

JOHNSON ROAD WAREHOUSE PROJECT

TOWN OF APPLE VALLEY, SAN BERNARDINO COUNTY, CALIFORNIA

Biological Resources Assessment

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October 2024

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Biological Resources Assessment

The undersigned certify that the statements furnished in this report and exhibits present data and information required for this biological evaluation, and the facts, statements, and information presented is a complete and accurate account of the findings and conclusions to the best of our knowledge and beliefs.



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Section 1 Introduction

This report contains the findings of ELMT Consulting (ELMT) biological resources assessment for the Johnson Road Warehouse Project (Project) located in the Town of Apple Valley in San Bernardino County, California. ELMT biologist Andrew N. Mestas conducted a field survey and evaluated the condition of the habitat within the project site on and surrounding area (survey area) on September 24, 2024.

The habitat assessment was conducted to document existing site conditions and to assess the probability of occurrence of special-status¹ plant and wildlife species that could pose a constraint to project implementation. Special attention was given to the suitability of the habitat on the project site to support special-status plant and wildlife species identified by the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB), and other electronic databases as potentially occurring in the general vicinity of the project site.

The site was also evaluated for its potential to support natural drainage features, ponded areas, and/or water bodies that have the potential to fall under the regulatory authority of the of the United States Army Corps of Engineers (Corps), Regional Water Quality Control Board (Regional Board), or California Department of Fish and Wildlife (CDFW) pursuant to Sections 401 and 404 of the Federal Clean Water Act (CWA), the California Porter-Cologne Water Quality Control Act, and Section 1600 *et seq.* of the Fish and Game Code. A Delineation of State and Federal Jurisdictional Waters Report was prepared under separate cover.

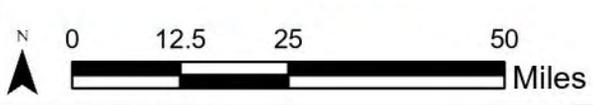
1.1 PROJECT LOCATION

The project site is generally located south and east of Interstate 15, west of State Route 247, and north of State Route 18 in the Town of Apple Valley, San Bernardino County, California (Exhibit 1, *Regional Vicinity*). The site is depicted on the Apple Valley North quadrangle of the United States Geological Survey's (USGS) 7.5-minute map series within Section 16 of Township 6 North, Range 3 West (Exhibit 2, *Site Vicinity*). Specifically, the approximately 20 acre site is located south of Quarry Road, east of Dachshund Avenue, bound to the south by Johnson Road, and bound to the east by Navajo Road; and is located within Assessor Parcel Numbers (APNs) 0463-213-26, -27, and -28 (Exhibit 3, *Project Site*).

1.2 PROJECT DESCRIPTION

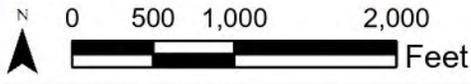
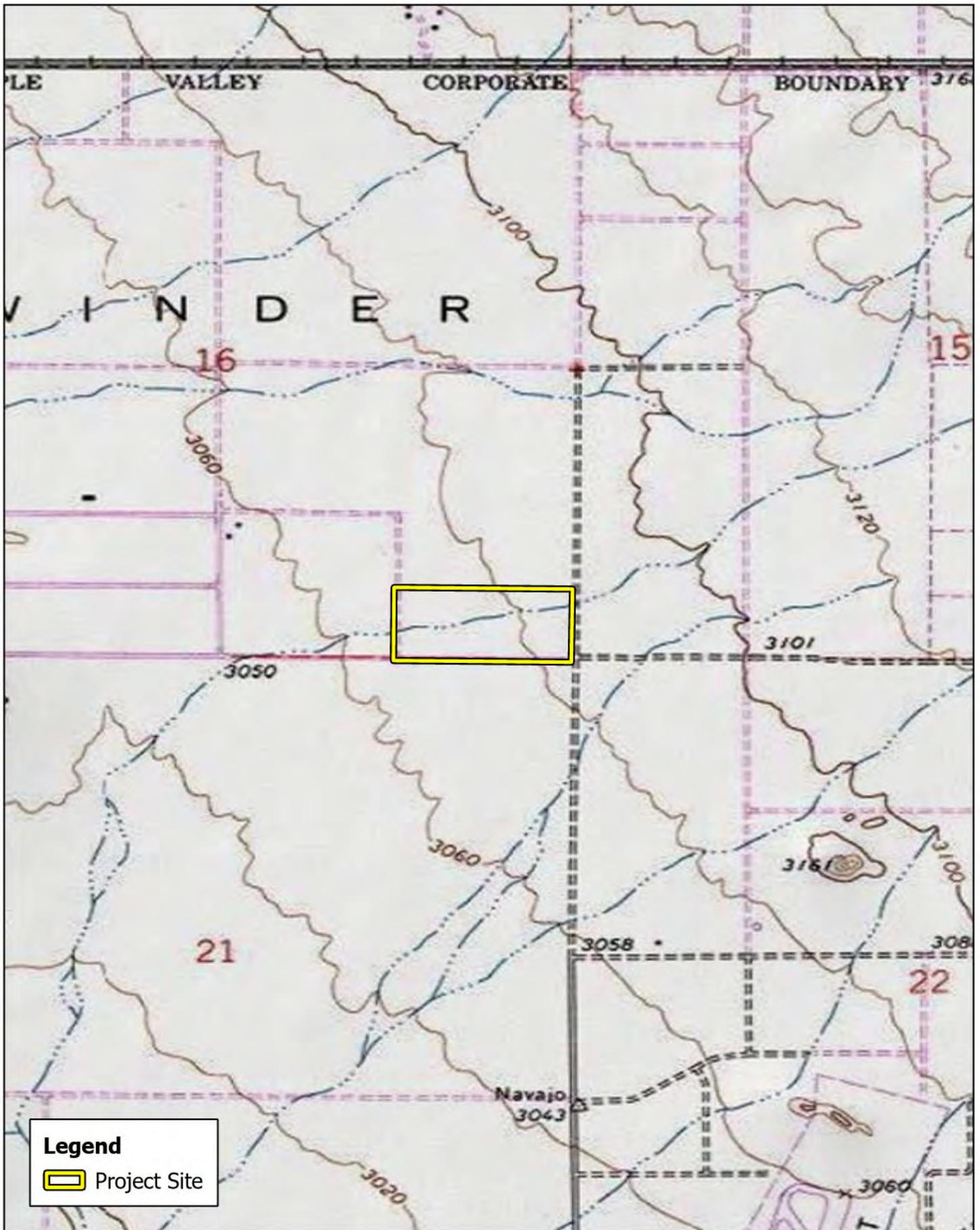
The project proposes to construct a single industrial warehouse building that encompass approximately 410,241 square feet on approximately 20 acres. The development will consist of structures to accommodate the proposed use in addition to accessory structures, loading docks, truck trailer parking, automobile parking, and associated infrastructure improvements. Refer to Appendix A, *Site Plan*.

¹ As used in this report, "special-status" refers to plant and wildlife species that are federally or State listed, proposed, or candidates; plant species that have been designated a California Native Plant Society (CNPS) Rare Plant Rank; and wildlife species that are designated by the California Department of Fish and Wildlife (CDFW) as fully protected, species of special concern, or watch list species.



JOHNSON ROAD WAREHOUSE PROJECT
Regional Vicinity

Source: ESRI World Street Map



Source: USA Topo Maps, San Bernardino County

JOHNSON ROAD WAREHOUSE PROJECT

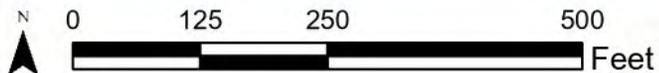
Site Vicinity



Johnson Road

Legend

 Project Site



Source: ESRI Aerial Imagery, San Bernardino County

JOHNSON ROAD WAREHOUSE PROJECT

Project Site

Exhibit 3

Section 2 Methodology

A literature review and records search were conducted to determine which special-status biological resources have the potential to occur on or within the general vicinity of the project site. In addition to the literature review, a general habitat assessment or field investigation of the project site was conducted. The field investigation was conducted to document existing conditions within the survey area and assess the potential for special-status biological resources to occur.

2.1 LITERATURE REVIEW

Prior to conducting the field investigation, a literature review and records search was conducted for special-status biological resources potentially occurring on or within the vicinity of the project site. Previously recorded occurrences of special-status plant and wildlife species and their proximity to the project site were determined through a query of the CDFW QuickView Tool in the Biogeographic Information and Observation System (BIOS), CNDDDB Rarefind 5, the California Native Plant Society's (CNPS) Electronic Inventory of Rare and Endangered Vascular Plants of California, Calflora Database, compendia of special-status species published by CDFW, and the United States Fish and Wildlife Service (USFWS) species listings.

All available reports, survey results, and literature detailing the biological resources previously observed on or within the vicinity of the project site were reviewed to understand existing site conditions and note the extent of any disturbances that have occurred on the project site that would otherwise limit the distribution of special-status biological resources. Standard field guides and texts were reviewed for specific habitat requirements of special-status and non-special-status biological resources, as well as the following resources:

- Google Earth Pro historic aerial imagery (1985-2024);
- San Bernardino County General Plan;
- United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS), Soil Survey²;
- USFWS Critical Habitat designations for Threatened and Endangered Species; and
- USFWS National Wetlands Inventory (NWI).

The literature review provided a baseline from which to inventory the biological resources potentially occurring on the subject property. The CNDDDB database was used, in conjunction with ArcGIS software, to locate the nearest recorded occurrences of special-status species and determine the distance from the project site.

² A soil series is defined as a group of soils with similar profiles developed from similar parent materials under comparable climatic and vegetation conditions. These profiles include major horizons with similar thickness, arrangement, and other important characteristics, which may promote favorable conditions for certain biological resources.

2.2 FIELD INVESTIGATION

ELMT biologist Andrew N. Mestas evaluated the extent and conditions of the plant communities found within the boundaries of the project site on September 24, 2024. Plant communities identified on aerial photographs during the literature review were verified in the field by walking meandering transects through the on-site plant communities and along boundaries between plant communities. The plant communities were evaluated for their potential to support special-status plant and wildlife species. In addition, field staff identified any natural corridors and linkages that may support the movement of wildlife through the area. Special attention was given to special-status habitats and/or undeveloped areas, which have higher potential to support special-status plant and wildlife species.

All plant and wildlife species observed, as well as dominant plant species within each plant community, were recorded. Wildlife detections were made through observation of scat, trails, tracks, burrows, nests, and/or visual and aural observation. In addition, site characteristics such as soil condition, topography, hydrology, anthropogenic disturbances, indicator species, condition of on-site plant communities, and presence of potential jurisdictional drainage and/or wetland features were noted.

2.3 SOIL SERIES ASSESSMENT

On-site and adjoining soils were researched prior to the field survey using the USDA NRCS Soil Survey for San Bernardino County Mojave River Area. In addition, a review of the local geological conditions and historical aerial photographs was conducted to assess the ecological changes that the project site has undergone.

2.4 PLANT COMMUNITIES

Plant communities were mapped using 7.5-minute USGS topographic base maps and aerial photography. The plant communities were classified in accordance with Sawyer, Keeler-Wolf and Evens (2009), CDFW (2010) and Holland (1986), delineated on an aerial photograph, and then digitized into ArcGIS. The ArcGIS application was used to compute the area of each plant community in acres.

2.5 PLANTS

Common plant species observed during the field survey were identified by visual characteristics and morphology in the field and recorded in a field notebook. Unusual and less familiar plants were photographed in the field and identified in the laboratory using taxonomic guides. Taxonomic nomenclature used in this study follows the 2012 Jepson Manual (Hickman 2012). In this report, scientific names are provided immediately following common names of plant species (first reference only).

2.6 WILDLIFE

Wildlife species detected during field surveys by sight, calls, tracks, scat, or other sign were recorded during surveys in a field notebook. Field guides were used to assist with identification of wildlife species during the survey included *The Sibley Field Guide to the Birds of Western North America* (Sibley 2003), *A Field Guide to Western Reptiles and Amphibians* (Stebbins 2003), and *A Field Guide to Mammals of North America* (Reid 2006). Although common names of wildlife species are fairly well standardized, scientific names are provided immediately following common names in this report (first reference only).

2.7 JURISDICTIONAL DRAINAGES AND WETLANDS

Aerial photography was reviewed prior to conducting a field investigation in order to locate and inspect any potential natural drainage features, ponded areas, or water bodies that may fall under the jurisdiction of the Corps, Regional Board, and/or CDFW. In general, surface drainage features indicated as blue-line streams on USGS maps that are observed or expected to exhibit evidence of flow are considered potential riparian/riverine habitat and are also subject to state and federal regulatory jurisdiction. In addition, ELMT reviewed jurisdictional waters information through examining historical aerial photographs to gain an understanding of the impact of land-use on natural drainage patterns in the area. The USFWS NWI and Environmental Protection Agency (EPA) Water Program “My Waters” data layers were also reviewed to determine whether any hydrologic features and wetland areas have been documented on or within the vicinity of the Project site.

Section 3 Existing Conditions

3.1 LOCAL CLIMATE

The Mojave Desert is found at elevations of 2,000 to 5,000 feet above mean sea level and is characterized by cool winter temperatures and warm summer temperatures, with its rainfall occurring almost entirely in the winter. Climatological data obtained for the area indicates the annual precipitation averages 6.18 inches per year. Almost all of the precipitation in the form of rain occurs in the months between October and April, with hardly any occurring between the months of May and September. The wettest month is February, with a monthly average total precipitation of 1.22 inches. The average minimum and maximum temperatures for the region are 45.7- and 78.9-degrees Fahrenheit (°F) respectively with December and January (monthly average 41° F) being the coldest months and July being the hottest (monthly average 100° F). Temperatures during the site visit were in the high-70s to mid-80s (° F).

3.2 TOPOGRAPHY AND SOILS

On-site elevation ranges from approximately 3,076 to 3,096 feet above mean sea level and generally slopes from northeast to southwest. According to the topographic map, the project site occurs within the Apple Valley North 7.5-minute quadrangle. The site consists almost entirely of vacant/undeveloped land with disturbance along the southern boundary of the project site associated with vehicle use as a shoulder and turnaround area along Johnson Road.

According to the NRCS Custom Soil Resource Report, the project site is underlain by Helendale-Bryman loamy sands (2 to 5 percent slopes). Refer to Exhibit 4, *Soils*. Generally, soils within the project are undisturbed.

3.3 SURROUNDING LAND USES

The project site is located in a predominantly undeveloped area near the northeastern limits of the Town of Apple Valley. Limited rural residential and industrial parcels are scattered throughout the area, including adjacent to the southern portion of the site. Notable developments in the vicinity include Quarry Road and an associated railroad located adjacent to the northern boundary of the site, Apple Valley Speedway located approximately 1.67 miles to the northeast, Apple Valley Airport located approximately 0.8 miles to the southeast, and a Walmart distribution center located south and across Johnson Road.



Section 4 Discussion

4.1 SITE CONDITIONS

The survey area supports a mix of undeveloped and disturbed land. The areas on the western, eastern, and southern boundaries of the project site range from mildly to heavily disturbed while the middle portion of the project site supports undeveloped, vacant land and native habitat. Disturbances on-site are primarily due to adjacent access roads and development associated with Johnson Road.

4.2 VEGETATION

During the field investigation one (1) plant community was observed within the boundary of the project site: creosote bush scrub (Exhibit 5, *Vegetation*). In addition, one (1) land cover type that would be classified as disturbed was observed onsite. This area is not a vegetation classification, but rather a land cover type. The vegetation community and land cover type are described in further detail below.

4.2.1 Larrea Tridentata Shrubland Alliance (Creosote Bush Scrub)

Creosote bush scrub typically occurs in well-drained soils on alluvial fans, bajadas, upland slopes and in minor, intermittent washes at an elevational range of below sea level to 1,000 m (Sawyer et al. 2009). Other shrubs were sparse, and included turpentine broom (*Thamnosia montana*), Mojave cottonthorn (*Tetradymia stenolepis*), cheesebush (*Ambrosia salsola*), Cooper's goldenbush (*Ericameria cooperi*), California broomsage (*Lepidospartum squamatum*), Nevada ephedra (*Ephedra nevadensis*), and turpentine broom (*Thamnosma montana*). In the understory, a dominance of nonnative grasses such as red brome (*Bromus madritensis*) and mediterranean grass (*Schismus sp.*) was evident. Other species present in the understory included bristly fiddleneck (*Amsinckia tessellata*) and western tansymustard (*Descurainia pinnata*). Western Joshua trees were scattered in the area. This alliance and the shrub associations that occurred in the Project Area are not sensitive natural communities (CDFW 2023).

4.2.2 Disturbed

Disturbed areas occur along the western, eastern, and southern boundaries of the project site due to adjacent dirt access roads and Johnson Road. The disturbed areas support both barren and sparsely vegetated land with some non-native species present. Some plant species observed in the disturbed areas include red bromes, western tansymustard, and bristly fiddleneck.

4.3 WILDLIFE

Plant communities provide foraging habitat, nesting and denning sites, and shelter from adverse weather or predation. This section provides a discussion of those wildlife species that were observed during the field survey or that are expected to occur within the project site. The discussion is to be used as a general reference and is limited by the season, time of day, and weather condition in which the field survey was conducted. Wildlife detections were based on calls, songs, scat, tracks, burrows, and direct observation.

4.3.1 Fish

No fish or hydrogeomorphic features (e.g., perennial creeks, ponds, lakes, reservoirs) with frequent sources of water that would provide suitable habitat for fish were observed on or immediately adjacent to the project site. Therefore, no fish are expected to occur and are presumed absent from the project site.

4.3.2 Amphibians

No amphibians or hydrogeomorphic features (e.g., perennial creeks, ponds, lakes, reservoirs) that would provide suitable habitat for amphibian species were observed on or immediately adjacent to the project site. Therefore, no amphibians are expected to occur on the project site and are presumed absent.

4.3.3 Reptiles

The project site provides suitable foraging and nesting habitat for a variety of reptilian species adapted to conditions within the Mojave Desert. The only reptilian species observed during the field investigation included western whiptail (*Aspidoscelis tigris*). Common reptilian species that have the potential to occur on-site include northern Mohave rattlesnake (*Crotalus scutulatus scutulatus*), common side-blotched lizard (*Uta stansburiana elegans*), desert horned lizard (*Phrynosoma platyrhinos calidiarum*), desert spiny lizard (*Sceloporus magister*), and Great Basin gopher snake (*Pituophis catenifer deserticola*).

4.3.4 Birds

The project site provides suitable foraging and nesting habitat for a variety of resident and migrant bird species adapted to conditions within the Mojave Desert. Avian species detected during the survey included California horned lark (*Eremophila alpestris actia*), rock pigeon (*Columba livia*), and American crow (*Corvus brachyrhynchos*). Common avian species expected to occur on-site include cactus wren (*Campylorhynchus brunneicapillus*), house finch (*Haemorhous mexicanus*), black-throated sparrow (*Amphispiza bilineata*), rock wren (*Salpinctes obsoletus*), mourning dove (*Zenaida macroura*), common raven (*Corvus corax*), California quail (*Callipepla californica*), and red-tailed hawk (*Buteo jamaicensis*).

4.3.5 Mammals

The project site provides suitable foraging and denning habitat for a variety of mammalian species adapted to conditions within the Mojave Desert. Most mammal species are nocturnal and are difficult to observe during a diurnal field visit. The only mammalian species observed during the field investigation were white-tailed antelope squirrel (*Ammospermophilus leucurus*) and black-tailed jackrabbit (*Lepus californicus*). Common mammalian species that have potential to occur on-site include desert woodrat (*Neotoma lepida*), coyote (*Canis latrans*), and desert cottontail (*Sylvilagus audubonii*). No bat species are expected to occur due to a lack of suitable roosting habitat (i.e., trees, crevices, abandoned structures) within and surrounding the project site.

4.4 NESTING BIRDS

The onsite plant community provides suitable foraging and nesting habitat for year-round and seasonal avian residents, as well as migrating songbirds that have adapted to conditions in the Mojave Desert.

Nesting birds are protected pursuant to the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code (Sections 3503, 3503.5, 3511, and 3513 prohibit the take, possession, or destruction of birds, their nests or eggs). If construction occurs between February 1st and August 31st, a pre-construction clearance survey for nesting birds should be conducted within three (3) days of the start of any vegetation removal or ground disturbing activities to ensure that no nesting birds will be disturbed during construction.

4.5 WILDLIFE CORRIDORS AND LINKAGES

Habitat linkages provide links between larger undeveloped habitat areas that are separated by development. Wildlife corridors are similar to linkages but provide specific opportunities for animals to disperse or migrate between areas. A corridor can be defined as a linear landscape feature of sufficient width to allow animal movement between two comparatively undisturbed habitat fragments. Adequate cover is essential for a corridor to function as a wildlife movement area. It is possible for a habitat corridor to be adequate for one species yet inadequate for others. Wildlife corridors are significant features for dispersal, seasonal migration, breeding, and foraging. Additionally, open space can provide a buffer against both human disturbance and natural fluctuations in resources.

According to the San Bernardino County General Plan, the project site has not been identified as occurring within a Wildlife Corridor or Linkage. The open and natural habitats on and surrounding the project site allow for local wildlife to move from the project site into the undeveloped areas surrounding the project site in search of food, shelter, or nesting habitat. As designated by the San Bernardino County General Plan Open Space Element, the nearest major open space areas documented in the vicinity of the project site is the Oro Grande located approximately 6.6 miles southwest of the project site.

The project site is separated from these identified regional wildlife corridors and linkages by existing development, roadways, and undeveloped land; however, there are no riparian corridors or creeks connecting the project site to these areas. The undeveloped land in the immediate vicinity of the project site provides local wildlife movement opportunities for wildlife species moving through the immediate area. The project site does not function as a major wildlife movement corridor or linkage. As such, implementation of the proposed project is not expected to have a significant impact to wildlife movement opportunities or prevent local wildlife movement through the area since there is ample habitat adjacent to the project site to support wildlife movement opportunities.

4.6 STATE AND FEDERAL JURISDICTIONAL AREAS

There are three key agencies that regulate activities within inland streams, wetlands, and riparian areas in California. The Corps Regulatory Branch regulates discharge of dredge and/or fill materials into “waters of the United States” pursuant to Section 404 of the Federal Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act. Of the State agencies, the Regional Board regulates discharges into surface waters pursuant to Section 401 of the CWA and the California Porter-Cologne Water Quality Control Act and the

CDFW regulates alterations to streambed and associated plant communities pursuant to Section 1602 of the California Fish and Game Code.

Two ephemeral drainages, named Drainage 1 and Drainage 2, were observed passing from the eastern boundary through the site and out through the western boundary of the project site during the field delineation. The drainages onsite flow into a storm drain that extends under Johnson Road and into detention basins associated with the Distribution Center south of the project site.

The onsite ephemeral drainage features are not relatively permanent, standing, or continuously flowing bodies of water and, therefore, will not qualify as waters of the United States under the regulatory authority of the Corps (*Sackett v. EPA* (2022) 143 S. Ct. 1322, 1336). However, the onsite drainage features will qualify as waters of the State and fall under the regulatory authority of the Regional Board and CDFW. Approximately 0.60 acres (3,910 linear feet) of non-wetland waters of the State occur on-site under the jurisdictional authority of the Regional Board. Likewise, the on-site drainage features exhibit characteristics consistent with CDFW's methodology and would be considered CDFW streambed totaling 0.60 acres (3,910 linear feet).

Impacts to the on-site jurisdictional areas will require a Corps Approved Jurisdictional Determination or Waiver, Regional Board CWA Section Report of Waste Discharge, and a CDFW Section 1602 Lake and Streambed Alteration Agreement prior to Project implementation.

4.7 SPECIAL-STATUS BIOLOGICAL RESOURCES

The CNDDDB Rarefind 5, CNDDDB Quickview Tool in BIOS and the CNPS Electronic Inventory of Rare and Endangered Vascular Plants of California were queried for reported locations of special-status plant and wildlife species as well as special-status natural plant communities in the Turtle Valley and Apple Valley North USGS 7.5-minute quadrangles. The habitat assessment evaluated the conditions of the habitat(s) within the boundaries of the project site to determine if the existing plant communities, at the time of the survey, have the potential to provide suitable habitat(s) for special-status plant and wildlife species.

The literature search identified four (4) special-status plant species and thirteen (13) special-status wildlife species as having the potential to occur within the Turtle Valley and Apple Valley North quadrangles. No special-status plant communities were identified within these quadrangles. Special-status plant and wildlife species were evaluated for their potential to occur within the project boundaries based on habitat requirements, availability and quality of suitable habitat, and known distributions. Species determined to have the potential to occur within the general vicinity are presented in *Table B-1: Potentially Occurring Special-Status Biological Resources* in Appendix C. Refer to Table C-1 for a determination regarding the potential occurrence of special-status plant and wildlife species within the project site.

4.7.1 Special-Status Plants

According to the CNDDDB and CNPS, four (4) special-status plant species have been recorded in the Turtle Valley and Apple Valley North quadrangles (refer to Appendix C). Western Joshua tree was the only special-status plant species observed onsite during the field investigation. Further, based on habitat

requirements for the identified special-status species and known distributions, it was determined that the undeveloped portions of the project site that support the creosote bush scrub plant community do not have the potential to support any of the other special-status species documented as occurring within the vicinity of the project site are presumed absent. With the exception of Joshua tree, no impacts to special-status species are expected to occur.

The presence of western Joshua Tree is described in further detail below.

Joshua Tree

The California Fish and Game Commission (Commission) designated the western Joshua tree as a candidate for listing under the California Endangered Species Act (CESA) in October 2020. This action afforded the western Joshua tree the same CESA protections as listed species, which means that removal of the desert trees was subject to fines and criminal penalties unless authorized by a “take” permit issued by the CDFW. Such permits were difficult to obtain, and when issued would authorize removal only in limited circumstances. The new law, which became effective July 1, 2023, streamlines the western Joshua Tree take permit process and broadens the purposes for which a permit may be issued. A western Joshua tree may now be removed for any purpose, so long as a permit is obtained and the removal is fully mitigated, or alternatively, an in-lieu mitigation fee is paid. The table below summarizes the new rules for the area in which the project site is located.

Location	Project Type	Requirements
Project is located within the reduce fee area.	All project types.	Full mitigation, or in-lieu fee as follows: <ul style="list-style-type: none"> • \$1,000 per tree > 5 meters tall • \$200 per tree 1 to 5 meters tall • \$150 per tree < 1 meter tall

One (1) western Joshua tree was observed during the field investigation. If implementation of the proposed project should result in impacts to, or removal of any of the western Joshua trees occurring onsite, payment for mitigation will be needed into the western Joshua tree mitigation fund. A formal western Joshua tree census will be needed to catalog the trees onsite. Further, an Incidental Take Permit will need to be prepared and processed with CDFW for impacts to western Joshua tree.

4.7.2 Special-Status Wildlife

According to the CNDDDB, thirteen (13) special-status wildlife species have been reported in the Turtle Valley and Apple Valley North quadrangles (refer to Appendix C). California horned lark (*Eremophila alpestris actia*) was the only special-status wildlife species observed on-site. Based on habitat requirements for specific species and the availability and quality of on-site habitats, it was determined that the project site has a moderate potential to provide suitable habitat for Costa’s hummingbird (*Calypte costae*) and loggerhead shrike (*Lanius ludovicianus*); and low potential to provide suitable habitat for Cooper’s hawk (*Accipiter cooperii*), golden eagle (*Aquila chysaetos*), burrowing owl, desert tortoise and prairie falcon (*Falco mexicanus*). Further it was determined that the project site does not provide suitable habitat for any of the other special-status wildlife species known to occur in the area.

Based on regional significance, a more detailed discussion of desert tortoise, burrowing owl, and Mohave ground squirrel are discussed in further detail below.

Desert Tortoise

Desert tortoise is both federally and state listed as threatened. The Mojave population of the desert tortoise inhabits areas north and west of the Colorado River in the Mojave Desert of California, Nevada, Arizona, and southwestern Utah, and in the Sonoran Desert in California. Throughout the majority of the Mojave Desert, desert tortoises occur most commonly on gentle sloping soils characterized by an even mix of sand and gravel and sparsely vegetated low-growing vegetation where there is abundant inter-shrub space. Typical habitat for the Mojave desert tortoise has been characterized as Mojavean desert scrub below 5,500 feet in elevation with a high diversity of perennial and ephemeral plants. The dominant shrub commonly associated with desert tortoise habitat is creosote bush; however, other shrubs including burrobush (*Ambrosia dumosa*), Mojave yucca, cheesebush (*Ambrosia salsola*), and Mojave prickly pear (*Opuntia mojavensis*) also provide suitable habitat. The desert tortoise spends 95 percent of its life underground and will opportunistically utilize burrows of various lengths, deep caves, rock and caliche crevices, or overhangs for cover. Therefore, a moderately friable soil is required to allow for burrow construction and ensure that burrows do not collapse.

Desert tortoise was determined to have a low potential to occur on the project site. However, since the project site supports a creosote bush scrub plant community, and desert tortoise are known to occur in the immediate area, a presence/absence survey is recommended to be conducted to ensure desert tortoise are absent from the project site.

Burrowing Owl

The burrowing owl is currently listed as Candidate Endangered species by CDFW. It is a grassland specialist distributed throughout western North America where it occupies open areas with short vegetation and bare ground within shrub, desert, and grassland environments. Burrowing owls use a wide variety of arid and semi-arid environments with well-drained, level to gently-sloping areas characterized by sparse vegetation and bare ground (Haug and Didiuk 1993; Dechant et al. 1999). Burrowing owls are dependent upon the presence of burrowing mammals (such as ground squirrels) whose burrows are used for roosting and nesting (Haug and Didiuk 1993). The presence or absence of colonial mammal burrows is often a major factor that limits the presence or absence of burrowing owls. Where mammal burrows are scarce, burrowing owls have been found occupying man-made cavities, such as buried and non-functioning drain pipes, stand-pipes, and dry culverts. Burrowing mammals may burrow beneath rocks and debris or large, heavy objects such as abandoned cars, concrete blocks, or concrete pads. They also require open vegetation allowing line-of-sight observation of the surrounding habitat to forage as well as watch for predators.

Burrowing owl was determined to have a low potential to occur on the project site. The project site provides line-of-site opportunities favored by burrowing owls, however minimal suitable burrows were observed onsite. Since burrowing owls are now a Candidate Endangered Species, and burrowing owl are known to occur in the immediate area, a focused survey is recommended to be conducted to ensure burrowing owl are absent from the project site.

Mohave Ground Squirrel

The Mohave ground squirrel is endemic to the western Mojave Desert, California. It occupies portions of Inyo, Kern, Los Angeles, and San Bernardino counties in the western Mojave Desert. In general, the species ranges from near Palmdale on the southwest to Lucerne Valley on the southeast, Olancho on the northwest and the Avawatz Mountains on the northeast (Gustafson 1993). The historical range of suitable habitat for this species as decreased by 10 to 16% due to urbanization and range-wide declines in trapping success over the last few decades suggesting that their populations are declining. This species was listed as threatened under the California Endangered Species Act in 1985.

The Mohave ground squirrel is a medium-sized ground squirrel that measures 8.3 to 9.1 inches (in; 21 to 23 centimeters; cm) in total length, 2.2 to 2.8 in (5.7 to 7.2 cm) in tail length, and 1.3 to 1.5 in (3.2 to 3.8 cm) in hind foot length (Hall 1981). The Mohave ground squirrel occupies all major desert scrub habitats in the western Mojave Desert. It has been observed in the following habitats described by Holland (1986) as:

- Mojave creosote scrub, dominated by creosote bush and burrobrush,
- Desert saltbush scrub, dominated by various species of saltbush (*Atriplex*),
- Desert sink scrub, which is similar in composition to saltbush scrub, but is sparser and grows on poorly drained soils with high alkalinity,
- Desert greasewood scrub, with very sparse vegetation generally located on valley bottoms and dry lake beds,
- Shadscale scrub, which is dominated by *Atriplex confertifolia* and/or *A. spinescens*, and
- Joshua tree woodland, which includes Joshua trees widely scattered over a variety of shrub species (Gustafson 1993).

Mohave ground squirrel was not observed during the field investigation. Although a focused trapping survey was not performed, the field investigation and review of available information provided, allowed ELMT to offer its professional opinion as to the presence or absence of this species within the proposed project footprint.

Three criteria are typically used in assessing potential impacts to the Mohave ground squirrel:

Criteria 1: Is the site within the range of the species?

Per the *Current Status of the Mohave Ground Squirrel: an update covering the period 2013-2020* (Leitner 2021) the project site is located just outside the southeast portion of the historic range of Mohave ground squirrel. Further, the site is not located within any core areas, nor is it located within or immediately adjacent to any corridors or other known populations identified by Leitner.

The project supports plant communities suitable for Mohave ground squirrel habitat. Based on the data provided in *Current Status of the Mohave Ground Squirrel: an update covering the period 2013-2020* MGS have not been detected in the immediate vicinity of the project site during protocol grid and regional surveys. Several areas in the northern portion of Lucerne Valley, and west of the site near Victorville have

been surveyed to protocol level and regionally on several occasions, yet all of the surveys have been negative for Mohave ground squirrel in the immediate vicinity of the project site.

Criteria 2: Is there native habitat with a relatively diverse shrub component?

The majority of the project site supports a Mojavean desert scrub plant community. However, hoary saltbush, spiny hopsage, and winterfat were not observed during the investigation. These plant species are considered important forage for Mohave ground squirrel. Dr. Leitner postulated, based on trapping surveys in the southern portion of the Mohave ground squirrel range, that densities of < 24/ha for spiny hopsage and < 100/ha of winterfat on a site was considered poor forage and may be related to the absence of Mohave ground squirrel. Further, no wildlife corridors are expected to exist between the closest core MGS population and the project site since the project site is located near the southeastern portion of the species range. The maximum documented movement of MGS is 3.9 miles (Harris and Leitner 2005). Therefore, Mohave ground squirrel is presumed absent from the project site.

Criteria 3: Is the site surrounded by development and therefore isolated from potentially occupied habitat?

The project site is located in a predominantly undeveloped area in the southern limits of Lucerne Valley, at the base of the San Bernardino Mountains foothills. Predominant development in the vicinity of the site consists of commercial aggregate mining, stockpiling, and processing facilities to the north and east of the site and sparse residential development to the south. The project site is bounded to the west by Crystal Creek Road with undeveloped, vacant land beyond; to the south by Crescent Road with scattered residential developments and undeveloped, vacant land; to the east by Ladera Road, with undeveloped, vacant land beyond; and to the north by undeveloped, vacant land and the existing OMYA quarries and materials plant. In addition, the site is transected by Furnace Creek Road which enters the northern boundary and leads southeast through the site before exiting the site at the eastern boundary.

Based on habitat requirements for Mohave ground squirrel, known distributions, site conditions, and regional trapping studies, it was determined this species is presumed absent from the project site. No further focused surveys are recommended.

4.8 CRITICAL HABITAT

Under the federal Endangered Species Act, “Critical Habitat” is designated at the time of listing of a species or within one year of listing. Critical Habitat refers to specific areas within the geographical range of a species at the time it is listed that include the physical or biological features that are essential to the survival and eventual recovery of that species. Maintenance of these physical and biological features requires special management considerations or protection, regardless of whether individuals or the species are present or not. All federal agencies are required to consult with the United States Fish and Wildlife Service (USFWS) regarding activities they authorize, fund, or permit which may affect a federally listed species or its designated Critical Habitat. The purpose of the consultation is to ensure that projects will not jeopardize the continued existence of the listed species or adversely modify or destroy its designated Critical Habitat. The designation of Critical Habitat does not affect private landowners, unless a project they are proposing is on federal lands, uses federal funds, or requires federal authorization or permits (e.g., funding from the Federal Highways Administration or a CWA Permit from the Corps). If there is a federal nexus, then the federal agency that is responsible for providing the funding or permit would consult with the USFWS.

The project site is not located within federally designated Critical Habitat. Further, the closest Critical Habitat designation is located approximately 18 miles northeast of the project site for Mojave desert tortoise and 6.7 miles southwest of the project site for southwestern willow flycatcher (*Empidonax traillii extimus*) (Exhibit 6, *Critical Habitat*). Therefore, no impacts to federally designated Critical Habitat will occur from implementation of the proposed project.

4.9 DESERT NATIVE PLANT PROTECTION

In accordance with the Town of Apple Valley's Municipal Code, desert native plants are regulated under Section 9.76.020, *Desert Native Plant Protection*, of the Town's ordinance. The following desert native plants with stems two inches or greater in diameter or six feet or greater in height:

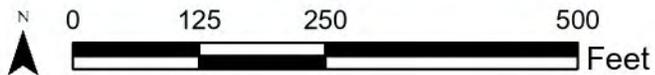
- 1) Dalea spinosa (smoketree).
- 2) All species of the family Agavaceae (century plants, nolin, yuccas, cacti). Including the following:
 - a. Mohave Yucca (*Yucca schidigera*)
 - b. Lords candle (*Yucca whipplei*)
 - c. Barrel cactus (*Ferocactus acanthodes*)
- 3) All species of the genus Prosopis (mesquites).
- 4) Creosote Rings, ten feet or greater in diameter.
- 5) All Joshua trees (mature and immature)
- 6) All plants protected or regulated by the State Desert Native Plant Act (i.e., Food and Agricultural Code 80001, et. seq.) shall be required to comply with the provisions of those statutes prior to the issuance of any county development permit or land use application approval. The Town Manager, or designee, is responsible for the issuance of any required wood tags, seals or permits.

In addition to the one western Joshua tree observed onsite one cactus/yucca species was observed onsite: diamond cholla (*Cylindropuntia ramosissima*).



Legend

-  Project Site
-  Larrea Tridentata Shrubland Alliance (Creosote Bush Scrub)
-  Disturbed



Source: ESRI Aerial Imagery, San Bernardino County

JOHNSON ROAD WAREHOUSE PROJECT

Vegetation

Exhibit 5

Section 5 Conclusion and Recommendations

The discussion below provides a summary of survey results; avoidance and minimization efforts; direct, indirect, and cumulative project impacts; and compensatory mitigation measures for each biological resource area required to be analyzed:

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

Special-Status Plant Species

Joshua tree was the only special-status plant species observed onsite during the field investigation. Based on habitat requirements for the identified special-status species and known distributions, it was determined that the undeveloped portions of the project site that support the creosote bush scrub plant community do not have the potential to support any of the other special-status species documented as occurring within the vicinity of the project site are presumed absent.

Recommended avoidance, minimization, and mitigation measures:

1. Wester Joshua Tree ITP

Impacts to Joshua trees will be avoided to the maximum extent possible. However, if any Joshua trees will be impacted, compliance with CESA will be required and an ITP with CDFW will need to be prepared and processed. With payment into the western Joshua tree mitigation fund, and processing of an ITP, impacts to western Joshua tree will be less than significant.

Special-Status Wildlife Species

California horned lark was the only special-status wildlife species observed on-site. Based on habitat requirements for specific species and the availability and quality of on-site habitats, it was determined that the project site has a moderate potential to provide suitable habitat for Costa's hummingbird and loggerhead shrike; and low potential to provide suitable habitat for Cooper's hawk, golden eagle, burrowing owl, desert tortoise and prairie falcon. Further it was determined that the project site does not provide suitable habitat for any of the other special-status wildlife species known to occur in the area.

In order to ensure no impacts to the aforementioned species occur, the following avoidance, minimization, and mitigation measures are recommended:

2. Nesting Bird Mitigation

Nesting birds are protected pursuant to the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code (Sections 3503, 3503.5, 3511, and 3513 prohibit the take, possession, or destruction of birds, their nests or eggs). In order to protect migratory bird species, a nesting bird

clearance survey should be conducted prior to any ground disturbance or vegetation removal activities that may disrupt the birds during the nesting season.

If construction occurs between February 1st and August 31st, a pre-construction clearance survey for nesting birds should be conducted within three (3) days of the start of any vegetation removal or ground disturbing activities to ensure that no nesting birds will be disturbed during construction. The biologist conducting the clearance survey should document a negative survey with a brief letter report indicating that no impacts to active avian nests will occur. If an active avian nest is discovered during the pre-construction clearance survey, construction activities should stay outside of a no-disturbance buffer. The size of the no-disturbance buffer will be determined by the wildlife biologist and will depend on the level of noise and/or surrounding anthropogenic disturbances, line of sight between the nest and the construction activity, type and duration of construction activity, ambient noise, species habituation, and topographical barriers. These factors will be evaluated on a case-by-case basis when developing buffer distances. Limits of construction to avoid an active nest will be established in the field with flagging, fencing, or other appropriate barriers; and construction personnel will be instructed on the sensitivity of nest areas. A biological monitor should be present to delineate the boundaries of the buffer area and to monitor the active nest to ensure that nesting behavior is not adversely affected by the construction activity. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, construction activities within the buffer area can occur.

3. Burrowing Owl Focused Survey

A burrowing owl focused survey is recommended to be conducted to ensure the absence of burrowing owl from the project site. The focused survey will conform to the protocol detailed in the 2012 CDFW *Staff Report on Burrowing Owl Mitigation*. The survey will consist of four (4) visits, with at least one (1) survey between February 15 and April 15 and a minimum of three (3) surveys at least three weeks apart between April 15 and July 15, with at least one survey after June 15.

Although not anticipated, if burrowing owl are found onsite during the survey, coordination will need to occur with CDFW to determine if avoidance and minimization measures can be implemented to avoid any direct or indirect impacts to burrowing owl, or if a “Take” permit will need to be prepared and approved by CDFW.

4. Desert Tortoise Presence/Absence Survey

A desert tortoise presence/absence survey is recommended to be conducted to ensure desert tortoise are absent from the project site and will not be impacted by project implementation. Survey transects should be spaced at 10-meter (33-foot) intervals throughout the undeveloped portions of the project area to provide 100 percent visual coverage and increase the likelihood of locating desert tortoise and/or sign. All burrows, if present, will be thoroughly inspected for the presence of desert tortoise or evidence of recent use using non-intrusive methods (i.e., mirror,

digital camera). Burrow characteristics including class, shape, orientation, size, and evidence of deterioration will be recorded on field data sheets.

Although not anticipated, if desert tortoise are found onsite during the survey, coordination will need to occur with the USFWS and CDFW to determine if avoidance and minimization measures can be implemented to avoid any direct or indirect impacts to desert tortoise, or if “Take” permits will need to be prepared and approved by the USFWS and CDFW.

Would the proposed Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?

Riparian Habitat and Special-Status Natural Communities

Two unnamed ephemeral drainage features were observed within the project site during the field delineation. No riparian habitat or special-status natural communities occur onsite.

5. Regulatory Approvals

Impacts to the on-site jurisdictional areas will require a Corps Approved Jurisdictional Determination or Waiver, Regional Board CWA Section Report of Waste Discharge, and a CDFW Section 1602 Lake and Streambed Alteration Agreement prior to Project implementation.

Would the proposed Project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

Federally Protected Wetlands

No inundated areas, wetland features, or wetland plant species that would be considered wetlands as defined by Section 404 of the Clean Water Act occur within the proposed project footprint. As a result, implementation of the proposed project would not result in any impacts or have substantial adverse effect on federally protected wetlands.

Would the proposed Project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

Wildlife Corridors

The project site does not function as a major wildlife movement corridor or linkage. As such, implementation of the proposed project is not expected to have a significant impact to wildlife movement opportunities or prevent local wildlife movement through the area since there is ample habitat adjacent to the project site to support wildlife movement opportunities. Due to the lack of any identified impacts to wildlife movement, migratory corridors or linkages or native wildlife nurseries, no mitigation is required.

Would the proposed Project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Local Policies or Ordinances

Western Joshua tree and diamond cholla are regulated species pursuant to Section 9.76.02, *Desert Native Plant Protection*, of the Town's ordinance. In the event that avoidance is not feasible, the project applicant will be required to obtain a Tree or Plant Removal Permit from the Town in addition to an ITP for Joshua tree, prior to removal of any regulated tree or plant.

Would the proposed Project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state Habitat Conservation Plan?

Local, Regional, and State Plans

The project site is not located within an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state Habitat Conservation Plan. Therefore, impacts to any local, regional, or state habitat conservation plans are not expected to occur from development of the proposed project, and mitigation is not required.

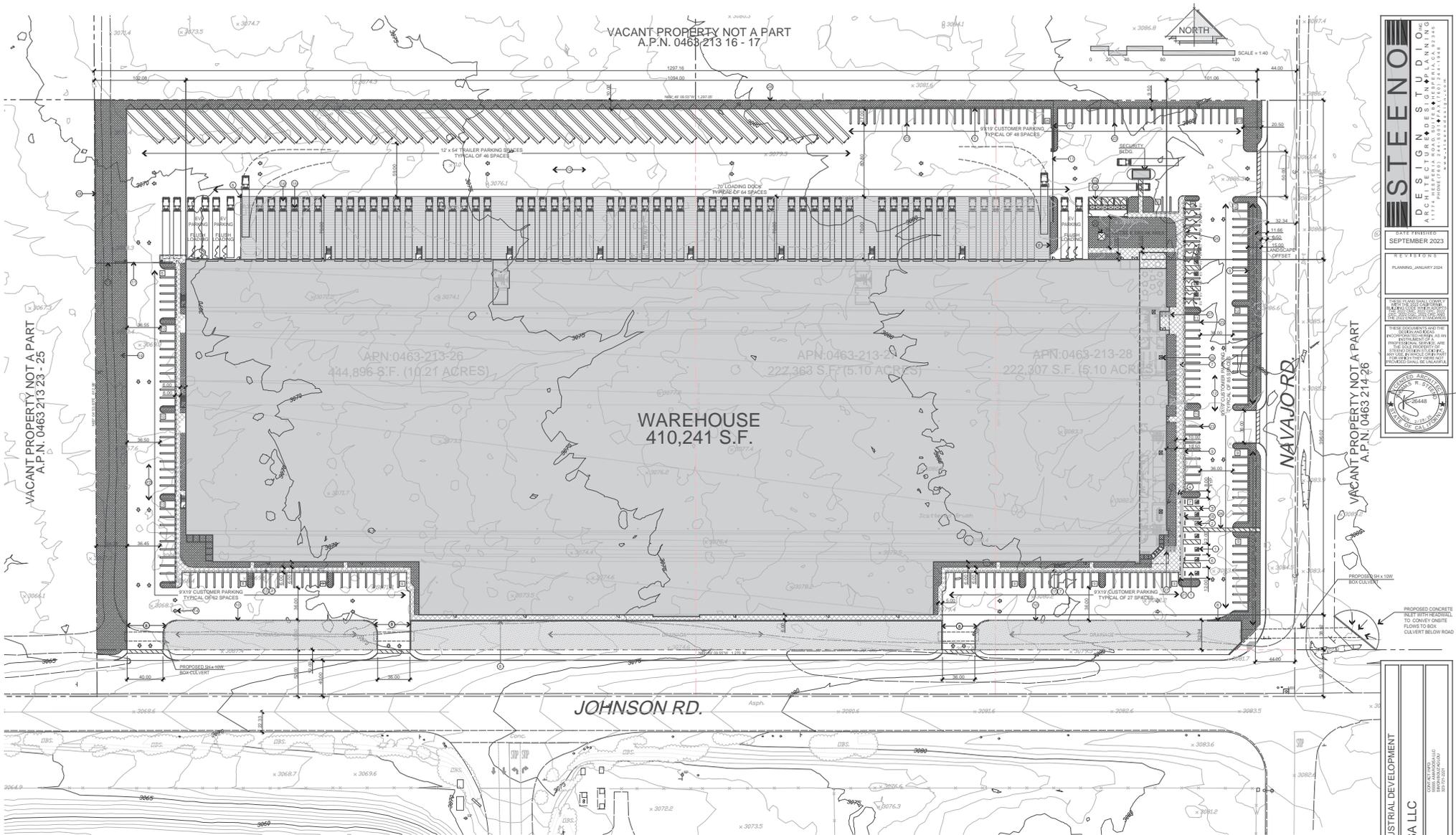
Section 6 References

- California Department of Fish and Wildlife. 2010. List of Vegetation Alliances and Associations (Natural Communities List). Available online at http://www.dfg.ca.gov/biogeodata/vegcamp/natural_comm_list.asp.
- California Department of Fish and Wildlife (CDFW). 2012. Staff Report on Burrowing Owl Mitigation. State of California Natural Resources Agency.
- California Department of Fish and Wildlife. 2024. RareFind 5, California Natural Diversity Data Base, California. Data Base report on threatened, endangered, rare or otherwise sensitive species and communities for the Turtle Valley, Stoddard Well, Apple Valley North, and Fairview Valley 7.5-minute USGS quadrangles.
- California Energy Commission, U.S. Bureau of Land Management, CDFW, USFWS. Draft Desert Renewable Energy Conservation Plan (DRECP) and EIR/EIS
- California Native Plant Society. 2021. Inventory of Rare and Endangered Plants of California. Rare Plant Scientific Advisory Committee, David P. Tibor, Convening Editor. California Native Plant Society. Sacramento, California. Available at: <http://www.cnps.org/inventory>.
- Desert Tortoise Council. 2013. Annual Surveying, Monitoring, and Handling Techniques Workshop. Presented by the Desert Tortoise Council, Ridgecrest, California.
- eBird. 2020. Online at <http://ebird.org/content/ebird/>.
- Google, Inc. 2024. Google Earth Pro version 7.3.3.7786, build date 02/22/2024. Historical aerial imagery from 1985 to 2024.
- Guzy, Gary S. and R.M. Andersen. 2001. Memorandum on Supreme Court ruling concerning CWA jurisdiction over isolated waters. U.S. EPA and U.S. Army Corps of Engineers.
- Hickman, J.C., ed. 2012. *The Jepson Manual: Higher Plants of California*. University of California Press.
- Holland, R. F. 1986. Preliminary descriptions of the Terrestrial Natural Communities of California. Calif. Dept. of Fish and Game, Sacramento, CA.
- Leitner, P. 2008. *Current Status of the Mohave Ground Squirrel*. California State University – Stanislaus, Endangered Species Recovery Program, Fresno, CA.
- Leitner, P. 2015. *Current Status of the Mohave Ground Squirrel: A Five-Year Update (2008-2012)*. California State University, Stanislaus Endangered Species Recovery Program, Turlock, CA.

- Logan, Mark Kotschwar. 2016. *Assessing Site Occupancy of Mohave Ground Squirrels: Implications for Conservation*. The Journal of Wildlife Management.
- Merlin, P. 2003. *A Field Guide to Desert Holes*. Revised Edition. Arizona-Sonora Desert Museum. Tucson, Arizona.
- Munz, P.A. 2004. *Introduction to California Desert Wildflowers*. Revised Edition. University of California Press, Berkeley and Los Angeles, California.
- Sibley, D.A. 2014. *The Sibley Guide to Birds*, Second Edition. Alfred A. Knopf, Inc., New York, New York.
- Stebbins, R.C. 2003. *A Field Guide to Western Reptiles and Amphibians*, Third Edition. Houghton Mifflin Company, New York, New York.
- URS Corporation. 2007. *County of San Bernardino 2007 General Plan (Amended April 24, 2014)*. San Bernardino, California
- U.S. Bureau of Land Management. 2005. *Final Environmental Impact Report and Statement for the West Mojave Plan, a Habitat Conservation Plan and California Desert Conservation Area Plan Amendment*. Moreno Valley, California.
- U.S. Climate Data. 2020. Victorville, California. Online at <http://www.usclimatedata.com>
- U.S. Department of Agriculture, Natural Resources Conservation Service. 2020. *Web Soil Survey*. Online at <http://websoilsurvey.nrcs.usda.gov/app/>.
- U.S. Fish and Wildlife Service. 1994. *Determination of Critical Habitat for the Mojave Population of the Desert Tortoise; Final Rule*. Federal Register 59:5820-5866.
- U.S. Fish and Wildlife Service. 2009. *Desert Tortoise (Mojave Population) Field Manual: (Gopherus agassizii)*. Region 8, Sacramento, California.
- U.S. Fish and Wildlife Service. 2010. *Preparing for any action that may occur within the range of the Mojave desert tortoise*. Ventura, California.
- U.S. Fish and Wildlife Service. 2010. *Mojave Population of the Desert Tortoise (Gopherus agassizii) 5-Year Review: Summary and Evaluation*. Desert Tortoise Recovery Office, Reno, Nevada.
- U.S. Fish and Wildlife Service. 2011. *Revised Recovery Plan for the Mojave Population of the Desert Tortoise (Gopherus agassizii)*. U.S. Fish and Wildlife Service, Pacific Southwest Region, Sacramento, California.
- Victorville Industrial Minerals. 2006. *Mining/Reclamation Plan (97M-01) – Oro Grande Silica Quarries*.

West Mojave Plan. 2005. Final Environmental Impact Report and Statement for the West Mojave Plan. A Habitat Conservation Plan and California Desert Conservation Area Plan Amendment. Bureau of Land Management. VOL 1.

Appendix A Site Plan



STEENO
DESIGN STUDIO
ARCHITECTURE & PLANNING
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PH: 925.244.5001 FAX: 925.244.5002

DATE PREPARED: SEPTEMBER 2023
PLANNING: JANUARY 2024

THIS PLAN SHALL BE VALID FOR THE PROJECT DESCRIBED ONLY. ANY CHANGES TO THE PROJECT OR ANY OTHER PROPOSED DEVELOPMENT, ONE OR MORE YEARS AFTER THE DATE OF THIS PLAN, SHALL BE THE RESPONSIBILITY OF THE CLIENT.

APN: 0463-213-26

SITE PLAN
SCALE = 1:40

KEYED NOTES		PARKING SUMMARY		SITE DATA		PROJECT DATA		VICINITY MAP																																																																																									
<ul style="list-style-type: none"> ① VAN ACCESSIBLE PARKING SPACE ② ACCESSIBILITY STALL EMBLEM PAINTED AS SHOWN ③ 6" WIDE ACCESSIBILITY ACCESS W/ BLUE STRIPES ④ D.A. SLOPE NOT TO EXCEED 3.0% MAX SLOPE IN DIRECTION OF RUN ⑤ WARNING SIGNAGE REGARDING UNAUTHORIZED USE OF DISABLED PARKING SPACES ⑥ TRUNCATED DORIES, 3/8" DEPTH MIN., 6" WIDE ⑦ 4" NOMINAL THICK CONCRETE WALKWAYS ⑧ RETAINING WALL SEE CIVIL PLANS ⑨ 6" WIDE CONCRETE CURB W/ 2" PARKING NOSE OVER ⑩ 6" WIDE CONCRETE C&G CURB ⑪ 6" HIGH WROUGHT IRON FENCE AND WROUGHT IRON ROLLING GATE COLOR BLACK W/ VISION BLOCK FACING NAVAJO RD & JOHNSON RD ⑫ PROPOSED A.C. PAVING - 4" OVER 4" CLASS 8 BASE OVER 12" OF COMPACTED SOIL ⑬ 24" SITE LIGHT POLE STANDARD W/ 24" HIGH CONC. BASE W/ SHOE BOX STYLE FIXTURES & LIGHT SHIELD TO MEET 3.5 FOOTCANDLE LEVELS AT ALL PROPERTY LINE. ⑭ TRAFFIC FLOW DIRECTIONAL ARROWS PAINTED ON PAVING AS SHOWN ON PLAN ⑮ 4" FRONT PER CITY STANDARDS. SEE SHEET T-1 FOR DETAILS ⑯ 8" THK. REINFORCED CONCRETE PAD W/ 2% MAXIMUM SLOPE AWAY FROM THE ⑰ CONCRETE SCREED LINES IN A 5' SQUARE GRID PATTERN ⑱ CONCRETE WHEEL STOP PER CITY STANDARD ⑲ LANDSCAPED AREA. SEE LANDSCAPING PLANS Ⓜ ELECTRICAL TRANSFORMER BY EMSON Ⓝ 12" Ø CONCRETE FILLED BOLLARDS Ⓞ 12" WIDE STEPPING STRIP COMBINE W/ 6" CURB (18" W/ MONO POUR) Ⓟ PAINTED PARKING HARPIN STRIPE Ⓠ 4" WIDE A.D.A. PATH OF TRAVEL Ⓡ HIGH CHARGING STATION EQUIPMENT (TYP. 8) Ⓢ SLEAM AIR / VAPORLOCK EVF PARKING IDENTIFICATION Ⓣ CUBES 5.105.5.2, TYP. OF 3 Ⓤ SHORT TERM PARKING BIKE RACKS TO ACCOMMODATE 5% OF TOTAL VISITOR PARKING SPACES Ⓡ METAL CHAINLINK FENCE Ⓢ A/C UNITS. SEE MECHANICAL PLANS 	<table border="1"> <thead> <tr> <th colspan="4">REQUIRED PARKING PER G.F.A.:</th> </tr> <tr> <th>AREA</th> <th>RATIO</th> <th>S.F.</th> <th># SPACES</th> </tr> </thead> <tbody> <tr> <td>WAREHOUSE (FIRST 40,000)</td> <td>1:1000</td> <td>40,000</td> <td>40.0</td> </tr> <tr> <td>(REMAINDER)</td> <td>1:4000</td> <td>349,823</td> <td>87.4</td> </tr> <tr> <td>OFFICE</td> <td>2:1000</td> <td>29,418</td> <td>58.8</td> </tr> <tr> <td>TOTAL REQUIRED PARKING SPACES</td> <td></td> <td></td> <td>= 186 SPACES</td> </tr> </tbody> </table> <table border="1"> <thead> <tr> <th colspan="4">PROVIDED PARKING:</th> </tr> <tr> <th>STANDARD 9'X20' PARKING SPACES</th> <th colspan="3">= 203 SPACES</th> </tr> <tr> <th>CAR EV PARKING SPACES (4 ADA EV SPACES)</th> <th colspan="3">= 12 SPACES</th> </tr> <tr> <th>ADA 9'X20' PARKING SPACES</th> <th colspan="3">= 7 SPACES</th> </tr> <tr> <th>TOTAL PROVIDED VEHICLE PARKING SPACES</th> <th colspan="3">= 222 SPACES</th> </tr> </thead> <tbody> <tr> <td>TRUCK PARKING:</td> <td></td> <td></td> <td></td> </tr> <tr> <td>TRUCK EV PARKING SPACES (3 ARE ALSO LOADING DOCK SPACES)</td> <td colspan="3">= 6 SPACES</td> </tr> <tr> <td>TRAILER PARKING SPACES</td> <td colspan="3">= 48 SPACES</td> </tr> <tr> <td>LOADING DOCK SPACES</td> <td colspan="3">= 44 SPACES</td> </tr> <tr> <td>TOTAL PROVIDED TRUCK PARKING</td> <td colspan="3">= 118 SPACES</td> </tr> </tbody> </table>	REQUIRED PARKING PER G.F.A.:				AREA	RATIO	S.F.	# SPACES	WAREHOUSE (FIRST 40,000)	1:1000	40,000	40.0	(REMAINDER)	1:4000	349,823	87.4	OFFICE	2:1000	29,418	58.8	TOTAL REQUIRED PARKING SPACES			= 186 SPACES	PROVIDED PARKING:				STANDARD 9'X20' PARKING SPACES	= 203 SPACES			CAR EV PARKING SPACES (4 ADA EV SPACES)	= 12 SPACES			ADA 9'X20' PARKING SPACES	= 7 SPACES			TOTAL PROVIDED VEHICLE PARKING SPACES	= 222 SPACES			TRUCK PARKING:				TRUCK EV PARKING SPACES (3 ARE ALSO LOADING DOCK SPACES)	= 6 SPACES			TRAILER PARKING SPACES	= 48 SPACES			LOADING DOCK SPACES	= 44 SPACES			TOTAL PROVIDED TRUCK PARKING	= 118 SPACES			<table border="1"> <thead> <tr> <th colspan="2">SITE AREA</th> </tr> <tr> <th>AREA</th> <th>SG. 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PROJECT: INDUSTRIAL DEVELOPMENT
AMARGOSA LLC
5555 AMARGOSA LLC
CONTACT: SIMON BOLZAGLIO
PH: 503.721.4024
EMAIL: SIMON@PFAWOR.COM

DATE: 09/20/2023
PROJECT: C22-A14
SHEET NAME: SITE PLAN
PAGE: A-0

Appendix B Site Photographs



Photograph 1: From the southeastern corner of the project site, looking west.



Photograph 2: From the southeastern corner of the project site, looking northwest.



Photograph 3: From the northeastern corner of the project site, looking south.



Photograph 4: From the northeastern corner of the project site, looking west.



Photograph 5: From the southwestern corner of the project site, looking north.



Photograph 6: From the southwestern corner of the project site, looking east.



Photograph 7: From the northwestern corner of the project site, looking east.



Photograph 8: From the northwestern corner of the project site, looking south.

Appendix C Potentially Occurring Special-Status Biological Resources

Table C-1: Potentially Occurring Special-Status Biological Resources

Scientific Name Common Name	Status	Habitat Description	Observed On-site	Potential to Occur
SPECIAL-STATUS WILDLIFE SPECIES				
<i>Accipiter Cooperii</i> Coopers hawk	Fed: END CA: SSC	Found in mixed and deciduous forests, open and riparian woodlands, small, wooded lots, and forested mountain regions.	No	Low Although there is marginal foraging habitat on-site, there is no suitable nesting habitat on or within the vicinity of the survey area.
<i>Aquila chrysaetos</i> golden eagle	Fed: None CA: FP/WL	Hunts over marshes and along rivers. Generally found in open mountain areas, foothills, plains, and open country like tundra, prairie, rangeland, and desert.	No	Low Although there is marginal foraging habitat on-site, there is no suitable nesting habitat on or within the vicinity of the survey area.
<i>Athene cunicularia</i> burrowing owl	Fed: None CA: CE	Prefers habitat with short, sparse vegetation with few shrubs and well-drained soils in grassland, shrub steppe, and desert habitats. Primarily a grassland species, but it persists and even thrives in some landscapes highly altered by human activity. Occurs in open, annual or perennial grasslands, deserts, and scrublands characterized by low-growing vegetation. The overriding characteristics of suitable habitat appear to be burrows for roosting and nesting and relatively short vegetation with only sparse shrubs and taller vegetation.	No	Low The project site provides line-of-site opportunities. However, no suitable burrows were observed onsite. Burrowing owl are known to occur in the area.
<i>Bombus crotchii</i> Crotch bumblebee	Fed: None CA: CE	Colonial species that lives almost exclusively from coastal California east towards the Sierra-Cascade Crest and can be found uncommonly in western Nevada and south through Baja California. Inhabits grassland and scrub habitats in hotter and drier climates than most other bumblebee species and is only capable of tolerating a narrow range of climatic conditions. This species usually nests underground, often in abandoned rodent dens.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site.
<i>Buteo swainsoni</i> Swainson's hawk	Fed: None CA: THR	Typical habitat is open desert, grassland, or cropland containing scattered, large trees or small groves. Breeds in stands with few trees in juniper-sage flats, riparian areas, and in oak savannah in the Central Valley. Forages in adjacent grassland or suitable grain or alfalfa fields or livestock pastures.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site.
<i>Calypte costae</i> Costa's hummingbird	Fed: None CA: None	Desert and semi-desert, arid brushy foothills and chaparral. A desert hummingbird that breeds in the Sonoran and Mojave Deserts. Departs desert heat moving into chaparral, scrub, and woodland habitats.	No	Moderate Suitable habitat present within and adjacent to the project site.

Scientific Name Common Name	Status	Habitat Description	Observed On-site	Potential to Occur
<i>Eremophila alpestris actia</i> California horned lark	Fed: None CA: WL	Generally found in shortgrass prairies, grasslands, disturbed fields, or similar habitat types along the coast or in deserts. Trees are shrubs are usually scarce or absent. Generally rare in montane, coniferous, or chaparral habitats. Forms large flocks outside of the breeding season.	Yes	Present This species was observed foraging onsite.
<i>Falco mexicanus</i> prairie falcon	Fed: None CA: WL	Commonly occur in arid and semiarid shrubland and grassland community types. Also occasionally found in open parklands within coniferous forests. During the breeding season, they are found commonly in foothills and mountains which provide cliffs and escarpments suitable for nest sites.	No	Low Although there is marginal foraging habitat on-site, there is no suitable nesting habitat on or within the vicinity of the survey area.
<i>Gopherus agassizii</i> Mojave desert tortoise	Fed: THR CA: THR	Occurs in desert scrub, desert wash, and Joshua tree habitats with friable, sandy, well-drained soils for nest and burrow construction. Highest densities occur in creosote bush scrub with extensive annual wildflower blooms and succulents with little to no non-native plant species.	No	Low No suitable burrows were observed onsite, however this species is known to occur in the area.
<i>Lanius ludovicianus</i> loggerhead shrike	Fed: None CA: SSC	Prefers open habitats with bare ground, scattered shrubs, and areas with low or sparse herbaceous cover including open-canopied valley foothill hardwood, riparian, pinyon-juniper, desert riparian, creosote bush scrub, and Joshua tree woodland. Requires suitable perches including trees, posts, fences, utility lines, or other perches.	No	Moderate Suitable habitat present within and adjacent to the project site.
<i>Siphateles bicolor mohavensis</i> Mohave tui chub	Fed: None CA: SSC	The only fish native to the Mojave River. Restricted from the base of the San Bernadino Mountains to Soda Dry Lake. Requires slow-moving alkali waters with an abundance of aquatic vegetation. Can be found in deep pools or shallower out-flow streams.	No	Presumed Absent No suitable habitat is present within or adjacent to the project site.
<i>Taxidea taxus</i> American badger	Fed: None CA: SSC	Primarily occupy grasslands, parklands, farms, tallgrass and shortgrass prairies, meadows, shrub-steppe communities and other treeless areas with sandy loam soils where it can dig more easily for its prey. Occasionally found in open chaparral (with less than 50% plant cover) and riparian zones.	No	Presumed Absent No suitable habitat is present within or adjacent to the project site.
<i>Toxostoma lecontei</i> Le Conte's thrasher	Fed: None CA: SSC	An uncommon to rare, local resident in southern California deserts from southern Mono Co. south to the Mexican border, and in western and southern San Joaquin Valley. Occurs primarily in open desert wash, desert scrub, alkali desert scrub, and desert succulent shrub habitats; also occurs in Joshua tree habitat with scattered shrubs.	No	Presumed Absent No suitable habitat is present within or adjacent to the project site.

SPECIAL-STATUS PLANT SPECIES				
<i>Cymopterus deserticola</i> desert cymopterus	Fed: None CA: None CNPS: 1B.2	Grows in deep, loose, well drained, and fine to coarse sandy soils of alluvial fans and basins. Found in Mojave creosote bush scrub, desert saltbush scrub, and Joshua tree woodland habitats.	No	Presumed Absent No suitable habitat is present within or adjacent to the project site.
<i>Diplacus mohavensis</i> Mojave monkeyflower	Fed: None CA: None CNPS: 1B.2	Found only in the Mojave Desert, growing in sandy or gravelly habitat along hillsides and slopes, limestone, granite, and fine gravel in wash bottoms and edges. Grows at elevations of 1,968 to 3,280 feet. Blooms from April to May.	No	Presumed Absent No suitable habitat is present within or adjacent to the project site.
<i>Monardella exilis</i> Mojave monardella	Fed: None CA: None CNPS: 4.2	Found only in the Mojave Desert and southern Sierra Nevada. Grows at elevations of 2,000 to 6,900 feet. Found in desert scrub and Joshua tree woodland habitats, as well as pinyon pine woodlands. Blooms from April to September.	No	Presumed Absent No suitable habitat is present within or adjacent to the project site.
<i>Yucca brevifolia</i> western Joshua tree	Fed: None CA: CE CNPS: N/A	Occurs in a variety of arid habitats within the Mojave Desert. Found at elevations ranging from 1,600 to 6,600 feet. Blooming period is from March to June.	Yes	Present One tree was observed onsite.

U.S. Fish and Wildlife Service (Fed) - Federal
 END – Federal Endangered
 THR – Federal Threatened
 DL - Delisted

California Department of Fish and Wildlife (CA) - California
 END – California Endangered
 THR – California Threatened
 CTHR – California Candidate Threatened
 DL - Delisted
 FP – California Fully Protected
 SSC – California Species of Special Concern
 WL – California Watch List
 CE – Candidate Endangered

California Native Plant Society (CNPS) - California Rare Plant Rank
 1B Plants Rare, Threatened, or Endangered in California and Elsewhere
 2B Plants Rare, Threatened, or Endangered in California, but More Common Elsewhere
 4 Plants of Limited Distribution – A Watch List

Threat Ranks
 0.2- Moderately threatened in California
 0.3- Not very threatened in California

Appendix D Regulations

Special status species are native species that have been afforded special legal or management protection because of concern for their continued existence. There are several categories of protection at both federal and state levels, depending on the magnitude of threat to continued existence and existing knowledge of population levels.

Federal Regulations

Endangered Species Act of 1973

Federally listed threatened and endangered species and their habitats are protected under provisions of the Federal Endangered Species Act (ESA). Section 9 of the ESA prohibits “take” of threatened or endangered species. “Take” under the ESA is defined as to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any of the specifically enumerated conduct.” The presence of any federally threatened or endangered species that are in a project area generally imposes severe constraints on development, particularly if development would result in “take” of the species or its habitat. Under the regulations of the ESA, the United States Fish and Wildlife Service (USFWS) may authorize “take” when it is incidental to, but not the purpose of, an otherwise lawful act.

Critical Habitat is designated for the survival and recovery of species listed as threatened or endangered under the ESA. Critical Habitat includes those areas occupied by the species, in which are found physical and biological features that are essential to the conservation of an ESA listed species and which may require special management considerations or protection. Critical Habitat may also include unoccupied habitat if it is determined that the unoccupied habitat is essential for the conservation of the species.

Whenever federal agencies authorize, fund, or carry out actions that may adversely modify or destroy Critical Habitat, they must consult with USFWS under Section 7 of the ESA. The designation of Critical Habitat does not affect private landowners, unless a project they are proposing uses federal funds, or requires federal authorization or permits (e.g., funding from the Federal Highway Administration or a permit from the U.S. Army Corps of Engineers (Corps)).

If USFWS determines that Critical Habitat will be adversely modified or destroyed from a proposed action, the USFWS will develop reasonable and prudent alternatives in cooperation with the federal institution to ensure the purpose of the proposed action can be achieved without loss of Critical Habitat. If the action is not likely to adversely modify or destroy Critical Habitat, USFWS will include a statement in its biological opinion concerning any incidental take that may be authorized and specify terms and conditions to ensure the agency is in compliance with the opinion.

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) (16 U.S. Government Code [USC] 703) makes it unlawful to pursue, capture, kill, possess, or attempt to do the same to any migratory bird or part, nest, or egg of any such bird listed in wildlife protection treaties between the United States, Great Britain, Mexico, Japan, and the countries of the former Soviet Union, and authorizes the U.S. Secretary of the Interior to protect and regulate the taking of migratory birds. It establishes seasons and bag limits for hunted species and protects migratory birds, their occupied nests, and their eggs (16 USC 703; 50 CFR 10, 21).

The MBTA covers the taking of any nests or eggs of migratory birds, except as allowed by permit pursuant to 50 CFR, Part 21. Disturbances causing nest abandonment and/or loss of reproductive effort (i.e., killing or abandonment of eggs or young) may also be considered “take.” This regulation seeks to protect migratory birds and active nests.

In 1972, the MBTA was amended to include protection for migratory birds of prey (e.g., raptors). Six families of raptors occurring in North America were included in the amendment: Accipitridae (kites, hawks, and eagles); Cathartidae (New World vultures); Falconidae (falcons and caracaras); Pandionidae (ospreys); Strigidae (typical owls); and Tytonidae (barn owls). The provisions of the 1972 amendment to the MBTA protects all species and subspecies of the families listed above. The MBTA protects over 800 species including geese, ducks, shorebirds, raptors, songbirds and many relatively common species.

State Regulations

California Environmental Quality Act (CEQA)

The California Environmental Quality Act (CEQA) provides for the protection of the environment within the State of California by establishing State policy to prevent significant, avoidable damage to the environment through the use of alternatives or mitigation measures for projects. It applies to actions directly undertaken, financed, or permitted by State lead agencies. If a project is determined to be subject to CEQA, the lead agency will be required to conduct an Initial Study (IS); if the IS determines that the project may have significant impacts on the environment, the lead agency will subsequently be required to write an Environmental Impact Report (EIR). A finding of non-significant effects will require either a Negative Declaration or a Mitigated Negative Declaration instead of an EIR. Section 15380 of the CEQA Guidelines independently defines “endangered” and “rare” species separately from the definitions of the California Endangered Species Act (CESA). Under CEQA, “endangered” species of plants or animals are defined as those whose survival and reproduction in the wild are in immediate jeopardy, while “rare” species are defined as those who are in such low numbers that they could become endangered if their environment worsens.

California Endangered Species Act (CESA)

In addition to federal laws, the state of California implements the CESA which is enforced by CDFW. The CESA program maintains a separate listing of species beyond the FESA, although the provisions of each act are similar.

State-listed threatened and endangered species are protected under provisions of the CESA. Activities that may result in “take” of individuals (defined in CESA as; “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”) are regulated by CDFW. Habitat degradation or modification is not included in the definition of “take” under CESA. Nonetheless, CDFW has interpreted “take” to include the destruction of nesting, denning, or foraging habitat necessary to maintain a viable breeding population of protected species.

The State of California considers an endangered species as one whose prospects of survival and reproduction are in immediate jeopardy. A threatened species is considered as one present in such small numbers throughout its range that it is likely to become an endangered species in the near future in the

absence of special protection or management. A rare species is one that is considered present in such small numbers throughout its range that it may become endangered if its present environment worsens. State threatened and endangered species are fully protected against take, as defined above.

The CDFW has also produced a species of special concern list to serve as a species watch list. Species on this list are either of limited distribution or their habitats have been reduced substantially, such that a threat to their populations may be imminent. Species of special concern may receive special attention during environmental review, but they do not have formal statutory protection. At the federal level, USFWS also uses the label species of concern, as an informal term that refers to species which might be in need of concentrated conservation actions. As the Species of Concern designated by USFWS do not receive formal legal protection, the use of the term does not necessarily ensure that the species will be proposed for listing as a threatened or endangered species.

Fish and Game Code

Fish and Game Code Sections 3503, 3503.5, 3511, and 3513 are applicable to natural resource management. For example, Section 3503 of the Code makes it unlawful to destroy any birds' nest or any birds' eggs that are protected under the MBTA. Further, any birds in the orders Falconiformes or Strigiformes (Birds of Prey, such as hawks, eagles, and owls) are protected under Section 3503.5 of the Fish and Game Code which makes it unlawful to take, possess, or destroy their nest or eggs. A consultation with CDFW may be required prior to the removal of any bird of prey nest that may occur on a project site. Section 3511 of the Fish and Game Code lists fully protected bird species, where the CDFW is unable to authorize the issuance of permits or licenses to take these species. Pertinent species that are State fully protected by the State include golden eagle (*Aquila chrysaetos*) and white-tailed kite (*Elanus leucurus*). Section 3513 of the Fish and Game Code makes it unlawful to take or possess any migratory nongame bird as designated in the MBTA or any part of such migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the MBTA.

Native Plant Protection Act

Sections 1900–1913 of the Fish and Game Code were developed to preserve, protect, and enhance Rare and Endangered plants in the state of California. The act requires all state agencies to use their authority to carry out programs to conserve Endangered and Rare native plants. Provisions of the Native Plant Protection Act prohibit the taking of listed plants from the wild and require notification of the CDFW at least ten days in advance of any change in land use which would adversely impact listed plants. This allows the CDFW to salvage listed plant species that would otherwise be destroyed.

California Native Plant Society Rare and Endangered Plant Species

Vascular plants listed as rare or endangered by the CNPS, but which have no designated status under FESA or CESA are defined as follows:

California Rare Plant Rank

- 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 More 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 (<20% of occurrences threatened / low degree and immediacy of threat or no current threats known).

There are three key agencies that regulate activities within inland streams, wetlands, and riparian areas in California. The Corps Regulatory Branch regulates activities pursuant to Section 404 of the Federal Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act. Of the State agencies, the CDFG regulates activities under the Fish and Game Code Section 1600-1616, and the Regional Board regulates activities pursuant to Section 401 of the CWA and the California Porter-Cologne Water Quality Control Act.

Federal Regulations

Section 404 of the Clean Water Act

In accordance with the Revised Definition of “Waters of the United States”; Conforming (September 8, 2023), “waters of the United States” are defined as follows:

(a) ***Waters of the United States*** means:

(1) Waters which are:

- (i) Currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- (ii) The territorial seas; or
- (iii) Interstate waters;

(2) Impoundments of waters otherwise defined as waters of the United States under this definition, other than impoundments of waters identified under [paragraph \(a\)\(5\)](#) of this section;

(3) Tributaries of waters identified in paragraph (a)(1) or (2) of this section that are relatively permanent, standing or continuously flowing bodies of water;

(4) Wetlands adjacent to the following waters:

- (i) Waters identified in [paragraph \(a\)\(1\)](#) of this section; or
- (ii) Relatively permanent, standing or continuously flowing bodies of water identified in paragraph (a)(2) or (a)(3) of this section and with a continuous surface connection to those waters;

(5) Intrastate lakes and ponds not identified in paragraphs (a)(1) through (4) of this section that are relatively permanent, standing or continuously flowing bodies of water with a continuous surface connection to the waters identified in paragraph (a)(1) or (a)(3) of this section

(b) The following are not “waters of the United States” even where they otherwise meet the terms of [paragraphs \(a\)\(2\)](#) through [\(5\)](#) of this section:

(1) Waste treatment systems, including treatment ponds or lagoons, designed to meet the requirements of the Clean Water Act;

(2) Prior converted cropland designated by the Secretary of Agriculture. The exclusion would cease upon a change of use, which means that the area is no longer available for the production of agricultural commodities. Notwithstanding the determination of an area's status as prior converted

cropland by any other Federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA;

(3) Ditches (including roadside ditches) excavated wholly in and draining only dry land and that do not carry a relatively permanent flow of water;

(4) Artificially irrigated areas that would revert to dry land if the irrigation ceased;

(5) Artificial lakes or ponds created by excavating or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing;

(6) Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating or diking dry land to retain water for primarily aesthetic reasons;

(7) Waterfilled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States; and

(8) Swales and erosional features (*e.g.*, gullies, small washes) characterized by low volume, infrequent, or short duration flow.

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

(1) **Wetlands** means 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. Wetlands generally include swamps, marshes, bogs, and similar areas.

(2) **Adjacent** means having a continuous surface connection

(3) **High tide line** means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

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

(5) ***Tidal waters*** means those waters that rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by hydrologic, wind, or other effects.

Section 401 of the Clean Water Act

Pursuant to Section 401 of the CWA, any applicant for a federal license or permit to conduct any activity which may result in any discharge to waters of the United States must provide certification from the State or Indian tribe in which the discharge originates. This certification provides for the protection of the physical, chemical, and biological integrity of waters, addresses impacts to water quality that may result from issuance of federal permits, and helps insure that federal actions will not violate water quality standards of the State or Indian tribe. In California, there are nine Regional Water Quality Control Boards (Regional Board) that issue or deny certification for discharges to waters of the United States and waters of the State, including wetlands, within their geographical jurisdiction. The State Water Resources Control Board assumed this responsibility when a project has the potential to result in the discharge to waters within multiple Regional Boards.

State Regulations

Fish and Game Code

Fish and Game Code Sections 1600 et. seq. establishes a fee-based process to ensure that projects conducted in and around lakes, rivers, or streams do not adversely impact fish and wildlife resources, or, when adverse impacts cannot be avoided, ensures that adequate mitigation and/or compensation is provided.

Fish and Game Code Section 1602 requires any person, state, or local governmental agency or public utility to notify the CDFW before beginning any activity that will do one or more of the following:

- (1) substantially obstruct or divert the natural flow of a river, stream, or lake;
- (2) substantially change or use any material from the bed, channel, or bank of a river, stream, or lake;
- or
- (3) deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it can pass into a river, stream, or lake.

Fish and Game Code Section 1602 applies to all perennial, intermittent, and ephemeral rivers, streams, and lakes in the State. CDFW's regulatory authority extends to include riparian habitat (including wetlands) supported by a river, stream, or lake regardless of the presence or absence of hydric soils and saturated soil conditions. Generally, the CDFW takes jurisdiction to the top of bank of the stream or to the outer limit of the adjacent riparian vegetation (outer drip line), whichever is greater. Notification is generally required for any project that will take place in or in the vicinity of a river, stream, lake, or their tributaries. This includes rivers or streams that flow at least periodically or permanently through a bed or channel with banks that support fish or other aquatic life and watercourses having a surface or subsurface flow that support or have supported riparian vegetation. A Section 1602 Streambed Alteration Agreement would be required if impacts to identified CDFW jurisdictional areas occur.

Porter Cologne Act

The California *Porter-Cologne Water Quality Control Act* gives the State very broad authority to regulate waters of the State, which are defined as any surface water or groundwater, including saline waters. The Porter-Cologne Act has become an important tool in the post SWANCC and Rapanos regulatory environment, with respect to the state’s authority over isolated and insignificant waters. Generally, any person proposing to discharge waste into a water body that could affect its water quality must file a Report of Waste Discharge in the event that there is no Section 404/401 nexus. Although “waste” is partially defined as any waste substance associated with human habitation, the Regional Board also interprets this to include fill discharged into water bodies.