

APPENDIX C2

BURROWING OWL FOCUSED SURVEY REPORT

NORTHERN GATEWAY LOGISTICS

CITY OF MENIFEE, RIVERSIDE COUNTY, CALIFORNIA

ROMOLAND USGS 7.5-MINUTE TOPOGRAPHIC QUADRANGLE
SECTION 16, TOWNSHIP 5 SOUTH, RANGE 3 WEST
APNs: 331-060-007, -008, -020, -023, AND -030

Burrowing Owl Focused Survey Report

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September 2023

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Burrowing Owl Focused Survey Report

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.



Travis J. McGill
Director



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September 2023

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APPENDIX

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Section 1 Introduction

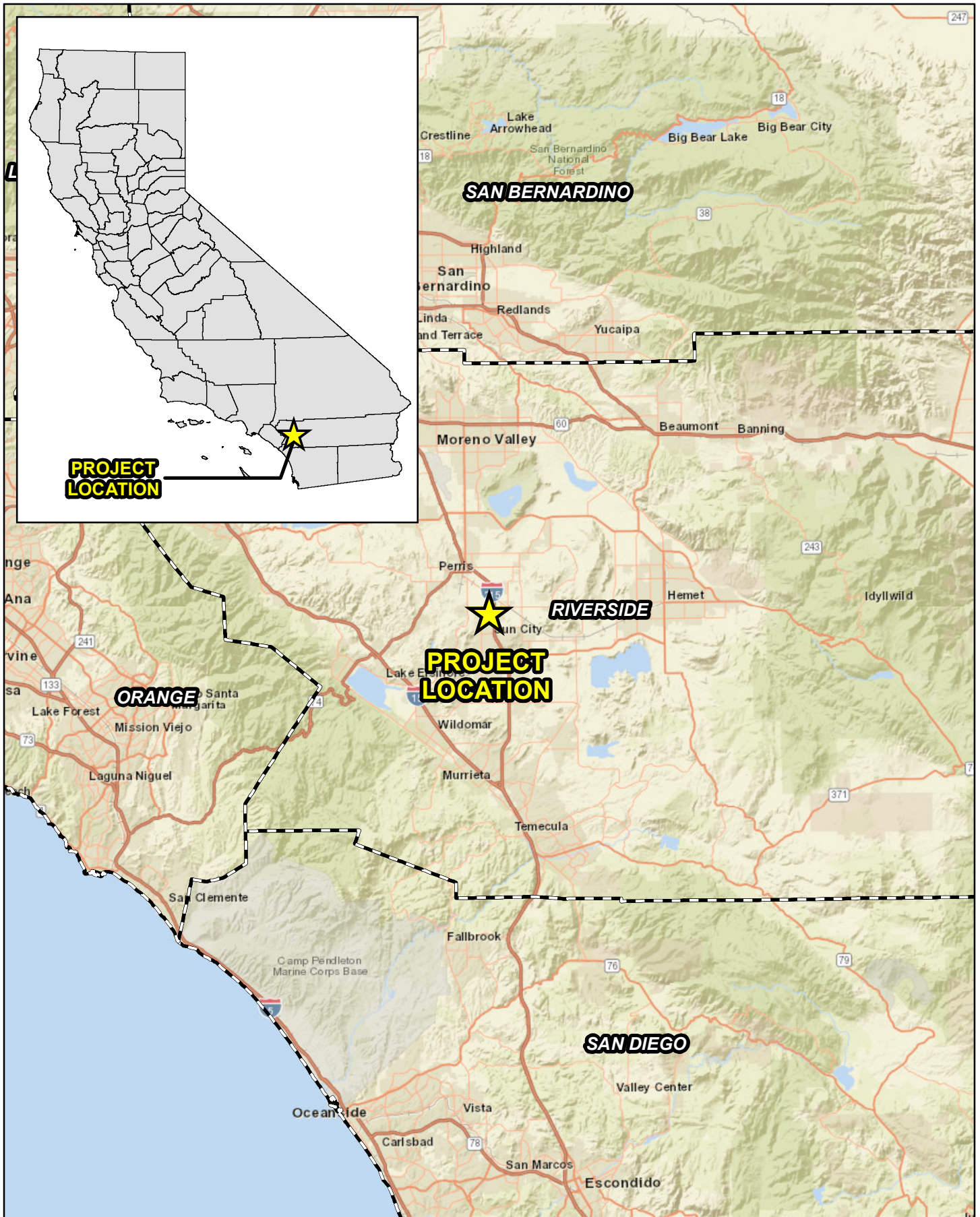
ELMT Consulting (ELMT) conducted a focused burrowing owl (*Athene cunicularia*) survey for the proposed Northern Gateway Logistics project located in the city of Menifee, Riverside County, California. Biologists Jacob H. Lloyd Davies, Rachael A. Lyons, and Megan E. Peukert surveyed the project site in accordance with the *Burrowing Owl Survey Instructions for the Western Riverside Multiple Species Habitat Conservation Plan Area* (Environmental Programs Department, 2006). The focused burrowing owl surveys were conducted on July 27, August 8, August 19, and August 31, 2023, within suitable habitat. All surveys were completed between 0600 and 1030 hours. The surveys were conducted to document the presence/absence of burrowing owl on the project site.

1.1 PROJECT LOCATION

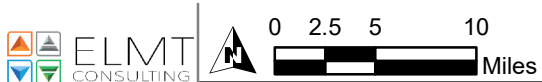
The project site is generally located south and west of Interstate 215, east of State Route 74, and north of Interstate 15 in the City of Menifee, Riverside County, California (Exhibit 1, *Regional Vicinity*). The project site is depicted on the Romoland quadrangle of the United States Geological Survey's (USGS) 7.5-minute topographic map within Section 16 of Township 5 South, Range 3 West (Exhibit 2, *Site Vicinity*). Specifically, the project site is bounded to the west by Evans Road and roughly bounded to the east by Barnett Road and is located north of McLaughlin Road and south of Ethanac Road within Assessor Parcel Numbers 331-060-007, -008, 020, 023, and 030 (Exhibit 3, *Project Site*).

1.2 PROJECT DESCRIPTION

The project proposes to construct two (2) concrete tilt-up building totaling 398,041 SF. All on an approximately 18.74 net-acre project site.



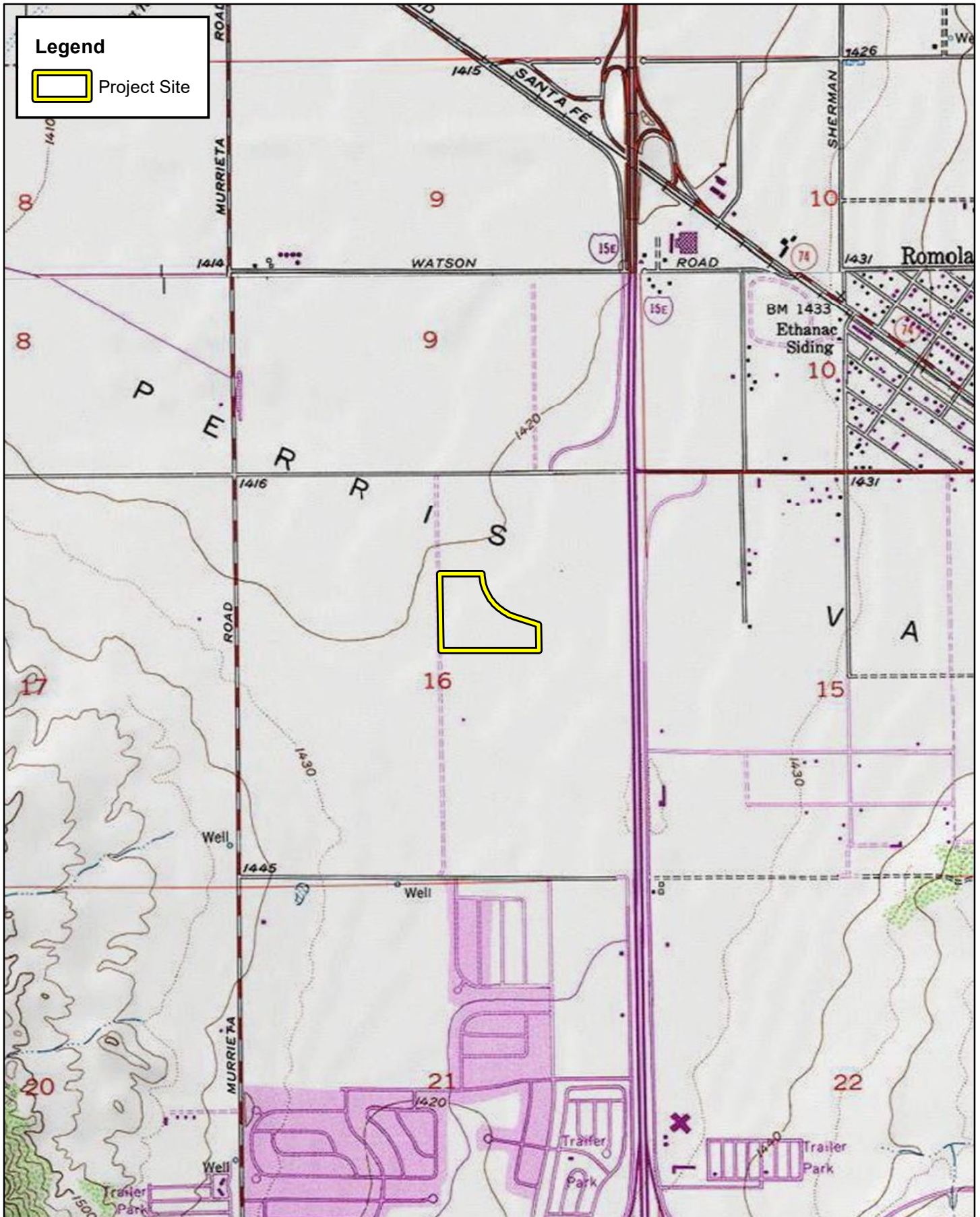
MENIFEE LOGISTICS CENTER



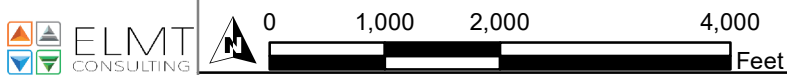
Source: World Street Map, Riverside County

Regional Vicinity

Exhibit 1



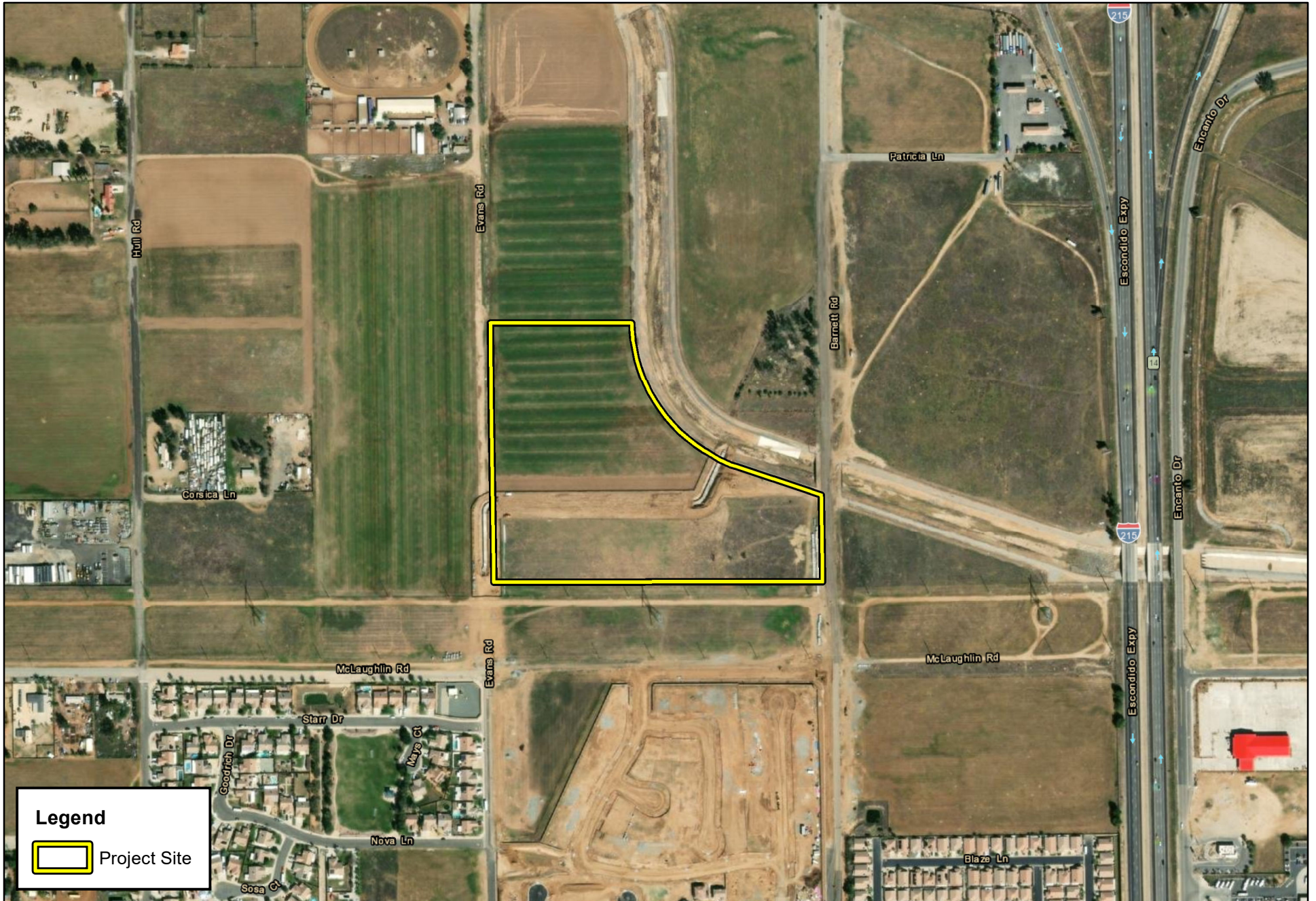
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Source: USA Topographic Map, Riverside County

Site Vicinity

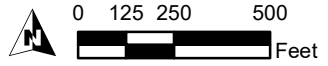
Exhibit 2



Legend

 Project Site

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Source: ESRI Aerial Imagery, Riverside County

Project Site

Section 2 Species Background

2.1 SPECIES BACKGROUND

The burrowing owl 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 fossorial mammals, such as ground squirrels (*Otospermophilus beecheyi*), 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. Large, hard objects at burrow entrances stabilize the entrance from collapse and may inhibit excavation by predators.

Burrowing owls have crepuscular (dawn and dusk) hunting habits but are often observed perched in or near the burrow entrance during the day. They prey upon invertebrates and small vertebrates (Thomsen 1971) through low vegetation which allows for foraging visibility. The nesting season occurs between February 1 and August 31. Burrowing owl in California may migrate southerly, but often remain in the breeding area during the non-breeding period.

The burrowing owl was once abundant and widely distributed within coastal southern California, but it has declined precipitously in counties such as Los Angeles, Orange, San Diego, Riverside, and San Bernardino. A petition was filed to list the California population of the western burrowing owl as an Endangered or Threatened species (Center for Biological Diversity 2003); however, the California Department of Fish and Wildlife (CDFW) declined to list the burrowing owl as either endangered or threatened. The CDFW currently lists the burrowing owl as a California Species of Special Concern.

2.2 REGULATORY FRAMEWORK

The burrowing owl is a resident and migratory bird species protected by international treaty under the Migratory Bird Treaty Act (MBTA) of 1918. The MBTA reflects agreements made between the U.S., England, Mexico, the former Soviet Union, and Japan to protect all of North America's migratory bird populations. The MBTA protects migratory bird nests from possession, sale, purchase, barter, transport, import and export, and collection. The other prohibitions of the MBTA - capture, pursue, hunt, and kill - are inapplicable to nests. The regulatory definition of take, as defined in Title 50 C.F.R. part 10.12, means to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to hunt, shoot, wound, kill, trap, capture, or collect. Only the verb "collect" applies to nests. It is illegal to collect, possess, and by any means transfer possession of any migratory bird nest. The MBTA prohibits the destruction of a nest when it contains birds or eggs, and no possession shall occur during the destruction (United States Fish and Wildlife Service, Migratory Bird Permit Memorandum, April 15, 2003). Certain exceptions to this prohibition are included in 50 C.F.R. section 21. Pursuant to CDFW Code section 3513, the

Department enforces the MBTA consistent with rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Treaty Act.

Additionally, burrowing owl is protected under Sections 3503, 3503.3, 3511, and 3513 of the CDFW Code which prohibit the take, possession, or destruction of birds, their nests or eggs. Implementation of the take provisions requires that project-related disturbance at active nesting territories be reduced or eliminated during critical phases of the nesting cycle (March 1 - August 15, annually). CDFW Code Section 3503.5 protects birds in the orders Falconiformes or Strigiformes (Birds of Prey, such as hawks and owls, including burrowing owls) which makes it unlawful to take, possess, or destroy their nest or eggs.

CDFW's 2012 Staff Report on Burrowing Owl Mitigation offers long-term assurances for conservation of this species in exchange for biologically appropriate levels of incidental take and/or habitat loss as defined in the approved plan. California's NCCP Act (FGC §2800 et seq.) governs such plans at the state level, and was designed to conserve species, natural communities, ecosystems, and ecological processes across a jurisdiction or a collection of jurisdictions. Complementary federal HCPs are governed by the Endangered Species Act (7 U.S.C. § 136, 16 U.S.C. § 1531 et seq.) (ESA). Regional conservation plans (and certain other landscape-level conservation and management plans), may provide conservation for unlisted as well as listed species. Because the geographic scope of NCCPs and HCPs may span many hundreds of thousands of acres, these planning tools have the potential to play a significant role in conservation of burrowing owls, and grasslands and other habitats.

Guidelines for the Implementation of the California Environmental Quality Act (CEQA) provide that a species be considered as endangered or "rare" regardless of appearance on a formal list for the purposes of the CEQA (Guidelines, Section 15380, subsections b and d). CEQA requires a mandatory finding of significance if impacts to threatened or endangered species are likely to occur (Sections 21001(c), 21083. Guidelines 15380, 15064, 15065). Avoidance or mitigation must be presented to reduce impacts to less than significant levels.

2.2.1 MSHCP Section 6.3.2 Additional Survey Needs and Procedures – Burrowing Owl

Under Section 6.3.2 the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) the burrowing owl is considered an adequately conserved covered species that may still require focused surveys in certain areas as designated in Figure 6-4 of the MSHCP. The purpose of Section 6.3.2 of the MSHCP is to provide coverage under the MSHCP for those species for which existing available information was not sufficient, and therefore, survey requirements are incorporated in the MSHCP to provide the level of information necessary for these species to receive coverage (Dudek & Associates, Inc., 2003).

Section 3 Methodology

General weather conditions during each of the surveys were suitable for detections of burrowing owls. The weather during the surveys consisted of cloudy to clear skies with minimal wind, and temperatures ranging from 63 to 84 degrees Fahrenheit (°F). Surveys are not accepted if they are conducted during rain, high winds (> 20 mph), dense fog, or temperatures over 90°F. The protocol survey for burrowing owl requires a systematic survey of all areas that provide suitable habitat plus a 150-meter (approximately 500 feet) zone of influence (survey area) on all sides of suitable habitat, where applicable (Exhibit 4, *Survey Area and Suitable Habitat*).

Survey transects on the project site were oriented north to south and were conducted at a maximum of 30-meter (approximately 100 feet) intervals to ensure 100% visual coverage of all areas in suitable habitat on the project site and within the survey area. The focused burrowing owl surveys were conducted during the recognized timeframe (the breeding season is typically March through August) in the morning one hour before sunrise to two hours after sunrise.

Suitable burrows/sites, including rock piles and non-natural substrates, were thoroughly examined for signs of presence. All burrows encountered were examined for shape, scat, pellets, white-wash, feathers, tracks, and prey remains. The location of all suitable burrowing owl habitat, potential owl burrows, burrowing owl sign, and any owls observed were recorded and mapped, with a hand-held GPS unit, if observed. Methods to detect presence of burrowing owls included direct observation, aural detection, and signs of presence. Binoculars were used to observe distant birds and their activity around potential nesting habitat. During the focused surveys, the survey area was assessed on foot by qualified biologists Travis J. McGill, Jacob H. Lloyd Davies, Rachael A. Lyons, and Megan E. Peukert who are knowledgeable in the habitats and behavior of burrowing owls.

Four focused burrowing owl surveys were conducted on July 27, August 8, August 19, and August 31, 2023. All surveys were completed between 0600 and 1030. The surveys were conducted to document the presence/absence of burrowing owl on the project site. Refer to Table 1, *Survey Data*, for a summary of the survey dates and times, personnel, weather conditions, and general findings.

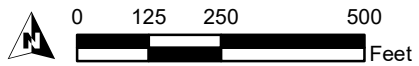
Table 1: Survey Data

Survey No.	Survey Date	Surveyor	Time	Temperature (°F)	Cloud Cover	Wind Speed (mph)	Burrowing Owl Detected On-Site
1	7/27/23	Jacob H. Lloyd Davies & Megan E. Peukert	0600-1000	63-81	0%	1-3	No
2	8/8/23	Rachael A. Lyons	0800-1030	70-84	0%	1-5	No
3	8/19/23	Travis J. McGill	0600-1000	68-79	0%	1-5	No
4	8/31/23	Jacob H. Lloyd Davies & Megan E. Peukert	0800-1030	66-80	0%	1-5	No



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Survey Area and Suitable Habitat



Source: ESRI Aerial Imagery, Riverside County

Exhibit 4

Section 4 Results

4.1 EXISTING CONDITIONS

On-site topography is relatively flat, sloping marginally from southwest to northeast at an approximate elevation of 1,420 to 1,425 feet above mean sea level with no areas of meaningful topographic relief. Based on the NRCS USDA Web Soil Survey, the project site is underlain entirely by Exeter sandy loam (0 to 2 percent slopes). Soils on-site have been mechanically disturbed and heavily compacted from historic land uses (i.e., agricultural activities, grading activities, and weed abatement).

The project site occurs in a gradually urbanizing area that supports some commercial and residential development and undeveloped parcels. Historically, the area supported agricultural practices. At present, the project site is bounded to the north by undeveloped, vacant land; to the east by a flood control channel with undeveloped, vacant land beyond; to the south by a high-voltage transmission easement with McLaughlin Road and undeveloped, vacant land beyond; and to the west by Evans Road with undeveloped land supporting agricultural land uses beyond.

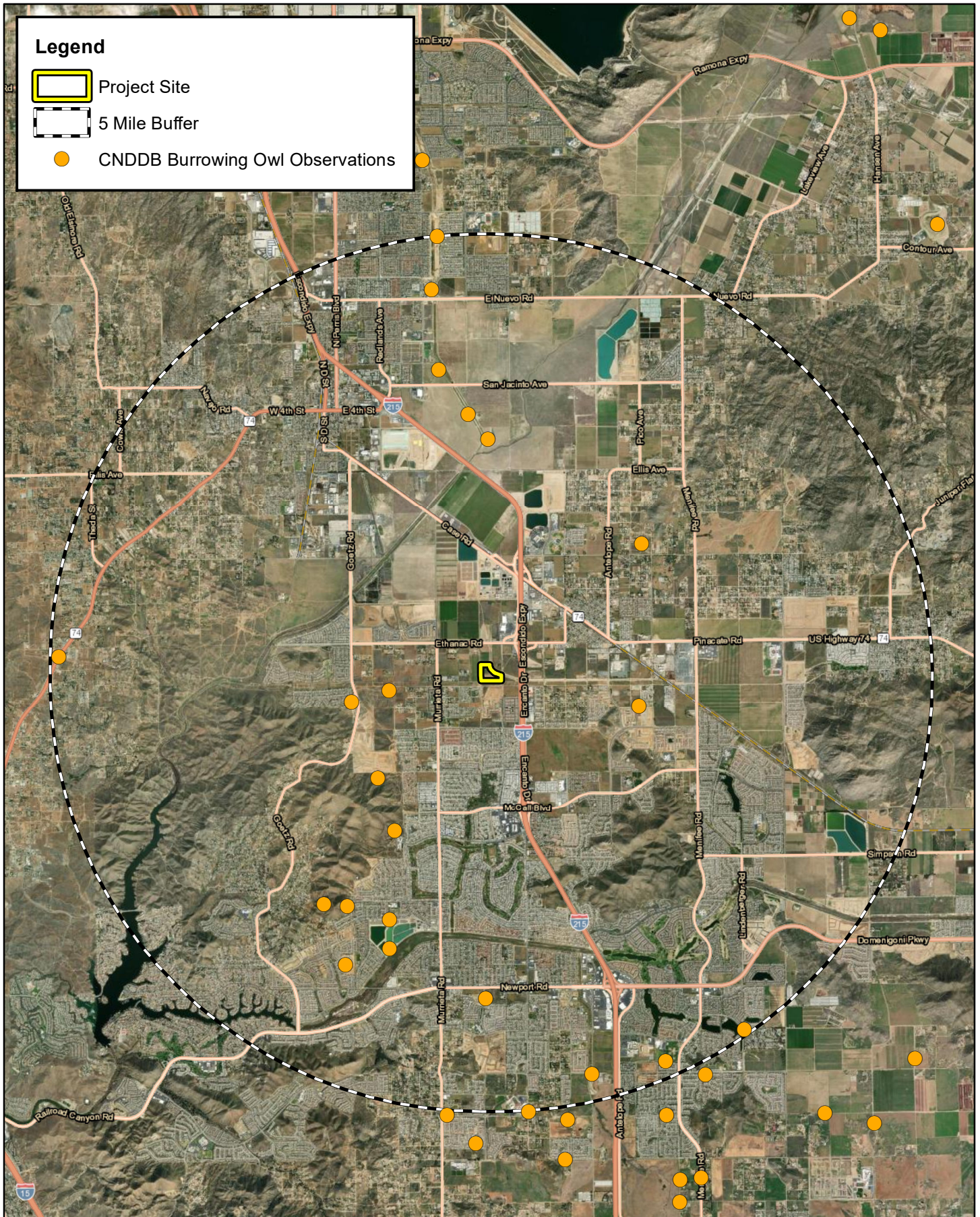
Based on a review of CDFW's California Natural Diversity Database (CNDDDB) 22 burrowing owl observations have been recorded within 5 miles of the project site. Refer to Exhibit 5, *CNDDDB Burrowing Owl Observations*.

4.2 BURROWING OWL FOCUSED SURVEY




Portions of the project site are vegetated with a variety of low-growing plant species that allow for minimal line-of-sight observation favored by burrowing owls. Further, small mammal burrows that have the potential to provide suitable burrowing owl nesting habitat (>4 inches in diameter) were observed throughout the project site. However, otherwise suitable burrows in the western portion of the site are unlikely to support nesting burrowing owls due to the presence of free roaming dogs and cats associated with neighboring properties to the west, and otherwise suitable burrows in the southern portion of the site are unlikely to support nesting burrowing owls due to the perching opportunities for predators of burrowing owl (i.e., red-tailed hawk) that are present within the adjacent high-voltage transmission easement. Burrows in the northeastern portion of the site and adjacent flood control channel provide suitable roosting and nesting opportunities for burrowing owl.

Common avian species identified during the surveys include American pipit (*Anthus rubescens*), killdeer (*Charadrius vociferans*), red-winged blackbird (*Agelaius phoeniceus*), red-tailed hawk (*Buteo jamaicensis*), Costa's hummingbird (*Calypte costae*), common raven (*Corvus corax*), song sparrow (*Melospiza melodia*), cliff swallow (*Petrochelidon pyrrhonota*), black phoebe (*Sayornis nigricans*), Say's phoebe (*Sayornis saya*), European starling (*Sturnus vulgaris*), Cassin's kingbird (*Tyrannus vociferans*), mourning dove (*Zenaida macroura*), and white-crowned sparrow (*Zonotrichia leucophrys*).

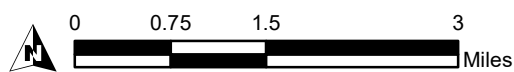
Despite a systematic search of the project site, no burrowing owls or sign (pellets, feathers, castings, or whitewash) were observed on or within 500 feet, where accessible, of the project site during the focused surveys.



Legend

-  Project Site
-  5 Mile Buffer
-  CNDDB Burrowing Owl Observations

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CNDDB BUOW Observations

Source: ESRI Aerial Imagery, CDFW CNDDB, Riverside County

Exhibit 6

Section 5 Conclusion and Recommendations

Based on the results of the 2023 burrowing owl focused surveys, no burrowing owls or evidence of recent or historic use by burrowing owls were observed on the project site. As a result, burrowing owls are presumed to be absent from the project site.

To ensure burrowing owl remain absent from the project site, it is recommended that a 30-day burrowing owl pre-construction clearance survey be conducted in accordance with the *Burrowing Owl Survey Instructions for the Western Riverside Multiple Species Habitat Conservation Plan Area* prior to any ground disturbing activities. If burrowing owls and/or birds displaying nesting behaviors are observed within the project site during future construction, the project proponents will immediately inform the RCA and the Wildlife Agencies to ensure compliance with the MSHCP, MBTA and Fish and Game Code prior to initiating ground disturbance. If the site is left undisturbed for more than 30 days following the pre-construction survey, another pre-construction survey will be required to ensure burrowing owl has not colonized the site since it was last disturbed.

If the burrowing owls are found to occupy the project site during the pre-construction clearance survey, a burrowing owl relocation plan will need to be prepared and approval by CDFW prior to the commencement of any ground disturbing activities. The burrowing owl relocation plan shall outline recommended methods proposed to relocate the burrowing owls from the project site and provide measures that will be implemented for the maintenance, monitoring, and reporting of the relocated burrowing owls to increase chances of survivorship and better ensure compliance with CDFW guidelines. This plan should be implemented during the non-breeding season, and prior to seasonal rains to promote the best outcome for conservation of the burrowing owl.

However, if the burrowing owls, are determined to remain absent from the project site during the pre-construction clearance survey, no further review will be needed.

Section 6 References

- California Burrowing Owl Consortium, 1993. *Burrowing Owl Survey Protocol and Mitigation Guidelines*. Accessed on the internet at:
www.dfg.ca.gov/wildlife/nongame/docs/boconsortium.pdf
- California Department of Fish and Wildlife (CDFW). 2023. RareFind 5, California Natural Diversity Data Base, California. Data Base report on threatened, endangered, rare or otherwise sensitive species and communities for the Romolands 7.5-minute USGS quadrangle.
- California Department of Fish and Wildlife (CDFW), 2012. *Staff Report on Burrowing Owl Mitigation*.
- Coulombe, H.N. 1971. *Behavior and population ecology of the burrowing owl (Speotyto cunicularia) in the Imperial Valley of California*. Condor 73: 162-176.
- Environmental Programs Department. (2006, March 29). *Burrowing Owl Survey Instructions for the Western Riverside Multiple Species Habitat Conservation Plan Area*. <http://www.wrc-rca.org/mshcp-species-survey-protocols/>
- Haug, E.A., B.A. Millsap, and M.S. Martell. 1993. *Burrowing Owl (Speotyto cunicularia)*. In: A. Poole and F. Gill, editors, *Birds of North America*, No. 61. Philadelphia: The Academy of Natural Science; Washington DC: The American Ornithologists' Union.
- Ramsen, Jr., J.V. 1978. *Bird Species of Special Concern in California*. Non-game Wildlife Investigations. Wildlife Management Branch Administrative Report No78-1. Report prepared for California Department of Fish and Game.

Appendix A Site Photographs



Photograph 1: From the northwest corner of the project site looking south along the western border.



Photograph 2: From the northwest corner of the project site looking east along the northern border.



Photograph 3: From the northeast corner of the project site looking north along the boundary of the adjacent flood channel.



Photograph 4: From the northeast corner of the project site looking east along the northern boundary.



Photograph 5: From the southeast corner of the project site looking north along the eastern boundary.



Photograph 6: From the southeast corner of the project site looking west along the southern boundary.



Photograph 7: Suitable burrowing owl nesting habitat observed on the western boundary of the project site.



Photograph 8: From the middle of the flood control channel looking southeast.



Photograph 9: Observed horse riders and free ranging dogs on the project site could be a burrowing owl deterrent.



Photograph 10: Red-tailed hawk, a burrowing owl predator, perched adjacent to the southern boundary of the project site.