

# Mitigated Negative Declaration

PROJECT NAME: Otay Trails & Mitigation Bank Expansion Project

PROJECT LOCATION: Otay River Valley

ASSESSOR’S PARCEL NO.: APNs: 6440900400, 64408009, 64409003, 6408021, and 64601005

PROJECT APPLICANT: HomeFed Otay Land II, LLC

CASE NO.: IS-21-0004

DATE OF DRAFT DOCUMENT: November 26, 2021

DATE OF FINAL DOCUMENT: December 27, 2021

## A. Project Setting

The project site encompasses approximately 233.36 acres within five parcels located in the City of Chula Vista in southwestern San Diego County, California. These five parcels are owned by two entities, with the City of Chula Vista owning the eastern portion of the site (Assessor’s Parcel Numbers [APNs] 64409004 and 64408009) and HomeFed Otay Land II, LLC (a subsidiary of the Otay Land Company [OLC]) owning the western portion (APNs 64409003, 6408021, and 64601005). Figures 1 and 2 show the regional and local project vicinity (see Attachment 1 for all figures).

The project site occurs within the upper portion of the Lower Otay River Watershed, approximately 1.2 miles downstream of Savage Dam and Lower Otay Reservoir. It is generally south and west of the Lower Otay Reservoir and surrounded by open space largely within the Multiple Species Conservation Program (MSCP) preserve system managed in partnership by the City of Chula Vista, City of San Diego, and County of San Diego. Specifically, the City parcels are owned in fee title by the City of Chula Vista and are designated as Open Space Preserve in the City’s General Plan (City of Chula Vista 2015). Fee title was transferred to the City as open space mitigation for a previous Otay Ranch development project. Additionally, the City and HomeFed parcels, where the proposed project is located, are part of the City’s MSCP Subarea Plan, which designates the parcels as 100 percent Conservation Area, and protects the habitat on site from development and impacts. The City of Chula Vista and the County of San Diego together, via a Joint Powers Agreement, are the Otay Ranch Preserve Owner/Manager. The Preserve Owner/Manager is responsible for the long-term management of lands conveyed to it as mitigation for Otay Ranch Development projects. Land management activities are guided by the Otay Ranch Resource Management Plan and funded through a Community Facility District. The existing land uses surrounding the site are as follows:

- North:** Chula Vista Water Treatment Plant, County Park, and Open Space
- East:** Open Space including County MSCP, Bureau of Land Management, and California Department of Fish and Wildlife (CDFW) lands
- South:** Open Space with the exception of a cluster of development (Otay Water District [OWD] Roll Reservoir, George F. Bailey Detention Facility, City of San Diego’s Otay Treatment Plant, and Richard J. Donovan Correctional Facility)
- West:** Open Space and the Otay River Valley, both publicly and privately owned

The proposed project site is undeveloped land with utility corridors (electric, gas, and water) along the northern, eastern, southern, and western boundaries. Several undesignated informal trails and dirt roads traverse the proposed project site. The roads and informal trails are utilized by unauthorized recreational users (hikers, cyclists, equestrians, and off-road vehicles; use of off-road vehicles is prohibited within open space preserve areas) and by U.S. Customs and Border Protection for routine patrols and by San Diego Gas and Electric (SDG&E), OWD, the City of San Diego, and the City of Chula Vista for utility inspection and maintenance.

## B. Project Background

In May 2016, the City of Chula Vista approved the 2016 Otay River Restoration Project Habitat Mitigation and Monitoring Plan (HMMP) and adopted the Initial Study (IS)/Mitigated Negative Declaration (MND) (City of Chula Vista 2016). These documents evaluated implementation of the Otay River Restoration Project HMMP on approximately 100 acres within a 300-acre parcel owned by the City of Chula Vista (2016 Restoration Project). The 2016 Restoration Project included three primary components: (1) upstream enhancement, (2) permittee responsible mitigation, and (3) establishment of a mitigation bank (pre-bank). Restoration implementation was initiated in January 2018 with the installation of an approximately 38-acre permittee-responsible mitigation bank for Otay Ranch University Villages and future City projects. The mitigation bank component of the 2016 Restoration Project is under design now. The upstream enhancement has also been initiated and crosses eight parcels adjacent to Savage Dam. These parcels are owned by the County of San Diego, City of San Diego, and federal agencies. Figure 3 shows a parcel map and location of the 2016 Restoration Project. Figure 4 shows an overview of the 2016 Restoration Project and the limits of the proposed project. Mitigation and restoration activities that will occur within the Otay River Mitigation Bank and how these activities will be implemented, maintained, monitored and measured for success are outlined in the Development Plan (Attachment 3).

## C. Project Overview

A detailed description of the proposed project is included in Attachment 2 which also provides a glossary of the common terms used in this MND.

The proposed project involves the expansion of the 2016 Restoration Project mitigation bank (Original Mitigation Bank) and the creation, modification, and expansion of trails within the entire proposed project limits (see Figure 4, Project Overview). The mitigation bank expansion is located on land owned by HomeFed and the City of Chula Vista and includes enhancement, rehabilitation, and re-establishment of hydrological processes, vegetation communities, and wildlife habitats associated with the Lower Otay River watershed that will be self-sustaining and can adjust to dynamic natural processes. The proposed project would also re-establish primary and secondary flow channels, low and high floodplains, and native transitional habitat as well as remove nonnative invasive species and restore native vegetation. This will serve to improve hydrologic conditions, significantly reduce the upstream invasive species seed sources, preserve connectivity between adjacent areas of preserved land and natural habitats, and preserve wildlife movement corridors, and would result in a net gain in functions and services following restoration activities.

The proposed project would provide mitigation opportunities to offset impacts on waters of the U.S. and state, including wetlands, and CDFW jurisdiction within a designated service area, currently proposed to include the Otay River watershed, Tijuana watershed, and portions of the San Diego River watershed. As stated above, the 2016 Restoration Project was designed to meet the compensatory mitigation needs associated with unavoidable impacts on jurisdictional waters of the U.S., waters of the state, and associated habitats due to the implementation of the Otay Ranch University Villages and future City projects.

The expansion will provide flexibility, as project designs and permitting for the Otay Villages and City projects are still in progress with the possibility of additional mitigation acreage requirements. In addition, over the last two years, multiple local agencies and private entities have inquired about mitigation credit availability, stressing their need for opportunities now and in the future. When evaluating the extent to which the Original Mitigation Bank should be expanded, consideration was given to cost effectiveness and maximum ecological benefit. This resulted in the recommendation to connect the mainstem of Otay River to the confluence of Salt Creek. This location is ecologically significant, as it represents a major input of water in the river valley and the first true connection point for the river. In addition, this key connection point would facilitate future restoration opportunities downstream. The restoration of Salt Creek has also been evaluated in this report; however, this aspect is not committed to undergoing construction at this time and will require a refined design and supplemental analysis if implemented in the future. See Figure 5, Proposed Project, Mitigation Bank Expansion Component Concept Plan.

The project proponent, OLC, and its contractors would be responsible for installation, maintenance, and monitoring of restoration project activities. It is currently anticipated that the proposed project would be implemented over approximately 24 weeks. Implementation of the proposed project would occur between September and February (outside the breeding season for nesting birds protected under the Migratory Bird Treaty Act) and would be followed by the completion of a minimum 5-year maintenance, monitoring, and reporting phase. Attachment 2 includes a detailed description of the project design, project implementation, and project maintenance and monitoring activities associated with the proposed project.

The project site and surrounding area are included within the City of Chula Vista General Plan, Otay Ranch General Development and Resource Management Plan, County of San Diego MSCP, City of Chula Vista MSCP Subarea Plan, Otay River Watershed Management Plan, Draft Otay River Watershed Special Area Management Plan, City of Chula Vista Greenbelt Master Plan, and Otay Valley Regional Park (OVRP) Concept Plan and Trails Guidelines. In addition, the proposed project has been developed in compliance with the U.S. Environmental Protection Agency and U.S. Army Corps of Engineers (USACE) Compensatory Mitigation for Losses of Aquatic Resources: Final Rule (40 Code of Federal Regulations [CFR] Part 230 and 33 CFR Parts 325 and 332) and the USACE Final 2015 Regional Compensatory Mitigation and Monitoring Guidelines for South Pacific Division.

The project site is designated as Open Space Preserve and Undeveloped by the City of Chula Vista General Plan. The project site is zoned Residential by the City of Chula Vista's Zoning Code. Figures 6 and 7 show the land use and zoning designations for the project site.

The City of Chula Vista is the lead agency under the California Environmental Quality Act (CEQA) and responsible for permitting the proposed project; USACE, CDFW, and the Regional Water Quality Control Board (RWQCB) have some approval and/or discretionary authority over the proposed project. Table 1-1, below, indicates the discretionary approvals that would be required to implement the proposed project.

To restore the river valley, the proposed project would temporarily affect small areas of jurisdictional waters of the United States and state as well as native upland habitats, which would need to be authorized by the regulatory agencies. These temporary impacts, and the proposed project as a whole, will be evaluated by USACE in accordance with Section 404 of the Clean Water Act (CWA), the RWQCB in accordance with Section 401 of the CWA and the Porter-Cologne Water Quality Control Act, U.S. Fish and Wildlife Service (USFWS) in accordance with Section 7 of the Endangered Species Act, and CDFW in accordance with Section 1600 of the California Fish and Game Code and the state Endangered Species Act. In addition, the proposed project is part of a Mitigation Bank, which has its own specific review and approval process in which the regulatory agencies are involved

**Table 1-1. Discretionary Approvals Required**

<b>Agency</b>	<b>Role</b>	<b>Permit/Approval</b>
City of Chula Vista	Lead agency	<ul style="list-style-type: none"> <li>● Mitigated Negative Declaration adoption               <ul style="list-style-type: none"> <li>○ Mitigation Monitoring and Reporting Program adoption</li> <li>○ Prospectus and Bank Enabling Instrument (BEI) approval</li> <li>○ Finance Plan approval (including retaining the appropriate qualified personnel, as described in the BEI [e.g., landscape installation/maintenance contractor, restoration ecologist])</li> <li>○ Habitat Loss and Incidental Take permit</li> </ul> </li> <li>● Grading permit</li> </ul>
San Diego Gas and Electric	Responsible agency	<ul style="list-style-type: none"> <li>● Grading permit and Letter of Authorization</li> </ul>
U.S. Army Corps of Engineers	Federal agency with permitting authority and National Environmental Policy Act Lead Agency	<ul style="list-style-type: none"> <li>● Section 404 permit</li> </ul>
U.S. Fish and Wildlife Service	Federal agency with permitting authority	<ul style="list-style-type: none"> <li>● Section 7 consultation</li> <li>● Prospectus and BEI</li> </ul>
California Department of Fish and Wildlife	Trustee/responsible agency	<ul style="list-style-type: none"> <li>● Section 1602 Streambed Alteration Agreement</li> <li>● California Endangered Species Act consultation</li> <li>● Prospectus and BEI</li> </ul>
Regional Water Quality Control Board	Responsible agency	<ul style="list-style-type: none"> <li>● Section 401 Water Quality Certification</li> <li>● Construction General Permit/Storm Water Pollution Prevention Plan</li> </ul>

as the Inter-agency Review Team and/or Signatory Agencies. It is anticipated that USACE, CDFW, and potentially USFWS and RWQCB will be signatories to the Mitigation Bank. Those not a signatory will be part of the Inter-agency Review Team. To date, the agencies have reviewed the initial restoration concept (as part of the Prospectus) and attended a site visit. An updated Prospectus, along with a Bank Enabling Instrument (BEI) containing a Development Plan will be developed in coordination with, and reviewed by, the regulatory agencies. It is anticipated that USACE will authorize impacts associated with the proposed project through issuance of a Nationwide Permit or Standard Individual Permit and conduct Section 7 of the Endangered Species Act consultation and Section 106 of the National Historic Preservation Act consultation with USFWS and the State Historic Preservation Officer, respectively. RWQCB will issue a 401 certification for impacts on waters of the U.S./state and CDFW will issue a streambed alteration agreement for impacts on streambed resources.

### Trails

As mentioned above, the 2016 Restoration Project included trail improvements as part of the project with a focus on fencing, signage, and crossing improvements. As these informal trails are part of the City of Chula Vista Greenbelt Master Plan (City of Chula Vista 2003a) and the OVRP Concept Plan (County of San Diego et al. 2016), both high-level planning documents, additional stakeholder outreach was required in addition to Resource and Wildlife Agency input. As a result of a series of multi-agency meetings that included the City of Chula Vista, County of San Diego, CDFW, USFWS, California Department of Transportation, Border Patrol, OWD, and OVRP Citizens Advisory Committee, including both committee meetings and field visits, it was determined that the activities

required to finalize the installation of the trail network within the proposed project limits would require additional environmental review and permitting. The proposed project includes modifications to existing trail routes beyond those described as part of the 2016 Restoration Project. These proposed modifications include trail improvements (grading and contouring) to facilitate drainage and reduce ponding and water damage; new trail alignments to avoid sensitive resources and improve the trail experience for the users; select fencing and placement of natural barriers (boulders and logs) to keep pedestrians and vehicles on trail routes; and trail reclamation and road width reduction. See Figure 8, Proposed Project, Trails Component Concept Plan.

The trail network within the proposed project site would consist of two trail types (multi-use trails and secondary trails) to serve both recreational resources and routine maintenance access to the site. In addition, a series of existing roads and road shoulders would be reclaimed as part of proposed project implementation.

Certain segments of roads have been identified as redundant and unnecessary and would be graded where appropriate and revegetated to blend into the surrounding landscape. In some instances, large rocks or woody material would also be used to close entry points to trails, allowing the natural regrowth of native plant species. In addition, existing roads would be narrowed (either entirely or in specific segments) by reclaiming portions of the shoulders to be more accommodating to pedestrians (see Figure 9, Trails Detail, Plan View, and Figure 10, Trails Detail, Cross Section).

Trail improvements would include wayfinding signs and interpretive opportunities along scenic points of the river and riparian areas. The mitigation bank expansion would include at least two stream crossings with the trails. For these locations, a semi-hardened crossing is proposed to meet the creek at grade to allow water to flow. The crossings on the proposed project would be constructed with interlocking, permeable, concrete surface bedding in the river bottom. The voids in the concrete bedding would be filled with gravel to both stabilize the surface from storm flow events and provide a stable surface for trail users to walk or ride across. The gravel would consist of crushed, 0.75-inch, compacted rock and smaller material. The trail surface would transition back to a compacted, decomposed, granite, crushed-rock surface or the existing natural material above the creek bed (see Figure 5). A detailed description of the proposed multi-use trails, secondary trails, fencing, and educational elements are included in Attachment 2 as part of the project description.

#### D. Compliance with Zoning and Plans

The project site and surrounding area are designated as Open Space Preserve and Undeveloped by the General Plan and within the planning boundaries of the City of Chula Vista MSCP Subarea Plan. Other applicable planning documents include the Otay Ranch General Development and Resource Management Plan, the County of San Diego MSCP Subarea Plan, the Otay River Watershed Management Plan, and the Otay River Watershed Special Area Management Plan. The proposed project would restore and enhance hydrologic and sediment transport processes and native habitats in the Otay River Valley. Implementation of the proposed project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the proposed project. Figures 6 and 7 provide the existing land use designations and zoning within and surrounding the project site.

#### E. Public Comments

On November 26, 2021, a Notice of Availability was circulated to property owners within a 500-foot radius of the proposed project site as well as interested agencies and organizations. The public review period will end on December 27, 2021.

## E. Identification of Environmental Effects

An IS conducted by the City of Chula Vista (including the attached Environmental Checklist form) determined that, although the proposed project could have a significant environmental effect, there would not be a significant effect in this case because mitigation measures described in Section F below have been added to the proposed project. The preparation of an environmental impact report will not be required. This MND has been prepared in accordance with Section 15070 of the State CEQA Guidelines.

### Biological Resources

The discussions of project effects on biological resources provided below and in the IS are based on the analysis of project impacts included in technical attachment *Otay Trails and Mitigation Bank Expansion Project Biological Resources Report 2021 Update* (BRR), dated September 2021a (ICF 2021a). Refer to the BRR for a detailed discussion of the environmental setting, including existing conditions and surveys conducted of sensitive biological resources, as well as an impact analysis for biological resources. BRR Figures 3b, 5ba and 7 show the survey areas, impact areas and restoration activities.

#### *Special-Status Plants*

Non-listed plant species identified as California Rare Plant Rank 1B or 2B, San Diego County Group A or B plant species are present within the project area, including inside of the “heavy” restoration activity areas. One listed plant species has been documented within the project area (spreading navarretia<sup>1</sup>), specifically within a low impact activity level area, and five other federally or state-listed as threatened or endangered plant species have moderate to high potential to occur within the project area. A very small amount of permanent impacts on natural habitats that can support special-status plant species may occur due to the construction of new trails and armoring of existing stream crossings; however, the project would primarily result in temporary impacts on natural habitats during restoration and enhancement activities. Absent mitigation, impacts on these special-status plants would be significant.

Impacts on special-status plant species would be avoided and minimized through implementation of **Mitigation Measures BIO-9**, which includes rare plant salvage and avoidance measures (e.g., exclusionary flagging and fencing, and salvage and relocation), and **BIO-11**, which would ensure persistence of viable populations of special-status species within the project area by limiting trespassing into the restoration areas and special-status plant populations. Implementation of **Mitigation Measures BIO-2, BIO-3, BIO-4, BIO-5, BIO-8, and BIO-9** would also further minimize temporary impacts and avoid direct impacts on narrow endemic and other special-status species. Additionally, as described in the BRR, the project’s footprint and trail alignment would be further refined in the design finalization and permitting process, which is anticipated to further reduce impacts on special-status species through avoidance. Thus, impacts on special-status plant species would be less than significant with mitigation incorporated.

#### *Special-Status Wildlife*

Five species listed as federally or state endangered or threatened have been observed within the project area during focused species surveys: San Diego fairy shrimp, Quino checkerspot butterfly, western yellow-billed cuckoo (nesting),<sup>2</sup> least Bell’s vireo (nesting), and coastal California

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<sup>1</sup> Federally Listed as Threatened; California Rare Plant Rank 1B.1; San Diego County List A species; City of Chula Vista MSCP species

<sup>2</sup> Western yellow-billed cuckoo is considered protected while nesting. The individual observed on site was a transient foraging migrant and the site does not have suitable habitat to support nesting cuckoo.

gnatcatcher. Forty non-listed special-status species are known to be present or have a moderate to high potential to occur within the project area, including species considered Covered Species under the City of Chula Vista MSCP Subarea Plan (City of Chula Vista 2003b). A small amount of permanent impacts on suitable and occupied habitats for special-status wildlife would occur due to habitat removal for trail creation and armoring of existing stream crossings. Special-status wildlife habitat would be temporarily impacted by the project. Direct loss of special-status wildlife species and disturbance resulting in direct mortality of individual special-status wildlife, particularly of federally listed species, would be significant impacts absent mitigation.

Direct impacts as a result of grading and vegetation removal activities would be minimized or avoided to the maximum extent practicable through implementation of mitigation measures. Specifically, grading and ground disturbance activities would be conducted outside of the nesting season, when feasible, to avoid direct impacts on nesting birds, including those protected under the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act (**Mitigation Measure BIO-6**). Preconstruction burrowing owl surveys would be completed to avoid impacts on burrowing owl (**Mitigation Measure BIO-7**). Therefore, no special-status bird nests would be directly impacted. Indirect impacts on special-status wildlife would be minimized or avoided through implementation of **Mitigation Measures BIO-2, BIO-3, BIO-5, and BIO-11**. The proposed project is a restoration project that would ultimately improve and enhance function of native habitats that are suitable for special-status wildlife species. In addition, the proposed project is a Covered Project under the City of Chula Vista MSCP, and many of these special-status wildlife species are Covered Species that would directly benefit from the proposed project in the long term. Therefore, impacts on special-status wildlife species would be less than significant with mitigation incorporated.

Once the trail alignments have been finalized to further avoid impacts on federally listed species, the applicant would enter into consultation with the USFWS to document how the proposed project is consistent with the City of Chula Vista MSCP Subarea Plan, as described in **Mitigation Measure BIO-1**. As a result of the consultation process, the USFWS would provide a Biological Opinion on the potential effects on federally listed species from the proposed project. The applicant would adhere to any conservation measures provided by the USFWS in their Biological Opinion as required by law. Implementation of these mitigation measures and anticipated conservation measures from the Biological Opinion would reduce impacts on federally listed species to less than significant with mitigation incorporated.

### *Designated Critical Habitat*

Activities associated with grading, trails creation and reclamation, and upland enhancement within the project area would impact approximately 140.61 acres of designated Otay tarplant critical habitat. Figure 15 of the Biological Resources Report (BRR) technical attachment shows the location of critical habitat with the project area. However, permanent impacts due to the creation of new trails would occur primarily within existing access roads that do not provide the physical and biological features (PBFs)<sup>3</sup> necessary to support Otay tarplant; only approximately 1.94 acres of critical habitat that has PBFs for Otay tarplant (i.e., Diegan coastal sage scrub and non-native grasslands) would be permanently affected. Revegetation, rehabilitation, and enhancement activities would occur in areas of temporary impact totaling approximately 134.91 acres of Otay tarplant critical habitat. However,

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<sup>3</sup> Physical or biological features essential for the conservation of the species, also called primary constituent elements, are defined in the Designation of Critical Habitat for *Deinandra conjugens* (Otay tarplant); Final Rule (USFWS 2002). All areas designated as critical habitat are within the species' currently known range and contain one or more of these physical or biological features essential for the conservation of the species. The primary constituent elements of *Deinandra conjugens* critical habitat consist of, but are not limited to, soils with a high clay content (generally greater than 25 percent) (or clay intrusions or lenses) that are associated with grasslands, open coastal sage scrub, or maritime succulent scrub communities between 25 meters (80 feet) and 300 meters (1,000 feet) in elevation.

only approximately 49.08 acres within the “heavy” temporary work activities area (where grading would occur) contain PBFs for Otay tarplant because they are within coastal sage scrub and non-native grassland vegetation communities. Indirect and direct impacts resulting from restoration-related activities could occur on the areas that contain PBFs, such as increased dust deposition, spills of pollutants, and trampling of plants if present. Absent mitigation, permanent and temporary impacts would be significant.

With implementation of **Mitigation Measure BIO-9**, no Otay tarplant individuals potentially occurring within critical habitat are anticipated to be impacted by either permanent impacts or heavy grading in temporary impact areas. Implementation of **Mitigation Measures BIO-2** through **BIO-5** would ensure indirect and direct impacts on Otay tarplant critical habitat that could result during restoration-related activities are minimized to the maximum extent practicable. Furthermore, upland enhancement and trail reclamation, as well as implementation of **Mitigation Measure BIO-11**, would likely result in improved conditions of critical habitat for Otay tarplant in the temporary impact area, and an overall positive effect of improved quality of critical habitat is anticipated within Otay tarplant critical habitat. Therefore, impacts on Otay tarplant critical habitat would be less than significant with mitigation incorporated.

### *Riparian Habitat and Sensitive Natural Communities*

Project-related construction, grading, clearing, or other activities would temporarily and permanently remove sensitive native or naturalized habitat within the project area. Figure 8 of the BRR technical attachment shows the location of riparian habitat and sensitive natural communities. As shown in the BRR technical attachment (ICF 2021a), permanent impacts would occur on sensitive native and naturalized habitats. Approximately 2.96 acres of Tier I, II, and III habitats and 0.19 acre of riparian and wetland habitats would be permanently impacted by the proposed project.<sup>4</sup> Temporary impacts could occur on up to 166.21 acres of Tier I, II, or III habitats (67.06 acres of which would be subject to grading during restoration activities; the remainder of temporary impacts would be associated with disturbance during enhancement activities such as weeding and invasive species treat). Temporary impacts could also occur on up to 40.97 acres of riparian and wetland habitats (35.39 acres of which would be subject to grading during channel and floodplain restoration activities; the remainder of temporary impacts would be associated with disturbance during enhancement activities).

The proposed project is a restoration projects and once completed, will enhance the functions and values of existing wetlands. Furthermore, no permanent structures would be built within or near wetlands with the exception of armoring of existing low-flow stream crossings. The result of the work would include an overall net gain in functions and values of the existing wetlands. Overall, the proposed project is designed as a restoration and enhancement project to improve natural habitats within the project area. The proposed project would re-establish primary and secondary flow channels, low and high floodplains, and native transitional habitat as well as remove nonnative invasive species and restore native vegetation. This would serve to improve hydrologic conditions, significantly reduce the upstream invasive species seed sources, preserve connectivity between adjacent areas of preserved land and natural habitats, and preserve wildlife movement corridors, and would result in a net gain in functions and services following restoration activities.

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<sup>4</sup> Under the City of Chula Vista MSCP Subarea Plan (City of Chula Vista 2003b), upland vegetation communities, defined according to the Holland classification system, are grouped into habitat tiers, Tier I through Tier IV, based on species composition and rarity within the region. Tier I (rare uplands), Tier II (Uncommon Uplands), and Tier III (common uplands) are considered to be sensitive habitats. Tier IV habitats (other uplands) consist of disturbed and developed habitats and are not considered sensitive. In addition, all wetland and riparian areas are considered sensitive under the Wetlands Protection Program described in Section 5.2.4 of the City of Chula Vista MSCP Subarea Plan.

Implementation of **Mitigation Measures BIO-2** through **BIO-5** and **BIO-11** would avoid and minimize impacts on sensitive native and naturalized habitats to the maximum extent practicable. The proposed project would apply for and comply with all regulatory permits for impacts on jurisdictional riparian or wetland habitats per **Mitigation Measure BIO-1**. Therefore, impacts on sensitive native and naturalized habitats would be less than significant with mitigation incorporated.

### *Wetlands and Jurisdictional Resources*

The proposed project would cause temporary and permanent impacts on wetlands and jurisdictional waters as defined by USACE, RWQCB, and CDFW. Figure 16a and 16b of the BRR technical attachment shows the potential jurisdictional waters and wetlands occurring in the project area. Temporary impacts associated with the proposed project are focused on two restoration activities: habitat restoration (habitat enhancement and rehabilitation) and grading (for habitat establishment and reestablishment). A relatively small amount of permanent impacts would occur due to creation of new trails (including grading) and from work on at least two existing stream crossings (i.e., channel armoring). All habitat restoration and establishment/reestablishment impacts are considered temporary because the proposed project is a restoration project, and any impacts would be restored with native vegetation and ultimately lead to a net gain in viable habitat and native plant communities, and overall improved river conditions. Habitat restoration would involve invasive vegetation removal followed by re-establishment of native vegetation communities. Enhancement and rehabilitation activities would generate little to no ground disturbance, and invasive plant species removal would target select species of plants in order to minimize potential impacts on native and sensitive species. Grading activities would involve considerable ground disturbance, with the ultimate goal of redefining the channel and other hydrologic features along the Otay River.

As described in the BRR technical attachment Section 2.2.5 (ICF 2021a), approximately 0.06 acre of waters of the U.S. subject to jurisdiction of USACE and RWQCB (0.06 acre of non-wetland and approximately 90 square feet of wetland) would be permanently impacted by the proposed project. A total of 39.37 acres of waters of the U.S. (1.27 acre of non-wetland and 38.10 acres of wetland) would be temporarily impacted by the proposed project.

A total of 0.23 acre of waters of the state subject to jurisdiction of CDFW (0.20 acre of streambed and 0.02 acre of riparian) would be permanently impacted by the proposed project. A total of 61.23 acres of waters of the state (18.67 acres of streambed and 42.56 acres of riparian) would be temporarily impacted by the proposed project. Absent mitigation, these impacts would be significant.

However, permanent and temporary impacts would be mitigated on site as part of the proposed project (**Mitigation Measure BIO-1**), including rehabilitation and reestablishment of the river channel and its floodplain. In addition to restoring existing wetlands, waterways, and riparian habitat, the proposed project would expand and reestablish both federal wetlands and waterways, including over 30 acres of waters of the U.S. and 55 acres of waters of the state. The proposed project would also restore more than 3,300 feet of channel under USACE jurisdiction and 5,500 feet of channel under CDFW jurisdiction. In addition, hydrology would be restored and invasive vegetation removed, further improving conditions for native species composition, diversity, and abundance throughout the site. Implementation of **Mitigation Measures BIO-2** (biological awareness training for all workers), **BIO-3** (temporary fencing of sensitive resources), **BIO-4** (onsite biological monitoring during grading and vegetation removal activities), **BIO-5** (implementation of Best Management Practices), and **BIO-11** (management of public access, trails, and recreation to deter trespassing and protect sensitive resources) would minimize indirect impacts on federal jurisdictional resources. As mentioned above, the proposed project would also apply for and comply with all regulatory permits as appropriate per **Mitigation Measure BIO-1**. Therefore, impacts on federal jurisdictional wetlands and waterways would be less than significant with mitigation incorporated.

*Native Resident or Migratory Fish or Wildlife Species or Established Native Resident or Migratory Wildlife Corridors, and Native Wildlife Nursery Sites*

The proposed project is within a core habitat area under the City of Chula Vista MSCP Subarea Plan, and as a result has the potential to temporarily impact a core wildlife area but would not result in the loss of a core wildlife area. The proposed project would not prevent wildlife access to habitat, nor would it create a barrier to wildlife movement. The proposed project would not permanently prevent wildlife access to foraging habitat, breeding habitat, water sources, or other areas necessary for their reproduction; overall, the proposed project would improve these characteristics of the site. Wildlife nursery areas within the project area could include vegetation communities that support nesting birds, riparian habitat, wetlands, and stream habitat.

A small amount of permanent impacts on natural habitats would occur due to conversion to trails, though this would not be expected to negatively impact wildlife access to foraging or breeding habitat, water sources, or other areas necessary for reproduction due to the existing trail networks in the project area. Additionally, some existing trails would be reclaimed, improving these characteristics onsite. Temporary impacts on natural habitats would occur due to implementation of restoration activities in the Otay River channel and floodplain (e.g., large areas of grading). Temporary disturbances include increased human activity, noise, and dust, etc., and temporary removal of natural habitats during restoration activities. These impacts would be less than significant regarding wildlife movement and connectivity because they would be temporary in nature and would not result in the permanent loss of a core wildlife area; however, indirect impacts would be significant for wildlife corridor habitats along the Otay River channel absent mitigation.

Implementation of **Mitigation Measures BIO-2** through **BIO-5** and **BIO-11** would minimize impacts on core wildlife areas, edge of open space or other natural areas, connectivity habitat, and wildlife corridors. All personnel would go through a comprehensive environmental training (**Mitigation Measure BIO-2**), fencing would be installed during construction to focus work areas and illustrate avoidance areas (**Mitigation Measure BIO-3**), a qualified biological monitor would be onsite to ensure minimization of impacts on biological resources during vegetation removal and grading activities (**Mitigation Measure BIO-4**), best management practices (BMPs) would be implemented throughout the project work area to minimize impacts on adjacent resources (**Mitigation Measure BIO-5**), and signage and wood split-rail fencing would be installed to limit trespassing and protect sensitive biological resources (**Mitigation Measure BIO-11**). The proposed project is a restoration project that would provide a net improvement and enhancement of habitat for wildlife species and the functions and values of these areas, consistent with the goals and objectives of the City of Chula Vista MSCP Subarea Plan. Therefore, impacts on the edge of open space or other natural areas, connectivity habitat, and wildlife corridors would be less than significant with mitigation incorporated.

*City of Chula Vista MSCP Subarea Plan & Habitat Loss Incidental Take Permit*

The project area is within the City of Chula Vista's MSCP Subarea Plan area, specifically within lands designated as 100 percent Conservation Area (i.e., within the MSCP Preserve, where the habitat is protected on site from development and impacts, and is considered a Covered Project<sup>5</sup> under the City of Chula Vista MSCP Subarea Plan (City of Chula Vista 2003b). In compliance with the City of Chula Vista MSCP Subarea Plan, and as a condition of issuance of take authorization by the wildlife

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<sup>5</sup> Covered Projects are defined in the City of Chula Vista MSCP Subarea Plan as, "Those projects involving land use development within the City of Chula Vista for which hard-line Preserve boundaries have been established pursuant to the approved Chula Vista Subarea Plan, and where conservation measures consistent with the MSCP Subregional Plan and Chula Vista Subarea Plan have been or will be specified as binding conditions of approval in such Project's plans and approvals. Covered Projects are shown on Figure 5-1 of [the] Subarea Plan. The conditions of coverage for each Covered Project are specified at 7.5.6 of the Subarea Plan" (City of Chula Vista 2003b).

agencies, the City of Chula Vista established a development standard and an implementing ordinance, the Habitat Loss and Incidental Take Ordinance (HLIT). The HLIT is consistent with the conservation and mitigation goals of the San Diego County MSCP Subregional Plan and the City of Chula Vista MSCP Subarea Plan, which require impacts on sensitive vegetation communities to be avoided and minimized to the maximum extent practicable. Refer to the BRR at Section 1.6.3.1, *City of Chula Vista Multiple Species Conservation Plan Subarea Plan*, for description of the requirements and guidelines for Covered Projects under the City of Chula Vista MSCP Subarea Plan and HLIT.

The proposed project would be consistent with the City of Chula Vista MSCP Subarea Plan. Ultimately, the proposed project would restore and enhance existing preserve land and minimize impacts on sensitive resources defined by the City of Chula Vista HLIT Ordinance. The proposed project would directly benefit the primary goals of the City of Chula Vista MSCP Subarea Plan, which are to conserve covered species and their habitat through the conservation of interconnected significant habitat cores and linkages. The proposed project would restore over 1 mile of lost river channel and its floodplain and further enhance existing preserved upland habitats while minimizing impacts on sensitive resources. Thus, the proposed project would improve habitat functions and directly benefit many MSCP covered flora and fauna. A small amount of permanent impacts on sensitive resources would occur due to the construction of new trails and armoring of existing stream crossings; however, the project would primarily result in temporary impacts on sensitive resources during restoration and enhancement activities. As described above, avoidance and minimization of impacts on sensitive resources would be accomplished to the maximum extent practicable through implementation of **Mitigation Measures BIO-1** through **BIO-11**. Overall, the proposed project would increase habitat quantity and quality for narrow endemic species, restore protected riverine, wetland, and riparian habitats, and enhance and restore Tier I, Tier II, and Tier III upland habitats. Therefore, the proposed project would not conflict with the provisions of the City of Chula Vista MSCP Subarea Plan.

### Cultural Resources

To assess potential impacts affecting cultural resources, technical attachment *CEQA Cultural Resources Technical Report* was prepared (ICF 2021b). The cultural resources analysis is summarized below.

Seventeen previously identified resources were recorded within the project site, and the pedestrian survey relocated artifacts associated with 10 of the resources. In addition, one archaeological resource (a prehistoric lithic scatter) and five isolated artifacts were newly identified during the survey efforts.

The pedestrian survey identified artifacts associated with the following cultural resources: P-37-004732, P-37-004728, P-37-004735, P-37-010875, P-37-014566, P-37-014575, P-37-014585, P-37-031366, P-37-032254, and P-37-034106. The pedestrian survey did not relocate artifacts for portions of seven previously documented sites; although, in some instances, the project site intersected with a very small portion of the resource. No attempt was made to relocate portions of sites outside of the project site. The pedestrian survey did not relocate portions of seven resources that intersect with the project site (P-37-004733, P-37-007212, P-37-008649, P-37-014583, P-37-015386, P-37-015391, and P-37-031365).

Of the 10 relocated cultural resources (sites P-37-004732, P-37-004728, P-37-004735, P-37-010875, P-37-014566, P-37-014575, P-37-014585, P-37-031366, P-37-032254, and P-37-034106) and one newly recorded archaeological site, none have been formally evaluated for their eligibility for listing in the California Register of Historical Resources (CRHR) or National Register of Historic Places (NRHP). In accordance with guidance from the California Office of Historic Preservation, the unevaluated sites must be considered eligible for the CRHR. Therefore, for the purposes of the proposed project, these sites are assumed to be eligible for the CRHR.

Five isolates were newly recorded within the project site. Intensive pedestrian surveys in the vicinity of the isolates revealed no additional artifacts or features. Although it is unknown whether there are buried archaeological deposits associated with these isolates, it is inferred that these isolates would have limited potential for being eligible for listing in the CRHR and/or NRHP because of a paucity of associated artifacts and features. No mitigation measures are necessary for isolates because they lack association and context with other archaeological materials; therefore, they are by definition not eligible for listing in the NRHP or CRHR.

Proposed project activities would include ground disturbance as part of road reclamation, installation of signage, stream recontouring and vegetation removal. Potential impacts on eligible resources could occur from these proposed activities if ground disturbance occurs within cultural resource boundaries. However, in order to reduce or minimize impacts on cultural resources, the proposed project would incorporate **Mitigation Measures CUL-1** through **CUL-3**. As part of the mitigation measures, the proposed project would establish environmentally sensitive areas (ESAs) around areas of artifact concentration and prohibit ground-disturbing activities, thereby avoiding impacts in the ESAs (**Mitigation Measure CUL-1**). In addition to establishing ESAs, areas requiring archaeological and Native American monitoring would be established within an existing cultural resources boundary but in areas where no artifact concentrations were identified during survey efforts. These areas are referred to as Monitoring Areas (MAs); ground-disturbing activities occurring within MAs will require the presence of an archaeological monitor and a Native American monitor. The ESAs and MAs would be incorporated into the cultural resources monitoring and treatment plan (**Mitigation Measure CUL-2**) and would be made available to non-archaeological staff for scheduling purposes. Additionally, in response to Native American due diligence outreach and given the prehistoric archaeological sensitivity of the proposed project area, **Mitigation Measure CUL-3** would be implemented to minimize impacts on prehistoric resources and would require a Kumeyaay Cultural Monitor be on site for ground-disturbing activities. With implementation of **Mitigation Measures CUL-1** through **CUL-3**, impacts on sensitive archaeological resources would be less than significant.

### Geology and Soils, and Paleontological Resources

Implementation of the proposed project would not result in substantial soil erosion or the loss of topsoil. Erosion is a condition that could adversely affect development on any site. The proposed project would include enhancement, rehabilitation, and re-establishment of hydrological processes, vegetation communities, and wildlife habitats. It would also re-establish primary and secondary flow channels, low and high floodplains, and native transitional habitat as well as remove nonnative invasive species and restore native vegetation. Additional improvements would include modifications to existing trail routes. Therefore, the proposed project would not add any new impervious surfaces. Construction activities could exacerbate erosion conditions by exposing soils and adding water to the soil from irrigation during construction. As discussed in more detail in Section X, *Hydrology and Water Quality*, the National Pollutant Discharge Elimination System General Permit for Stormwater Discharges Associated with Constructions and Land Disturbance Activities (Construction General Permit), which was adopted by the State Water Resources Control Board as Water Quality Order 2012-0006-DWQ on July 17, 2012, is required for soil disturbance activities greater than 1 acre. Compliance with the Construction General Permit requires development and implementation of a site-specific Storm Water Pollution Prevention Plan (SWPPP) by a Qualified SWPPP Developer that includes BMPs to be employed during construction to control soil erosion. The selection of erosion control BMPs is based on minimizing disturbed areas, stabilizing disturbed areas, and protecting water quality. Preliminary erosion control measures (as part of the SWPPP) for the proposed project could include, but not be limited to, the use of hydraulic mulch, soil binders, geotextiles and mats, hydroseeding, straw mulch, earthen dikes, and velocity dissipation devices. Furthermore, as discussed in Section V, *Biological Resources*, the proposed project would implement **Mitigation Measure BIO-1** to ensure all necessary agency permits, including a CWA Section 402

National Pollutant Discharge Elimination System Construction General Permit (Order No. 2012-0006-DWQ) from RWQCB, have been approved before initiating grading activities, and impacts on geology and soils would be minimized per the conditions set forth in the permits. As a result, with implementation of **Mitigation Measure BIO-1**, the proposed project would result in less-than-significant impacts related to soil erosion during construction activities.

Project operations would not increase erosion because the restoration site would be restored to the desired functions, with native habitat that would prevent substantial erosion or siltation on or off site. Furthermore, a restoration ecologist, to be retained by the project applicant, would work in coordination with the installation and maintenance contractors and oversee the protection of existing native vegetation, nonnative plant removal, contour grading, site preparation, planting and seeding, maintenance and monitoring, and reporting. If deemed necessary by the restoration ecologist, maintenance activities would include remedial measures for erosion control. In addition, maintenance of the trail improvements would be managed per a long-term management plan,<sup>6</sup> further minimizing the potential for conditions leading to erosion. Therefore, long-term operational impacts related to soil erosion or loss of topsoil would be less than significant.

### Hazards and Hazardous Materials

Implementation of the proposed project is not expected to create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. Construction-related hazardous materials would be used during construction of the proposed project, including fuel, solvents, chemicals, and oils, for the operation of construction equipment. It is possible that any of these substances could be released in small amounts during construction activities. However, compliance with federal, state, and local regulations in combination with construction BMPs implemented from a SWPPP as required under the State Water Resources Control Board's Construction General Permit would ensure that all hazardous materials are transported, used, stored, and disposed of properly, which would minimize potential impacts related to a hazardous materials release during the construction phase of the proposed project. Furthermore, **Mitigation Measure BIO-1** would ensure all necessary agency permits, including a CWA Section 402 National Pollutant Discharge Elimination System Construction General Permit (Order No. 2012-0006-DWQ) from RWQCB, have been approved before initiating grading activities. No hazardous materials are expected to be transported, used, disposed of, or stored on site during the operational phase.

An environmental database search was conducted to determine if there are any known hazardous materials sites within or adjacent to the project site that could result in a significant hazard due to project implementation. The following summarizes the findings of this records search.

#### *Brown Field Bombing Range Formerly Used Defense Site*

The southern portion of the proposed project site is within the Brown Field Bombing Range Formerly Used Defense Site (FUDS). The site is approximately 2 miles northeast of Otay Mesa and approximately 63 acres of the project site overlap with the FUDS site. Figure 11 shows the project footprint in correlation with the FUDS property boundaries. The Brown Field Bombing Range was identified in the EnviroStor database as being part of the Department of Toxic Substances Control's Site Cleanup Program with a status of *Inactive – Needs Evaluation* (as of July 2018). The Brown Field Bombing Range (also known as the Otay Mesa Bombing Range, the Otay Bombing Target, or

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<sup>6</sup> The purpose of the long-term management plan is to maintain control over factors that could adversely affect the site. OLC would evaluate the potential factors that could adversely affect the proposed project site in light of the location and the condition of riparian/wetland areas surrounding the proposed project site. The long-term management plan would be a "living" document and would include a provision to be updated every 5 years so that changes in the physical or anthropogenic environments can be adequately addressed.

Otay Mesa Bombing Target #32) was used by the Navy between 1942 and 1960 as a dive-bombing practice range, and later as an aerial rocket range. In 1961, the bombing range was assigned for disposal (Parsons 2007). Construction of the proposed project could create a significant hazard to construction workers or the environment by potentially exposing any remaining unearthed unexploded ordnances (UXO<sup>7</sup>), munitions and explosives of concern (MEC<sup>8</sup>), and munitions debris (MD<sup>9</sup>) associated with these types of facilities.

#### 2007 Parsons Site Inspection Report

A site inspection evaluation consisting of a qualitative reconnaissance and surface soil sampling was conducted by Parsons in 2007 to evaluate the presence of MEC, MD, and MC within the Brown Field Bombing Range. The qualitative reconnaissance encompassed 15.9 miles of the former bombing range and a total of 10 soil samples (Figure 11). Results of the sampling event were as follows:

- Explosives were not detected in any of the soil samples collected.
- MC contamination was detected in surface soil samples, in particular aluminum, copper, iron, lead, potassium, manganese, and zinc.

Due to the laboratory results, an MC Screening Level Risk Assessment (SLRA) and a Screening Level Ecological Risk Assessment (SLERA) were conducted for aluminum, copper, lead, manganese, and zinc (iron and potassium were determined to not pose an unacceptable risk). Based on the results of the SLRA and SLERA, the Brown Field Bombing Range was determined not to pose an unacceptable risk to human health or ecological receptors resulting from potential exposure to MC in surface soil. As surface water and sediment samples were not collected at the time of the evaluation, the site inspection recommended the need for further investigation to determine the presence of MEC hazards in these types of media. **Mitigation Measure HAZ-1** would reduce potential impacts associated with unacceptable risks to human health or ecological receptors resulting from exposure to MC in surface water and sediment by requiring sampling and completion of the associated SLRA and SLERA studies, along with either avoidance or remediation of any affected areas before any construction activities may proceed.

The site inspection stated that, based on the MD observed during the investigation as well as the MD identified at the Brown Field Bombing Range in the past, it is likely that additional MD and/or MEC currently exist within the former Brown Field Bombing Range site. Implementation of **Mitigation Measure HAZ-2** would further reduce potential impacts related to the historical Brown Field FUDS site activities by performing a surface clearance sweep prior to initiating any construction activities and removing and disposing of any remaining unearthed UXO, MEC, and MD. In addition, **Mitigation Measure HAZ-2** would require a UXO qualified technician to support the proposed project's restoration and grading activities to detect the presence of MEC in disturbed soil. Impacts would be less than significant with mitigation incorporated.

#### *Other Nearby Sites*

Other nearby sites identified include the East Mesa Regional Firing Range, Richard J Donovan Correctional Facility, and East Mesa Detention Center. However, based on cleanup details reviewed in the IS environmental checklist, the likelihood of contamination migrating to the

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<sup>7</sup> UXO are defined as military munitions that have been prepared for action, remain unexploded, and have been fired, dropped, launched, projected, or placed in such a manner as to constitute an explosive hazard.

<sup>8</sup> MEC are military munitions that may pose unique explosives safety risks, including UXO, Discarded Military Munitions (DMM), or Munitions Constituents (MC) present in high enough concentrations to pose an explosive or other health hazard.

<sup>9</sup> MD is remnants of munitions (i.e., penetrators, projectiles, shell casings, links, fins) remaining after munitions use, demilitarization, or disposal (Parsons 2007).

proposed project area and adversely affecting construction workers or the environment from the East Mesa Regional Firing Range, Richard J Donovan Correctional Facility, and East Mesa Detention Center sites is very low. Impacts related to the other nearby sites would be less than significant.

### Land Use and Planning

Implementation of the proposed project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the proposed project. The project site is designated as Open Space Preserve by the City of Chula Vista General Plan and zoned Residential by the City of Chula Vista's Zoning Code. Other applicable planning documents include the Brown Field Municipal Airport Land Use Compatibility Plan, Otay Ranch Phase 1 and 2 Resource Management Plan, Otay River Watershed Management Plan, Draft Otay River Watershed Special Area Management Plan, City of Chula Vista Greenbelt Master Plan, and OVRP Concept Plan and Trails Guidelines. As discussed within the IS environmental checklist, the proposed project would be consistent with all applicable plans. Moreover, to ensure all trail improvements are consistent with the City's Greenbelt Master Plan and the OVRP Concept Plan and Trail Guidelines, **Mitigation Measure LU-1** is required. **Mitigation Measure LU-1** would require that all applicable grading plans would contain the applicable trail guidelines from both the City's Greenbelt Master Plan and the OVRP Trail Guidelines. It would also require approval of the design of the proposed fencing and signage, which would be designed in accordance with these two documents. Finally, it would require the City to confirm installation of these improvements matched the approved designs. With this mitigation, impacts related to land use and planning would be less than significant.

### Tribal Cultural Resources

Pursuant to California Public Resources Code Section 21080.3.1 (Assembly Bill 52), California Native American tribes traditionally and culturally affiliated with the project area can request notification of projects in their traditional cultural territory. No tribes have requested notification from the City of Chula Vista. However, in the event that a tribal cultural resource is unexpectedly identified during the course of the proposed project, and the City determines that the proposed project may cause a substantial adverse change to a tribal cultural resource, the City will rely on mitigation measures described in the Public Resources Code that, if the City determines to be feasible, may avoid or minimize the significant adverse impacts (Public Resources Code Section 21084.3(b)). Therefore, **Mitigation Measure TCR-1** is the standard mitigation set forth in Assembly Bill 52.

## F. Mitigation Necessary to Avoid Significant Impacts

### Biological Resources

#### 1. **Mitigation Measure BIO-1: Obtain Approval of All Necessary Resource Agency Permits**

Prior to the issuance of a grading permit, the applicant will obtain all necessary resource agency permits and provide copies to the City. All conditions identified within each of the resource agency permits will be implemented in accordance with the permit. The applicable resource agency permits for the proposed project include a Clean Water Act (CWA) Section 404 Permit from the USACE, a CWA Section 401 Water Quality Certification from the RWQCB, a CWA Section 402 National Pollutant Discharge Elimination System Construction General Permit (Order No. 2012-0006-DWQ) from the RWQCB, and a Section 1602 Streambed Alteration Agreement from the CDFW. In addition to the agency permits, a conservation easement or other approved site protection mechanism and endowment would be established per the USACE and Environmental Protection Agency Compensatory Mitigation Rule.

The applicant will also enter into consultation with the USFWS under Section 7 of the Federal Endangered Species Act (FESA) to seek concurrence that the proposed project is consistent with the City of Chula Vista's MSCP Subarea Plan and that incidental take authorization is provided for the proposed project under the City of Chula Vista's MSCP Subarea Plan.

**2. Mitigation Measure BIO-2: Biological Awareness Training**

Prior to initiation of grading activities, biological resource awareness training will be provided by a qualified biologist to all construction personnel. The training will include information regarding sensitive species with the potential to occur at the site as well as minimization and avoidance measures to reduce potential indirect effects on the habitat. A log of personnel who have completed the training and a copy of the training report/outline (including special-status species photos, targeted invasive plant species, and descriptions of the measures discussed in the training session) will be maintained at the construction office.

**3. Mitigation Measure BIO-3: Temporary Fencing**

Prior to the initiation of grading activities, the limits of grading will be clearly marked by well-installed temporary fencing that is prominently colored. The fence will be installed by the construction contractor and will remain in place during all grading activities.

**4. Mitigation Measure BIO-4: Biological Monitor**

A qualified biological monitor will be on site during vegetation clearing activities to ensure that grading activities occur within designated areas. The monitor will also ensure that any special-status species that becomes entrapped within the grading limits is moved away from construction equipment. The biological monitor will also periodically inspect the limits of disturbance fence to ensure that it is in good condition. Any parts of the fence that need attention will be brought to the contractor's attention to be fixed immediately. In the event that a special-status species is located within the grading limits, the biological monitor will temporarily stop construction. Removal of special-status species should be done by a biologist qualified to handle that specific species. If needed, the CDFW will be informally consulted if there is a question on the best manner to safely address a situation with a special-status wildlife species.

**5. Mitigation Measure BIO-5: Best Management Practices**

BMPs will be implemented during all grading activities to reduce potential indirect effects on special-status species and habitat. BMPs will include the following:

- All trash will be properly stored and removed from the site daily to prevent attracting wildlife to the construction area.
- Vehicles and equipment will be stored only on pre-designated staging areas in disturbed or developed areas. Fueling should be conducted in a manner that prevents spillage of fuel into the Otay River or into riparian or wetland habitats.
- All maintenance of vehicles and equipment will be conducted in a manner so that oils and other hazardous materials will not discharge into the Otay River, or into riparian habitat areas (including Freshwater and Freshwater Marsh).
- Dust control measures will be implemented to minimize the settling of dust on vegetation.
- Appropriate firefighting equipment (e.g., extinguishers, shovels, water tankers) will be available on the site during all phases of proposed project construction, and appropriate fire prevention measures will be taken to help minimize the chance of human-caused wildfires.
- All construction will be performed between dawn and dusk to the degree feasible to minimize potential indirect effects (e.g., increased depredation) on the species beyond the limits of disturbance.

## 6. **Mitigation Measure BIO-6: Nesting Bird Avoidance**

To avoid any direct impacts on nesting coastal California gnatcatchers, least Bell's vireo, burrowing owl, raptors, or other birds protected under the Migratory Bird Treaty Act (MBTA), removal of any vegetation that may support active nests on within the project area will occur outside of the breeding season when feasible. The breeding season is defined as February 15–September 15. If work must be conducted during the breeding season, including any trail improvement work and upland enhancement, nesting bird surveys will be conducted within the work area and a 500-foot buffer in order to clear the area or locate active nests for avoidance. Adequate avoidance buffers would be established around any active nests in coordination with the wildlife agencies.

## 7. **Mitigation Measure BIO-7: Preconstruction Burrowing Owl Survey**

A biologist will conduct preconstruction take-avoidance surveys for burrowing owls within 150 meters of project areas in suitable habitat no more than 14 days prior to ground-disturbing activities according to methods outlined in the CDFW's 2012 (or most recent) *Staff Report on Burrowing Owl Mitigation* (CDFG 2012). Surveys will provide data on whether burrowing owls occupy the site and, if so, whether the owls are actively nesting. If preconstruction take-avoidance surveys detect the presence of any active burrowing owl burrows during breeding season, the burrows will be avoided, and construction activities within 150 meters will be enclosed by construction fencing. Buffer sizes are outlined in CDFW's *Staff Report on Burrowing Owl Mitigation*. Active burrowing owl burrows will be monitored regularly to ensure no adverse effects on the burrowing owls are occurring. Avoidance buffers will remain in place until the nest fledges or fails. If, in consultation with the CDFW, it is determined that project activities require removal of occupied burrows, or burrows potentially occupied by burrowing owls, eviction and burrow closure may be required to ensure against "take" of owl or nests. If eviction is required, it will occur only after consulting with CDFW and CDFW approval. Monitoring will be conducted to ensure take is avoided during eviction procedures. Owls may not be evicted or captured without prior authorization from the CDFW.

## 8. **Mitigation Measure BIO-8: Vernal Pool and Vernal Pool–Dependent Species Avoidance**

The trails alignment described in this report is planned to be further refined in order to avoid all permanent impacts on federally listed branchiopods. To avoid potential fairy shrimp habitat areas and potential impacts on San Diego fairy shrimp and western spadefoot (*Spea hammondi*), ephemeral basins, which were primarily seasonally ponding features such as road ruts and road ponds, were identified by an aquatic resource and fairy shrimp specialist. Prior to any ground disturbing work on site, mapped ephemeral basins will be reevaluated using the finalized spatial extents of trails and all work areas. Vernal pools resources will be differentiated from all other ephemeral basins (e.g., unvegetated road ruts and road ponds) in a refined jurisdictional delineation, and the potential for impacts will be re-evaluated using the finalized design and alignments.

In creation of the final extents of trails and work areas, to avoid direct impacts on San Diego fairy shrimp to the maximum extent practicable, road and trail improvements and creation will avoid existing ephemeral basins that are known to support or could potentially support San Diego fairy shrimp by moving the alignment prior to construction, as needed. Construction access routes will also be rerouted within the proposed grading footprint to avoid these ponding features to the maximum extent practicable.

During construction and restoration activities, occupied and potentially occupied habitat for San Diego fairy shrimp will be avoided during the wet season to the maximum extent practicable. Prior to ground disturbance, occupied and potentially occupied fairy shrimp habitats will be temporarily fenced and avoided during construction activities to the maximum extent practicable.

No staging of any equipment will be allowed within vernal pools, road ruts, or other ephemeral basins occupied by or potentially occupied by San Diego fairy shrimp at any time. A biological monitor will be present during construction activities occurring adjacent to vernal pools and occupied or potentially occupied habitats, and will ensure that vehicles are fueled and maintained at least 100 feet away from such pools. In addition, where appropriate, the adjacent upland areas surrounding road ruts, vernal pools, and other ephemeral basins will be restored with native species. Wood split-rail fencing, boulders, and signage will be used to inform the public of the sensitivity of the area and deter them from trespassing into the ponded areas and into the river restoration areas. Though the majority of grading will occur within the Otay River floodplain, some grading and staging of equipment will occur in upland areas outside of the floodplain. Grading activities will include vernal pool establishment and enhancement activities, as described in the *Otay Trails and Mitigation Bank Expansion Project Biological Resources Report 2020 Update* (ICF 2021a) at Section 1.3.3. In accordance with **Mitigation Measure BIO-1**, should any pools occupied by or potentially occupied by San Diego fairy shrimp be unable to be avoided in the final project design, the applicant will consult with the USFWS under Section 7 of FESA to seek concurrence that the proposed project is consistent with the City of Chula Vista's MSCP Subarea Plan and that incidental take authorization is provided for the proposed project under the City of Chula Vista's MSCP Subarea Plan. Mitigation of impacts on fairy shrimp will be addressed in the Section 7 consultation process either with onsite pool enhancement/habitat creation or additional avoidance through project redesign prior to construction. Mitigation of impacts on jurisdictional vernal pool habitats will be also be mitigated for, as needed, to obtain CWA Section 401 and 404 permits from the RWQCB and USACE.

**9. Mitigation Measure BIO-9: Special-Status Plant, Quino Host Plant, and Succulent Plant Salvage Plan**

During grading and enhancement activities, special-status plants, Quino checkerspot host plants (e.g., dot-seed plantain), and succulent plants (i.e., target plant species) will be avoided where feasible. Prior to ground-disturbing work on site, special-status plant surveys will be conducted to locate target plant species within defined work limits to determine areas to be avoided. Salvage and relocation of target plant species will occur to the extent feasible in accordance with a Plant Salvage Plan. The Plant Salvage Plan will be prepared for the areas where temporary grading and habitat enhancement activities will occur, with an emphasis on collecting and relocating to adjacent areas the target plant species. The plan will be prepared and implemented prior to grading and enhancement activities. The Plant Salvage Plan will include a list of target plant species list, seed collection methods, succulent plant salvage techniques, transplanting methods, and applicable monitoring activities for transplanted individuals, as appropriate.

**10. Mitigation Measure BIO-10: Quino Checkerspot Butterfly Seasonal Avoidance**

Due to the presence of Quino checkerspot butterfly within the project area and known populations nearby, no removal of any host plant vegetation or any native vegetation within 50 feet of host plants will occur within the Quino flight season, defined by the USFWS 2014 protocol as the third week of February to the second Saturday in May. Biological monitors will stake locations of host plants for avoidance and will be present during vegetation removal activities within potentially suitable habitat for Quino located outside of the mapped host plant locations and 50-foot buffer to ensure that construction activities do not result in harm to individual Quino checkerspot butterflies that may be foraging or nectaring in the area.

**11. Mitigation Measure BIO-11: Public Access, Trails, and Recreation**

To deter trespassing into the restoration site, wood split-rail fencing will be installed to designate road/trail corridors along existing roads and existing unofficial trails that border the restoration site. Other barriers (boulders, brush piles, logs, and plantings) will be placed at strategic locations when protection of sensitive resources is required where fencing is not present. For safety

purposes, reflective material will be placed on the wood fencing at specific locations to aid Border Patrol and other night-time users from unintentionally breaking through fencing into sensitive habitat. Additionally, signage and informational kiosks will be installed for educational purposes and to inform the public of the sensitivity of the restoration site and adjacent habitats. All installation activities (signage, fencing, kiosks) and reflective materials will occur outside of the breeding season defined as February 15–September 15 or be in accordance with **Mitigation Measure BIO-6** and require preconstruction surveys.

## Cultural Resources

### **12. Mitigation Measure CUL-1: Establishing Environmentally Sensitive Areas**

- To reduce potential impacts on archaeological resources, Environmentally Sensitive Areas (ESAs) will be established in areas of artifact concentrations.
- In order to avoid impacts on ESAs 1 through 4, only non-ground-disturbing methods of seeding and herbicide control of nonnative species will be used.
- Cultural resources monitoring will not be required for seeding and herbicide control of nonnative species.

### **13. Mitigation Measure CUL-2: Archaeological Monitoring**

To reduce potential impacts on archaeological resources, a qualified archaeologist will monitor initial ground-disturbing activities within Monitoring Areas (MAs) in order to minimize disturbance of archaeological deposits. Specifically, the following measures will be implemented to reduce impacts:

- Prior to start of construction, a monitoring and treatment plan will be prepared that describes the nature of the archaeological monitoring work, procedures to follow in the event of an unanticipated discovery, and reporting requirements. The plan will include confidential maps of ESAs and Mas. The plan will be submitted for review to the City of Chula Vista.
- All monitoring will be conducted by individuals with experience monitoring for archaeological resources in Southern California. All monitors will be under the supervision and direction of a qualified archaeologist(s) who meets the Secretary of the Interior's Professional Qualifications Standards, as promulgated in Code of Federal Regulations (CFR), Title 36, Section 61.
- Monitoring of initial ground disturbance will occur within MAs 1 through 8.
- The following activities will require the presence of an archaeological monitor when they occur within MAs 1 through 8:
  - Manual weed pulling, fence installation, mechanical work that includes ground disturbance, and other ground-disturbing activities necessary for the implementation of the project
- If intact subsurface deposits are identified during construction, the archaeologist will be empowered to divert construction activities away from the find and will be given sufficient time and compensation to investigate the find and determine its significance. No soil will be exported off site until a determination can be made regarding the significance of the resource specifically if Native American resources are encountered.
- Recovered items will be treated in accordance with current professional standards by being properly provenienced, cleaned, analyzed, researched, reported, and curated in a collection facility meeting the Secretary of the Interior's Standards, as promulgated in 36 CFR 79, such as the San Diego Archaeological Center. The costs for curation will be included in the budget for recovery of the archaeological remains.

- A final cultural resources report will be produced and provided to the City of Chula Vista, which will discuss the monitoring program and its results and will provide interpretations of any recovered cultural materials.
- The qualified archaeologist will have the discretion to increase or decrease the level of monitoring based on professional judgment and field conditions.

#### 14. **Mitigation Measure CUL-3: Native American Monitoring**

A Kumeyaay tribal monitor will be retained to conduct Native American monitoring for MAs and activities identified in **Mitigation Measure CUL-2** and when an archaeological monitor is present.

- Attendance by Native American monitors during ground-disturbing activities is at the discretion of the tribe, and the absence of a Native American monitor, should the tribe choose to forgo monitoring for some reason, will not delay work.
- Interpretation of a find will be requested from Native American monitors involved with the discovery, evaluation, or data recovery of unanticipated finds for inclusion in the final cultural resources report.

### Hazards and Hazardous Materials

#### 15. **Mitigation Measure HAZ-1: Sampling and Screening Level Risk Assessment (SLRA)/Screening Level Ecological Risk Assessment (SLERA) Studies for Onsite Surface Water and Sediment and Water/Sediment Remediation (if necessary)**

Prior to construction activities associated with the project, surface water and sediment sampling will be conducted by an environmental consultant with experience in proper sample handling procedures. Samples will be collected from portions of the site where the project site overlaps with the Brown Field Bombing Range Formerly Used Defense Site, the number and location of which will be determined by a qualified environmental professional with experience in screening level risk assessments. Using the laboratory results, SLRA and SLERA studies will be conducted to assess potential risk associated with munitions constituents' exposure to human and ecological receptors. A report will be prepared with the results of the study and submitted to the City for review and approval. Should results indicate the presence of contamination levels that would pose a risk to human health, the project proponent (in consultation with the City) will coordinate with the San Diego County Department of Environmental Health, the Department of Toxic Substances Control, and the Regional Water Quality Control Board (as necessary) regarding avoidance or remediation of affected water and soils in compliance with applicable federal, state, and local laws prior to any project-specific construction activities occurring. If the condition at the site requires it, the project proponent will not proceed with construction activities until a letter of closure is provided by the lead hazardous materials agency. Should the results indicate that no serious risk is present, project-related construction activities may proceed, pending compliance with any other applicable mitigation.

#### 16. **Mitigation Measure HAZ-2: Surface Clearance Prior to Construction.**

Prior to initiating project activities, a surface clearance will be conducted where project elements intersect with the Brown Field Bombing Range Formerly Used Defense Site boundary. The surface clearance would be employed to identify all munitions and explosives of concern (MEC) and munitions debris (MD) in the project site. A qualified survey company with experience in unearthing unexploded ordnances (UXO) will be retained to sweep the area for metallic items including those that may be obscured by vegetation or surface debris, and MD will be evaluated to determine if any explosive residue remains. If it is determined that there is the potential for an explosive hazard, the City of Chula Vista and County of San Diego will be contacted to respond to the item and dispose of it appropriately. Upon identifying an explosive hazard, the survey

company will establish an exclusion zone around the material. The exclusion zone radius will depend on the type of material identified and will be expanded, if needed, while material is being worked on or if setting a charge to explode the material in place. If setting a charge, all personnel will be required to evacuate the area. All personnel will be required to remain out of the exclusion zone until the responders provide clearance. All MD determined to no longer contain explosive residue will be inspected by qualified personnel and containerized in lockable 55-gallon drums for later disposal by an approved recycler.

During construction, the qualified survey company will supply a UXO-qualified technician to support the project. The technicians will use magnetometers to detect the presence of MEC in disturbed soil. If no MEC items are identified, excavations will be advanced to desired depth. If MEC are detected during excavation/grading, these activities will stop immediately and the survey company technician(s) will contact the City of Chula Vista and County of San Diego for disposal of the material. The technician(s) will remain on site during disposal response actions to provide site safety and security and for technical consultation with emergency responders.

### Land Use and Planning

#### **17. Mitigation Measure LU-1: Trail Improvements Consistent with Applicable City of Chula Vista Greenbelt Master Plan and Otay Valley Regional Park Trail Guidelines**

All applicable trail guidelines from the City of Chula Vista's Greenbelt Master Plan and Otay Regional Park Trail Guidelines shall be shown on all applicable grading plans as details, notes, or as otherwise appropriate. All proposed designs for signage and fencing will be submitted to the City to verify consistency with the above mentioned guidelines. Finally, installation of all trail-related improvements will be subject to inspection by the City to confirm the improvements were constructed in accordance with the approved designs.

### Tribal Cultural Resources

#### **18. Mitigation Measure TCR-1: Protection of Resources**

In the event that a tribal cultural resource is unexpectedly identified during the course of implementation of the proposed project, and the City of Chula Vista determines that the proposed project may cause a substantial adverse change to a tribal cultural resource, the City of Chula Vista will work with the consulting tribe(s) to employ one or more of the following standard mitigation measures.

1. Avoidance and preservation of the resources in place including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria
2. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
  - i. Protecting the cultural character and integrity of the resource
  - ii. Protecting the traditional use of the resource
  - iii. Protecting the confidentiality of the resource
  - iv. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places
3. Protecting the resource



## H. Consultation

### 1. Individuals and Organizations

City of Chula Vista:

Cheryl Goddard, Development Services Department

Others:

### 2. Documents

California Department of Fish and Game (CDFG). 2012. *Staff Report on Burrowing Owl Mitigation*. March 7.

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City of Chula Vista. 2015. *Chula Vista Vision 2020*. Chula Vista, CA. Adopted: December 13, 2005, Amended: March 2015. Available: <https://www.chulavistaca.gov/departments/development-services/planning/general-plan>. Accessed: September 23, 2019.

City of Chula Vista. 2016. *Otay River Restoration Project Habitat Mitigation and Monitoring Plan Initial Study/Mitigated Negative Declaration*. Case No. IS-15-006. May 2016.

County of San Diego et al. 2016. *Otay Valley Regional Park Concept Plan*. July 2016.

ICF. 2021a. *Otay Trails and Mitigation Bank Expansion Project Biological Resources Report, 2020 Update*.

ICF. 2021b. *CEQA Cultural Resources Technical Report, Otay River Restoration Project; City of Chula Vista Mitigation Bank Expansion and Trail Alignment, San Diego County, California*. Prepared for Otay Land Company, LLC, a subsidiary of HomeFed Corporation.

Parsons. 2007. *Site Inspection Report Former Brown Field Bombing Range*. Available: [https://www.envirostor.dtsc.ca.gov/public/deliverable\\_documents/2060010612/bfbr\\_si\\_1.pdf](https://www.envirostor.dtsc.ca.gov/public/deliverable_documents/2060010612/bfbr_si_1.pdf). Accessed: October 30, 2019.

U.S. Fish and Wildlife Service (USFWS). 2002. Designation of Critical Habitat for *Deinandra conjugens* (Otay tarplant); Final Rule.

### 3. Initial Study

This environmental determination is based on the attached Initial Study, any comments received on the Initial Study, and any comments received during the public review period for this Mitigated Negative Declaration. The report reflects the independent judgment of the City of Chula Vista. Further information regarding the environmental review of this project is available from the Chula Vista Planning and Building Department, 276 Fourth Avenue, Chula Vista, CA 91910.

**Cheryl Goddard**

Digitally signed by Cheryl Goddard  
DN: cn=Cheryl Goddard, o=City of Chula Vista,  
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Date: 2021.11.24 09:42:51 -08'00'

Date: 11/24/2021

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Cheryl Goddard  
Senior Planner/Project Manager