# GENERAL BIOLOGICAL RESOURCES ASSESSMENT

**TENTATIVE TRACT Map 20454**
**VICTORVILLE, SAN BERNARDINO COUNTY, CALIFORNIA**
**(Township 5 North, Range 5 West, Section 33)**
**APN: 3134-021-02, 05, 06 & 07**

***Prepared for:***

**Bedford Opportunity Fund II**
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***Prepared by:***

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**Principal Investigators:**

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**October 25, 2021**

**Project: #2021-222**

# TITLE PAGE

**Date Report Prepared:** **October 25, 2021**

**Date Field Work Completed:** **October 19, 2021**

**Report Title:** **General Biological Resources Assessment**

**Assessor's Parcel Number:** **3134-021-02, 05, 06 & 07**

**Principal Investigators:** **Ryan Hunter, Environmental Scientist/Biologist**
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## 1.0 INTRODUCTION AND SUMMARY

Biological surveys were conducted on a 30-acre parcel (approximately) located on the southwest corner of Nyack Road and Mesa View Drive in the City of Victorville, California (Township 5 North, Range 5 West, Section 33, USGS Baldy Mesa, California Quadrangle, 1956) (Figures 1, 2, and 3). The site shows minimal signs of disturbance with native vegetation dominating the property. The property supports a creosote (*Larrea tridentata*) community typical of the area. A variety of plants were observed including Joshua trees (*Yucca brevifolia*), ephedra (*Ephedra nevadensis*), rubber rabbitbrush (*Ericameria nauseosa*), California buckwheat (*Eriogonum fasciculatum*), kelch grass (*Schismus barbatus*), and fiddleneck (*Amsinckia tessellata*). Table 1 (Appendix A) provided a list of all plant species observed during the field investigations.

As part of the environmental process, California Department of Fish and Wildlife (CDFW) and U.S. Fish and Wildlife Service (USFWS) data sources were reviewed. Following the data review, surveys were performed on the site on October 19, 2021, during which the biological resources on the site and in the surrounding areas were documented by biologists from RCA Associates, Inc. As part of the surveys, the property and adjoining areas were evaluated for the presence of native habitats which may support populations of sensitive wildlife species. The property was also evaluated for the presence of sensitive habitats including wetlands, vernal pools, riparian habitats, and jurisdictional areas. **No special status wildlife species were observed on the property; however, numerous Joshua trees, which are listed as a State threatened species, are present on the site. A comprehensive survey of the Joshua trees will be conducted and a separate report will be prepared which will summarize the results of the survey. Due to the presence of Joshua trees on the site, an Incidental Take Permit (ITP) will be required from CDFW prior to the start of any ground disturbance activities if any Joshua trees (living or dead) will be impacted by development activities.**

Focused surveys were also conducted for both the desert tortoise and burrowing owl. Based on data from USFWS, CDFW, and a search of the California Natural Diversity Database (CNDDB, 2021), desert tortoises and burrowing owls have been documented within approximately five miles southwest of the property. Scientific nomenclature for this report is based on the following references: Hickman (1993), Munz (1974), Stebbins (2003), Sibley (2000) and Whitaker (1980).

## 2.0 EXISTING CONDITIONS

The property is approximately 30-acres in size and is located on the southwest corner of Nyack Road and Mesa View Drive in the City of Victorville, California (Township 5 North, Range 5 West, Section 33, USGS Baldy Mesa, California Quadrangle, 1956). The site shows minimal signs of being disturbed in the past with native vegetation present throughout the project site. Existing residential developments are located east and north of the parcel and municipal water tanks are located to the south. Vacant lands are also present west and south of the property.

Creosote bush (*Larrea tridentata*), Joshua trees (*Yucca brevifolia*), rubber rabbitbrush (*Ericameria nauseosa*), California buckwheat (*Eriogonum fasciculatum*), and Nevada jointfir (*Ephedra nevadensis*) are the dominant perennials and the dominant annuals include cheat grass (*Bromus tectorum*), kelch grass (*Schismus barbatus*), and mustard (*Brassica tourneforti*). Section 5.0 provides a more detailed discussion of the various plant species observed during the surveys.

The site is expected to support a variety of wildlife species on the site. Mammals observed on the site or which are expected to inhabit the site include jackrabbits (*Lepus californicus*), desert cottontails (*Sylvilagus auduboni*), and Antelope ground squirrel (*Ammospermophilus leucurus*). Coyote (*Canis latrans*) scats were observed on the site, indicating coyotes utilize the site during hunting activities.

Birds observed included ravens (*Corvus corax*), house finch (*Carpodacus mexicanus*), white-crowned sparrow (*Zonotricia leucophrys*), mourning dove (*Zenaida macroura*), and black throated gray warbler (*Setophaga nigrescns*). Section 5.0 provides a more detailed discussion of the various species observed during the surveys and Table 2 Appendix A) provides a list of all avian species observed. No reptiles were observed during the field investigation; however, desert spiny lizard (*Sceloporus magister*) and western whiptail lizard (*Cnemidophorus tigris*) are common in the area and likely inhabit the site.

As noted above, Joshua trees are present on the site and a comprehensive survey will be performed to evaluate the trees. In the event the Joshua trees will be impacted by the proposed development an Incidental Take Permit will be required prior to any ground disturbance activities and relocation

and/or removal of any Joshua trees (living or dead). A potential jurisdictional channel is located in the western portion of the site as depicted on the site plan (Figure 4).

Table 2 provides a compendium of wildlife species which inhabit the site and/or occur in the region. No sensitive habitats (e.g., sensitive species critical habitats, etc.) have been documented in the immediate area according to the CNDDB (2021) and none were observed during the field investigations.

## 3.0 METHODOLOGIES

General biological surveys were conducted on October 19, 2021, during which biologists from RCA Associates, Inc. initially walked meandering transects throughout the property site. During the surveys, data was collected on the plant and animal species present on the site. All plants and animals detected during the surveys were recorded and are provided in Tables 1 & 2 (Appendix A). The property was also evaluated for the presence of habitats which might support sensitive species. Scientific nomenclature for this report is based on the following references: Hickman (1993), Munz (1974), Stebbins (2003), Sibley (2000) and Whitaker (1980). Following completion of the initial reconnaissance survey, protocol surveys were also conducted for the desert tortoise and burrowing owl as per agency requirements. Weather conditions consisted of wind speeds of 0 to 5 mph; temperatures ranged between 65 to 70 (°F) (AM) with clear skies. The applicable methodologies are summarized below.

**General Plant and Animal Surveys:** Meandering transects were walked throughout the site and in the surrounding area (i.e., the zone of influence) at a pace that allowed for careful documentation of the plant and animal present on the site. All plants observed were identified in the field and wildlife was identified through visual observations and/or by vocalizations. Tables 1 and 2 (Appendix A) provides a comprehensive compendium of the various plant and animal species observed during the field investigations. During the various biological surveys, all transects were walked at a pace that allowed careful observations along the transect routes and in the immediate vicinity. Field notes were recorded regarding native plant assemblages, wildlife sign, and human effects in order to determine the presence or absence of suitable tortoise foraging habitat.

**Desert Tortoise:** A protocol survey was conducted on October 19, 2021 for the desert tortoises during which ten-meter, parallel belt transects were walked in a north-south direction until the entire property had been checked for tortoises and any tortoise sign (burrows, tracks, scats, etc.). Surveys in the zone of influence (ZOI) were also conducted in the area west and south of the site. Comprehensive field investigations were conducted throughout the site during the biological surveys and no tortoises or tortoise sign was identified on the site or zone of influence. If tortoises are found to inhabit the site in the future, a Section 10(a) incidental take permit from the USFWS and a Section 2081 permit from CDFW will be required to mitigate impacts to the species.

**Burrowing Owl:** A habitat assessment (Phase 1) was conducted for the burrowing owl in conjunction with the general biological surveys to determine if the site supports suitable habitat for the species on October 19, 2021. Following completion of the habitat assessment, it was determined that the site does support suitable habitat for the burrowing owl; therefore, burrowing owl surveys were conducted in conjunction with the focused surveys for the desert tortoise.

Burrowing owls typically utilize burrows which have been excavated by other animals (squirrels, coyotes, foxes, dogs, etc.) since owls rarely dig their own burrows. CDFW protocol also requires surveys be conducted in the surrounding area out to a distance of about 500 feet; therefore, the zone of influence (ZOI) surveys were performed in the area surrounding the site where possible. If present on a site, CDFW typically requires the owls to be passively relocated during the non-breeding season. It was determined that no owls were observed during the field investigations, and there was no owl sign (i.e., whitewash, feathers, or castings) observed during the field investigations.

**Mohave Ground Squirrel:** The Mohave ground squirrel is a State listed species which has been documented in the region and the site does support suitable habitat for the species; however, due to the very low population levels and no recent observations in this area of the Mojave Desert, it is the opinion of RCA Associates, Inc. that the likelihood of Mohave ground squirrels occurring on the proposed project site is very low. However, CDFW may require additional surveys for the species when it is more active (Typically March – June).

## 4.0 LITERATURE SEARCH

As part of the environmental process, a search of the California Natural Diversity Database (CNDDB) search was performed. Based on this review, it was determined that fourteen special status species have been documented within the Baldy Mesa quad. of the property. The following tables provide data on each special status species which has been documented in the area.

**Table 4-1: Federal and State Listed Species and State Species of Special Concern.**
E = Endangered; T = Threatened; SSC = Species of special concern; CNPS = California Native Plant Society; CNDDB = California Natural Diversity Data Base

| NAME | STATUS | HABITAT REQUIREMENTS | PRESENCE/ ABSENCE ON PROPERTY |
|---|---|---|---|
| **PLANTS** | | | |
| **Within Baldy Mesa Quadrangle** | | | |
| Short-joint beavertail (Opuntia basilaris var. brachyclada) | Federal: None<br>State: None<br>CNPS: 1B.2 | Desert scrub<br>Joshua tree woodland | The site does support suitable habitat for the species; however, no beavertail observed during field surveys. |
| Sagebrush loeflingia (*Loeflingia squarrosa var. artemisiarum*) | Federal: None<br>State: None<br>CNPS: 2B.2 | Creosote bush scrub, sagebrush scrub, dunes | The does support suitable habitat, however no sagebrush loeflingia was observed. |

**Table 4-2: Special status wildlife and insects documented in the region (Source: CNDDB, 2021).**

| NAME | STATUS | HABITAT REQUIREMENTS | PRESENCE/ABSENCE ON PROPERTY |
|---|---|---|---|
| **ANIMAL** | | | |
| **Within Baldy Mesa Quadrangle** | | | |
| Desert tortoise (*Gopherus agassizii)* | Federal: Threatened<br>State: Threatened | Desert shrub | No tortoises or tortoise sign observed on-site. |
| Yellow warbler (*Setophaga petechia*) | Federal: None<br>State: None | Dense riparian vegetation. | The site does not support suitable habitat for the species and species is not expected to occur on the site. |
| Burrowing owl (*Athene cunicularia*) | Federal: None<br>State: None<br>CDFW: SSC | Open grassland areas where the owls utilize abandoned mammal burrows. | Marginal habitat present on the site. No owls observed during survey; however, this mobile species occurs throughout Southern California and could potentially occur in the area in the future. |
| Coast horned lizard (*Phrynosoma blainvillii*) | Federal: None<br>State: None | Inhabits open areas of sandy soils and low vegetation in valleys, foothills, and semiarid mountains | Suitable habitat, none observed on site. |

| | | | |
|---|---|---|---|
| Mohave ground squirrel (*Xerospermophilus mohavensis*) | Federal: None<br>State: Threatened | Desert scrub | The site supports suitable habitat for the species. Species has been identified in the area; however, species unlikely to inhabit the site due to the very low population levels in the area. |
| Loggerhead shrike (*Lanius ludovicianus*) | Federal: None<br>State: None | Open country with scattered shrubs and trees | The site does provide suitable habitat, however none observed on site |

## Notes:

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

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

SSC = Species of Special Concern

## 5.0 RESULTS

### 5.1 General Biological Resources

The site supports a creosote community which covers the entire property (Figure 3). Some of the species observed during the field investigations included creosote bush (*Larrea tridentata*), Joshua trees (*Yucca brevifolia*), rubberbrush (*Ericameria nauseosa*), Nevada jointfir (*Ephedra nevadensis*), rubber rabbitbrush (*Ericamerica nauseosa var*), California buckwheat (*Eriogonum fasciculatum*), and silver cholla (*Cylindropuntia echinocarpa*). Table 1 provides a compendium of all plants occurring on the site and/or in the immediate surrounding area.

Birds observed included ravens (*Corvus corax*), house finch (*Carpodacus mexicanus*), mourning dove (*Zenaida macroura*), and black throated gray warbler (*Setophaga nigrescen*). Several other avian species were observed and are listed in Table 2. Antelope ground squirrels were the only mammals observed during the surveys; however, other species common to the area, and which may occur on the site, include black-tailed jackrabbit (*Calypte costae*), California ground squirrel (*Otospermophilus beecheyi*), Merriam's kangaroo rats (*Dipodomys merriamii*), and desert cottontail (*Sylvilagus auduboni*). Coyote scats were also noted indicating this common desert predator frequents the site during hunting forays. No reptiles were observed, although western whiptail lizard (*Cnemidophorus tigris*) and desert spiny lizard (*Sceloporus magister*) are common in the Mojave Desert and likely inhabit the property. Other species known to occur in the general area include the western fence lizard (*Sceloporus occidentalis*) and side-blotched lizard (*Uta stansburiana*). Tables 1 and 2 (Appendix A) provide a compendium of the various plant and animal species identified during the field investigations and those common to the area.

### 5.2 Federal and State Listed Species

The following are the listed and special status species that have the ability to occur on the project site or which are present. However, it is not a comprehensive list of all the special status species which have been documented in the immediate region (CNDDB, 2021).

**Desert Tortoise:** The site is located within the documented tortoise habitat according to CNDDB with the nearest documented sighting about 4-miles northwest of the property (CNDDB, 2021). The property supports suitable habitat for the desert tortoise; however, no tortoises or tortoise sign (burrows, scats, etc.) were observed anywhere within the property boundaries or in the surrounding area during the October 19, 2021, surveys. Based on the results of the survey and the low population levels of the species in the region, tortoises are not expected to move onto the site in the near future. In addition, there are several residential developments in the area and relatively busy roadways in the immediate area which may act as barriers to migration of tortoises.

**Mohave Ground Squirrel:** The site does occur within the known distribution of the Mohave Ground Squirrels, and the nearest documented observation is about 4-miles to the southeast of the property. However, there are no recent observations of Mojave ground squirrel within the area, and it is the opinion of RCA Associates, Inc. that Mohave ground squirrels are unlikely to occur on the site based on the following criteria.

1. Relatively small site size (30-acres);
2. No recent documented observations in the general region;
3. Existing residential developments on two sides of the site, and
4. Limited connectivity with habitat in the surrounding area which may support the species.

### 5.3 Wildlife Species of Special Concern

The following is a list of special status wildlife species which have been documented in the region; however, only a few of these species could potentially occur on the site. Several of the species are not expected to occur on the property due to absence of suitable habitat but are included for clarity.

**Burrowing Owl:** The site is located within documented burrowing owl habitat according to CNDDB with the nearest documented sighting about 1-mile east of the property (CNDDB, 2021). No owls or owl sign (whitewash, etc.) were seen on the property during the focused owl survey, even though suitable (i.e., "occupiable") burrows were observed. There is a possibility of owls moving onto this site in the future based on the results of the field investigations and presence of suitable burrows for utilization; therefore, a pre-construction survey will need to be conducted 30-days prior to the start of any ground disturbance activities.

**Yellow warbler:** Yellow warbler have been documented in the region (Occurrence #29, Hesperia, California Quad, 2021), with the most recent observation (1953) about five miles west of the property (CNDDB, 2021). Yellow warblers are unlikely to occur on the site since suitable habitat (i.e., dense riparian vegetation) is not present.

**Beavertail Cactus:** Beavertail cactus are readily identifiable and if present on the site, would have been observed during the extensive field investigations conducted throughout the site. Short-joint beavertail has been observed in the region (Occurrence #13, Hesperia, California Quad, 2021), with the most recent documented siting (1991) in the region approximately six miles to the south (CNDDB, 2021). The species is not expected to occur on the site in the near future.

**Sagebrush Loeflingia:** This plant species typically occurs in sage brush habitats, chaparral and grassland areas and is unlikely to occur on the site given the absence of suitable habitat. The nearest observation is about five miles southeast of the site and was recorded in 1971 (Hesperia, California Quad, CNDDB 2021).

**Coast horned lizard:** Coast horned lizard have been documented in the region (Occurrence # 217, Hesperia, California Quad, 2021), with the most recent observation (1980) about three miles east of the property (CNDDB, 2021). The use of the site by coast horned lizards may be very infrequent given the low population levels in the region as well as the lack of any recent sightings in the immediate region according to the CNDDB (2021).

**Cooper's hawk:** A Cooper's hawk was observed flying over the property; however, not potential raptor nests were observed on the site and the solitary hawk was likely hunting for prey. The last documented observation in the area was about five mile southeast of the site (Occurrence #4, Hesperia, California Quad, 2021). Cooper's hawks likely utilize the site and the surrounding area infrequently for hunting.

**Loggerhead Shrike:** Shrikes have been documented in the region (Occurrence #19, Hesperia, California Quad, 2021), with the most recent observation in 1917 about three miles northeast of the property (CNDDB, 2021). Shrikes could potentially occur on the site; although, the use of the

site by the species may be very infrequent given the low population levels in the region as well as the lack of any recent sightings according to the CNDDB (2021)

### 5.4 Jurisdictional Waters and Riparian Habitat

The following sources were reviewed to determine the potential presence or absence of jurisdictional streams/drainages, wetlands, and their location within the watersheds associated with the Project site, and other features that might contribute to federal or state jurisdictional authority located within watersheds associated with the Project site:

- National Wetlands Inventory (NWI) maps (USFWS 2018b). The NWI database indicates potential wetland areas based on changes in vegetation patterns as observed from satellite imagery. This database is used as a preliminary indicator of wetland habitats because the satellite data are not precise;
- USGS National Hydrography Dataset (NHD) provides the locations of "blue-line" streams as mapped on 7.5-Minute Topographic Map coverage;
- Aerial Imagery (Google Earth) (Google 2021);
- USGS 7.5-Minute Topographic Maps; and
- Natural Resources Conservation Service (NRCS) Soil Survey.

Assessments of potential jurisdictional areas within the Project site were conducted by RCA Associates, Inc. biologists Ryan Hunter and Jessica Hensley on October 19, 2021 to determine the current site conditions. All areas with potential depressions or drainages were evaluated for the presence of areas which may be considered jurisdictional waters, including jurisdictional wetlands.

Based on the field investigations, a drainage channel is located along the western boundary of the site and this area may be considered jurisdictional waters of the State and/or the U.S. However, as shown on the site plan, this area will be avoided during development activities and applicable permits (e.g., 1602, 401 and 404) may not be required.

## 5.5 Protected Plants

Joshua trees were the only protected plants observed on the site and were scattered throughout the property. Due to the presence of Joshua trees on the property, a comprehensive survey and evaluation of the Joshua trees, and a "protected plant preservation plan" will be prepared for the site as per City requirements. Therefore, the project proponent has contracted with RCA Associates, Inc. to perform the surveys and prepare the technical report.

## 6.0 IMPACTS AND MITIGATION MEASURES

### 6.1 General Biological Resources

Future development of the site will impact the general biological resources present on the site, and most of the vegetation will likely be removed during future construction activities. Wildlife will also be impacted by development activities and those species with limited mobility (i.e., small mammals and reptiles) will experience increases in mortality during the construction phase. However, more mobile species (i.e., birds, large mammals) will be displaced into adjacent areas and will likely experience minimal impacts. Loss of about 30-acres of desert vegetation is not expected to have a significant cumulative impact on the overall biological resources in the region given the presence of similar habitat throughout the surrounding desert region. The drainage channel located along the western boundary of the site, which may be considered jurisdictional waters of the State and/or the U.S. will be avoided during future development activities.

### 6.2 Federal and State Listed and Species of Special Concern

No federal listed species were observed on the site during the field investigations including the Mohave ground squirrel and desert tortoise. In addition, there are no documented observations of these species either on the site or in the immediate area (CNDDB, 2021). The site is not expected to support populations of the desert tortoise based on the absence of any tortoise sign (e.g., burrows, scats, tracks, etc.), and although suitable habitat is present on site, the probability of the species inhabiting the site is very low. In addition, Mohave ground squirrels are unlikely to inhabit the site given the very low population levels in the area; although. CDFW may require more comprehensive surveys to definitely determine the presence or absence of the species.

As per CDFW protocol, the burrowing owl survey results are valid for only 30 days; therefore, CDFW will require a 30-day pre-construction survey be performed prior to any clearing/grading activities to determine if owls have moved on to the site since the October 19, 2021, surveys.

**As of September 22, 2020, CDFW temporality listed the western Joshua tree (*Yucca brevifolia*) as a threatened species for one year until a final decision in made. Therefore, a comprehensive survey and evaluation of the Joshua trees present on the site will be**

**conducted by RCA Associates, inc. and a separate technical report will be prepared that provides the results of the survey. An Incidental Take Permit will be required prior to the start of any ground disturbance activities and any actions that may impact the Joshua trees cannot occur until an ITP permit has been issued by CDFW for the project.**

## 7.0 CONCLUSIONS AND RECOMMENDATIONS

Future development activities are expected to result in the removal of vegetation from the 30-acre parcel; however, cumulative impacts to the general biological resources (plants and animals) in the surrounding area are expected to be minimal; however, impacts to the Joshua trees on the site will be considered significant given the recently listing of the species by the State of California as a "threatened species." The following mitigation measures are recommended:

1. Pre-construction surveys for burrowing owls, desert tortoise, and nesting birds protected under the Migratory Bird Treaty Act and Section 3503 of the California Fish and Wildlife Code may need to be conducted prior to the commencement of future ground disturbance.
    a. Appropriate survey methods and time frames shall be established, to ensure that chances of detecting the target species are maximized. In the event that listed species, such as the desert tortoise, are encountered, authorization from the USFWS and CDFW must be obtained. If nesting birds are detected, avoidance measures shall be implemented to ensure that nests are not disturbed until after young have fledged.
    b. Pre-construction surveys shall encompass all areas within the potential footprint of disturbance for the project, as well as a reasonable buffer around these areas.
2. A comprehensive survey and evaluation of the Joshua trees on the site will need to be conducted and preparation of a Protected Plant Plan. The report shall identify methods, locations, and criteria for transplanting those trees that would be removed prior to ground disturbance activities and Project construction.

If any other sensitive species are observed on the property during future activities, CDFW and USFWS (as applicable) should be contacted to discuss specific mitigation measures which may be required for the individual species. CDFW and USFWS are the only agencies which can grant authorization for the "take" of any sensitive species and can approve the implementation of any applicable mitigation measures.

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**CERTIFICATION**

I hereby certify that the statements furnished above and in the attached exhibits, presents the data and information required for this biological evaluation, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief. Fieldwork conducted for this assessment was performed by Ryan Hunter and Jessica Hensley, reports was prepared by Randall Arnold and other biologists under his direction. I certify that I have not signed a non-disclosure or consultant confidentiality agreement with the project applicant or applicant's representative and that I have no financial interest in the project.

Date: 10/25/2021 Signed: Ryan Hunter

Field Work Performed By: Ryan Hunter
Environmental Scientist/Biologist

Field Work Performed By: Jessica Hensley
Biologist

Report Prepared By: Randall Arnold
President and Senior Biologist

# Appendix A

## Tables and Figures

## & Regulatory Content


Figure 1: Regional Exhibit

RCA Associates, Inc.
Source: Google Earth

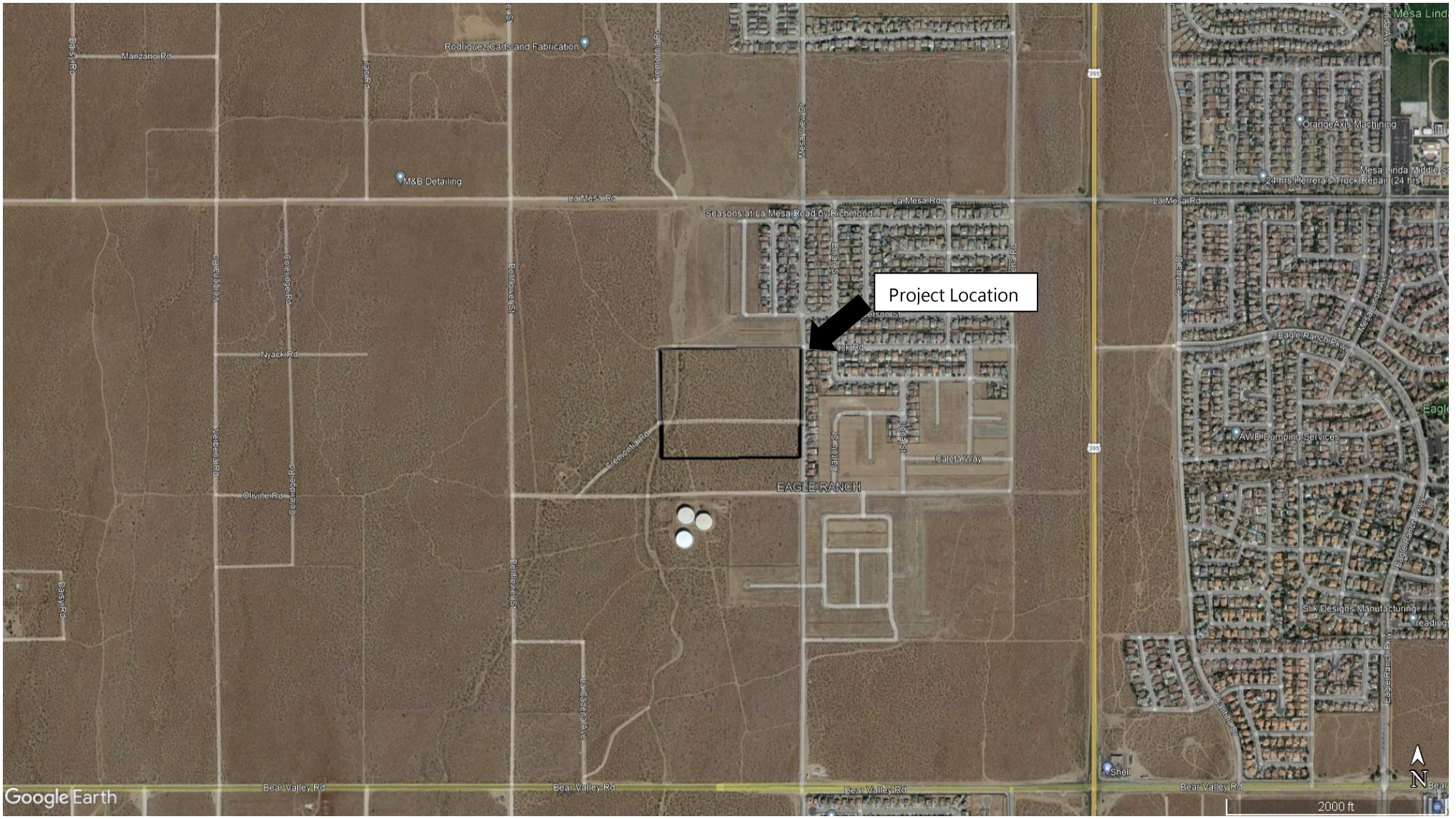


Figure 2: Vicinity Exhibit

RCA Associates, Inc.
Source: Google Earth

CENTER OF SITE LOOKING NORTH

CENTER OF SITE LOOKING EAST

FIGURE 3
PHOTOGRAPHS OF SITE

CENTER OF SITE LOOKING SOUTH

CENTER OF SITE LOOKING WEST

FIGURE 3, cont.
PHOTOGRAPHS OF SITE

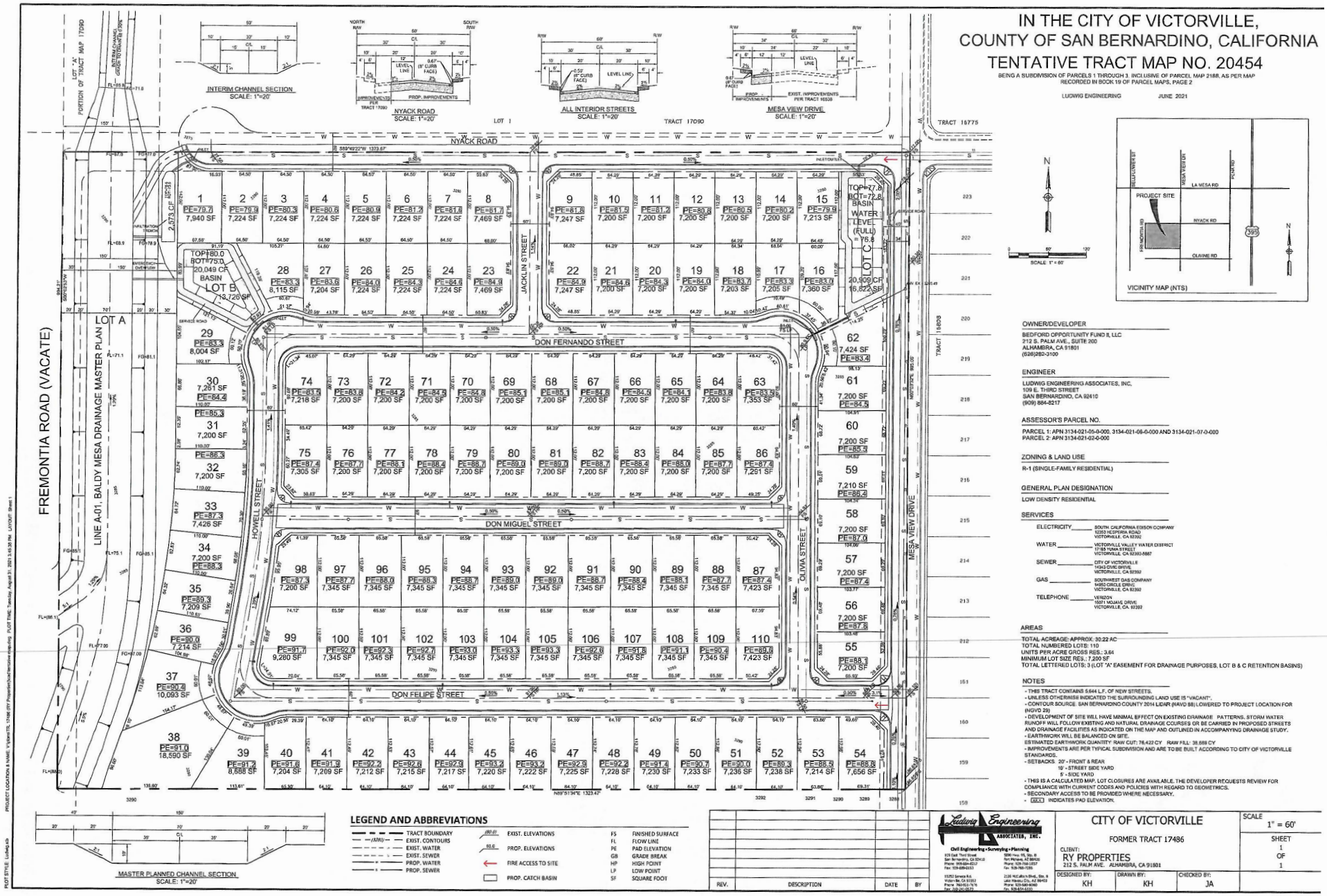


FIGURE 4: SITE PLAN

**Table 1 - Plants observed on the site and known to occur in the immediate surrounding area.**

| Common Name | Scientific Name | Location |
|---|---|---|
| Joshua tree | *Yucca brevifolia* | On site and Surrounding Area |
| Creosote bush | *Larrea tridentata* | “ |
| Beavertail cactus | *Opuntia basilaris* | Surrounding Area |
| California buckwheat | *Eriogonum fasciculatum* | On-site and surrounding area |
| Asian mustard | *Brassica tournefortii* | “ |
| Cheatgrass | *Bromus tectorum* | On-site and surrounding area |
| Wild oat | *Avena fatua* | “ |
| Kelch grass | *Schismus barbatus* | On-site an surrounding area |
| Rubber rabbitbrush | *Chrysothamnus nauseosus* | “ |
| Ragweed | *Ambrosia sp.* | Surrounding area |
| Ephedra | *Ephedra nevadensis* | On-site and surrounding area |
| Chia | *Salvia hispanica* | “ |
| Broom snakeweed | *Gutierrezia sarothrae* | Surrounding area |
| Fiddleneck | *Amsinckia tessellata* | On-site and surrounding area |
| Silver cholla | *Cylindropuntia echinocarpa* | “ |
| Winterfat | *Krascheninnikovia lanata* | Surrounding area |
| White bursage | *Ambrosia dumosa* | On-site and surrounding area |
| Saltbush | *Atriplex sp.* | “ |
| Maltese Star thistle | *Centauren melitensis* | “ |

Note: The above list is not intended to be a comprehensive list of every plant which may occur on the site or in the zone of influence.

**Table 2 - Wildlife observed on the site during the field investigations or likely to occur on the site and/or surrounding area.**

| Common Name | Scientific Name | Location |
|---|---|---|
| Common raven | *Corvus corax* | On-site and surrounding area. |
| California ground squirrel | *Spermophilus beecheyi* | Surrounding area |
| Cactus wren | *Campylorhynchus brunneicapillus* | " |
| House finch | *Carpodacus mexicanus* | On-site and surrounding area |
| Pigeon | *Columba livia* | On-site and surrounding area |
| Mourning dove | *Zenaida macroura* | On-site and surrounding area |
| White crowned sparrow | *Zonotrichia leucophrys* | " |
| Western whiptail lizard | *Cnemidophorus tigris* | Surrounding area |
| Black throated gray warbler | *Setophaga nigrescens* | On-site and surrounding area |
| Desert spiny lizard | *Sceloporus magister* | Surrounding area |
| Antelope ground squirrel | *Ammospermophilus leucurus* | On-site and surrounding area |
| Desert cottontail | *Sylvilagus auduboni* | " |
| Jackrabbit | *Lepus Californicus* | " |
| Coyotes | *Canis latrans* | " |
| Verdin | *Auriparus flaviceps* | " |
| Yellow-rumped warbler | *Setophaga coronata* | " |
| Barn owl | *Tyto alba* | Carcass observed |
| Coopers hawk | *Accipiter cooperii* | Observed flying over site |

Note: The above Table is not a comprehensive list of every animal species which may occur in the area, but is a list of those common species which were identified on the site or which have been observed in the region by biologists from RCA Associates, Inc.

## REGULATORY CONTEXT

The following provides a summary of federal and state regulatory jurisdiction over biological and wetland resources. Although most of these regulations do not directly apply to the site, given the general lack of sensitive resource, they provide important background information.

### Federal Endangered Species Act

The USFWS has jurisdiction over federally listed threatened and endangered plant and animal species. The federal Endangered Species Act (ESA) and its implementing regulations prohibit the take of any fish or wildlife species that is federally listed as threatened or endangered without prior approval pursuant to either Section 7 or Section 10 of the ESA. ESA defines "take" as "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Federal regulation 50CFR17.3 defines the term "harass" as an intentional or negligent act that creates the likelihood of injuring wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns such as breeding, feeding, or sheltering (50CFR17.3). Furthermore, federal regulation 50CFR17.3 defines "harm" as an act that either kills or injures a listed species. By definition, "harm" includes habitat modification or degradation that actually kills or injures a listed species by significantly impairing essential behavior patterns such as breeding, spawning, rearing, migrating, feeding, or sheltering (50CFR217.12).

Section10(a) of the ESA establishes a process for obtaining an incidental take permit that authorizes nonfederal entities to incidentally take federally listed wildlife or fish. Incidental take is defined by ESA as take that is "incidental to, and not the purpose of, the carrying out of another wise lawful activity." Preparation of a habitat conservation plan, generally referred to as an HCP, is required for all Section 10(a) permit applications. The USFWS and National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries Service) have joint authority under the ESA for administering the incidental take program. NOAA Fisheries Service has jurisdiction over anadromous fish species and USFWS has jurisdiction over all other fish and wildlife species.

Section 7 of the ESA requires all federal agencies to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any species listed under the ESA, or result in the destruction or adverse modification of its habitat. Federal agencies are also required

to minimize impacts to all listed species resulting from their actions, including issuance or permits or funding. Section 7 requires consideration of the indirect effects of a project, effects on federally listed plants, and effects on critical habitat (ESA requires that the USFWS identify critical habitat to the maximum extent that it is prudent and determinable when a species is listed as threatened or endangered). This consultation results in a Biological Opinion prepared by the USFWS stating whether implementation of the HCP will result in jeopardy to any HCP Covered Species or will adversely modify critical habitat and the measures necessary to avoid or minimize effects to listed species.

Although federally listed animals are legally protected from harm no matter where they occur, the Section 9 of the ESA provides protection for endangered plants by prohibiting the malicious destruction on federal land and other "take" that violates State law. Protection for plants not living on federal lands is provided by the California Endangered Species Act.

**California Endangered Species Act**

CDFW has jurisdiction over species listed as threatened or endangered under Section 2080 of the California Fish and Wildlife Code. Section 2080 prohibits the take of a species listed by CDFW as threatened or endangered. The state definition of take is similar to the federal definition, except that Section 2080 does not prohibit indirect harm to listed species by way of habitat modification. To qualify as take under the state ESA, an action must have direct, demonstrable detrimental effect on individuals of the species. Impacts on habitat that may ultimately result in effects on individuals are not considered take under the state ESA but can be considered take under the federal ESA.

Proponents of a project affecting a state-listed species must consult with CDFW and enter into a management agreement and take permit under Section 2081. The state ESA consultation process is similar to the federal process. California ESA does not require preparation of a state biological assessment; the federal biological assessment and the CEQA analysis or any other relevant information can provide the basis for consultation. California ESA requires that CDFW coordinate consultation for joint federally listed and state-listed species to the extent possible; generally, the state opinion for the listed species is brief and references provisions under the federal opinion.

**Clean Water Act, Section 404**

The COE and the U.S. Environmental Protection Agency regulate the placement of dredged or fill material into "Waters of the United States" under Section 404 of the Clean Water Act. Waters of the United States include lakes, rivers, streams, and their tributaries, and wetlands. Wetlands are defined for regulatory purposes as "areas inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions" (33 Code of Federal Regulations [CFR] 328.3, 40 CFR 230.3).

The COE may issue either individual permits on a case-by-case basis or general permits on a program level. General permits are pre-authorized and are issued to cover similar activities that are expected to cause only minimal adverse environmental effects. Nationwide permits (NWP's) are general permits issued to cover particular fill activities. All NWP's have general conditions that must be met for the permits to apply to a particular project, as well as specific conditions that apply to each NWP.

**Clean Water Act, Section 401**

Section 401 of the Clean Water Act requires water quality certification and authorization of placement of dredged or fills material in wetlands and Other Waters of the United States. In accordance with Section 401 of the Clean Water Act, criteria for allowable discharges into surface waters have been developed by the State Water Resources Control Board, Division of Water Quality. As such, proponents of any new project which may impair water quality as a result of the project are required to create a post construction storm water management plan to insure offsite water quality is not degraded. The resulting requirements are used as criteria in granting National Pollution Discharge Elimination System (NPDES) permits or waivers, which are obtained through the Central Valley Regional Water Quality Control Board (RWQCB). Any activity or facility that will discharge waste (such as soils from construction) into surface waters, or from which waste may be discharged, must obtain an NPDES permit or waiver from the RWQCB. The RWQCB evaluates an NPDES permit application to determine whether the proposed discharge is consistent with the adopted water quality objectives of the basin plan.

**California Fish and Wildlife Code, Sections 1600-1616**

Under the California Fish and Wildlife Code, Sections1600-1616 CDFW regulates projects that divert, obstruct, or change the natural flow or bed, channel, or bank of any river, stream, or lake. Proponents of such projects must notify CDFW and enter into streambed alteration agreement with them.

Section 1602 of the California Fish and Wildlife Code requires a state or local government agency, public utility, or private entity to notify CDFW before it begins a construction project that will: (1) divert, obstruct, or change the natural flow or the bed, bank, channel, or bank of any river, stream, or lake; (2) use materials from a streambed; or (3) result in the disposal or deposition of debris, waste, or other material containing crumbled, flaked, or ground pavement where it can pass into any river, stream, or lake. Once the notification is filed and determined to be complete, CDFW issues a streambed alteration agreement that contains conditions for construction and operations of the proposed project.

**California Fish and Wildlife Code, Section 3503.5**

Under the California Fish and Wildlife Code, Section 3503.5, it is unlawful to take, possess, or destroy any birds in the orders Falconiformes (hawks, eagles, and flacons) or Strigiformes (owls). Take would include the disturbance of an active nest resulting in the abandonment or loss of young.

**Migratory Bird Treaty Act**

The federal Migratory Bird Treaty Act (MBTA) prohibits the taking, hunting, killing, selling, purchasing, etc. of migratory birds, parts of migratory birds, or their eggs and nests. As used in the MBTA, the term "take" is defined as "to pursue, hunt, shoot, capture, collect, kill, or attempt to pursue, hunt, shoot, capture, collect, or kill, unless the context otherwise requires." Most bird species native to North America are covered by this act.

**Sensitive Natural Communities**

The California Office of Planning and Research and the Office of Permit Assistance (1986) define project effects that substantially diminish habitat for fish, wildlife, or plants, or that disrupt or divide the physical arrangement of an established community as significant impacts under CEQA.

This definition applies to certain natural communities because of their scarcity and ecological values and because the remaining occurrences are vulnerable to elimination. For this study, the term "sensitive natural community" includes those communities that, if eliminated or substantially degraded, would sustain a significant adverse impact as defined under CEQA. Sensitive natural communities are important ecologically because their degradation and destruction could threaten populations of dependent plant and wildlife species and significantly reduce the regional distribution and viability of the community. If the number and extent of sensitive natural communities continue to diminish, the status of rare, threatened, or endangered species could become more precarious, and populations of common species (i.e., not special status species) could become less viable. Loss of sensitive natural communities also can eliminate or reduce important ecosystem functions, such as water filtration by wetlands and bank stabilization by riparian woodlands for example.

**Protected Plants**

The California Desert Native Plant Act was passed in 1981 to protect non-listed California desert native plants from unlawful harvesting on both public and privately-owned lands. Harvest, transport, sale, or possession of specific native desert plants is prohibited unless a person has a valid permit. The following plants are under the protection of the California Desert Native Plants Act:

- Dalea spinosa (smoketree)
- All species of the genus Prosopis (mesquites)
- All species of the family Agavaceae (century plants, nolinas, yuccas)
- All species of Cactus
- Creosote Rings, ten feet in diameter or greater
- All Joshua Trees

**The project would be required to comply with State Regulations, the City Desert Native Plant Protection Ordinance and the California Desert Plant Protection Act. The removal of any protected plant species, such as Joshua trees, will require the project applicant to apply for an Incidental Take Permit from CDFW prior to the start of any ground disturbance activities.**