7.5-Minute Series Quadrangle. These databases contain records of reported occurrences of state and federally listed species or otherwise sensitive species and habitats that may occur within the vicinity of the Project (within approximately 3 miles). Other available technical information on the biological resources of the area was also reviewed including previous surveys and recent findings.

#### 2.1.1 Biological Resources Assessment Field Survey

HDR biologist Lisa Patterson conducted a BRA field survey of the Project site on April 8, 2026. Wildlife species were detected during field surveys by sight, calls, tracks, scat, and/or other sign. In addition to the species observed, expected wildlife usage of the site was determined based on known habitat preferences of regional wildlife species and knowledge of their relative distributions in the area. The focus of the faunal species survey was to identify potential habitat for special status wildlife that may occur within the Project vicinity.

##### Protocol-level Desert Tortoise Survey

Desert tortoise surveys were conducted in accordance with the protocols described in the October 8, 2019 version of the USFWS “Preparing For Any Action That May Occur Within The Range Of The Mojave Desert Tortoise (*Gopherus agassizii*)” and the 2009 USFWS “Desert Tortoise (Mojave Population) Field Manual: (*Gopherus agassizii*).” The survey was conducted in accordance with the USFWS survey protocol for Small Project Surveys (i.e. < 200 hectares [500 acres]). Per the USFWS, “For smaller projects, the number of tortoises affected is likely to be too small for statistical treatment; the goal with surveying these areas is to determine whether they are likely to be present and to determine any areas of concentrated use” (2019). In accordance with the USFWS protocols, 100 percent visual coverage of the survey area was achieved by walking 10-meter (30-foot) wide belt transects over the entire Project site, to provide sufficient coverage to find signs of desert tortoise use (e.g., scat, burrows, carcasses, courtship rings, drinking depressions, etc. in addition to live tortoises). The transect routes were calculated and uploaded to Google Earth Pro, which was used to accurately navigate the transects. Site photographs were taken during the field survey to catalog representative habitat (See attached Site Photos).

##### Mohave Ground Squirrel Habitat Suitability Assessment

The Mohave ground squirrel habitat assessment included a pedestrian field assessment, review of reported occurrences of the Mohave ground squirrel in the region (CNDDDB 2026), and adherence to CDFW's criteria for assessing potential impacts to the Mohave ground squirrel. The literature review included a review of the Mohave ground squirrel's current known geographic range and population distributions, as well as a review of the most current habitat suitability modeling available. The habitat suitability criteria questions considered were as follows:

1. Is the site within the range of the Mohave ground squirrel?
2. Is there native desert scrub habitat with a relatively diverse shrub component?
3. Is the site surrounded by development and therefore isolated from potentially occupied habitat?

Reference materials used to determine the site's proximity to the historic and current Mohave ground squirrel range and known population distributions included “A Conservation Strategy for the Mohave Ground Squirrel (*Xerospermophilus mohavensis*)” (CDFW 2019), Leitner's 2015 “Current status of the Mohave ground squirrel

(*Xerospermophilus mohavensis*): A five-year update (2008–2012),” the Desert Renewable Energy Conservation Plan (DRECP) Mohave ground squirrel “Habitat Intactness” and “Species Distribution” models, as well as the Maxent Probability of Occurrence model for estimating the range of the Mohave ground squirrel. The CNDDDB (2026) BIOS Viewer was used to determine the site’s proximity to documented Mohave ground squirrel occurrences. Additionally, general floristic surveys were conducted within the Project site to assess the plant communities and species composition within the shrub layer, relative to known Mohave ground squirrel forage plants.

## 2.2 Aquatic Resources Delineation

HDR also evaluated the Project site for the presence of riverine/riparian/wetland habitat and jurisdictional aquatic resources, i.e., Waters of the U.S. (WOTUS), as regulated by the USACE and RWQCB, and/or jurisdictional streambed and associated riparian habitat as regulated by the CDFW. Prior to the field visit, aerial photographs of the Project area were viewed and compared with the surrounding USGS 7.5-Minute Topographic Quadrangle maps to identify drainage features within the survey area as indicated from topographic changes, blue-line features, or visible drainage patterns. The Environmental Protection Agency (EPA) Water Project “My Waters” Google Earth Pro data layers were also reviewed to determine whether any hydrologic features and wetland areas had been documented within the vicinity of the site. Similarly, the United States Department of Agriculture (USDA) – Natural Resources Conservation Service (NRCS) “Web Soil Survey” was reviewed for soil types found within the Project area to identify the soil series in the area and to check these soils to determine whether they are regionally identified as hydric soils. Upstream and downstream connectivity of waterways (if present) were reviewed on Google Earth Pro aerial photographs and topographic maps to determine jurisdictional status. The lateral extent of potential USACE jurisdiction was measured at the Ordinary High Water Mark (OHWM) in accordance with regulations set forth in 33CFR part 328 and the USACE guidance documents listed below:

- *USACE Wetlands Research Program Technical Report Y-87-1 (on-line edition), Wetlands Delineation Manual, Environmental Laboratory, 1987 (Wetland Delineation Manual).*
- *USACE Minimum Standards for Acceptance of Preliminary Wetlands Delineations, November 30, 2001 (Minimum Standards).*
- *USACE Jurisdictional Determination Form Instructional Guidebook, May 30, 2007 (JD Form Guidebook).*
- *EPA/USACE AW Regional Streamflow Duration Assessment Methods (SDAMs) U.S. Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers (USACE). 2024. Regional Streamflow Duration Assessment Method for the Arid West (AW SDAM). Final Method.*
- *USACE A Guide to Ordinary High-Water Mark (OHWM) Delineation for Non-Perennial Streams in the Western Mountains, Valleys, and Coast Region of the United States, August 2014 (Delineation Manual).*

To be considered a *jurisdictional wetland* under the federal CWA, Section 404, an area must possess three (3) wetland characteristics: *hydrophytic vegetation*, *hydric soils*, and *wetland hydrology*.

- ▶ ***Hydrophytic vegetation***: Hydrophytic vegetation is plant life that grows, and is typically adapted for life, in permanently or periodically saturated soils. The hydrophytic vegetation criterion is met if more than 50 percent of the dominant plant species from all strata (tree, shrub, and herb layers) is considered hydrophytic. Hydrophytic species are those included on the 2026 National Wetland Plant Lists for the Arid West Region (USACE 2026). Each species on the lists is rated with a wetland indicator category, as shown in Table 1. To be considered hydrophytic, the species must have *wetland indicator status*, i.e., be rated as OBL, FACW or FAC.

**Table 1. Wetland Indicator Vegetation Categories**

| Category                   | Probability                                                                            |
|----------------------------|----------------------------------------------------------------------------------------|
| Obligate Wetland (OBL)     | Almost always occur in wetlands (estimated probability >99%)                           |
| Facultative Wetland (FACW) | Usually occur in wetlands (estimated probability 67 to 99%)                            |
| Facultative (FAC)          | Equally likely to occur in wetlands and non-wetlands (estimated probability 34 to 66%) |
| Facultative Upland (FACU)  | Usually occur in non-wetlands (estimated probability 67 to 99%)                        |
| Obligate Upland (UPL)      | Almost always occur in non-wetlands (estimated probability >99%)                       |

- **Hydric Soil:** Soil maps from the USDA-NRCS Web Soil Survey (USDA 2023) were reviewed for soil types found within the Project area. Hydric soils are saturated or inundated long enough during the growing season to develop anaerobic conditions that favor growth and regeneration of hydrophytic vegetation. There are several indirect indicators that may signify the presence of hydric soils including hydrogen sulfide generation, the presence of iron and manganese concretions, certain soil colors, gleying, and the presence of mottling. Generally, hydric soils are dark in color or may be gleyed (bluish, greenish, or grayish), resulting from soil development under anoxic (without oxygen) conditions. Bright mottles within an otherwise dark soil matrix indicate periodic saturation with intervening periods of soil aeration. Hydric indicators are particularly difficult to observe in sandy soils, which are often recently deposited soils of flood plains (entisols) and usually lack sufficient fines (clay and silt) and organic material to allow use of soil color as a reliable indicator of hydric conditions. Hydric soil indicators in sandy soils include accumulations of organic matter in the surface horizon, vertical streaking of subsurface horizons by organic matter, and organic pans.

The hydric soil criterion is satisfied at a location if soils in the area can be inferred or observed to have a high groundwater table, if there is evidence of prolonged soil saturation, or if there are any indicators suggesting a long-term reducing environment in the upper part of the soil profile. Reducing conditions are most easily assessed using soil color. Soil colors were evaluated using the Munsell Soil Color Charts (Munsell 2000). Soil pits are dug (when necessary) to an approximate depth of 16-20 inches to evaluate soil profiles for indications of anaerobic and redoximorphic (hydric) conditions in the subsurface.

- **Wetland Hydrology:** The wetland hydrology criterion is satisfied at a location based upon conclusions inferred from field observations that indicate an area has a high probability of being inundated or saturated (flooded, ponded, or tidally influenced) long enough during the growing season to develop anaerobic conditions in the surface soil environment, especially the root zone (USACE 1987 and USACE 2008)

Evaluation of CDFW jurisdiction followed guidance in the FGC and “A Field Guide to Lake and Streambed Alteration Agreements Sections 1600-1607 California Fish and Game Code” (CDFG 1994). Specifically, CDFW jurisdiction would occur where a stream has a definite course showing evidence of where waters rise to their highest level and to the extent of associated riparian vegetation.

## 3 Results

### 3.1 Existing Biological and Physical Conditions

#### 3.1.1 Habitat

Habitat within the Project Area (north of Turner Road) consists of a sparse covering of mixed four-wing saltbush scrub/creosote bush scrub and graded bare ground, with some graded bare ground near the confluence of Ossum Wash and the Mojave River. Habitat within the adjacent Mojave River floodplain. The Project site is bordered on the north by unvegetated sandy river wash.

#### 3.1.2 Wildlife

No amphibian species were observed or otherwise detected within the Project Area. The only reptiles observed within the Project Area was Great Basin whiptail (*Aspidoscellis tigris tigris*) and western side-blotched lizard (*Uta stansburiana elegans*). Other common herp species expected to occur within the Project Area include western zebra-tailed lizard (*Callisaurus draconoides rhodostictus*), red racer (*Coluber flagellum piceus*), northern Mohave rattlesnake (*Crotalus scutulatus scutulatus*), and southern desert horned lizard (*Phrynosoma platyrhinos calidiarum*).

#### **Birds**

Birds were the most observed wildlife group during survey and species observed or otherwise detected in the Project Area during the reconnaissance-level survey included:

- Gambel's quail (*Callipepla gambelii*)
- common raven (*Corvus corax*)
- American kestrel (*Falco sparverius*)
- house finch (*Haemorhous mexicanus*)
- Say's phoebe (*Sayornis saya*)
- European starling (*Sturnus vulgaris*)

#### **Mammals**

Identification of mammals within the Project Area was generally determined by physical evidence rather than direct visual identification. This is because 1) many of the mammal species that potentially occur onsite are nocturnal and would not have been active during the survey and 2) no mammal trapping was performed. Mammal species observed or otherwise detected during the survey included white-tailed antelope squirrel (*Ammospermophilus leucurus*), black-tailed jackrabbit (*Lepus californicus*) and desert cottontail (*Sylvilagus audubonii*). Other common species expected to occur within the Project Area include coyote (*Canis latrans*), Merriams' kangaroo rat, (*Dipodomys merriami*) and California ground squirrel (*Otospermophilus beecheyi*).

### 3.2 Special Status Species and Habitats

Per the IPaC, CNDDDB, and other relevant literature and databases, 39 sensitive species (10 plant species, 29 animal species) have been documented in the Victorville USGS 7.5-Minute Series Quadrangles. This list of sensitive species includes any State and/or federally listed threatened or endangered species, California Fully Protected species, CDFW designated Species of Special Concern (SSC), and otherwise Special Animals. "Special Animals" is a general term that refers to all the taxa the CNDDDB is interested in tracking, regardless of their legal or protection status. This list is also referred to as the list of "species at risk" or "special status species." The CDFW considers the taxa on this list to be those of greatest conservation need.

Of the 11 State and/or federally listed or Candidate species identified by the database queries as potentially occurring within the region, only the following three State and/or federally listed species have been documented in the Project vicinity (within approximately 3 miles):

- Mojave desert tortoise (*Gopherus agassizii*)
- least Bell's vireo (*Vireo bellii pusillus*)
- Mohave ground squirrel (*Xerospermophilus mohavensis*)
- Crotch's Bumble Bee (*Bombus crotchii*)
- Monarch Butterfly (*Danaus plexippus*)

Additionally, the State and federally listed as endangered southwestern willow flycatcher (*Empidonax traillii extimus*) has not been documented in the Project vicinity, but there is USFWS designated Critical Habitat for this species adjacent the Project site to the east. Therefore, this species will be included in the discussion below.

Although not a State or federally listed species, the wester subspecies of the burrowing owl (*Athene cunicularia huyupugaea*) is a State Candidate for listing and a State Species of Special Concern (SSC) and is considered particularly sensitive species within the region. Furthermore, this species has been documented within 1 mile of the Project site and there is potentially suitable habitat for BUOW within the Project vicinity. Therefore, this species will also be included in the discussion below.

An analysis of the likelihood for occurrence of all CNDDB sensitive species documented in the *Victorville*, *Victorville NW*, *Helendale* and *Adelanto* quads is provided in Table 1. This analysis considers species' range as well as documentation within the vicinity of the Project Area and includes the habitat requirements for each species and the potential for their occurrence on site, based on required habitat elements and range relative to the current site conditions.

### 3.2.1 Special Status Species

No State and/or federally listed threatened or endangered species, or other sensitive species were observed on site during the reconnaissance-level field survey. The Project site is within a highly disturbed area, between an existing wastewater treatment facility and organic waste recycling facility. Habitat within and adjacent the Project site is likely only marginally suitable for several of the special status species that have been documented in the Project vicinity.

#### ***Mojave Desert Tortoise – Threatened (Federal) /State - Endangered)***

The Mojave desert tortoise is a state endangered and federal threatened species. The species had experienced significant population declines throughout much of its range prior to becoming listed as threatened under the federal ESA in 1990. The Mojave desert tortoise has continued to decline throughout its range due to threats that include habitat loss, degradation and fragmentation, domestic grazing, predation, collections, and increased mortality rates. The Mojave desert tortoise is primarily found in creosote bush scrub and creosote bush scrub alliances, but is also occurs in other desert scrub habitats including succulent scrub, cheesebush scrub, blackbush scrub, hop-sage scrub, shadscale scrub, microphyll woodland, Joshua tree woodland and Mojave saltbush-allscale scrub plant communities. Desert tortoise primarily forage on annual forbs, but also perennials (e.g., cacti and grasses). They prefer surfaces covered with sand and fine gravel versus coarse gravel, pebbles, and desert pavement. Friable soil is important for digging burrows. Desert tortoise are most often found on level or sloped ground where the substrate is firm but not too rocky. Tortoise burrows are typically found at the base of shrubs, in the sides of washes and in hillsides. Because a single tortoise may have many burrows distributed throughout its home range, it is not possible to predict exact numbers of individuals on a site based upon burrow numbers.

***Findings:*** USFWS desert tortoise Critical Habitat overlay depicts the Project site outside any USFWS designated desert tortoise Critical Habitat. Some of the mixed four-wing saltbush scrub/creosote bush scrub habitat within and adjacent the western half of the Project site is marginally suitable for desert tortoise.

The result of the protocol desert tortoise survey was that no evidence of desert tortoise presence was found in the survey area. No desert tortoise individuals or sign including desert tortoise burrows, scat, carcasses or other sign were observed. Therefore, Mojave desert tortoise are considered absent from the Project Area at the time of survey and the Project is not likely to adversely affect this species.

***Southwestern Willow Flycatcher – Endangered (Federal/State)*** The State and federally listed as endangered southwestern willow flycatcher (SWFL) is a small passerine bird that has a grayish-green back and wings, whitish throat, a light gray-olive breast, and pale yellowish belly. This flycatcher is a neotropical migrant that breeds in the southwestern United States from mid-April to early-September. In the fall, it migrates south to its wintering grounds in portions of South America, Central America and Mexico. (60 FR 10694). The SWFL breeds in dense riparian habitats (at least 0.25 acres in size and at least 30 feet wide) along rivers, streams, and other wetlands at elevations ranging from sea level to 8,500 feet (Sogge 1997). Plant species closely associated with the flycatcher include willows (*Salix* spp.), boxelder (*Acer negundo*), seepwillow (*Baccharis* spp.), with an overstory of cottonwood (*Populus fremontii*) (62 FR 39129). Occupied habitat is generally dominated by shrubs and trees 13 to 23 feet or more in height, which provide dense lower and mid-story vegetation approximately 10 to 13 feet aboveground. This dense vegetation is often interspersed with open water, small openings, or sparse vegetation, creating a mosaic that is not uniformly dense (62 FR 39129).

A rapid decrease in the numbers of SWFL in California and other southwestern states prompted the USFWS to designate it as a Category 1 candidate species in 1991. One year later in 1992, the California Fish and Game Commission listed the species as endangered, under the California Endangered Species Act (CESA) of 1970. On July 23, 1993 the SWFL was proposed for listing as endangered by the USFWS and was then listed as Federally endangered on February 27, 1995, under the Endangered Species Act (ESA) of 1973 (60 FR 10694). The USFWS designated critical habitat for the species on July 22, 1997. This habitat included 18 units with a total of 599 miles of river in California, New Mexico, and Arizona. On May 11, 2001, the critical habitat designation from 1997 was struck down by the U.S. 10th Circuit Court of Appeals who required further economic analysis. A recovery plan was finalized by USFWS in March of 2003. Critical habitat designations for this species were re-proposed and finalized in June 2004 (USFWS 2003c).

***Findings:*** Per the literature review, SWFL have not been documented in the Project vicinity and the only documented occurrence for this species within the 4-quad CNDDDB query is approximately 7.3 miles southeast of the Project Area (CNDDDB 2026). However, there is USFWS designated Critical Habitat for this species adjacent the Project site to the east, within the Mojave River floodplain. There is no suitable riparian habitat for SWFL present within the Project site and the Project is not likely to directly impact this species. There is some potentially suitable Fremont cottonwood forest and woodland riparian habitat adjacent the Project site to the east. However, the proposed Project has been designed to completely avoid impacting any riparian habitat (Figure 1).

There are ongoing disturbances from the existing flood control maintenance activities consist primarily of noise, and lack of suitable riparian habitat adjacent to the work area. Therefore, SWFL are not likely to occur within the Project Area and the Project is not likely to adversely affect this species.

#### ***Least Bell's Vireo – Endangered (Federal/State)***

The least Bell's vireo (LBVI) is a State and federally listed endangered migratory bird species. This species is a small, olive-gray migratory songbird that nests and forages almost exclusively in riparian woodland habitats. LBVI nesting habitat typically consists of well-developed overstory, understory, and low densities of aquatic and herbaceous cover. The understory frequently contains dense sub-shrub or shrub thickets. These thickets are often dominated by plants such as narrow-leaf willow, mulefat, young individuals of other willow species such as arroyo willow or black willow, and one or more herbaceous species. LBVI generally begin to arrive from their wintering range in southern Baja California and establish breeding territories by mid-March to late-March.

LBVI was first proposed for listing as endangered by the USFWS on May 3, 1985, (50 FR 18968 18975) and was subsequently listed as federally endangered on May 2, 1986 (51 FR 16474 16482). Critical habitat units were designated by the USFWS on February 2, 1994 (59 FR 4845) and included reaches of ten streams in six counties in southern California and the surrounding approximately 38,000 acres. The project area is not within USFWS designated critical habitat for this species.

**Findings:** Per the literature review, LBVI have been documented in suitable riparian habitat along the Mojave River within approx. 0.5-mile north of the Project area (CNDDDB 2026). There is no suitable riparian habitat for LBVI present within the Project site and the Project is not likely to directly impact this species. There is some potentially suitable Fremont cottonwood forest and woodland riparian habitat adjacent the Project site to the east. However, the proposed Project has been designed to completely avoid impacting any riparian habitat (Figure 1).

There is no suitable habitat within the Project area, and there is ongoing disturbances from flood control maintenance activities consist primarily grading and sediment removal. Therefore, LBVI are not likely to occur within the Project Area and the Project is not likely to adversely affect this species.

### ***Mohave Ground Squirrel – Threatened (State)***

The Mohave ground squirrel is a State listed threatened species. This small, grayish, diurnal ground squirrel is endemic to 2 million hectares in the western Mojave Desert. It typically inhabits sandy soils of alkali sink and creosote bush scrub habitat. Mohave ground squirrel forage on leaves and seeds and aestivate/hibernate for long periods of the year. Plants documented as forage for this species include: fiddleneck (*Amsinckia tessellata*), allscale (*Atriplex canescens* and *A. polycarpa*), desert holly (*A. hymenelytra*), coreopsis (*Coreopsis* sp.), spiny hopsage (*Grayia spinosa*), winterfat (*Krascheninnikovia lanata*), wolfberry (*Lycium andersonii*), Joshua tree (*Yucca brevifolia*) and the seeds of Joshua tree. It is suspected that Mohave ground squirrel forage on the plant species with the highest water content available at the time.

Mohave ground squirrel populations have declined significantly throughout the species range since around 1980 and population distribution throughout its range is patchy, even within suitable habitat (CDFW 2019). Primary threats to Mohave ground squirrel populations include range contraction, habitat loss, degradation and fragmentation, climate change including increased severity and persistence of drought, and invasive species (CDFW 2019).

**Findings:** Although a focused Mohave ground squirrel trapping survey was not performed. During this survey a Mohave ground squirrel habitat suitability assessment was conducted on the proposed Project site and adjacent habitat. Although some Mohave ground squirrel forage plant species (*Atriplex* spp. and *Lycium* sp.) are present within the Project Area, the Project site is significantly disturbed and heavily impacted by non-native, invasive vegetation.

The Project site falls just within the historic range of the Mohave ground squirrel but is outside of any currently extant Mohave ground squirrel population areas or population linkages (CDFW 2019). The Project site is located outside of the Mohave ground squirrel Conservation Area set forth in the West Mojave Plan and is approximately 15 miles south of the nearest known MGS population area (BLM 2005; CDFW 2019).

The literature review concludes the nearest documented Mohave ground squirrel occurrence (2007) is within approximately 1 mile northwest of the Project site (CNDDDB 2026). However, extensive live-trapping and camera-trapping surveys were conducted within the southern portion of the Mohave ground squirrel range from 1998 to 2012 and very few animals were detected, despite the presence of suitable habitat, indicating that Mohave ground squirrel has been extirpated from much of the southern portion of its range (Leitner 2008 and 2015; CDFW 2019). Furthermore, the potential habitat for this species is highly fragmented within the Project vicinity and the DRECP “Habitat Intactness” and “Species Distribution” models for this species indicate that there is a moderately low to very low level of habitat

intactness in the Project vicinity. Due to the reasons discussed in these findings, Mohave ground squirrel are not likely to occur within the Project Area and the Project is not likely to adversely affect this species.

### **Crotch's Bumble Bee – California Candidate Endangered**

The Crotch's Bumble Bee (CBB) occurs in open grassland, scrub, shrubland, desert scrub, and other habitats supporting abundant native flowering plants. The species typically occupies relatively hot, dry environments and requires a diverse succession of blooming forbs throughout its active season. Nest sites occur underground in rodent burrows and other cavities, or above ground in grass tussocks, rock piles, and similar protected locations. Important forage plants include milkweeds (*Asclepias* spp.), phacelias (*Phacelia* spp.), sages (*Salvia* spp.), lupines (*Lupinus* spp.), poppies (*Eschscholzia* spp.), and wild buckwheats (*Eriogonum* spp.). Queens are generally active from late winter through spring, while workers and males are present from spring through late summer or fall. Surveys are most effective during the flowering season when forage resources are available.

***Findings:*** CBB habitat generally includes abundant flowering plants. The Project area is predominantly unvegetated and does not support sufficient flower resources to support this species. Further it is subject to stochastic flooding and eroding events. Therefore, the Project area is not suitable for this species.

### **Monarch Butterfly – State Threatened/ Federal Proposed Threatened\***

The Monarch butterfly (MB) occurs Monarch Butterfly (*Danaus plexippus*) requires milkweed (*Asclepias* spp.) for reproduction and utilizes a variety of flowering plants as nectar resources during breeding and migration. Suitable habitat consists of areas supporting milkweed and diverse native flowering plants, including grasslands, scrublands, desert washes, roadsides, and disturbed open habitats. Western monarchs overwinter in coastal California tree groves with suitable microclimatic conditions. The species has potential to occur in the Victorville region where milkweed and adequate nectar resources are present. The key habitat features to evaluate is the presence of native milkweed species such as desert milkweed (*Asclepias erosa*) and woollypod milkweed (*Asclepias eriocarpa*), along with seasonally available nectar plants.

***Findings:*** MB habitat includes abundant the presence of milkweed sp. and other flowering plants. The Project area is predominantly unvegetated and does not support sufficient flower resources to support this species. Further it is subject to stochastic flooding and eroding events. Therefore, the Project area is not suitable for this species. \*Final federal rulemaking has been moved to a "long-term action", and a final decision is not anticipated in the near future.

### **Burrowing owl – State Candidate and Species of Special Concern**

The burrowing owl (BUOW) is a ground dwelling owl typically found in arid prairies, fields, and open areas where vegetation is sparse and low to the ground. The BUOW is heavily dependent upon the presence of mammal burrows, with ground squirrel burrows being a common choice, in its habitat to provide shelter from predators, inclement weather and to provide a nesting place (Coulombe 1971). They are also known to make use of human-created structures, such as cement culverts and pipes, for burrows. BUOW spend a great deal of time standing on dirt mounds at the entrance to a burrow or perched on a fence post or other low to the ground perch from which they hunt for prey. They feed primarily on insects such as grasshoppers, June beetles and moths, but will also take small rodents, birds, and reptiles. They are active during the day and night but are considered a crepuscular owl; generally observed in the early morning hours or at twilight. The breeding season for BUOW is February 1 through August 31.

BUOW have disappeared from significant portions of their range in the last 15 years and, overall, nearly 60 percent of the breeding groups of owls known to have existed in California during the 1980s had disappeared by the early 1990s (Burrowing Owl Consortium 1993). The BUOW is not listed under the State or federal ESA but is considered both a State and federal SSC. The BUOW is a migratory bird protected by the international treaty under the Migratory Bird Treaty Act of 1918 and by State law under the California FGC (FGC #3513 & #3503.5).

***Findings:*** Per the definition provided in the *2012 CDFG Staff Report on Burrowing Owl Mitigation*, “Burrowing owl habitat generally includes, but is not limited to, short or sparse vegetation (at least at some time of year), presence of burrows, burrow surrogates or presence of fossorial mammal dens, well-drained soils, and abundant and available prey.” The nearest documented BUOW occurrence (2002) is approximately 1 mile west of the Project site (CNDDDB 2026).

The habitat assessment survey was structured, in part, to detect BUOW. The survey consisted of walking transects spaced approximately 30 feet apart to provide 100 percent visual coverage of the Project site, wherever potentially suitable desert tortoise habitat was present, including an approximately 500-foot buffer area around the Project site. The result of the survey was that no evidence of BUOW was found in the survey area. No BUOW individuals or sign including castings, feathers or whitewash were observed. Therefore, BUOW are considered absent from the Project Area at the time of survey and the Project is not likely to adversely affect this species.

### 3.2.2 Special Status Habitats

The Project site is not within any sensitive habitats, including any USFWS designated Critical Habitat for any federally listed species. However, the Project site is adjacent to the Mojave River Unit of USFWS designated SWFL Critical Habitat to the east of the Project site. No portion of the Project Area is within or adjacent this Critical Habitat unit, or any other sensitive habitats. Therefore, the Project will not result in any loss or adverse modification of USFWS designated Critical Habitat, or any other special status habitats.

## 3.3 Jurisdictional Delineation

The Project Area is within an unnamed Hydrologic Sub-Area (HSA 628.20), which comprises a 556,821-acre drainage area, within the larger Mojave Watershed (HUC 18090208). This watershed encompasses an approximately 4,600-square-mile area north of the San Bernardino and San Gabriel Mountains in the Mojave Desert, almost entirely within San Bernardino County, with the extreme western boundary overlapping into Los Angeles and Kern Counties. The Mojave Watershed is bound on the south by the Southern Mojave and Santa Ana watersheds, on the northeast by the Coyote-Cuddeback Lakes, Death Valley-Lower Amargosa, and Ivanpah-Pahrump Valleys watersheds, and on the west by the San Gabriel and Antelope-Fremont Valleys watersheds. The Mojave River is the major hydrogeomorphic feature of the Mojave Watershed. The Project site is an ephemeral drainage that runs north-south and enters the Mojave River perpendicularly. (Figure 5).

### ***Waters of the U.S.***

The USACE has authority to permit the discharge of dredged or fill material in WOTUS under Section 404 CWA. Per the EPA and the Department of the Army’s April 21, 2026 (effective June 22, 2026) “Navigable Waters Protection Rule: Definition of ‘Waters of the United States,’” WOTUS are defined as: “The territorial seas and traditional navigable waters; perennial and intermittent tributaries that contribute surface water flow to such waters; certain lakes, ponds, and impoundments of jurisdictional waters; and wetlands adjacent to other jurisdictional waters.” (85 FR 22250). The Navigable Waters Protection Rule specifically excludes from the definition of WOTUS:

- “Groundwater, including groundwater drained through subsurface drainage systems;
- ephemeral features that flow only in direct response to precipitation, including ephemeral streams, swales, gullies, rills, and pools;
- diffuse stormwater runoff and directional sheet flow over upland;
- ditches that are not traditional navigable waters, tributaries, or that are not constructed in adjacent wetlands, subject to certain limitations;
- prior converted cropland;
- artificially irrigated areas that would revert to upland if artificial irrigation ceases;
- artificial lakes and ponds that are not jurisdictional impoundments and that are constructed or excavated in upland or non-jurisdictional waters;

- water-filled depressions constructed or excavated in upland or in non-jurisdictional waters incidental to mining or construction activity, and pits excavated in upland or in non-jurisdictional waters for the purpose of obtaining fill, sand, or gravel;
- stormwater control features constructed or excavated in upland or in non-jurisdictional waters to convey, treat, infiltrate, or store stormwater run-off;
- groundwater recharge, water reuse, and wastewater recycling structures constructed or excavated in upland or in non-jurisdictional waters; and
- waste treatment systems.” (85 FR 22250).

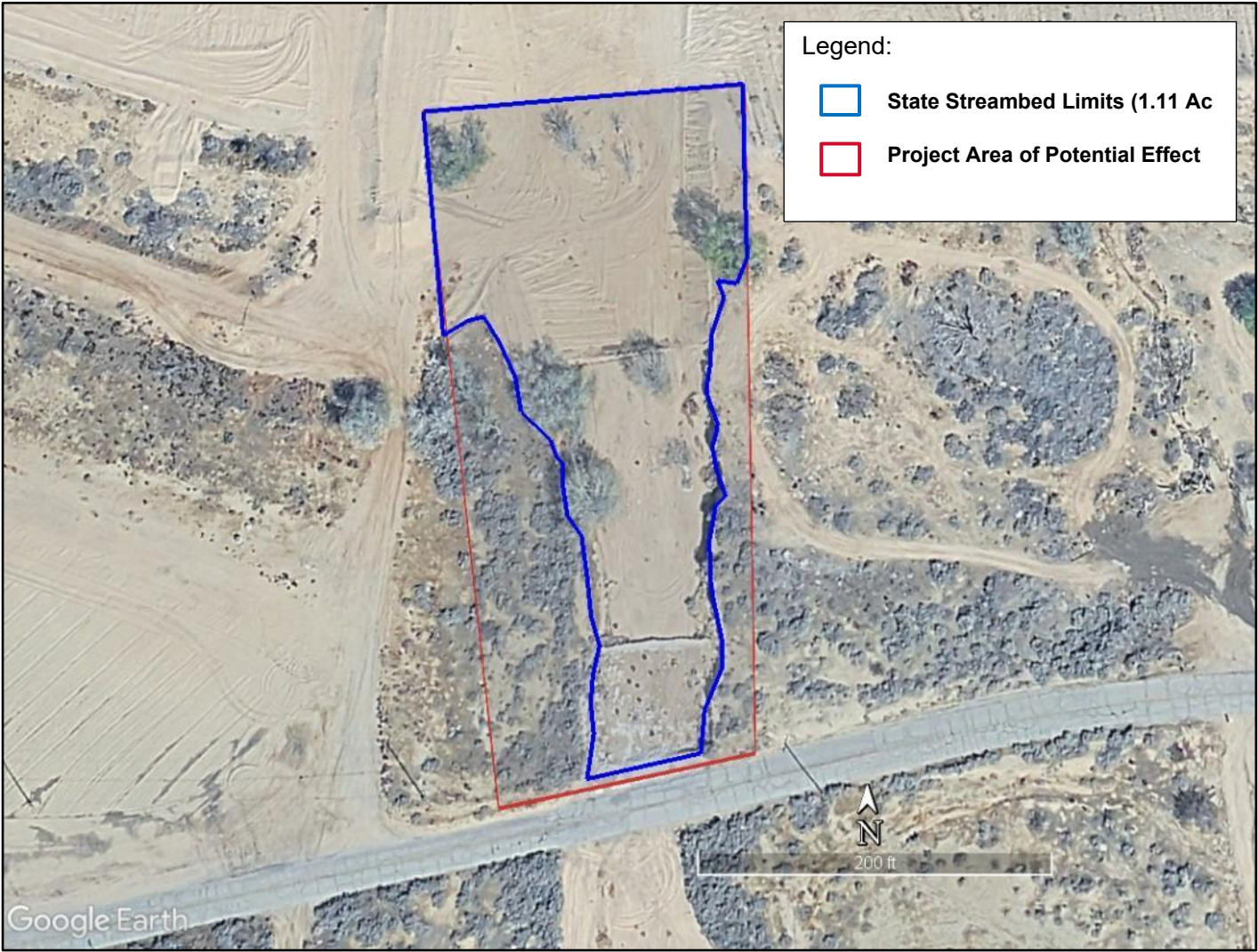
Ossum Wash is classified as Riverine: The term Riverine System has a broad definition that includes an open channel either naturally or artificially created which periodically or continuously contains moving water. The wash is an ephemeral drainage that conveys surface water only in direct response to precipitation events. Ephemeral drainages do not have sustained baseflow and are above the water table for most of the year. Flow is typically short-duration and occurs only during and immediately following rainfall or snowmelt runoff events

The subject drainage exhibits an ephemeral flow regime, conveying surface flows only in direct response to precipitation events. Field observations and available hydrologic information indicate that the feature lacks relatively permanent flow and is dry for the majority of the year. In accordance with the current definition of Waters of the United States and implementation guidance following *Sackett v. EPA*, the drainage does not constitute a jurisdictional water based solely on the presence of ephemeral flow. Furthermore, the drainage does not demonstrate a continuous surface connection to a downstream jurisdictional water and therefore does not satisfy the federal criteria for Clean Water Act jurisdiction.

### ***Waters of the State***

Ossum Wash is subject to regulation by the CDFW under Section 1602 of the FGC, as well as by the RWQCB under the Porter Cologne Water Quality Control Act. Although this drainage feature consists mostly of unvegetated sandy river wash, it has an identifiable bed and bank, which defines the maximal extent of this feature. Therefore, Ossum Wash would fall under CDFW jurisdiction.

Figure 6. State Jurisdictional Aquatic Resources



## 4 Effects Analysis

The Project will have no effect on any state or federally listed species, federally proposed threatened or endangered species, or CDFW fully protected species. There is marginally suitable habitat for the federally listed as threatened ash-gray paintbrush Parish's daisy, and these species have previously been documented in the Project vicinity. However, the result of the floristic botanical field survey conducted by HDR in June of 2025 was that both species were absent from the BSA. The western Joshua tree, which is a candidate for listing as threatened under CESA, is present within and immediately adjacent the Project BSA (Figure 5, Page 20). However, it is expected that all impacts to Joshua trees will be avoided and that the Project will have no effect on this species. Habitat within the BSA is not suitable for any other state or federally listed species, proposed threatened or endangered species, or state candidate or fully protected species that have previously been documented in the Project vicinity.

The proposed Project will have no effect on USFWS designated Critical Habitat. Furthermore, the proposed Project will have no effect on any resources protected under the Coastal Barriers Resources Act, Coastal Zone Management Act, Fish and Wildlife Conservation Act, Magnuson-Stevens Fishery Conservation and Management Act, the Protection of Wetlands – Executive Order 11990 or Wild and Scenic Rivers Act, respectively.

### **Jurisdictional Aquatic Resources**

The proposed Project will not impact any federally jurisdictional waters subject to regulation by the USACE under Section 404 of the CWA or the RWQCB under Section 401 of the CWA, respectively. However, the Project will impact ephemeral stream subject to regulation by the RWQCB under Porter-Cologne and the CDFW under Section 1602 of the California FGC, respectively.

### **Nesting Bird Protections**

The habitat within and adjacent the BSA is suitable to support nesting birds, including open ground nesters such as killdeer. Most native bird species and their active nests (i.e., with eggs or young) are protected from unlawful take by the federal Migratory Bird Treaty Act (MBTA) of 1918. Additionally, the State of California provides protection for native bird species and their nests in the FGC under Sections 3503, 3503.5, 3511, 3513, and 3800, respectively (Appendix F). Bird nesting protections in the FGC include the following (Sections 3503, 3503.5, 3511, 3513 and 3800):

- Section 3503 prohibits the take, possession, or needless destruction of the nest or eggs of any bird.
- Section 3503.5 prohibits the take, possession, or needless destruction of any nests, eggs, or birds in the orders Falconiformes (new world vultures, hawks, eagles, ospreys, and falcons, among others), and Strigiformes (owls).
- Section 3511 prohibits the take or possession of Fully Protected birds.
- Section 3513 prohibits the take or possession of any migratory nongame bird or part thereof, as designated in the MBTA. To avoid violation of the take provisions, it is generally required that Project-related disturbance at active nesting territories be reduced or eliminated during the nesting cycle.

- Section 3800 prohibits the take of any non-game bird (i.e., bird that is naturally occurring in California that is not a gamebird, migratory game bird, or fully protected bird).

## 5 Conclusions and Recommendations

### 5.1 Sensitive Biological Resources

A BRA survey was conducted by HDR to identify potential habitat for special status plants and wildlife within the Project Area. No State and/or federally listed threatened or endangered species or other special status species were observed within the Project Area during survey and none are expected to occur. Although the project is adjacent to the Mojave River floodplain, the surrounding areas have been maintained by flood control and is largely unvegetated. The Project site is marginally suitable for several special status species, including desert tortoise and BUOW.

#### ***Mojave Desert Tortoise***

Although the disturbed four-wing saltbush scrub and creosote bush scrub habitat within the western half of the Project Area is marginally suitable for the federally listed as endangered Mojave desert tortoise, a protocol-level desert tortoise survey was conducted within the Project Area by HDR biologists in April 2026 and the result of the survey was negative for this species. No desert tortoise individuals or sign including desert tortoise burrows, scat, carcasses or other sign were observed during survey and Mojave desert tortoise are considered absent from the Project Area at the time of survey. Although the Project is not likely to adversely affect this species, there is still a low potential for this species to occur in the Project Area, and the following precautionary avoidance measures are recommended to ensure the Project does not result in any impacts to Mojave desert tortoise:

- A qualified biologist shall develop a Worker Environmental Awareness Program (WEAP) that would include information on general and special status species within the Project Area, identification of these species and their habitats, techniques being implemented during construction to avoid impacts to species, consequences of killing or injuring an individual of a listed species, and reporting procedures when encountering listed or sensitive species. All construction crews, foremen, and other Project personnel potentially working on site should attend this education program prior to the first day of work.
- Preconstruction surveys for desert tortoise should be conducted no more than 14 days prior to new ground disturbance within each phase of development to verify that Mojave desert tortoise remain absent from the Project Area.
- A qualified biological monitor should be present during all ground disturbing activities (clearing, grubbing and grading) to ensure that construction related activities do not impact any sensitive wildlife that may wander onto the site during construction.

#### ***Mohave Ground Squirrel***

Based on the habitat conditions and existing disturbances within the Project site and surrounding area, as well as the proximity of the Project Area relative to the current known population distributions of Mohave ground squirrel, this species is not likely to occur within the Project Area and the Project is not likely to adversely affect this species. No additional avoidance, minimization or mitigation measures beyond those to those already recommended for Mojave desert tortoise (above) are warranted or recommended.

## ***Burrowing Owl***

A BUOW habitat suitability assessment was conducted by HDR biologists in April 2026 that included 100 percent visual coverage of the Project site, wherever potentially suitable desert tortoise habitat was present, including an approximately 500-foot buffer area around the Project site. The result of the survey was that no evidence of BUOW was found in the survey area. No BUOW individuals or sign including castings, feathers or whitewash were observed and BUOW are considered absent from the Project Area at the time of survey. Although the Project is not likely to adversely affect this species, there is still a low potential for this species to occur in the Project Area and the following precautionary avoidance measures are recommended to ensure the Project does not result in any impacts to BUOW:

- BUOW would be included as one of the species covered in the WEAP that all construction crews, foremen, and other Project personnel potentially working on site should attend prior to the first day of work.
- Preconstruction surveys for BUOW should be conducted no more than 14 days prior to new ground disturbance within each phase of development to verify that BUOW remain absent from the Project Area.

## ***Nesting Birds***

There is habitat within the Project Area that is suitable to support nesting birds, including adjacent habitat potentially suitable to support SWFL and LBVI. Most native bird species are protected from unlawful take by the MBTA (Appendix A). In December 2017, the Department of the Interior (DOI) issued a memorandum concluding that the MBTA's prohibitions on take apply "[...] only to affirmative actions that have as their purpose the taking or killing of migratory birds, their nests, or their eggs" (DOI 2017). Then in April 2018, the USFWS issued a guidance memorandum that further clarified that the take of migratory birds or their active nests (i.e., with eggs or young) that is incidental to, and not the purpose of, an otherwise lawful activity does not constitute a violation of the MBTA (USFWS 2018).

However, the State of California provides additional protection for native bird species and their nests in the FGC (Appendix A). Bird nesting protections in the FGC include the following (Sections 3503, 3503.5, 3511, 3513 and 3800):

- Section 3503 prohibits the take, possession, or needless destruction of the nest or eggs of any bird.
- Section 3503.5 prohibits the take, possession, or needless destruction of any nests, eggs, or birds in the orders Falconiformes (new world vultures, hawks, eagles, ospreys, and falcons, among others), and Strigiformes (owls).
- Section 3511 prohibits the take or possession of Fully Protected birds.
- Section 3513 prohibits the take or possession of any migratory nongame bird or part thereof, as designated in the MBTA. To avoid violation of the take provisions, it is generally required that Project-related disturbance at active nesting territories be reduced or eliminated during the nesting cycle.
- Section 3800 prohibits the take of any non-game bird (i.e., bird that is naturally occurring in California that is not a gamebird, migratory game bird, or fully protected bird).

The Project could result in direct impacts to nesting birds potentially occurring within the Project site. In general, impacts to all bird species (common and special status) can be avoided by conducting work outside of the nesting season, which is generally February 1<sup>st</sup> through August 31<sup>st</sup>. However, if all work cannot be conducted outside of nesting season, the following is recommended:

- To avoid impacts to nesting birds (common and special status) during the nesting season, a qualified Avian Biologist should conduct pre-construction Nesting Bird Surveys (NBS) prior to Project-related disturbance to suitable nesting areas to identify any active nests. If no active nests are found, no further action would be required. If an active nest is found, the biologist should set appropriate no-work buffers around the nest which would be based upon the nesting species, its sensitivity to disturbance, nesting stage and expected types, intensity and duration of disturbance. The nest(s) and buffer zones should be field checked weekly by a qualified biological monitor. The approved no-work buffer zone should be clearly marked in the field, within which no disturbance activity should commence until the qualified biologist has determined the young birds have successfully fledged and the nest is inactive.

## 5.2 Jurisdictional Waters

Ossum Wash is an ephemeral stream that is also subject to the FGC and the Porter Cologne Water Quality Control Act under the jurisdictions of the CDFW and RWQCB, respectively. Therefore, any proposed permanent or temporary impacts to this feature would require a “Lake or Streambed Alteration Agreement” from the CDFW, as well as a permit from the RWQCB for “Discharges of Dredged or Fill Material to Waters of the State”.

### ***FGC Section 1602 Lake or Streambed Alteration Agreement***

An FGC Section 1602 Lake or Streambed Alteration (LSA) Agreement is required for all activities that alter streams (including ephemeral streams) and lakes and their associated riparian habitat. In addition to the formal application materials and fee (based on cost of the Project), a copy of the appropriate CEQA documentation must be included with the application.

### ***Regional Water Quality Control Board Permitting***

The Project Area is within the jurisdiction of the Lahontan RWQCB (Regional Board 6V). The RWQCB regulates impacts to Waters of the State of California under the Porter Cologne Water Quality Control Act through issuance of a Construction General Permit, State General Waste Discharge Order, or Waste Discharge Requirements, depending upon the level of impact and the waterway. Project-related impacts to Drainage A would require a RWQCB permit and the Project Proponent would be required to submit an application for Discharges of Dredged or Fill Material to Waters of the State to the Lahontan RWQCB prior to commencement of any Project-related activities that may impact Ossum Wash, or any other Waters of the State. In addition to the formal application materials and fee (based on area of impact), a copy of the appropriate California Environmental Quality Act (CEQA) documentation must be included with the application.

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## 6 References

- Calflora: Information on California plants for education, research and conservation. [web application]. 2025. Berkeley, California: The Calflora Database [a non-profit organization]. Available at: <http://www.calflora.org/>, accessed on June 3, 2025.
- California Department of Fish and Game (CDFG). 1994. A Field Guide to Lake and Streambed Alteration Agreements Sections 1600-1607 California Fish and Game Code. Environmental Services Division, January 1994.
- California Natural Diversity Database (CNDDDB). 2025. *RareFind 5* [Internet]. California Department of Fish and Wildlife, Version 5.3.0. Available at: <https://wildlife.ca.gov/Data/CNDDDB/Maps-and-Data>, accessed on October 2, 2025.
- California Department of Fish and Wildlife (CDFW). 2025. Western Joshua Tree Conservation Plan. A plan presented to the California Fish and Game Commission, California Natural Resources Agency, Sacramento, CA, USA. Available from <https://wildlife.ca.gov/Conservation/Environmental-Review/WJT/Conservation-Plan>.
- Environmental Laboratory. 1987. "Corps of Engineers Wetlands Delineation Manual," Technical Report Y-87-1, U.S. Army Engineer Waterways Experiment Station, Vicksburg, Miss.
- Griffith, G.E., Omernik, J.M., Smith, D.W., Cook, T.D., Tallyn, E., Moseley, K., and Johnson, C.B., 2016, Ecoregions of California (poster): U.S. Geological Survey Open-File Report 2016–1021, with map, scale 1:1,100,000, <http://dx.doi.org/10.3133/ofr20161021>.
- Hess, W.J. and B.G. Baldwin. 2022. *Yucca brevifolia*, in Jepson Flora Project (eds.) *Jepson eFlora*, Revision 10, [https://ucjeps.berkeley.edu/eflora/eflora\\_display.php?tid=48766](https://ucjeps.berkeley.edu/eflora/eflora_display.php?tid=48766), accessed on October 03, 2025.
- Keil, David J. and Nesom, Guy L. 2012, *Erigeron parishii*, in Jepson Flora Project (eds.) *Jepson eFlora*, [https://ucjeps.berkeley.edu/eflora/eflora\\_display.php?tid=2744](https://ucjeps.berkeley.edu/eflora/eflora_display.php?tid=2744), accessed on June 3, 2025.
- Munz, P.A. 1974. *Castilleja*. Pp. 793–798 in A Flora of Southern California. University of California Press; Berkeley, California. 1,086 pp.
- Jepson Flora Project (eds.). 2025. *Jepson eFlora*. Available at: <http://ucjeps.berkeley.edu/eflora/>, accessed on June 3, 2025.
- Sawyer, John O., Keeler-Wolf, Todd, and Evens, Julie M. 2009. A manual of California vegetation. Second Edition. California Native Plant Society, Sacramento, California, USA. 1,300 pages.
- Soil Survey Staff, Natural Resources Conservation Service, United States Department of Agriculture. Web Soil Survey. Available online at the following link: <http://websoilsurvey.sc.egov.usda.gov/>, accessed on June 3, 2025.
- U.S. Army Corps of Engineers (USACE). 2001. USACE Minimum Standards for Acceptance of Preliminary Wetlands Delineations, November 30, 2001 (Minimum Standards).
- U.S. Army Corps of Engineers (USACE). 2007. Jurisdictional Determination Form Instructional Guidebook (JD Form Guidebook). May 30.
- U.S. Army Corps of Engineers (USACE). 2010. Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0), ed. J. S. Wakeley, R. W. Lichvar, and C. V. Noble. ERDC/EL TR-10-3. Vicksburg, MS: U.S. Army Engineer Research and Development Center.
- U.S. Army Corps of Engineers (USACE). 2014. A Guide to Ordinary High Water Mark (OHWM) Delineation for Non-Perennial Streams in the Western Mountains, Valleys, and Coast Region of the United States (OHWM Manual). August 2014.

- U.S. Army Corps of Engineers (USACE). 2026. National Wetland Plant List, version 3.5. <http://wetland-plants.usace.army.mil/>. U.S. Army Corps of Engineers, Engineer Research and Development Center, Cold Regions Research and Engineering Laboratory, Hanover, NH.
- U.S. Fish and Wildlife Service (USFWS). Information for Planning and Consultation (IPaC). Website: <https://ecos.fws.gov/ipac/>, accessed on October 2, 2025.
- U.S. Fish and Wildlife Service (USFWS). National Wetlands Inventory. Available at: <http://wetlands.fws.gov>, accessed on June 3, 2025.
- U.S. Fish and Wildlife Service (USFWS). 2009. *Erigeron parishii* (Parish's daisy) 5-Year Review: Summary and Evaluation. Carlsbad Fish and Wildlife Office, Carlsbad, California. 21 pp.
- U.S. Fish and Wildlife Service (USFWS). 2013. *Castilleja cinerea* (Ash-gray Paintbrush) 5-Year Review: Summary and Evaluation. Carlsbad Fish and Wildlife Office, Carlsbad, California. 44 pp.
- Western Regional Climate Center. Period of Record Monthly Climate Summary for Big Bear Lake, California (040741). Available at: <https://wrcc.dri.edu/cgi-bin/cliMAIN.pl?ca0741>, accessed on June 3, 2025.
- Wetherwax, M., T.I. Chuang and L.R. Heckard. 2012. *Castilleja*. Pp. 956–961 in Baldwin et al. (eds.) The Jepson manual: vascular plants of California, second edition. University of California Press; Berkeley, California.

## Appendix A. Soils Map

# Custom Soil Resource Report Soil Map



# Custom Soil Resource Report

## MAP LEGEND

### Area of Interest (AOI)

 Area of Interest (AOI)

### Soils

 Soil Map Unit Polygons

 Soil Map Unit Lines

 Soil Map Unit Points

### Special Point Features

 Blowout

 Borrow Pit

 Clay Spot

 Closed Depression

 Gravel Pit

 Gravelly Spot

 Landfill

 Lava Flow

 Marsh or swamp

 Mine or Quarry

 Miscellaneous Water

 Perennial Water

 Rock Outcrop

 Saline Spot

 Sandy Spot

 Severely Eroded Spot

 Sinkhole

 Slide or Slip

 Sodic Spot

 Spoil Area

 Stony Spot

 Very Stony Spot

 Wet Spot

 Other

 Special Line Features

### Water Features

 Streams and Canals

### Transportation

 Rails

 Interstate Highways

 US Routes

 Major Roads

 Local Roads

### Background

 Aerial Photography

## MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:24,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service  
Web Soil Survey URL:  
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: San Bernardino County, California, Mojave River Area  
Survey Area Data: Version 17, Sep 8, 2025

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Mar 17, 2022—Jun 12, 2022

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background

## Appendix B. Plant Species Observed

## List of Plant Species Observed within the Project Site

| Scientific Name                                              | Common Name                 | Life Form                |
|--------------------------------------------------------------|-----------------------------|--------------------------|
| <b>Asteraceae</b>                                            | <b>Aster Family</b>         |                          |
| <i>Artemisia tridentata</i>                                  | Common sagebrush            | Shrub                    |
| <i>Chrysothamnus viscidiflorus</i> ssp. <i>viscidiflorus</i> | Sticky leaved rabbitbrush   | Shrub                    |
| <i>Encelia actoni</i>                                        | Acton encelia               | Shrub                    |
| <i>Ericameria linearifolia</i>                               | Interior goldenbush         | Shrub                    |
| <i>Stephanomeria exigua</i> ssp. <i>exigua</i>               | Mitra                       | Annual herb              |
|                                                              |                             |                          |
| <b>Boraginaceae</b>                                          | <b>Forget Me Not Family</b> |                          |
| <i>Cryptantha</i> sp.                                        | cryptantha                  | Annual herb              |
|                                                              |                             |                          |
| <b>Brassicaceae</b>                                          | <b>Mustard Family</b>       |                          |
| <i>Hirschfeldia incana</i> **                                | Short podded mustard**      | Perennial herb           |
| <i>Sisymbrium altissimum</i> *                               | Tall tumbled mustard*       | Annual herb              |
|                                                              |                             |                          |
| <b>Chenopodiaceae</b>                                        | <b>Goosefoot Family</b>     |                          |
| <i>Chenopodium fremontii</i>                                 | Interior goosefoot          | Annual herb              |
| <i>Salsola tragus</i> **                                     | Russian thistle**           | Annual herb              |
|                                                              |                             |                          |
| <b>Euphorbaceae</b>                                          | <b>Spurge Family</b>        |                          |
| <i>Euphorbia</i> sp.                                         | Spurge                      | Perennial or annual herb |
|                                                              |                             |                          |
| <b>Nyctaginaceae</b>                                         | <b>Four O'clock Family</b>  |                          |
| <i>Mirabilis</i> sp.                                         | Wishbone (four o'clock)     | Perennial herb           |
|                                                              |                             |                          |
| <b>Poaceae</b>                                               | <b>Grass Family</b>         |                          |
| <i>Bromus</i> sp.*                                           | Brome grass*                | Annual grass             |
| <i>Bromus tectorum</i> **                                    | Cheatgrass**                | Annual grass             |
| <i>Stipa parishii</i>                                        | Parish's needlegrass        | Perennial grass          |
|                                                              |                             |                          |
| <b>Polemoniaceae</b>                                         | <b>Phlox Family</b>         |                          |
| <i>Eriastrum signatum</i>                                    | Maroon-spotted Woollystar   | Annual herb              |
|                                                              |                             |                          |
| <b>Polygonaceae</b>                                          | <b>Buckwheat Family</b>     |                          |
| <i>Eriogonum fasciculatum</i>                                | California buckwheat        | Shrub                    |
|                                                              |                             |                          |
| <b>Salicaceae</b>                                            | <b>Willow Family</b>        |                          |
| <i>Populus Fremontii</i>                                     | Cottonwood                  | Tree                     |

\* Nonnative

\*\* Nonnative, invasive

## Appendix C. Site Photos

# North Elevation

☉ 185°S (T) ☉ 34.574212°N, 117.331251°W ±6ft ▲ 2634ft



Photo 1. View  
From Turner  
Road towards the  
Mojave River

L

Mojave  
08 Apr 2026, 07:20:31

# North Elevation

☉ 200°S (T) ● 34.572935°N, 117.331285°W ±6ft ▲ 2644ft



Photo 2. View of eroded apron from Turner Road to the scour point

# South Elevation

☉ 353°N (T) ● 34.572938°N, 117.331288°W ±9ft ▲ 2645ft



Photo 3. View of eroded western bank



Photo 4. View of eroded cottonwood tree.



Photo 5. View from the Mojave River of eroded cottonwood tree

## South East Elevation

☼ 296°NW (T) ● 34.573650°N, 117.331895°W ±6ft ▲ 2646ft



Photo 6. View looking west of the Mojave River of Flood Control maintenance area

## Appendix D. USFWS IPaC & CNDDB Species List

## Appendix E. CNDDB Species and Habitats Documented Within the *Victorville* USGS 7.5- Minute Quadrangle

## CNDDDB Special Status Species Occurrence Potential in the Project Area

| Scientific Name              | Common Name          | Listing Status<br>Federal/ State | Other Status             | Habitat                                                                                                                                                                                                                                         | Occurrence Potential                                                                                                                                                                                                                                                                                                                                                       |
|------------------------------|----------------------|----------------------------------|--------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Accipiter cooperii</i>    | Cooper's hawk        | None/ None                       | G5; S4;<br>CDFW: WL      | Woodland, chiefly of open, interrupted or marginal type. Nest sites mainly in riparian growths of deciduous trees, as in canyon bottoms on river floodplains; also, live oaks.                                                                  | Although there is suitable nesting habitat for this species adjacent to the Project site, the Project will avoid vegetation removal during nesting season or conduct nesting bird survey prior to vegetation removal. Nesting occurrence potential within the Project area is <b>low</b> .                                                                                 |
| <i>Agelaius tricolor</i>     | tricolored blackbird | None/<br>Threatened              | G2G3; S1S2;<br>CDFW: SSC | 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.                       | The only documented occurrence for this species within the 4-quad CNDDDB query is approximately 3.8 miles SE of the Project area. The Project will avoid disturbing any adjacent wetland habitat potentially suitable for this species. Occurrence potential on site is <b>low</b> .                                                                                       |
| <i>Anaxyrus californicus</i> | arroyo toad          | Endangered/<br>None              | G2G3; S2S3;<br>CDFW: SSC | Semi-arid regions near washes or intermittent streams, including valley-foothill and desert riparian, desert wash, etc. Rivers with sandy banks, willows, cottonwoods, and sycamores; loose, gravelly areas of streams in drier parts of range. | The only documented occurrences for this species within the 4-quad CNDDDB query are two historical occurrences (1956 and 1979) from approx. 3.1 miles and 5.3 miles SE of the Project Area, respectively. The species is considered extirpated from the Project vicinity. Occurrence potential on site is <b>low</b> .                                                     |
| <i>Aquila chrysaetos</i>     | golden eagle         | None/ None                       | G5; S3;<br>CDFW: FP      | 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.                                                                        | No suitable nesting habitat for this species exists within the Project Area and the only documented occurrence for this species within the 4-quad CNDDDB query is a historical occurrence (1927) from the general area of Victorville. Occurrence potential on site is <b>low</b> .                                                                                        |
| <i>Athene cunicularia</i>    | burrowing owl        | None/ None                       | G4; S3;<br>CDFW: SSC     | Open, dry annual or perennial grasslands, deserts, and scrublands characterized by low-growing vegetation. Subterranean nester, dependent upon burrowing mammals, most notably, the California ground squirrel.                                 | There is some suitable habitat for this species within the Project Area and this species has been documented within 1 mile W of the Project site (2002). However, BUOW surveys conducted in adjacent areas in 2026 were negative for this species. Therefore, BUOW are considered absent from the site at the time of survey. Occurrence potential on site is <b>low</b> . |

| Scientific Name                         | Common Name                   | Listing Status<br>Federal/ State | Other Status              | Habitat                                                                                                                                                                                                                                                                          | Occurrence Potential                                                                                                                                                                                                                                                                                                                                     |
|-----------------------------------------|-------------------------------|----------------------------------|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Buteo swainsoni</i>                  | Swainson's hawk               | None/<br>Threatened              | G5; S3                    | 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. | The only documented occurrences for this species within the 4-quad CNDDDB query are three historical occurrences (1946, 1939 and 1920), the nearest of which (1939) is approx. 3.7 miles SW of the Project Area. Furthermore, the Project site is outside the current know breeding range for this species. Occurrence potential on site is <b>low</b> . |
| <i>Canbya candida</i>                   | white pygmy-poppy             | None/ None                       | G3G4; S3S4;<br>CNPS: 4.2  | Joshua tree woodland, Mojavean desert scrub, pinyon and juniper woodland. Gravelly, sandy, granitic places. 600-1460 m.                                                                                                                                                          | Habitat for this species is absent from the Project Area. Additionally, the only documented occurrence for this species within the 4-quad CNDDDB query is a historical occurrence (1903) from the general area of Victorville. Occurrence potential on site is <b>low</b> .                                                                              |
| <i>Chaetodipus fallax pallidus</i>      | pallid San Diego pocket mouse | None/ None                       | G5T34; S3S4;<br>CDFW: SSC | Desert border areas in eastern San Diego County in desert wash, desert scrub, desert succulent scrub, pinyon-juniper, etc. Sandy, herbaceous areas, usually in association with rocks or coarse gravel.                                                                          | The rocky/gravelly microhabitats this species is associated with are absent from the Project site and based on habitat modeling for this species, the Project Area is outside any predicted occupied habitat. Occurrence potential on site is <b>low</b> .                                                                                               |
| <i>Coccyzus americanus occidentalis</i> | western yellow-billed cuckoo  | Threatened/<br>Endangered        | G5T2T3; S1                | Riparian forest nester, along the broad, lower flood-bottoms of larger river systems. Nests in riparian jungles of willow, often mixed with cottonwoods, with lower story of blackberry, nettles, or wild grape.                                                                 | The only documented occurrence for this species within the 4-quad CNDDDB query is approximately 8.2 miles SE of the Project area. The Project will avoid disturbing any adjacent riparian habitat potentially suitable for this species. Occurrence potential on site is <b>low</b> .                                                                    |
| <i>Corynorhinus townsendii</i>          | Townsend's big-eared bat      | None/ None                       | G3G4; S2;<br>CDFW: SSC    | Throughout California in a wide variety of habitats. Most common in mesic sites. Roosts in the open, hanging from walls and ceilings. Roosting sites limiting. Extremely sensitive to human disturbance.                                                                         | There are no suitable roosting sites for this species in the Project Area. Occurrence potential on site is <b>low</b> .                                                                                                                                                                                                                                  |

| Scientific Name                               | Common Name                    | Listing Status<br>Federal/ State | Other Status            | Habitat                                                                                                                                                                                                                                                                         | Occurrence Potential                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----------------------------------------------|--------------------------------|----------------------------------|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Diplacus mohavensis</i>                    | Mojave monkeyflower            | None/ None                       | G2; S2;<br>CNPS: 1B.2   | Joshua tree woodland, Mojavean desert scrub. Dry sandy or rocky washes along the Mojave River. 660-1270 m.                                                                                                                                                                      | Habitat for this species is absent from the Project Area. Additionally, the only documented occurrence for this species within the 4-quad CNDDDB query is a historical occurrence (1903) from the general area of Victorville. Occurrence potential on site is <b>low</b>                                                                                                                                                             |
| <i>Empidonax traillii extimus</i>             | southwestern willow flycatcher | Endangered/<br>Endangered        | G5T2; S1                | Riparian woodlands in Southern California.                                                                                                                                                                                                                                      | The only documented occurrence for this species within the 4-quad CNDDDB query is approximately 7.3 miles SE of the Project area. The Project will avoid disturbing any adjacent riparian habitat potentially suitable for this species. Occurrence potential on site is <b>low</b> .                                                                                                                                                 |
| <i>Emys marmorata</i>                         | western pond turtle            | None/ None                       | G3G4; S3;<br>CDFW: SSC  | A thoroughly aquatic turtle of ponds, marshes, rivers, streams and irrigation ditches, usually with aquatic vegetation, below 6,000 feet elevation. Needs basking sites and suitable (sandy banks or grassy open fields) upland habitat up to 0.5 km from water for egg-laying. | The aquatic habitats this species requires are absent from the Project site and the Project will avoid any potentially suitable habitat for this species. Occurrence potential is <b>low</b> .                                                                                                                                                                                                                                        |
| <i>Eremothera boothii</i> ssp. <i>boothii</i> | Booth's evening-primrose       | None/ None                       | G5T4; S3;<br>CNPS: 2B.3 | Joshua tree woodland, pinyon and juniper woodland. 285-2290 m.                                                                                                                                                                                                                  | The habitats this species is associated with are absent from the Project Area. Occurrence potential on site is <b>low</b> .                                                                                                                                                                                                                                                                                                           |
| <i>Falco mexicanus</i>                        | prairie falcon                 | None/ None                       | G5; S4;<br>CDFW: WL     | Inhabits dry, open terrain, either level or hilly. Breeding sites located on cliffs. Forages far afield, even to marshlands and ocean shores.                                                                                                                                   | No suitable nesting habitat for this species exists within the Project Area. Occurrence potential on site is <b>low</b> .                                                                                                                                                                                                                                                                                                             |
| <i>Gopherus agassizii</i>                     | Mojave desert tortoise         | Threatened/<br>Threatened        | G3; S2S3                | Most common in desert scrub, desert wash, and Joshua tree habitats; occurs in almost every desert habitat. Require friable soil for burrow and nest construction. Creosote bush habitat with large annual wildflower blooms preferred.                                          | There is some suitable habitat for this species within the Project Area and this species has been documented within 1 mile of the Project site. However, desert tortoise surveys conducted on site during this survey and adjacent surveys conducted in 2026 were negative for this species. Therefore, Mojave desert tortoise is considered absent from the site at the time of survey. Occurrence potential on site is <b>low</b> . |

| Scientific Name                  | Common Name              | Listing Status<br>Federal/ State | Other Status         | Habitat                                                                                                                                                                                                                        | Occurrence Potential                                                                                                                                                                                                        |
|----------------------------------|--------------------------|----------------------------------|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Helminthoglypta mohaveana</i> | Victorville shoulderband | None/ None                       | G1; S1               | Known only from along the Mojave River in San Bernardino County. Found among granite boulders and at the base of rocky cliffs.                                                                                                 | The microhabitats this species is known to occur in (i.e. granite boulders, rocky cliffs) are absent from the Project site. Occurrence potential is <b>low</b> .                                                            |
| <i>Icteria virens</i>            | yellow-breasted chat     | None/ None                       | G5; S3;<br>CDFW: SSC | Summer resident; inhabits riparian thickets of willow and other brushy tangles near watercourses. Nests in low, dense riparian, consisting of willow, blackberry, wild grape; forages and nests within 10 feet of ground.      | The Project will avoid disturbing any adjacent wetland/riparian habitat potentially suitable for this species. Occurrence potential on site is <b>low</b> .                                                                 |
| <i>Lanius ludovicianus</i>       | loggerhead shrike        | None/ None                       | G4; S4;<br>CDFW: 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 dense shrubs and brush for nesting.          | There is suitable habitat for this species within the Project Area, but this species has not been documented within 5 miles of the Project site. Occurrence potential on site is <b>moderate</b> .                          |
| <i>Lasionycteris noctivagans</i> | silver-haired bat        | None/ None                       | G5; S3S4             | Primarily a coastal and montane forest dweller, feeding over streams, ponds and open brushy areas. Roosts in hollow trees, beneath exfoliating bark, abandoned woodpecker holes, and rarely under rocks. Needs drinking water. | This species does not typically occur in the habitat types that exist in the Project Area and the Project will avoid removing any trees that may provide suitable roost sites. Occurrence potential on site is <b>low</b> . |
| <i>Lasiurus cinereus</i>         | hoary bat                | None/ None                       | G5; S4               | Prefers open habitats or habitat mosaics, with access to trees for cover and open areas or habitat edges for feeding. Roosts in dense foliage of medium to large trees. Feeds primarily on moths. Requires water.              | Although there is suitable habitat for this species adjacent the Project site, the Project will avoid removing any trees that may provide suitable roost sites. Occurrence potential on site is <b>low</b> .                |

| Scientific Name                         | Common Name                | Listing Status<br>Federal/ State | Other Status             | Habitat                                                                                                                                                                                                                                    | Occurrence Potential                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------------------------------|----------------------------|----------------------------------|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Microtus californicus mohavensis</i> | Mohave river vole          | None/ None                       | G5T1; S1;<br>CDFW: SSC   | Occurs only in weedy herbaceous growth in wet areas along the Mojave River. May be found in some irrigated pastures. Burrows into soft soil. Feeds on leafy parts of grasses, sedges and herbs. Clips grasses to form runways from burrow. | There is no suitable habitat for this species within the proposed disturbance area and the Project will avoid disturbing any adjacent wetland/riparian habitat potentially suitable for this species. Occurrence potential on site is <b>low</b> .                                                                                                                                            |
| <i>Pediomelum castoreum</i>             | Beaver Dam breadroot       | None/ None                       | G3; S2;<br>CNPS: 1B.2    | Joshua tree woodland, Mojavean desert scrub. Sandy soils; washes and roadcuts. 605-1485 m.                                                                                                                                                 | Some of the habitat this species is associated with exists within the Project Area, and this species has been documented approx. 2.2 miles S of the Project site. Occurrence potential on site is <b>moderate</b> .                                                                                                                                                                           |
| <i>Phrynosoma blainvillii</i>           | coast horned lizard        | None/ None                       | G3G4; S3S4;<br>CDFW: SSC | Frequents a wide variety of habitats, most common in lowlands along sandy washes with scattered low bushes. Open areas for sunning, bushes for cover, patches of loose soil for burial, and abundant supply of ants and other insects.     | Although there is some suitable habitat for this species within the Project Area, the only documented occurrence for this species within the 4-quad CNDDDB query is a historical occurrence of an unknown date from approx. 1 mile S of the Project site. The Project site is likely outside of the current range distribution for this species. Occurrence potential on site is <b>low</b> . |
| <i>Piranga rubra</i>                    | summer tanager             | None/ None                       | G5; S1;<br>CDFW: SSC     | Summer resident of desert riparian along lower Colorado River, and locally elsewhere in California deserts. Requires cottonwood-willow riparian for nesting and foraging; prefers older, dense stands along streams.                       | The Project will avoid disturbing any adjacent riparian habitat potentially suitable for this species. Occurrence potential on site is <b>low</b> .                                                                                                                                                                                                                                           |
| <i>Plebulina emigdionis</i>             | San Emigdio blue butterfly | None/ None                       | G1G2; S1S2               | Found in desert canyons and along riverbeds in Inyo, Kern, Los Angeles, and San Bernardino counties. Host plant is <i>Atriplex canescens</i> ; maybe <i>Lotus purshianus</i> also.                                                         | The host plant for this species is present within the Project Area and this species has been documented (2008) approx. 1 mile S of the Project site. Occurrence potential on site is <b>high</b> .                                                                                                                                                                                            |

| Scientific Name                                        | Common Name                 | Listing Status<br>Federal/ State | Other Status             | Habitat                                                                                                                                                                                                                                                                             | Occurrence Potential                                                                                                                                                                                                                                                      |
|--------------------------------------------------------|-----------------------------|----------------------------------|--------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Rana draytonii</i>                                  | California red-legged frog  | Threatened/<br>None              | G2G3; S2S3;<br>CDFW: SSC | 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.                                                      | This species is considered likely extirpated from the region. Furthermore, the aquatic habitats this species requires are absent from the Project site and the Project will avoid any potentially suitable habitat for this species. Occurrence potential is <b>low</b> . |
| <i>Scutellaria bolanderi</i> ssp. <i>austromontana</i> | southern mountains skullcap | None/ None                       | G4T3; S3;<br>CNPS: 1B.2  | Chaparral, cismontane woodland, lower montane coniferous forest. In gravelly soils on streambanks or in mesic sites in oak or pine woodland. 425-2000 m.                                                                                                                            | The habitats this species is associated with are absent from the Project Area. Occurrence potential on site is <b>low</b> .                                                                                                                                               |
| <i>Setophaga petechia</i>                              | yellow warbler              | None/ None                       | G5; S3S4;<br>CDFW: SSC   | Riparian plant associations near water. Also nests in montane shrubbery in open conifer forests in Cascades and Sierra Nevada. Frequently found nesting and foraging in willow shrubs and thickets, and in other riparian plants including cottonwoods, sycamores, ash, and alders. | The Project will avoid disturbing any adjacent wetland/riparian habitat potentially suitable for this species. Occurrence potential on site is <b>low</b> .                                                                                                               |
| <i>Siphateles bicolor mohavensis</i>                   | Mohave tui chub             | Endangered/<br>Endangered        | G4T1; S1;<br>CDFW: FP    | Endemic to the Mojave River basin, adapted to alkaline, mineralized waters. Needs deep pools, ponds, or slough-like areas. Needs vegetation for spawning.                                                                                                                           | This species is considered extirpated from the Mojave River. Furthermore, the aquatic habitats this species requires are absent from the Project site and the Project will avoid any potentially suitable habitat for this species. Occurrence potential is <b>low</b> .  |
| <i>Symphyotrichum defoliatum</i>                       | San Bernardino aster        | None/ None                       | G2; S2;<br>CNPS: 1B.2    | Meadows and seeps, cismontane woodland, coastal scrub, lower montane coniferous forest, marshes and swamps, valley and foothill grassland. Vernal mesic grassland or near ditches, streams and springs; disturbed areas. 3-2045 m.                                                  | The habitats this species is associated with are absent from the Project Area. Occurrence potential on site is <b>low</b> .                                                                                                                                               |

| Scientific Name                    | Common Name            | Listing Status<br>Federal/ State | Other Status         | Habitat                                                                                                                                                                                                                                          | Occurrence Potential                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------------------------------------|------------------------|----------------------------------|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Toxostoma lecontei</i>          | Le Conte's thrasher    | None/ None                       | G4; S3;<br>CDFW: SSC | Desert resident; primarily of open desert wash, desert scrub, alkali desert scrub, and desert succulent scrub habitats. Commonly nests in a dense, spiny shrub or densely branched cactus in desert wash habitat, usually 2-8 feet above ground. | There is suitable habitat for this species within the Project Area and this species has been documented within 4 miles of the Project site. Occurrence potential on site is <b>moderate – high</b> .                                                                                                                                                                                                                                                                                                                           |
| <i>Vireo bellii pusillus</i>       | least Bell's vireo     | Endangered/<br>Endangered        | G5T2; S2             | Summer resident of Southern California in low riparian in vicinity of water or in dry river bottoms; below 2,000 feet. Nests placed along margins of bushes or on twigs projecting into pathways, usually willow, <i>Baccharis</i> , mesquite.   | This species has been documented in suitable riparian habitat along the Mojave River within approx. 0.5-mile N of the Project area. However, the Project will avoid disturbing any adjacent riparian habitat potentially suitable for this species. Occurrence potential on site is <b>low</b> .                                                                                                                                                                                                                               |
| <i>Xerospermophilus mohavensis</i> | Mohave ground squirrel | None/<br>Threatened              | G2G3; S2S3           | Open desert scrub, alkali scrub and Joshua tree woodland. Also feeds in annual grasslands. Restricted to Mojave Desert. Prefers sandy to gravelly soils, avoids rocky areas. Uses burrows at base of shrubs for cover. Nests are in burrows.     | Although there is some marginally suitable habitat for this species within the Project Area, the Project site is approx. 15 miles outside (S) of the current known MGS population areas and population linkages. Furthermore, the potential habitat for this species is highly fragmented within the Project vicinity and the habitat intactness model for this species indicates that there is a moderately low to very low level of habitat intactness in the Project vicinity. Occurrence potential on site is <b>low</b> . |

## Coding and Terms

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

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

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

### Global Rankings (Species or Natural Community Level):

G1 = Critically Imperiled – At very high risk of extinction due to extreme rarity (often 5 or fewer populations), very steep declines, or other factors.  
 G2 = Imperiled – At high risk of extinction due to very restricted range, very few populations (often 20 or fewer), steep declines, or other factors.  
 G3 = Vulnerable – At moderate risk of extinction due to a restricted range, relatively few populations (often 80 or fewer), recent and widespread declines, or other factors.  
 G4 = Apparently Secure – Uncommon but not rare; some cause for long-term concern due to declines or other factors.  
 G5 = Secure – Common; widespread and abundant.

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

### State Ranking:

S1 = Critically Imperiled – Critically imperiled in the State because of extreme rarity (often 5 or fewer populations) or because of factor(s) such as very steep declines making it especially vulnerable to extirpation from the State.  
 S2 = Imperiled – Imperiled in the State because of rarity due to very restricted range, very few populations (often 20 or fewer), steep declines, or other factors making it very vulnerable to extirpation from the State.  
 S3 = Vulnerable – Vulnerable in the State due to a restricted range, relatively few populations (often 80 or fewer), recent and widespread declines, or other factors making it vulnerable to extirpation from the State.  
 S4 = Apparently Secure – Uncommon but not rare in the State; some cause for long-term concern due to declines or other factors.  
 S5 = Secure – Common, widespread, and abundant in the State.

### California Rare Plant Rankings (CNPS List):

1A = Plants presumed extirpated in California and either rare or extinct elsewhere.  
 1B = Plants rare, threatened, or endangered in California and elsewhere.  
 2A = Plants presumed extirpated in California, but common elsewhere.  
 2B = Plants rare, threatened, or endangered in California, but more common elsewhere.  
 3 = Plants about which more information is needed; a review list.  
 4 = Plants of limited distribution; a watch list.

### Threat Ranks:

.1 = Seriously threatened in California (over 80% of occurrences threatened / high degree and immediacy of threat)  
 .2 = Moderately threatened in California (20-80% occurrences threatened / moderate degree and immediacy of threat)  
 .3 = Not very threatened in California (less than 20% of occurrences threatened / low degree and immediacy of threat or no current threats known)

## Appendix F. Regulatory Framework

## **Federal Regulations**

### ***Clean Water Act***

The purpose of the Clean Water Act (CWA) of 1977 is to “restore and maintain the chemical, physical, and biological integrity of the nation’s waters.” Section 404 of the CWA prohibits the discharge of dredged or fill material into “waters of the United States” (WOTUS) without a permit from the United States Army Corps of Engineers (USACE). The definition of waters of the United States includes rivers, streams, estuaries, territorial seas, ponds, lakes, and wetlands. Wetlands are defined as those areas “that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions” (33 Code of Federal Regulations [CFR] 328.3 7b). The U.S. Environmental Protection Agency (EPA) also has authority over wetlands and may override a USACE permit. Substantial impacts to wetlands may require an individual permit. Projects that only minimally affect wetlands may meet the conditions of one of the existing Nationwide Permits. A Water Quality Certification or waiver pursuant to Section 401 of the CWA is required for Section 404 permit actions; in California this certification or waiver is issued by the Regional Water Quality Control Board (RWQCB).

### ***Federal Endangered Species Act (ESA)***

The federal Endangered Species Act (ESA) of 1973 protects plants and wildlife that are listed by the United States Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) as endangered or threatened. Section 9 of the ESA (USA) prohibits the taking of endangered wildlife, where taking is defined as any effort to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to engage in such conduct” (50 CFR 17.3). For plants, this statute governs removing, possessing, maliciously damaging, or destroying any endangered plant on federal land and removing, cutting, digging up, damaging, or destroying any endangered plant on non-federal land in knowing violation of state law (16 United States Code [USC] 1538). Under Section 7 of the ESA, federal agencies are required to consult with the USFWS if their actions, including permit approvals or funding, could adversely affect an endangered species (including plants) or its Critical Habitat. Through consultation and the issuance of a biological opinion, the USFWS may issue an incidental take statement allowing take of the species that is incidental to an otherwise authorized activity, provided the action will not jeopardize the continued existence of the species. The ESA specifies that the USFWS designate habitat for a species at the time of its listing in which are found the physical or biological features “essential to the conservation of the species,” or which may require “special Management consideration or protection...” (16 USC § 1533[a][3].2; 16 USC § 1532[a]). This designated Critical Habitat is then afforded the same protection under the ESA as individuals of the species itself, requiring issuance of an Incidental Take Permit prior to any activity that results in “the destruction or adverse modification of habitat determined to be critical” (16 USC § 1536[a][2]).

### ***Interagency Consultation and Biological Assessments***

Section 7 of ESA provides a means for authorizing the “take” of threatened or endangered species by federal agencies, and applies to actions that are conducted, permitted, or funded by a federal agency. The statute requires federal agencies to consult with the USFWS or National Marine Fisheries Service (NMFS), as appropriate, to ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of threatened or endangered species or result in the destruction or adverse modification of Critical Habitat for these species. If a Proposed Project “may affect” a listed

species or destroy or modify Critical Habitat, the lead agency is required to prepare a biological assessment evaluating the nature and severity of the potential effect.

### ***Habitat Conservation Plans***

Section 10 of the federal ESA requires the acquisition of an Incidental Take Permit (ITP) from the USFWS by non-federal landowners for activities that might incidentally harm (or “take”) endangered or threatened wildlife on their land. To obtain a permit, an applicant must develop a Habitat Conservation Plan that is designed to offset any harmful impacts the proposed activity might have on the species.

### ***Fish and Wildlife Coordination Act***

The Fish and Wildlife Coordination Act (16 U.S.C. Sections 661 to 667e et seq.) applies to any federal Project where any body of water is impounded, diverted, deepened, or otherwise modified. Project proponents are required to consult with the USFWS and the appropriate state wildlife agency.

### ***Bald and Golden Eagle Protection Act***

The Bald and Golden Eagle Protection Act (The Eagle Act) (1940), amended in 1962, was originally implemented for the protection of bald eagles (*Haliaeetus leucocephalus*). In 1962, Congress amended the Eagle Act to cover golden eagles (*Aquila chrysaetos*), a move that was partially an attempt to strengthen protection of bald eagles, since the latter were often killed by people mistaking them for golden eagles. This act makes it illegal to import, export, take (molest or disturb), sell, purchase, or barter any bald eagle or golden eagle or part thereof. The golden eagle, however, is accorded somewhat lighter protection under the Eagle Act than that of the bald eagle.

### ***Migratory Bird Treaty Act***

The Migratory Bird Treaty Act (MBTA) of 1918 implements international treaties between the United States and other nations created to protect migratory birds, any of their parts, eggs, and nests from activities, such as hunting, pursuing, capturing, killing, selling, and shipping, unless expressly authorized in the regulations or by permit. As authorized by the MBTA, the USFWS issues permits to qualified applicants for the following types of activities: falconry, raptor propagation, scientific collecting, special purposes (rehabilitation, education, migratory game bird propagation, and salvage), take of depredating birds, taxidermy, and waterfowl sale and disposal. The regulations governing migratory bird permits can be found in 50 CFR Part 13 General Permit Procedures and 50 CFR part 21 Migratory Bird Permits. The State of California has incorporated the protection of birds of prey in Sections 3800, 3513, and 3503.5 of the California Fish and Game Code (CFGC).

### ***Executive Orders (EO)***

*Invasive Species – EO 13112 (1999)*: Issued on February 3, 1999, promotes the prevention and introduction of invasive species and provides for their control and minimizes the economic, ecological, and human health impacts that invasive species cause through the creation of the Invasive Species Council and Invasive Species Management Plan.

*Migratory Bird – EO 13186 (2001)*: Issued on January 10, 2001, promotes the conservation of migratory birds and their habitats and directs federal agencies to implement the Migratory Bird Treaty Act. Protection and Enhancement of Environmental Quality – EO 11514 (1970a), issued on March 5, 1970, supports the purpose and policies of the National Environmental Policy Act (NEPA) and directs federal agencies to take measures to meet national environmental goals.

### ***Migratory Bird Treaty Reform Act***

The Migratory Bird Treaty Reform Act (Division E, Title I, Section 143 of the Consolidated Appropriations Act, 2005, PL 108–447) amends the Migratory Bird Treaty Act (16 U.S.C. Sections 703 to 712) such that nonnative birds or birds that have been introduced by humans to the United States or its territories are excluded from protection under the Act. It defines a native migratory bird as a species present in the United States and its territories as a result of natural biological or ecological processes. This list excluded two additional species commonly observed in the United States, the rock pigeon (*Columba livia*) and domestic goose (*Anser domesticus*).

### ***Birds of Conservation Concern***

Birds of Conservation Concern (BCC) is a USFWS list of bird species identified to have the highest conservation priority, and with the potential for becoming candidates for listing as federally threatened or endangered. The chief legal authority for BCC is the Fish and Wildlife Conservation Act of 1980 (FWCA). Other authorities include the FESA, the Fish and Wildlife Act of 1956, and the Department of the Interior U.S Code (16 U.S.C. § 701). The 1988 amendment to the FWCA (Public Law 100-653, Title VIII) requires the Secretary of the Interior, through the USFWS, to “identify species, subspecies, and populations of all migratory nongame birds that, without additional conservation actions, are likely to become candidates for listing under the Endangered Species Act of 1973” (USFWS, 2008a).

## **State Regulations**

### ***California Fish and Game Code Sections 1600 through 1607 of the CFGC***

This section requires that a Streambed Alteration Application be submitted to the CDFW for “any activity that may substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake.” The CDFW reviews the proposed actions and, if necessary, submits to the applicant a proposal for measures to protect affected fish and wildlife resources. The final proposal that is mutually agreed upon by the Department and the applicant is the Streambed Alteration Agreement. Often, Projects that require a Streambed Alteration Agreement also require a permit from the USACE under Section 404 of the CWA. In these instances, the conditions of the Section 404 permit and the Streambed Alteration Agreement may overlap.

### ***California Porter-Cologne Water Quality Control Act***

The Porter-Cologne Act is the principal law governing water quality in California. It establishes a comprehensive program to protect water quality and the beneficial uses of water. Unlike the federal CWA, Porter-Cologne applies to both surface water and ground water. Porter-Cologne designated the State Water Resources Control Board (State Board) as the statewide water quality planning agency and also gave authority to the RWQCB. Beyond establishment of a state framework, this act has been revised to comply with the federal CWA.

The State Board is responsible for developing statewide water quality plans (e.g., Ocean Plan, Inland Surface Waters Plan), while the RWQCB is responsible for developing Regional Water Quality Plans (basin plans). The basin plans in turn are approved by the State Board and EPA. Amendments to basin plans, such as Total Maximum Daily Loads (TMDLs), must also be approved by the Office of Administrative Law. These plans, both statewide and basin, include the identification of beneficial uses, water quality objectives, and implementation plans. The RWQCB has the primary responsibility for implementing the provisions in both statewide and basin plans.

### ***California Endangered Species Act***

The California Endangered Species Act (CESA) (Sections 2050 to 2085) establishes the policy of the state to conserve, protect, restore, and enhance threatened or endangered species and their habitats by protecting “all native species of fishes, amphibians, reptiles, birds, mammals, invertebrates, and plants, and their habitats, threatened with extinction and those experiencing a significant decline which, if not halted, would lead to a threatened or endangered designation.” Animal species are listed by the CDFW as threatened or endangered, and plants are listed as rare, threatened, or endangered. However, only those plant species listed as threatened or endangered receive protection under the California ESA.

CESA mandates that state agencies do not approve a Project that would jeopardize the continued existence of these species if reasonable and prudent alternatives are available that would avoid a jeopardy finding. There are no state agency consultation procedures under the California ESA. For Projects that would affect a species that is federally and state listed, compliance with ESA satisfies the California ESA if the California Department of Fish and Wildlife (CDFW) determines that the federal incidental take authorization is consistent with the CESA under Section 2080.1. For Projects that would result in take of a species that is state listed only, the Project sponsor must apply for a take permit, in accordance with Section 2081(b).

### ***Fully Protected Species***

Four sections of the California Fish and Game Code (CFGF) list 37 fully protected species (CFGF Sections 3511, 4700, 5050, and 5515). These sections prohibit take or possession “at any time” of the species listed, with few exceptions, and state that “no provision of this code or any other law will be construed to authorize the issuance of permits or licenses to ‘take’ the species,” and that no previously issued permits or licenses for take of the species “shall have any force or effect” for authorizing take or possession.

### ***Bird Nesting Protections***

Bird nesting protections (Sections 3503, 3503.5, 3511, 3513 and 3800) in the CFGF include the following:

- Section 3503 prohibits the take, possession, or needless destruction of the nest or eggs of any bird.
- Section 3503.5 prohibits the take, possession, or needless destruction of any nests, eggs, or birds in the orders Falconiformes (new world vultures, hawks, eagles, ospreys, and falcons, among others), and Strigiformes (owls).
- Section 3511 prohibits the take or possession of Fully protected birds.
- Section 3513 prohibits the take or possession of any migratory nongame bird or part thereof, as designated in the MBTA. To avoid violation of the take provisions, it is generally required that Project-related disturbance at active nesting territories be reduced or eliminated during the nesting cycle.
- Section 3800 prohibits the take of any non-game bird (i.e., bird that is naturally occurring in California that is not a gamebird, migratory game bird, or fully protected bird).

### ***Native Plant Protection Act***

The Native Plant Protect Act (NPPA) (1977) (CFGF Sections 1900-1913) was created with the intent to “preserve, protect, and enhance rare and endangered plants in this State.” The NPPA is

administered by CDFW. The Fish and Game Commission has the authority to designate native plants as endangered or rare and to protect endangered and rare plants from take. CESA (CFGF 2050-2116) provided further protection for rare and endangered plant species, but the NPPA remains part of the Fish and Game Code.