# Appendix C:
# Biological Resources Technical Report

# Biological Resources Study
# Capistrano Hillside Project (TTM16970/SDP07-06)
# City of Dana Point, Orange County, California

Dana Point, California USGS 7.5-minute Topographic Quadrangle Map
Township 8 South, Range 8 West in the Boca de la Playa Land Grant

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## SECTION 1: SUMMARY OF FINDINGS

This report has been prepared by Michael Brandman Associates (MBA) has been prepared as part of the California Environmental Quality Act (CEQA) process, for a proposed residential development in the City of Dana Point, Orange County, California. The proposed project involves the construction of 11 single-family homes and supporting infrastructure.

MBA conducted a reconnaissance-level field survey on February 25, 2010 to examine existing conditions onsite and identify biological resources that occur or have the potential to occur onsite. The only vegetation community observed within the project site was non-native grasslands. A few scattered coastal sage scrub plants occur throughout the project site, but not enough to be considered a separate community. The project site has been subject to previous heavy disturbance associated with surrounding development including the residential development to the south and the paved roads to the north.

There are no special status plant species potentially occurring within the site. No suitable habitat exists for any of the sensitive plant species known to occur in the area. The Cooper's hawk (*Accipiter cooperii*), a California species of special concern, is the only sensitive wildlife species with a high potential to use the site for breeding and/or as foraging habitat. This species was observed flying over the residential development to the south. This species was observed foraging within the residential development. The loss of 2 acres of foraging habitat within the project site is not considered a significant impact.

The project site also contains suitable nesting habitat for resident and migratory birds and raptors that are protected under the federal Migratory Bird Treaty Act (MBTA) and the California Fish and Game (CFG) Code.

The site does not contain any water or wetlands, and associated riparian habitat, subject to the jurisdiction of the United States Army Corps of Engineers (USACE), the Santa Ana Regional Water Quality Control Board (RWQCB), and the California Department of Fish and Game (CDFG).

The City of Dana Point has no policies, ordinances, or municipal codes that regulate sensitive biological resources. The project site is within the recognized Orange County Southern Subregion Habitat Conservation Plan / Natural Community Conservation Plan (HCP/NCCP) and is consistent with the plan.

# SECTION 2: INTRODUCTION

## 2.1 - Purpose of the Report

This report contains the findings of a biological resources study conducted by MBA for a proposed residential development within the City of Dana Point (City), Orange County, California. Installation of the proposed project consists of developing 1.99-acres into 11 single-family residences, a private driveway, and several retaining walls (project site or site). The purpose of this report is to assess existing biological resources that occur within the project site. MBA conducted a reconnaissance level survey to identify all biological resources onsite and within the immediate vicinity of the project site, determine potential impacts resulting from the construction of the proposed project, and recommend measures to avoid, minimize, and/or mitigate impacts consistent with relevant Federal, State and local policies and regulations pursuant to the CEQA.

## 2.2 - Project Location and Description

### 2.2.1 - Project Location

The project site is generally located north of the Pacific Ocean, south of State Route (SR) 1, and west of Interstate (I) 5 (Exhibit 1). The site occurs within the Boca de la Playa Land Grant within, Township 8 South, Range 8 West on the Dana Point, California 7.5-minute United States Geological Survey (USGS) topographic quadrangle map (Exhibit 2). The project site is specifically located north of Via Verde, south of Via Canon, east of View Point Drive, and west of Via California (Exhibit 3). The site consists of an undeveloped lot that was previously disturbed during installation of the adjacent residence to the south. Land use surrounding the project site generally consists of a disturbed roadside slope associated with SR-1 to the north, residential development to the south and ornamental vegetation to the east and west.

### 2.2.2 - Project Description

Golden Phoenix Development Corp., Inc. (Applicant) proposes to develop an 11-unit subdivision on a vacant lot in the Capistrano Beach community. The proposed project will subdivide a vacant 1.99-acre hillside parcel, which will include 11 single-family dwellings, a private access road, and several retaining walls as high as 20 feet on a steeply-sloping lot (Exhibit 4). The units are three stories and will range in size from 3,655 to 4,009 square feet.

## 2.3 - Survey Methods

This section describes the methodology practiced as part of a literature review and biological resources study for the proposed project. Potential project-related effects to biological resources were analyzed in accordance with CEQA, the federal Endangered Species Act (ESA), the California State

Endangered Species Act (CESA), and all other relevant environmental policies and regulations that are provided in Appendix D, Regulatory Framework.

### 2.3.1 - Literature Review

Prior to the habitat assessment survey, a literature review was conducted of the environmental and regulatory setting for the proposed project. The literature review provided a baseline from which to evaluate the biological resources potentially occurring within the project site, and the local and regional vicinity.

The literature review began with a thorough review of aerial imagery of the project site and vicinity, as well as the topographic electronic and hard copies of the Dana Point, California USGS 7.5-minute topographic quadrangle maps. Aerial imagery provided by Google Earth (Google 2009) was used to confirm the current locations of developed and undeveloped land, as well as verifying mapping efforts conducted for the local area.

A list of special status plant and wildlife species and their habitats, known to occur near the project site was compiled primarily from the CDFG's California Natural Diversity Database (CNDDB), a sensitive species and plant community account database.

MBA conducted a query of the CNDDB records based on a 5-mile radius surrounding the project site that included the San Clemente, Dana Point, San Juan Capistrano, and Canada Gobernadora, California USGS 7.5-minute topographic quadrangle maps. The CNDDB Geographical Information Systems (GIS) database was also used, together with ArcGIS software, to confirm the locations of CNDDB records. The California Native Plant Society (CNPS) online inventory database and Consortium of California Herbaria were also queried for the project site and vicinity. The CNPS online inventory provided additional sensitive species information for many species that have not been reported to the CNDDB database. The locations of previously documented observations for sensitive plant and wildlife species were identified and plotted onto aerial and topographic maps to determine connectivity of suitable habitat and/or likely dispersing routes between the locations of observations and the project site.

Primary references used for the definitions of vegetation communities and habitat types include the "Preliminary Descriptions of the Terrestrial Natural Communities of California" (Holland 1986). Secondary references included "Terrestrial Vegetation Communities in San Diego County Based on Holland's Descriptions" (Oberbauer 1996) and "A Manual of California Vegetation" (Sawyer and Keeler-Wolf 1995).


Source: Census 2000 Data, The CaSIL, MBA GIS 2009.

NORTH

5 2.5 0 5 Miles

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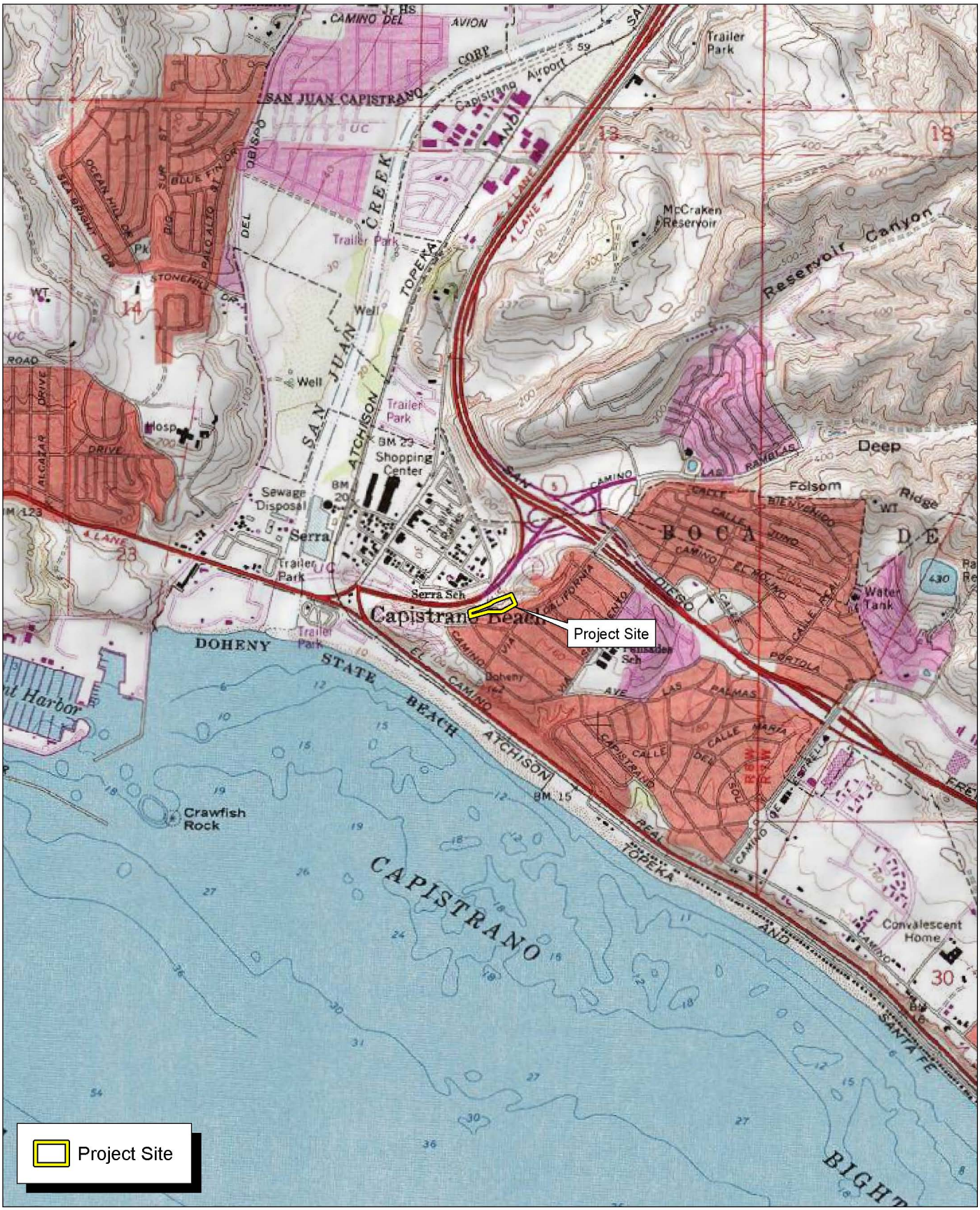
# Exhibit 1
# Regional Location Map

CITY OF DANA POINT • CAPISTRANO HILLSIDE PROJECT
BIOLOGICAL RESOURCES STUDY




Source: TOPO! USGS Dana Point (1975) 7.5' DRG.

NORTH

2,000 1,000 0 2,000 Feet

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# Exhibit 2
# Local Vicinity Map
# Topographic Base


Source: NAIP for Orange County (2009).

NORTH

800 400 0 800

Feet

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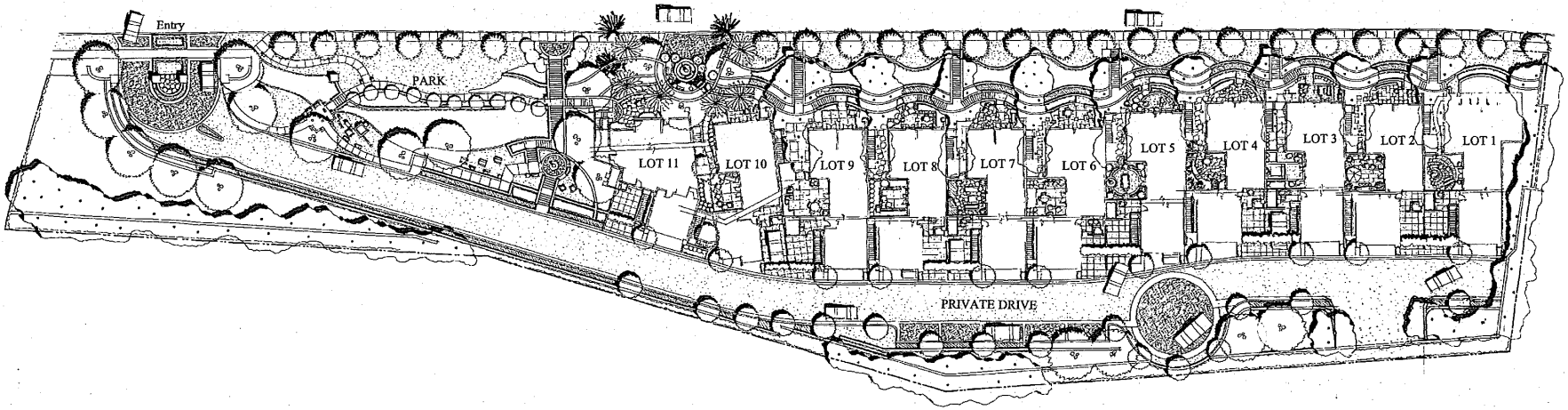
# Exhibit 3
# Local Vicinity Map
# Aerial Base




Source: The PRS Group (August 19, 2008).

NORTH

70 35 0 70 Feet

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# Exhibit 4
# Site Plan

### 2.3.2 - Field Survey Methods

The following describes the specific survey methodology for the habitat assessment survey and biological resources study conducted for the proposed project.

#### Habitat Assessment Survey

A habitat assessment and biological resources study was performed on foot by qualified MBA biologist Scott Crawford on February 25, 2010. Weather conditions during the survey consisted of skies having 80 percent cloud cover, a temperature of 63 degrees Fahrenheit, and winds ranging from 1 to 2 miles per hour out of the west.

In the field, the biologist used aerial photographs showing the outline of the project site boundary for reference while conducting the survey. Plant communities were mapped using recent aerial photography and plant community descriptions based on respected sources (Holland 1986).

Parameters assessed regarding the habitat requirements for special status plant and wildlife species known to occur in the area include the presence of suitable physical characteristics (slope, aspect, and hydrology), vegetation and plant community compositions, and soil substrates. Additionally, the presence of suitable habitat for nesting, roosting, foraging, basking, dispersing, or other behavioral actions were assessed. Any evidence of previous disturbance on the project site was noted and documented.

Common plant species observed during the site survey were identified by visual characteristics and morphology then recorded in a field notebook. Less familiar plants were identified offsite using taxonomical guides. Taxonomic nomenclature used in this study follows Jepson (2009). In this report, scientific names are provided immediately following common names for the first reference only. A list of all plants species observed onsite is provided in Appendix A, Floral and Faunal Compendia.

Wildlife species were detected during the survey by sight, calls, tracks, scat, and other signs. All wildlife species detected were recorded in a field notebook. Notations were made regarding general habitat conditions for sensitive species potentially occurring on the project site, based on preliminary literature review. A list of all wildlife species detected during the field survey is provided in Appendix A, Floral and Faunal Compendia.

### 2.3.3 - Survey Limitations

Many amphibians, reptiles, and mammals are secretive by nature and some are only nocturnally active, making diurnal observations problematic. Additionally, the survey was conducted in late winter and many spring plants and wildlife species had not emerged from winter dormancy. Observations of diagnostic signs may provide evidence of occurrence of these species. Otherwise, conclusions regarding potential occurrence are based on consideration of habitat suitability factors.

Visual findings in the field were cross-referenced with aerial imagery, as well as previous studies and environmental documentation to confirm the presence of vegetation communities, suitable habitat for special status species, potential jurisdictional features, and other resources.

The survey was conducted during an above average rain season. The average precipitation from October to March for the last three years is 1.67 inches, as recorded from the KCASANCL8, Seascape, San Clemente weather Station (Wunderground.com). The project site area has received 6.8 inches of rain since October 2009. The survey was conducted immediately following a light rain. Species activity within the project site and adjacent areas was considered normal for the time of year.

## 2.4 - Applicable Regulations

Potential project-related effects to biological resources were analyzed against CEQA, the Federal ESA, the California ESA, and all other relevant environmental policies and regulations that are provided in Appendix D, Regulatory Framework.

# SECTION 3: ENVIRONMENTAL SETTING

## 3.1 - Regional Context

The project site is located north of Doheny State Beach, south of Reservoir Canyon, east of San Juan Creek, and west of Prima Deshescha Canada. The site is within the foothills of the eastern portion of Deep Canyon. The project site is currently characterized by gentle sloping to steep topography, surrounded by slopes that continue to the northeast and southwest. No topographic drainage features occur on or immediately adjacent to the project site.

Historically, the project site likely consisted of maritime chaparral or coastal sage scrub habitat based on a 1942 aerial photograph (www.historicaerials.com). The site was disturbed in 1980s as part of the street system and adjacent residential development.

The project site was previously disturbed during the construction of the adjacent road to the north and residential development to the south. The site has been relatively undisturbed for approximately 20 years. Evidence of recent project disturbance includes recent landslide activity in the central portion of the project site. The small landslide area is likely the result of recent rain events.

## 3.2 - General Land Use

The project site is located in the southeastern portion of the City of Dana Point within the Capistrano Beach Community. The project site is vacant with no active land use. Adjacent land uses include dense residential development to the south and east, artificially irrigated landscape hillside with concrete v-ditches to the west, and landscaped slopes associated with SR-1 to the north.

## Topography and Soils

The topography within the project site ranges from steep slopes along the western side to more gentle slopes along the eastern side of the project site. There is an overall change in elevation from approximately 90 above mean sea level (AMSL) in the north-central portion of the site to approximately 160 feet AMSL in the southeastern portion of the project site.

The project site is mapped as supporting a single soil mapping unit belonging to the Alo soils series. The soil mapped for the project site are displayed on Exhibit 5 and are summarized in Table 1 below.

**Table 1: USDA Soils Mapped for the Project Site**

| Soil Map Unit Symbol | Soil Map Unit Name |
|---|---|
| 102 | Alo Clay, 30 to 50 percent slopes. |
| Source: USDA Soils, 2009. | |

The soil within the project site has been heavily disturbed due to construction activities in the 1980's, as part of planning and subdivision of the land for the Capistrano Beach residential development. The observed surface soil consist of numerous eroded areas and minor landslide scars.

## 3.3 - Disturbance

The project site has been subject to previous disturbances, associated with adjacent development of the residential development to the south as well as the road improvements associated with SR-1 and the Via Corona/Via Canon intersection, which have significantly altered the surface horizons and soil composition onsite. As a result of adjacent construction related activities and subsequent installation of infrastructure, the site has been subject to an introduction of non-native species, which are prevalent throughout the site and characterize the majority of vegetation. Indirect disturbances to the area, as a result of construction of the adjacent developments and roads, include those pertaining to nighttime lighting and noise.

## 3.4 - Habitat Types/Vegetation Communities

A single vegetation community occurs within the project site (Exhibit 6). Representative site photographs are located in Appendix C, Site Photographs.

The definition of the vegetation community discussed below is based primarily on Holland's (1986) natural communities' classification system, and Oberbauer's (1996) additions to Holland's classification system, with influence from MBA's field interpretations. The Holland Classification Code follows the vegetation community name in the heading.

### 3.4.1 - Non-Native Grassland (11000)

Non-native grassland (NNG) is described as a dense to sparse cover of non-native annual grasses often associated with numerous weedy species and native annual forbs (wildflowers), especially in years with plentiful rain. Seed germination occurs with the onset of winter rains. Some plant growth occurs in winter, but most growth and flowering occurs in the spring. Plants then die in the summer, and persist as seeds in the uppermost layers of soil until the next rainy season. Dominant plant genera typically found within non-native grasslands include brome (*Bromus* sp.), wild oats (*Avena* sp.), fescue (*Vulpia* sp.), and barley (*Hordeum* sp.).

The entire project site consists of NNG totaling 1.99 acres. The dominant plant species observed within the project site include rip-gut grass (*Bromus diandrus*), hottentot-fig (*Carpobrotus edulis*), and Bermuda buttercup (*Oxalis pes-caprae*). Non-native forbs, including cardoon (*Cynara cardunculus*), black mustard (*Brassica nigra*), and milk thistle (S*ilybum marianum*) were prevalent species that occurred across the project site. This community provides a complete vegetative cover and provides a low quality habitat for wildlife species. The vegetation community onsite functions as a grassland.


Source: Google Earth Pro (March 2007), USDA Soils ca678 (2008).

Michael Brandman Associates

NORTH

100 50 0 100

Feet

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# Exhibit 5
# USDA Soils Map

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Source: Google Earth Pro (March 2007), USDA Soils ca678 (2008).

NORTH

100 50 0 100

Feet

Michael Brandman Associates

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# Exhibit 6
# Plant Communities Map

CITY OF DANA POINT • CAPISTRANO HILLSIDE PROJECT
BIOLOGICAL RESOURCES STUDY

This community also contains several isolated shrubs that are key constituent plants of coastal sage scrub. However, there is not a sufficient amount of shrub or shrub cover to consider it as a separate community and makes up less than 15 percent of the entire project site. Native shrubs observed within the non-native grassland includes toyon (*Heteromeles arbutifolia*), California sagebrush (*Artemisia californica*), California buckwheat (*Eriogonum fasciculatum*), lemonadeberry (*Rhus integrifolia*), and coast goldenbush (*Isocoma menziesii*).

Ornamental trees observed along the edges or overhanging onto the project site include an unknown species of eucalyptus (*Eucalyptus* sp.), red box (*Eucalyptus polyanthemos*), Canary Island date palm (*Phoenix canariensis*), unknown species of pine (*Pinus* sp.), and Peruvian pepper tree (*Schinus molle*).

Wildlife species observed or otherwise detected during the survey includes common species typical of open grasslands, disturbed and urban settings such as American crow (*Corvus brachyrhynchos*), Anna's humming bird (*Calypte anna*), western scrub jay (*Aphelocoma californica*), and lesser goldfinch (*Carduelis psaltria*). Common mammalian species observed or detected within the project site include California ground squirrel (*Spermophilus beecheyi*), and Botta's pocket gopher (*Thomomys bottae*). No reptilian or amphibian species were observed or otherwise detected during the survey. A complete list of all plant and wildlife species observed during the habitat assessment for the project site is provided in Appendix A, Floral and Faunal Compendia.

# SECTION 4: SENSITIVE BIOLOGICAL RESOURCES

## 4.1 - Special-Status Species

### 4.1.1 - Special-Status Plant Species

Based on a list compiled through the CNDDB and other sources (CNPS 2010), a total of 26 special-status plant species were analyzed for their potential to occur within the project site. The special-status species analyses is summarized in Appendix B, Special Status Species Tables, the results of which are based primarily on the presence or absence of important habitat suitability factors on the project site for each species, including suitable soil substrate and plant community/habitat type compositions, and the location of the site in relation to known distributions and elevation ranges. Detailed information regarding the listing status, habitat requirements, species life form, blooming periods, and potential to occur within the project site for the one sensitive plant species is provided in Appendix B.1, Special Status Plant Species Table. No special-status plant species were determined to have a moderate to high potential to occur within the project site due to a lack of suitable habitat.

### 4.1.2 - Special-Status Wildlife Species

Based on a list compiled through the CNDDB and other sources, a total of 40 special-status wildlife species were analyzed for their potential to occur within the project site. The special-status species analyses is summarized in Appendix B, Special Status Species Tables, the results of which are based primarily on the presence or absence of important habitat suitability factors on the project site for each species, including suitable plant community/habitat type compositions and resources for breeding, foraging, dispersal, and other life history requirements, as well as the location of the site in relation to known distributions and elevation ranges. Detailed information regarding the listing status, habitat requirements, and potential to occur within the project site for all 40 sensitive wildlife species included in the analysis are provided in Appendix B.2, Special Status Wildlife Species Table.

One special-status wildlife species has a moderate to high potential to occur on the project site. The listing status, distribution, habitat requirements, and extent of occurrence within the project site for this species is summarized below. The remaining 39 sensitive wildlife species were determined to have a low potential to occur or are not likely to occur on the project site based on a lack of suitable habitat.

The special-status wildlife species determined to have a moderate to high potential to occur on the project site is the Cooper's hawk. The Cooper's hawk is a California species of special concern and may use portions of the project site for foraging and/or nesting. This species is commonly found in oak woodlands and other wooded areas and primarily preys on small birds and rodents. This species was observed foraging within the residential development south of the project site. This species has adapted to urban environments and a potential Cooper's hawk nest was observed 400 feet south of the

project site. Although this species was not observed nesting on site, it is highly likely that the species could utilize some portion of the project site for foraging.

### 4.1.3 - Raptor Foraging Habitat

The project site contains open foraging habitat for common and sensitive raptor species known to occur in the area as year-round residents or seasonal migrants. The known range and foraging requirements for many raptor species are widespread and include a wide variety of habitats, including those that occur within the project site. The non-native grassland provides good quality foraging opportunities for most raptor species. Foraging habitat on the site is most likely to be used by common hawks such as red-tailed hawk (*Buteo jamaicensis*) and red-shouldered hawk (*Buteo lineatus*), and common owls such as barn owl (*Tyto alba*) and great-horned owl (*Bubo virginianus*).

### 4.1.4 - Nesting Birds

The Migratory Bird Treaty Act (MBTA) protects all native wild birds found in the United States. Resident game birds are managed separately by each state. The MBTA makes it unlawful for anyone to kill, capture, collect, possess, buy, sell, trade, ship, import, or export any migratory bird including feathers, parts, nests, or eggs, without a permit.

Section 3503 of the California Fish and Game Code (CFG Code) makes it illegal to destroy any birds' nest or any birds' eggs that are protected under the MBTA without a permit. Section 3503.5 further protects all birds in the orders Falconiformes and Strigiformes, birds of prey, such as hawks and owls, and their eggs and nests from any form of take.

The project site and immediate vicinity supports suitable nesting and foraging habitat for a number of resident and migratory bird species, including raptors, protected under the MBTA and CFG Code. As discussed above, special-status species that have a potential to nest and/or forage, on the project site and are further protected under the MBTA and CFG Code and include the Cooper's hawk.

## 4.2 - Jurisdictional Waters and Wetlands

No formal jurisdictional assessment was conducted for the project site. Based upon MBA's reconnaissance-level field survey, the project site contains no waters or wetlands potentially under the jurisdiction of the USACE, CDFG, and/or the RWQCB. No USGS topographic blue-line features occur on or in the immediate vicinity of the project site. Therefore, installation of the proposed project has no potential to impact any waters or wetlands potentially under the jurisdiction of USACE, CDFG, and/or RWQCB.

## 4.3 - Habitat Connectivity and Wildlife Corridors

Wildlife movement corridors link areas of suitable wildlife habitat that are otherwise separated by rugged terrain, changes in vegetation, or human disturbance. The fragmentation of open space areas

by urbanization creates isolated "islands" of wildlife habitat, separating different populations of a single species. Corridors act as links between these "islands" and populations. Wildlife corridors represent a specific route that is used for movement and migration of species between lands that have been constrained. A corridor may be different from a "linkage" because it represents a smaller or narrower avenue for movement. A linkage is generally defined as an area of land, which supports or contributes to the long-term movement of wildlife and genetic exchange by providing live-in habitat that connects to other habitat areas.

The project site is located in the foothills at the southeastern end of the City of Dana Point, adjacent to residential development and associated roads. Undeveloped land occurs along the north side of Via Canon Road and is associated with Via Canon Park. These undeveloped area, including the project site, a small extension of landscape vegetation to the southwest, and Via Canon Park are surrounded by extensive residential and commercial development. Therefore, the project site is not located within a wildlife movement corridor.

## 4.4 - Resources Protected Under Local Policies, Ordinances, and Plans

This section discusses local policies, ordinances, or plans specifically related to the project site. The City of Dana Point has no specific policies, ordinances, or municipal codes protecting sensitive biological resource. The project site is located outside of the Coastal Zone, therefore it is not under the jurisdiction of the California Coastal Commission. The project site is within the boundaries of the existing Orange County Southern Subregion NCCP/HCP.

### 4.4.1 - Habitat Conservation Plan / Natural Community Conservation Plan

The project site occurs within the boundaries of the Orange County Southern Subregion NCCP/HCP. This regional planning effort has established conservation goals and objectives for the local and regional area that include conservation and preservation of sensitive biological resources. Conservation planning considerations are addressed in this report to provide information for determining consistency with the Orange County Southern Subregion NCCP/HCP.

The project site is located in an area zoned for residential and commercial development and is outside of the preserve system. Therefore, installation of the proposed project will not have significant impacts on the long-term goals and preservation objectives of the Orange County Southern Subregion NCCP/HCP, and the project is considered consistent with this NCCP/HCP.

## SECTION 5: CONCLUSIONS AND RECOMMENDATIONS

The habitat assessment survey and biological resources study was used to evaluate the potential impacts to biological resources using impact significance criteria, which implement the policy statement contained in Section 21001(c) of the Public Resources Code CEQA Statutes. This section reflects that the legislature has established it to be the policy of the State to:

> *Prevent the elimination of fish or wildlife species due to man's activities, ensure that fish and wildlife populations do not drop below self perpetuating levels, and preserve for future generations representations of all plant and animal communities...*

The following definitions establish the significance criteria for biological resources:

- Endangered means that the species is listed as endangered under state or federal law.
- Threatened means that the species is listed as threatened under state or federal law.
- Sensitive habitat refers to habitat for plants and animals (1) that play a special role in perpetuating species using the habitat on the project site, and, (2) without which there would be substantial danger that the population of that species would drop below self-perpetuating levels.
- Substantial effect means significant loss or harm of a magnitude that, based on current scientific data and knowledge, (1) would cause a species or a native plant or animal community to drop below self-perpetuating levels on a statewide or regional basis or, (2) would cause a species to become threatened or endangered.

Pursuant to thresholds of significance used in this analysis, impacts to the following biological resources were deemed insignificant or significant owing to a number of factors including likelihood of occurrence onsite, presence of suitable habitat, or known abundance on a regional scale. Impacts found to be significant follow the CEQA environmental checklist as outlined in the CEQA Guidelines.

According to Appendix G of the State CEQA Guidelines, a project may be determined to have a significant impact if it would:

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

- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service;
- Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means;
- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites;
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or
- Conflict with the provisions of an adopted Habitat Conservation Plan, or other approved local, regional, or state habitat conservation plan.

## 5.1 - Special-Status Species

### 5.1.1 - Species of Concern

Cooper's hawk is not federally or state threatened or endangered, however it is designated as a California State species of special concern. This species, although not present onsite, could use portions of the project site as potential foraging and/or nesting habitat due to the presence of non-native grassland and adjacent ornamental trees. Construction of the proposed project could potentially result in the temporary displacement of individuals and the permanent removal of habitat that could be used by this species.

Potential impacts to non-listed species are considered less than significant due to the minimal size and overall extent of impacts resulting from the proposed project. Impacts to 1.99 acres of suitable foraging habitat would not cause this species to drop below a self-perpetuating level on a statewide or regional basis and would not cause this species to become threatened or endangered. Therefore, project related impacts to the above-mentioned special-status species is not a significant impact. Impacts associated with the MBTA and CDFG Code is covered in Section 4.3, Habitat Connectivity and Wildlife corridors.

## 5.2 - Habitat Types / Vegetation Communities

Project impacts to habitat types/vegetation communities occur to non-native grassland. These impacts do not represent a significant impact or substantial affect to vegetation communities due to

the relatively poor quality and low overall value of this habitat. The project site contains no vegetation communities that require consideration as a sensitive plant community.

## 5.3 - Jurisdictional Waters and Wetlands

No potentially jurisdictional water or wetlands occur within or immediately adjacent to the project site. Installation of the proposed project will not impact waters or wetlands subject to USACE, CDFG or RWQCB jurisdiction. Therefore, no significant impacts are anticipated.

## 5.4 - Nesting Birds

If the removal or trimming of any shrubs or trees is proposed during the general avian breeding season (February 1 through August 31), a pre-construction survey should be conducted by a qualified biologist within 10 days prior to vegetation removal or any ground disturbance activities to identify any active nests belonging to bird species protected under the MBTA and CFG Code. If any active nests are identified during the pre-construction survey, no construction activity shall take place within a minimum of 250 feet of any active nest until the young have fledged (as determined by a qualified biologist) and/or the nest is no longer active. This distance shall be expanded to 500 feet for any nesting raptor species. For sensitive species potentially nesting in offsite locations, the distance and placement of the construction avoidance area should be determined through consultation with the USFWS and/or CDFG. Construction activity within the buffer area or any active nest shall be conducted at the discretion of a qualified monitoring biologist.

## 5.5 - Local Policies or Ordinances

The City of Dana Point has no specific municipal codes or ordinances that specifically address biological resources. Therefore, no significant impacts are anticipated.

### 5.5.1 - Habitat Conservation Plan / Natural Community Conservation Plan

The project site is consistent with the Orange County Southern Subregion NCCP/HCP. Therefore, no significant impacts are anticipated.

## SECTION 6: REFERENCES

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# Appendix A:
# Floral and Faunal Compendia

# A.1 - Floral Compendium

# Flora Compendium

| | | |
|---|---|---|
| **Pinaceae** | | **Pine Family** |
| *Pinus* | *sp.* | Unknown pine species |
| **Aizoaceae** | | **Fig-Marigold Family** |
| *Carpobrotus* | *edulis* | hottentot-fig |
| **Anacardiaceae** | | **Sumac or Cashew Family** |
| *Rhus* | *integrifolia* | lemonadeberry |
| **Araliaceae** | | **Ginseng Family** |
| *Hedera* | *helix* | English ivy |
| **Asteraceae** | | **Sunflower Family** |
| *Artemisia* | *californica* | California sagebrush |
| *Baccharis* | *pilularis* | coyote brush |
| *Cynara* | *cardunculus* | cardoon |
| *Isocoma* | *menziesii* | coastal goldenbush |
| *Picris* | *echioides* | bristly ox-tongue |
| *Silybum* | *marianum* | milk thistle |
| *Sonchus* | *asper* | sow thistle |
| *Sonchus* | *oleraceus* | common sow thistle |
| **Brassicaceae** | | **Mustard Family** |
| *Brassica* | *nigra* | black mustard |
| **Cactaceae** | | **Cactus Family** |
| *Opuntia* | *littoralis* | coastal prickly pear |
| **Fabaceae** | | **Legume Family** |
| *Acacia* | *melanoxylon* | blackwood |
| *Acacia* | *sp.* | unknown acacia sp. |
| **Geraniaceae** | | **Geranium Family** |
| *Erodium* | *cicutarium* | red-stemmed stork's bill |
| **Myrtaceae** | | **Myrtle Family** |
| *Eucalyptus* | *camaldulensis* | river red gum |
| *Eucalyptus* | *polyanthemos* | red box |
| **Oxalidaceae** | | **Oxalis Family** |
| *Oxalis* | *pes-caprae* | Bermuda buttercup |
| **Plumbaginaceae** | | **Leadwort Family** |
| *Limonium* | *californicum* | California sea lavender |
| **Polygonaceae** | | **Buckwheat Family** |
| *Eriogonum* | *fasciculatum* | California buckwheat |
| **Rosaceae** | | **Rose Family** |
| *Heteromeles* | *arbutifolia* | toyon |
| *Rubus* | *ursinus* | California blackberry |
| **Rubiaceae** | | **Madder Family** |

# Flora Compendium

| | | |
|---|---|---|
| *Galium* | *angustifolium* | narrow-leaved bedstraw |
| **Agavaceae** | | **Agave Family** |
| *Agave* | *americana variegata* | century plant |
| **Arecaceae** | | **Palm Family** |
| *Phoenix* | *canariensis* | Canary Island date palm |
| **Poaceae** | | **Grass Family** |
| *Bromus* | *diandrus* | ripgut brome |

# A.2 - Faunal Compendium

# Fauna Compendium

| | | |
|---|---|---|
| **Coccinellidae** | | **Ladybird Beetles** |
| *Coccinella* | *novemnotata franciscana* | nine-spotted ladybird beetle |
| **Hesperiidae** | | **Skippers** |
| *Hylephila* | *phyleus* | fiery skipper |
| **Apidae** | | **Honey Bees and Bumble Bees** |
| *Apis* | *mellifera* | honey bee |
| **Accipitridae** | | **Hawks** |
| *Accipiter* | *cooperii* | cooper's hawk |
| **Laridae** | | **Gulls/Terns** |
| *Larus* | *argentatus* | herring gull |
| **Trochilidae** | | **Hummingbirds** |
| *Calypte* | *anna* | Anna's hummingbird |
| **Corvidae** | | **Jays/Crows** |
| *Aphelocoma* | *californica* | western scrub-jay |
| *Corvus* | *brachyrhynchos* | American crow |
| **Aegithalidae** | | **Bushtits** |
| *Psaltriparus* | *minimus* | bushtit |
| **Troglodytidae** | | **Wrens** |
| *Thryomanes* | *bewickii* | Bewick's wren |
| **Emberizidae** | | **Warblers, sparrow, etc.** |
| *Zonotrichia* | *leucophrys* | white-crowned sparrow |
| **Fringillidae** | | **Finches** |
| *Carduelis* | *psaltria* | lesser goldfinch |
| **Sciuridae** | | **Squirrels** |
| *Spermophilus* | *beecheyi* | California ground squirrel |
| **Geomyidae** | | **Pocket Gophers** |
| *Thomomys* | *bottae* | Botta's pocket gopher |

# Appendix B:
# Special Status Species Tables

# B.1 - Special-Status Plant Species Table

## Special-Status Plant Species Table

| Species | | Status | | | Preferred Habitat | Life Form | Blooming Period | Potential to Occur/ Known Occurrence/ Suitable Habitat |
|---|---|---|---|---|---|---|---|---|
| Scientific Name | Common Name | USFWS | CDFG | CNPS | | | | |
| *Atriplex coulteri* | Coulter's saltbush | — | — | 1B.2 | May be found in coastal bluff scrub, coastal dunes, coastal scrub, valley, and foothill grassland with ocean bluffs, ridgetops, as well as alkaline low places. 33-1,445 ft. | Perennial herb | Mar-Oct | **Low Potential to Occur** There is a recorded occurrence of this species within 3 miles of the project site. However, no suitable habitat occurs within the project site. |
| *Atriplex pacifica* | South Coast saltscale | — | — | 1B.2 | Grows in xeric, often mildly disturbed locales, associated with Linne clay loam and Huerhuero-urban land complex soils. Associated vegetation consists of coastal sage scrub dominated by *Artemisia californica*, and sometimes on alkaline flats. 0-460 ft. | Annual herb | Mar-Oct | **Not Likely to Occur** There is no recorded occurrence within 5 miles of the project site. No suitable habitat, specifically associated soils occur within the project site. |
| *Brodiaea filifolia* | Thread-leaved brodiaea | FT | CE | 1B.1 | Occurs on vernally moist grasslands and along the periphery of vernal pools. Associated species include *Sisyrinchium bellum* and *Nassella pulchra*, and known soils include Diablo clay and Altamont clay, in areas largely devoid of shrubs and situated in annual grasslands. 82-4,000 ft. | Bulbiferous herb | Mar-June | **Not Likely to Occur** There is no recorded occurrence within 5 miles of the project site. No suitable habitat, specifically associated soils occur within the project site. |
| *Calochortus weedii* var. *intermedius* | Intermediate mariposa-lily | — | — | 1B.2 | May be found in coastal scrub, chaparral, valley and foothill grassland with dry, rocky open slopes and rock outcrops. 394-2,788 ft. | Perennial herb | May-July | **Not Likely to Occur** There is no recorded occurrence within 5 miles of the project site. No suitable habitat, specifically associated soils occur within the project site. |

| Species | | Status | | | Preferred Habitat | Life Form | Blooming Period | Potential to Occur/ Known Occurrence/ Suitable Habitat |
|---|---|---|---|---|---|---|---|---|
| Scientific Name | Common Name | USFWS | CDFG | CNPS | | | | |
| *Centromadia parryi* ssp. *australis* | Southern tarplant | — | — | 1B.1 | Known to occur in valley and foothill grasslands, alkaline locales, and peripheral salt marshes. Associated soil includes Chino silt loam. Also known to occur in mesic grasslands and in disturbed areas. 0-1,400 ft. | Annual herb | May-Nov | **Not Likely to Occur** No suitable habitat occurs within the project site and no known occurrence has been recorded within 5 miles of the project site. |
| *Chaenactis glabriuscula* var. *orcuttiana* | Orcutt's pincushion | — | — | 1B.1 | This species is known to occur within coastal bluff scrub associated with sandy soils and within coastal dunes. 10-330 ft. | Annual herb | Jan - Aug | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site and the site is above the elevation limits for this species. |
| *Comarostaphylis diversifolia* ssp. *diversifolia* | Summer holly | — | — | 1B.2 | Known to occur within Southern Mixed Chaparral, on mesic north-facing slopes. Associated species include *Ceanothus verrucosus* or *Ceanothus tomentosus*, with well established Toyon and sparse Chamise. 100-1,905 ft. | Evergreen shrub | Apr - Jun | **Not likely to occur.** The species is not recorded within five miles of the site and no suitable habitat or associated species occur within the project site. |
| *Dudleya blochmaniae* ssp. *blochmaniae* | Blochman's dudleya | — | — | 1B.1 | This species occurs in sandy openings in CSS near the coast. Associated soils include Las Flores loamy fine sand and terrace escarpments. 15-1,475 ft. | Perennial herb | Apr-June | **Low Potential to Occur** There is a recorded occurrence of this species within 3 miles of the project site. However, no suitable habitat or associated soils occur within the project. |

| Species | | Status | | | Preferred Habitat | Life Form | Blooming Period | Potential to Occur/ Known Occurrence/ Suitable Habitat |
|---|---|---|---|---|---|---|---|---|
| Scientific Name | Common Name | USFWS | CDFG | CNPS | | | | |
| *Dudleya multicaulis* | Many-stemmed dudleya | — | — | 1B.2 | Often associated with clay soils in barren, rocky places, or thinly vegetated openings in chaparral, coastal sage scrub, and southern needle grass grasslands. 50-2,590 ft. | Perennial herb | Apr - Jul | **Not Likely to Occur** There is no recorded occurrence within 5 miles of the project site. No suitable habitat, specifically associated soils occur within the project site. |
| *Dudleya stolonifera* | Laguna Beach dudleya | FT | CT | 1B.1 | This species is known to occur within chaparral, cismontane woodland, coastal scrub, and valley and foothill grasslands associated with rocky areas. 30-850 ft. | Stoloniferous herb | May-July | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site and the site lacks suitable habitat and substrate to support this species. |
| *Dudleya viscida* | Sticky dudleya | — | — | 1B.2 | This dudleya has been found in coastal bluff scrub, chaparral, cismontane woodland, and coastal scrub associated with rocky areas. 32-1,805 ft. | Perennial herb | May-June | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site and the site lacks suitable habitat and substrate requirements to support this species. |
| *Eryngium pendletonensis* | Pendleton button-celery | — | — | 1B.1 | Known to occur in vernal pools or mima mound areas with vernally moist conditions. Associated soils include Redding gravelly loam. 50-360 ft. | Perennial herb | Apr-June | **Not Likely to Occur** There are no recorded occurrences of this species within the vicinity of the project site and no vernal pools occur onsite. |
| *Euphorbia misera* | cliff spurge | — | — | 2.2 | Often associated with low-growing and windswept maritime sage scrub with a high incidence of cactus. Associated soils include Olivenhain cobbly loam and Gaviota fine sandy loam. 33-1,640 ft. | Shrub | Dec-Aug | **Low Potential to Occur** There is a recorded occurrence of this species within 1 mile of the project site. However, no suitable habitat for this species occurs onsite. |

| Species | | Status | | | Preferred Habitat | Life Form | Blooming Period | Potential to Occur/ Known Occurrence/ Suitable Habitat |
|---|---|---|---|---|---|---|---|---|
| Scientific Name | Common Name | USFWS | CDFG | CNPS | | | | |
| *Harpagonella palmeri* | Palmer's grapplinghook | — | — | 4.2 | Known to occur on clay vertisols with open grassy slopes or open CSS. Along the coast, this species favors Diablo clay soils, and sloping gullied land more inland. 65-3,135 ft. | Annual herb | Mar-May | **Not Likely to Occur** There is no recorded occurrence within 5 miles of the project site. No suitable habitat, specifically associated soils occur within the project site. |
| *Imperata brevifolia* | California satintail | — | — | 2.1 | Known to occur within chaparral, coastal scrub, Mojavean desert scrub, meadows and seeps associated with alkali soils, and riparian scrub on mesic sites. 0-1,640 ft. | Rhizomatous herb | Sep-May | **Not Likely to Occur** There is no recorded occurrence within 5 miles of the project site. No suitable habitat, specifically associated soils occur within the project site. |
| *Myosurus minimus* ssp. *apus* | Little mousetail | — | — | 3.1 | Typically, this cryptic species grows in the deeper portions of vernal pool basins, sprouting immediately after the surface water has evaporated. Associated soils include Huerhero loam and Bosanko clay. 65-2,100 ft. | Annual herb | Mar-June | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site. No vernal pools or associated soils occur onsite. |
| *Navarretia prostrata* | Prostrate vernal pool navarretia | — | — | 1B.1 | This navarretia is known to occur within coastal scrub, meadows and seeps, valley and foothill grassland associated with alkaline soils, and vernal pools on mesic sites. 50-2,295 ft. | Annual herb | Apr-July | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site and the site lacks suitable microhabitat, substrate and adequate hydrology to support this species. |

| Species | | Status | | | Preferred Habitat | Life Form | Blooming Period | Potential to Occur/ Known Occurrence/ Suitable Habitat |
|---|---|---|---|---|---|---|---|---|
| Scientific Name | Common Name | USFWS | CDFG | CNPS | | | | |
| *Nolina cismontana* | Peninsular nolina | — | — | 1B.2 | May be found in chaparral, coastal scrub, primarily on sandstone and shale substrates; also known from gabbro. 460-4,185 ft | Shrub | May-July | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site. No suitable habitat or substrates occur onsite. |
| *Pentachaeta aurea* ssp. *allenii* | Allen's pentachaeta | — | — | 1B.1 | This species is known to occur within openings in coastal scrub and valley and foothill grassland habitats. 245-1,705 ft. | Annual herb | Mar-June | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site and the site lacks suitable habitat to support this species. |
| *Pseudognaphalium leucocephalum* | White rabbit-tobacco | — | — | 2.2 | Known to occupy chaparral, cismontane woodland, coastal scrub, and riparian woodlands containing sandy/gravelly substrates. 0-6,890 ft. | Perennial herb | Aug-Nov | **Low Potential to Occur** There is a recorded occurrence of this species within 2 miles of the project site. The site lacks suitable habitat and substrate to support this species. |
| *Quercus dumosa* | Nuttall's scrub oak | — | — | 1B.1 | Known to occur within coastal chaparral with a relatively open canopy cover in flat terrain. On north-facing slopes may grow in dense stands. Associated soil includes Chesterton fine sandy loam. Leaves are small, spinose and quite undulate. 50-1,310 ft. | Evergreen shrub | Feb-Apr | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site. No suitable habitat or associated soils occur onsite. |

| Species | | Status | | | Preferred Habitat | Life Form | Blooming Period | Potential to Occur/ Known Occurrence/ Suitable Habitat |
|---|---|---|---|---|---|---|---|---|
| Scientific Name | Common Name | USFWS | CDFG | CNPS | | | | |
| *Satureja chandleri* | San Miguel savory | — | — | 1B.2 | Often found in chaparral and oak woodland, and may be restricted to gabbroic or metavolcanics derived soils. Associated soils include Las Posas stony fine sandy loam ad San Miguel-Exchequer rocky silt loam. 395-3,525 ft. | Shrub | Mar-July | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site. No suitable habitat or soils occur onsite. |
| *Senecio aphanactis* | Chaparral ragwort | — | — | 2.2 | This species is known to occur in CSS, as well as cismontane woodland and alkaline flats. 50-2,625 ft. | Annual herb | Jan-Apr | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site. No suitable habitat or substrate occurs onsite. |
| *Sidalcea neomexicana* | Salt Spring checkerbloom | — | — | 2.2 | May be found in alkali playas, brackish marshes, chaparral, coastal scrub, lower montane coniferous forest, Mojavean desert scrub, also alkali springs and marshes. 0-4,920 ft.. | Perennial herb | March-June | **Not Likely to Occur** There is a recorded occurrence of this species within 5 miles of the project. However, no suitable habitat occurs onsite. |
| *Suaeda esteroa* | Estuary sea-blite | — | — | 1B.2 | Known to occur on the periphery of coastal salt marsh, often growing with Salicornia subterminalis. Associated soil features include Tidal Flats. 0-15 ft. | Perennial herb | May-Oct | **Not Likely to Occur** The project site occurs above the elevation limits for this species. |
| *Verbesina dissita* | Big-leaved crownbeard | FT | CT | 1B.1 | This species is known to occur within maritime chaparral and coastal scrub. 145-670 ft. | Perennial herb | Apr-July | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site. The site lacks suitable habitat to support this species. |

| Species | | Status | | | Preferred Habitat | Life Form | Blooming Period | Potential to Occur/ Known Occurrence/ Suitable Habitat |
|---|---|---|---|---|---|---|---|---|
| Scientific Name | Common Name | USFWS | CDFG | CNPS | | | | |

**U.S. Fish and Wildlife Service:**
FE = Federal Endangered
FT = Federal Threatened
PE = Proposed Endangered
PT = Proposed Threatened
FC = Federal Candidate
FSC = Species of Concern*
*No longer recognized as a federal designation.

**California Department of Fish and Game:**
CE = California Endangered
CT = California Threatened
CR = California Rare

**California Native Plant Society:**
1A = Plants presumed extinct in California.
1B = Plants rare, threatened, or endangered in California and elsewhere.
2 = Plants rare, threatened, or endangered in California, but more common elsewhere.
3 = Plants in need of more information.
4 = Plants of limited distribution.
**No longer recognized as sensitive by CNPS

**Not Likely to Occur:** There are no present or historical records of the species occurring on or in the immediate vicinity, (within 3 miles) of the project site and the diagnostic habitats strongly associated with the species do not occur on or in the immediate vicinity of the site.
**Low Potential to Occur:** There is a historical record of the species in the vicinity of the project site and potentially suitable habitat on site, but existing conditions, such as density of cover, prevalence of non-native species, evidence of disturbance, limited habitat area, isolation, substantially reduce the possibility that the species may occur. The site is above or below the recognized elevation limits for this species.
**Moderate Potential to Occur:** The diagnostic habitats associated with the species occur on or in the immediate vicinity of the project site, but there is not a recorded occurrence of the species within the immediate vicinity (within 3 miles). Some species that contain extremely limited distributions may be considered moderate, even if there is a recorded occurrence in the immediate vicinity.
**High Potential to Occur:** There is both suitable habitat associated with the species and a historical record of the species on or in the immediate vicinity of the project site (within 3 miles).
**Species Present**: The species was observed on the project site at the time of the survey or during a previous biological survey.

# B.2 - Special-Status Wildlife Species Table

## SpecialStatus Wildlife Species Table

| Species | | Status | | Required Habitat | Potential to Occur/ Known Occurrence/ Suitable Habitat |
|---|---|---|---|---|---|
| Scientific Name | Common Name | Federal | State | | |
| **Invertebrates** | | | | | |
| *Branchinecta sandiegonensis* | San Diego fairy shrimp | FE | — | Endemic to San Diego and Orange county mesas. Found in vernal pools. | **Not Likely to Occur**. There is a recorded occurrence of this species within 5 miles of the project site. However, no areas capable of supporting vernal pools occur onsite. |
| *Danaus plexippus* | Monarch butterfly | — | — | A predominantly open county, frost intolerant species whose range of breeding habitats is greatly dependent upon the presence of asclepiad flora (milkweeds). Requires dense tree cover for overwintering. Also associated with Eucalyptus trees. | **Low Potential to Occur** There is a recorded occurrence of this species within 1 mile of the project site. Suitable roosting habitat occurs just offsite. |
| *Streptocephalus woottoni* | Riverside fairy shrimp | FE | — | Found in deep, cool water pools and occasionally in depressions that support suitable vernal pool habitat. | **Not Likely to Occur** There is a recorded occurrence of this species within 3 miles of the project site. However, no areas capable of supporting vernal pools occur onsite. |
| **Fish** | | | | | |
| *Eucyclobogius newberryi* | Tidewater goby | FE | CDFG: SSC | The tidewater goby generally inhabits estuaries, usually within the fresh-saltwater interface. Specifically, within the upper edges of tidal bays near the entrance of freshwater tributaries, and in coastal lagoons formed at the mouths of coastal river, streams, or seasonally wet canyons. | **Not Likely to Occur** There is a recorded occurrence of this species within 5 miles of the project site. However, no freshwater streams or estuaries occur within the project site. |

| Species | | Status | | Required Habitat | Potential to Occur/ Known Occurrence/ Suitable Habitat |
|---|---|---|---|---|---|
| **Scientific Name** | **Common Name** | **Federal** | **State** | | |
| *Gila orcuttii* | Arroyo chub | — | CDFG: SSC | Los Angeles basin in south coastal streams. Slow water stream sections with mud or sand bottoms. Feed heavily on aquatic vegetation & associated invertebrates. | **Not Likely to Occur** There is a recorded occurrence of this species within 3 miles of the project site. However, no coastal streams or aquatic vegetation occurs within the project site. |
| *Oncorhynchus mykiss irideus* | Southern steelhead – Southern California | FE | — | Typically occurs within Southern California streams that originate in coastal mountain ranges where temperatures can drop below freezing in the winter months. | **Not Likely to Occur** There are no recorded occurrences of this species within the vicinity of the project site and no stream courses occur within or adjacent to the project site. |
| **Reptiles and Amphibians** | | | | | |
| *Actinemys marmorata pallida* | Southwestern pond turtle | — | CDFG: SSC | Inhabits permanent or nearly permanent bodies of water in many habitat types; below 6,000 ft (1,830 m) elevation. Requires basking sites such as partially submerged logs, vegetation mats, or open mud banks. Need suitable nesting sites. | **Not Likely to Occur** There is a recorded occurrence of this species within 3 miles of the project site. However, no bodies of water occur within or adjacent to the project site. |
| *Anaxyrus californicus* | Arroyo toad | FE | CDFG: SSC | Semi-arid regions near washes and intermittent streams characterized by valley and foothill riparian, desert riparian, desert wash, and other riparian habitats. Prefers rivers with unvegetated sandy banks and loose gravelly areas of streams for burrowing and foraging. | **Low Potential to Occur** There is a recorded occurrence of this species within 3 miles of the project site. However, no washes, streams or waterbodies occur within the project site. |
| *Aspidoscelis hyperythra* | Orange-throated whiptail | — | CDFG: SSC | Low-elevation coastal sage scrub, chaparral, and valley and foothill hardwood habitats. Prefers washes and other sandy areas with patches of brush and rocks. Perennial plants necessary for its primary food source, termites. | **Not Likely to Occur** There is a recorded occurrence of this species within 3 miles of the project site. The site contains restored CSS, however, the project site lacks suitable microhabitat requirements to support this species. |

| Species | | Status | | Required Habitat | Potential to Occur/ Known Occurrence/ Suitable Habitat |
|---|---|---|---|---|---|
| Scientific Name | Common Name | Federal | State | | |
| *Aspidoscelis tigris stejnegeri* | Coastal western whiptail | — | — | Found in deserts & semiarid areas with sparse vegetation and open areas. Also found in woodland & riparian areas. Ground may be firm soil, sandy, or rocky. | **Not Likely to Occur** There are no recorded occurrences of this species within the vicinity of the project site and the site lacks suitable habitat to support this species. |
| *Crotalus ruber ruber* | Northern red-diamond rattlesnake | — | CDFG: SSC | Occurs from coastal San Diego County to the eastern slopes of the mountains and in desert habitats. Occurs from sea level to 900 meters in chaparral, woodland, and arid desert habitats in rocky areas and dense vegetation. Requires cracks in rocks or surface cover objects. Strong vegetation associates include chamise and red-shank dominated chaparrals due to vegetation density within these communities and affiliation with rocky and boulder substrates. | **Not Likely to Occur** There is a recorded occurrence of this species within 4 miles of the project site. However, the site lacks suitable habitat and associated vegetation to support this species. |
| *Plestiodon skiltonianus interparietalis* | Coronado skink | — | CDFG: SSC | This species is known to inhabit grassland, woodlands, pine forests, chaparral, especially in open sunny areas such as clearings and the edges of creeks and rivers. It prefers rocky areas near streams with lots of vegetation. Also fond in areas away from water. | **Not Likely to Occur** There is no recorded occurrences of this species within the vicinity of the project site and the site lacks suitable vegetation communities and hydrology to support this species. |
| *Phrynosoma coronatum blainvillii* | San Diego horned lizard | — | CDFG: SSC | Inhabits coastal sage scrub and chaparral in arid and semi-arid climate conditions. Also inhabits annual grassland, oak woodland, riparian woodland and coniferous forest. Requires loose fine soils with a high sand fraction for burrowing. Feeds primarily on harvester ants, but also termites, beetles, flies, wasps, and grasshoppers. This species is unable to survive in habitats altered by urbanization, agriculture, off-road vehicle use, or flood control structures. | **Not Likely to Occur** There is a recorded occurrence of this species within 3 miles of the project site. However, the site has been subject to heavy disturbances, which have compacted the soils onsite, resulting in unsuitable habitat for this species. |

| Species | | Status | | Required Habitat | Potential to Occur/ Known Occurrence/ Suitable Habitat |
|---|---|---|---|---|---|
| Scientific Name | Common Name | Federal | State | | |
| *Spea hammondii* | Western spadefoot | — | — | Occurs primarily in grassland habitats, but can be found in valley-foothill hardwood woodlands. Vernal pools are essential for breeding and egg-laying. | **Low Potential to Occur** There is a recorded occurrence of this species within 2 miles of the project site. However, no suitable habitat occurs onsite. |
| *Taricha torosa torosa* | Coast Range newt | — | — | Found in coastal drainages from Mendocino County to San Diego County. Lives in terrestrial habitats & will migrate over 0.60 miles (1 km) to breed in ponds, reservoirs & slow moving streams. | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site and the site lacks drainages, ponds and stream courses. |
| *Thamnophis hammondii* | Two-striped garter snake | — | CDFG: SSC | Occur in coastal California from vicinity of Salinas to northwest Baja California from sea level to 7,000 feet in elevation. Highly aquatic, found in or near permanent fresh water. Often along streams with rocky beds and riparian growth. | **Not Likely to Occur** There is a recorded occurrence of this species within 5 miles of the project site. However, the site lacks fresh water or stream courses that support riparian vegetation. |
| **Avian** | | | | | |
| *Accipiter cooperi* | Cooper's hawk | — | CDFG: WL | (Nesting) Open, uninterrupted, or marginal type woodlands. Nest sites in riparian growths of deciduous trees, live oaks. | **High Potential to Occur** This species was observed in the residential development just south of the project site. A potential Cooper's hawk nest was observed 400 feet south of the project site. The site lacks suitable nesting and foraging habitat to support this species. However, this species may fly over the site in search of prey. |

| Species | | Status | | Required Habitat | Potential to Occur/ Known Occurrence/ Suitable Habitat |
|---|---|---|---|---|---|
| Scientific Name | Common Name | Federal | State | | |
| *Agelaius tricolor* | Tricolored blackbird | — | CDFG: SSC | Nesting colony habitat; highly colonial species, most numerous in central valley & vicinity. Largely endemic to California. Requires open water, protected nesting substrate, & foraging area with insect prey within a few km of the colony. | **Not Likely to Occur** There is a recorded occurrence of this species within 4 miles of the project site. However, no suitable nesting or foraging habitat occurs within or adjacent to the project site. |
| *Aimophila ruficeps canescens* | Southern California rufous-crowned sparrow | — | CDFG: WL | (Nesting) Grass-covered hillsides, coastal sage scrub and sparse mixed chaparral. Steep, often rocky hillsides with grass and forb patches. | **Not Likely to Occur** There is a recorded occurrence of this species within 4 miles of the project site. Marginally suitable foraging habitat occurs within the slopes surrounding the project site. However, the site is significantly disturbed and lacks suitable microhabitat to support this species. |
| *Ammodramus savannarum* | Grasshopper sparrow | — | CDFG: SSC | Dense grasslands on rolling hills, lowland plains, in valleys & on hillsides on lower mountain slopes. Favors native grasslands with a mix of grasses, forbs & scattered shrubs. | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site and no suitable foraging or nesting habitat occurs onsite. |
| *Aquila chrysaetos* | Golden eagle | — | — | Nesting & wintering habitat of rolling foothills mountain areas, sage-juniper flats, desert. Cliff-walled canyons provide nesting habitat in most parts of range; also, large trees in open areas. | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site and the site lacks suitable nesting habitat to support this species. |

| Species | | Status | | Required Habitat | Potential to Occur/ Known Occurrence/ Suitable Habitat |
|---|---|---|---|---|---|
| Scientific Name | Common Name | Federal | State | | |
| *Asio otus* | Long-eared owl | — | CDFG: SSC | Nesting habitat of riparian bottomlands grown to tall willows & cottonwoods; also, belts of live oak paralleling stream courses. Require adjacent open land productive of mice and the presence of old nests of crows and hawks for breeding. | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site and the site lacks suitable habitat and nesting sites for this species. |
| *Athene cunicularia* | Burrowing owl | — | CDFG: SSC | Open grasslands, desert, and sparse scrublands with low-growing vegetation and suitable burrows. | **Not Likely to Occur** There is a recorded occurrence of this species within 2 miles of the project site. The project site contains sloped grassland habitat. However, no suitable burrows were observed. |
| *Campylorhynchus brunneicapillus sandiegensis* | Coastal cactus wren | — | CDFG: SSC | (Nesting) Nests in relatively open areas of coastal sage scrub. Require tall *Opuntia* spp. cactus for nesting and roosting. | **Low Potential to Occur** There is a recorded occurrence of this species within 0.3 miles of the project site. However, the site contains low quality habitat and only a few scattered shrubs and a single small patch of cactus, but is not large enough to support a population of this species. |
| *Elanus leucurus* | White-tailed kite | — | CDFG: FP | Open savanna, grasslands, and fields | **Not Likely to Occur** There are no recorded occurrences of this species within 5 miles of the project site. The suitable foraging habitat necessary to support this species. |

| Species | | Status | | Required Habitat | Potential to Occur/ Known Occurrence/ Suitable Habitat |
|---|---|---|---|---|---|
| **Scientific Name** | **Common Name** | **Federal** | **State** | | |
| *Empidonax traillii extimus* | Southwestern willow flycatcher | FE | SE | Riparian woodlands with thick understory along rivers, streams, or other wetlands, where dense growths of willows (*Salix* sp.), (*Baccharis* sp.), arrowweed (*Pluchea* sp.), buttonbush (*Cephalanthus* sp.), tamarisk (*Tamarix* sp.), Russian olive (*Eleagnus* sp.) or other plants are present, often with a scattered overstory of cottonwood (*Populus* sp.). | **Not Likely to Occur** There are no recorded occurrences of this species within 5 miles of the project site. The site lacks riparian habitat necessary to support this species. |
| *Polioptila californica californica* | Coastal California gnatcatcher | FT | CDFG: SSC | (Nesting) Primarily inhabits coastal sage scrub, within the California sagebrush-dominated stands on mesas, gently sloping areas, and along the lower slopes of the coast ranges. | **Low Potential to Occur** There is a recorded occurrence of this species within 1 mile of the project site. However, the site lacks suitable coastal sage scrub habitat,. |
| *Vireo bellii pusillus* | Least Bell's vireo | FE | CE | (Nesting) Inhabits low, dense riparian growth along water or along dry parts of intermittent streams. Nests placed along margins of bushes or on twigs projecting into pathways, usually willow, baccharis, mesquite. | **Not Likely to Occur** There are no recorded occurrences of this species within 5 miles of the project site. The site lacks riparian habitat necessary to support this species. |
| **Mammals** | | | | | |
| *Antrozous pallidus* | Pallid bat | — | CDFG: SSC | Found in rocky, mountainous areas and near water. Also, found over more open, sparsely vegetated grasslands, and prefer foraging in the open. Uses three different roosts: 1) the day roost is in a warm, horizontal opening such as rock cracks; 2) the night roost is in the open, near foliage; and 3) the hibernation roost, which is in caves or cracks in rocks. | **Not Likely to Occur** There are no recorded occurrences of this species within 5 miles of the project site. The site lacks suitable habitat necessary to support this species. |

| Species | | Status | | Required Habitat | Potential to Occur/ Known Occurrence/ Suitable Habitat |
|---|---|---|---|---|---|
| Scientific Name | Common Name | Federal | State | | |
| *Chaetodipus fallax fallax* | Northwestern San Diego pocket mouse | — | CDFG: SSC | May be found in coastal scrub, chaparral, grasslands, sagebrush, etc. in western San Diego County in sandy, herbaceous areas, usually in association with rocks or coarse gravel. | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site. The site contains coastal sage scrub but lacks rocky areas and coarse gravel. |
| *Chaetodipus californicus femoralis* | Dulzura pocket mouse | — | CDFG: SSC | May be found in coastal scrub, chaparral, grasslands, sagebrush, etc. in western San Diego County in sandy, herbaceous areas, usually in association with rocks or coarse gravel. | **Low Potential to Occur** There is a recorded occurrence of this species within 3 miles of the project site. The site lacks suitable habitat for this species. |
| *Choeronycteris mexicana* | Mexican long-tongued bat | — | CDFG: SSC | Feed on nectar & pollen of night-blooming succulents. Roosts in relatively well-lit caves, and in or around buildings. | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site and the site lacks suitable roosting locations to support this species. |
| *Dipodomys stephensi* | Stephens' kangaroo rat | FE | SE | Found primarily in annual & perennial grasslands, but also occurs in coastal scrub & sagebrush with sparse canopy cover. Prefers buckwheat, chamise, brome grass and filaree. Will burrow into firm soil. | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site and the site lacks suitable roosting locations to support this species. |
| *Eumops perotis californicus* | Western mastiff bat | — | CDFG: SSC | Occur in many open, semi-arid to arid habitats, including conifer & deciduous woodlands, coastal scrub, grasslands, chaparral. Roosts in crevices in cliff faces, high buildings, trees, and tunnels. | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site and the site lacks suitable roosting locations to support this species. |

| Species | | Status | | Required Habitat | Potential to Occur/ Known Occurrence/ Suitable Habitat |
|---|---|---|---|---|---|
| Scientific Name | Common Name | Federal | State | | |
| *Lasiurus blossevillii* | Western red bat | — | CDFG: SSC | Roosts primarily within trees throughout a wide range of habitat, from sea level to mixed conifer forests. Prefers habitat edges and mosaics with trees that are protected by dense canopies and have open areas in the understory for foraging. | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site and the site lacks suitable roosting locations to support this species. |
| *Myotis yumanensis* | Yuma myotis | — | — | Optimal habitats are open forests and woodlands with sources of water over which to feed. Species distribution is closely tied to bodies of water. Maternity colonies in caves, mines, buildings or crevices. | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site and the site lacks suitable roosting locations to support this species. |
| *Neotoma lepida intermedia* | San Diego desert woodrat | — | CDFG: SSC | Occur in coastal scrub of Southern California from San Diego County to San Luis Obispo County. Moderate to dense canopies preferred. The species is particularly abundant in rock outcrops & rocky cliffs & slopes. | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site. The site contains coastal scrub but lacks suitable microhabitat to support this species. |
| *Nyctinomops femorosaccus* | Pocketed free-tailed bat | — | CDFG: SSC | Found in a variety of habitats, desert riparian, desert wash, and palm oasis habitats. Roosts in high cliffs. | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site and the site lacks suitable roosting locations to support this species. |
| *Perognathus longimembris pacificus* | Pacific pocket mouse | FE | — | This species is known to occur on fine-grain, sandy substrates in open coastal sage scrub, coastal strand, coastal dune, and river alluvium habitats. | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site and the site lacks suitable habitat to support this species. |

| Species | | Status | | Required Habitat | Potential to Occur/ Known Occurrence/ Suitable Habitat |
|---|---|---|---|---|---|
| Scientific Name | Common Name | Federal | State | | |
| *Taxidea taxus* | American badger | — | CDFG: SSC | Most abundant in drier open stages of most shrub, forest, and herbaceous habitats, with friable soils. The species needs sufficient food, friable soils and open, uncultivated ground. The species preys on burrowing rodents. | **Not Likely to Occur** There is no recorded occurrence of this species within the vicinity of the project site and the site lacks suitable habitat and prey species to support this badger. |

Federal:
FE= Federal Endangered
FT= Federal Threatened
FSC = Federal Species of Concern
PFT = Proposed Federal Threatened
C = Candidate for Federal Listing
D = Delisted

State:
SE= State Endangered
ST= State Threatened
CDFG:SSC = California Species of Special Concern
CDFG:FP = Fully Protected Species
CDFG: P = Protected Species
CDFG:WL = Watch List

Notes:
**Not Likely to Occur:** There are no present or historical records of the species occurring on or in the immediate vicinity, (within 3 miles) of the project site and the diagnostic habitats strongly associated with the species do not occur on or in the immediate vicinity of the site.
**Low Potential to Occur:** There is a historical record of the species in the vicinity of the project site and potentially suitable habitat on site, but existing conditions, such as density of cover, prevalence of non-native species, evidence of disturbance, limited habitat area, isolation, substantially reduce the possibility that the species may occur. The site is above or below the recognized elevation limits for this species.
**Moderate Potential to Occur:** The diagnostic habitats associated with the species occur on or in the immediate vicinity of the project site, but there is not a recorded occurrence of the species within the immediate vicinity (within 3 miles). Some species that contain extremely limited distributions may be considered moderate, even if there is a recorded occurrence in the immediate vicinity.
**High Potential to Occur:** There is both suitable habitat associated with the species and a historical record of the species on or in the immediate vicinity of the project site (within 3 miles).
**Species Present:** The species was observed on the project site at the time of the survey or during a previous biological survey.

# Appendix C:
# Site Photographs

Photograph 1: Looking southeast at the eastern portion of the project site from the north side of Via Canon. Non-native tree species in the background and sparse native shrubs scattered throughout the project site.

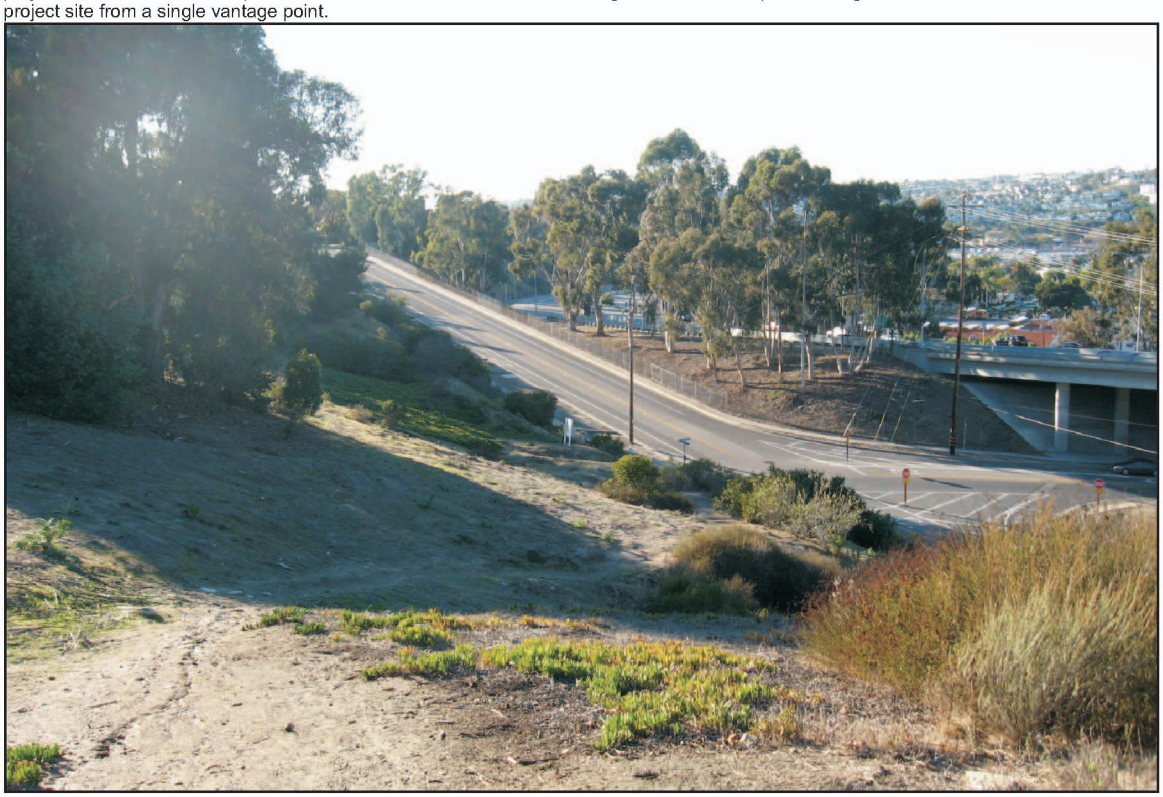
Photograph 2: Looking south at the central portion of the project site. Large patch of hottentot-fig is located to the right of the white sign. Non-native trees in the background are located off-site, but many overhang onto the project site.

Source: Michael Brandman Associates, 2010.

Michael Brandman Associates

# Appendix C
# Site Photographs 1 and 2

Photograph 3: Looking southeast at the western portion of the project site from the north side of Via Canon. This steeper portion of the project site contains isolated patches of native shrubs, as seen in the foreground. This view provides a general overview of most of the project site from a single vantage point.

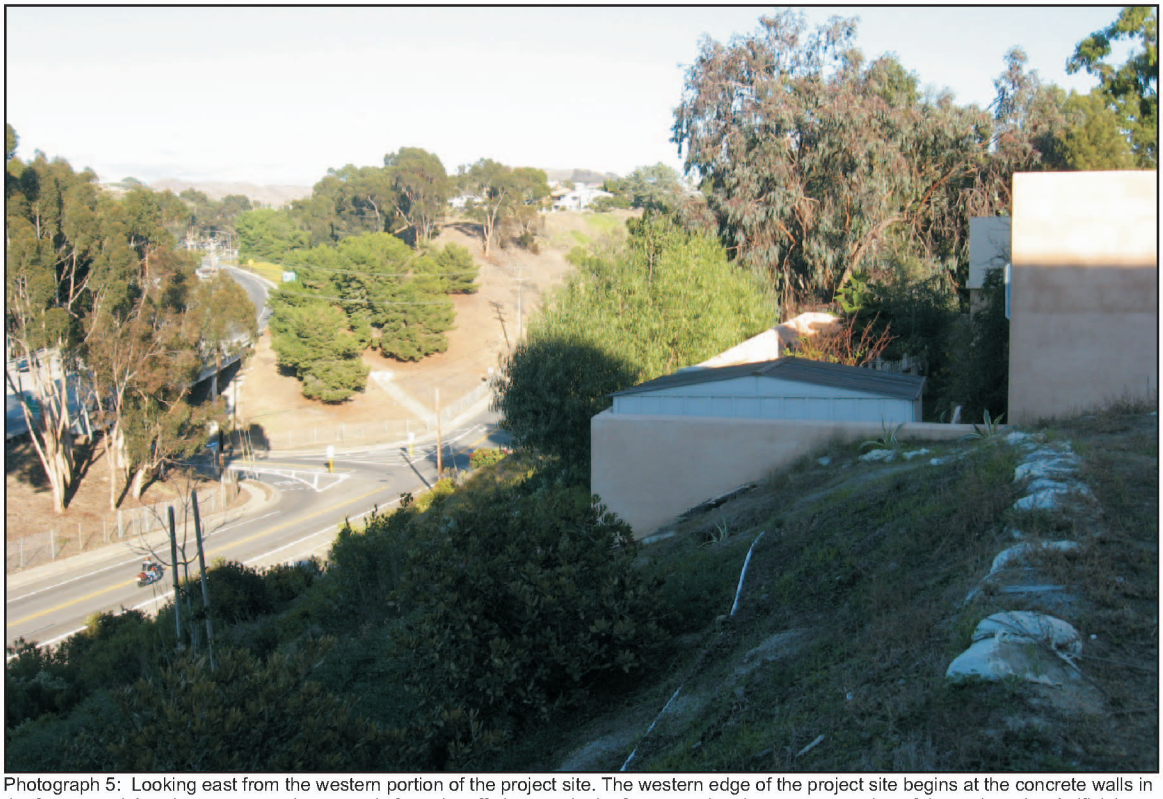


Photograph 4: Looking west at the central portion of the project site. Via Canon and Highway 1 are in the background. Hottentot-fig and patches of California buckwheat are in the foreground.

Source: Michael Brandman Associates, 2010.

Michael Brandman Associates

# Appendix C
# Site Photographs 3 and 4



Photograph 5: Looking east from the western portion of the project site. The western edge of the project site begins at the concrete walls in the foreground. Landscape vegetation extends from the off-site area in the foreground to the western portion of the project site. Artificial irrigation ends at the project site boundary.

Photograph 6: Looking north at the offsite adjacent property, consisting of a roadside slope associated with Highway 1 as viewed from the eastern portion of the project site. The non-native grassland and ornamental trees off-site clearly shows no direct connectivity to any adjacent native vegetation community.

Source: Michael Brandman Associates, 2010.

Michael Brandman Associates

# Appendix C
# Site Photographs 5 and 6

# Appendix D:
# Regulatory Framework

# REGULATORY BACKGROUND

## Sensitive Plant and Wildlife Species

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

### Federal Endangered Species Act

The USFWS administers the Federal Endangered Species Act (ESA). The ESA provides a process for listing species as either threatened or endangered, and methods of protecting listed species. The ESA defines as "endangered" any plant or animal species that is in danger of extinction throughout all or a significant portion of its known geographic range. A "threatened" species is a species that is likely to become endangered. A "proposed" species is one that has been officially proposed by the USFWS for addition to the federal threatened and endangered species list.

ESA Section 9 prohibits "take" of threatened or endangered species. The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in such conduct. Take can include disturbance to habitats used by a threatened or endangered species during any portion of its life history. The presence of any federally threatened or endangered species in a project area generally imposes severe constraints on development, particularly if development would result in "take" of the species or its habitat. Under the regulations of the ESA, the USFWS may authorize "take" when it is incidental to, but not the purpose of, an otherwise lawful act.

### California Endangered Species Act

The California Department of Fish and Game (CDFG) administers the California Endangered Species Act (CESA). The State of California considers an "endangered" species one whose prospects of survival and reproduction are in immediate jeopardy. A "threatened" species is one present in such small numbers throughout its range that it is likely to become an endangered species in the near future in the absence of special protection or management. A "rare" species is one present in such small numbers throughout its portion of its known geographic range that it may become endangered if its present environment worsens. The rare species designation applies to California native plants. State threatened and endangered species are fully protected against take, as defined above. The term "species of special concern" is an informal designation used by CDFG for some declining wildlife species that are not state candidates for listing. This designation does not provide legal protection, but signifies that these species are recognized as sensitive by CDFG.

### California Native Plant Society

The California Native Plant Society (CNPS) is a California resource conservation organization that has developed an inventory of California's sensitive plant species. This inventory summarizes information on the distribution, rarity, and endangerment of California's vascular plants. The inventory is divided into four lists based on the rarity of the species. In addition, the CNPS provides an inventory of plant communities that are considered sensitive by the state and federal resource agencies, academic institutions, and various conservation groups. Determination of the level of sensitivity is based on the number and size of remaining occurrences as well as recognized threats.

### Migratory Bird Treaty Act

The MBTA protects all common wild birds found in the United States (U.S.) except the house sparrow, starling, feral pigeon, and resident game birds such as pheasant, grouse, quail, and wild turkey. Resident game birds are managed separately by each state. The MBTA makes it unlawful for anyone to kill, capture, collect, possess, buy, sell, trade, ship, import, or export any migratory bird including feathers, parts, nests, or eggs.

### California Fish and Game Code - Section 3503 and Section 3511

The California Department of Fish and Game (CDFG) administers the CFG Code. There are particular sections of the CFG Code that are applicable to natural resource management. For example, Section 3503 of the CFG Code states it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird that is protected under the MBTA. CFG Code Section 3503.5 further protects all birds in the orders Falconiformes and Strigiformes, birds of prey such as hawks and owls, and their eggs and nests from any form of take. CFG Code Section 3511 lists fully protected bird species where the CDFG is unable to authorize the issuance of permits or licenses to take these species.

## Jurisdictional Waters and Wetlands

Impacts to natural drainage features and wetland areas are regulated by the USACE, Regional Water Quality Control Board (RWQCB), and CDFG based upon the policies and regulations discussed below.

### United States Army Corp of Engineers Regulations

#### Federal Clean Water Act - Section 404

The USACE administers Section 404 of the federal Clean Water Act (CWA). This section regulates the discharge of dredge and fill material into waters of the U.S. USACE has established a series of nationwide permits that authorize certain activities in waters of the U.S., if a proposed activity can demonstrate compliance with standard conditions. Normally, USACE requires an individual permit for an activity that will affect an area equal to or in excess of 0.5 acre of waters of the U.S. Projects that result in impacts to less than 0.5 acre can normally be conducted pursuant to one of the

nationwide permits, if consistent with the standard permit conditions. USACE also has discretionary authority to require an Environmental Impact Statement for projects that result in impacts to an area between 0.1 and 0.5 acre. Use of any nationwide permit is contingent on the activities having no impacts to endangered species.

### Waters of the United States

Waters of the U.S., as defined in the Code of Federal Regulations (CFR) Section 328.3, include all waters or tributaries to waters such as lakes, rivers, intermittent and perennial streams, mudflats, sand-flats, natural ponds, wetlands, wet meadows, and other aquatic habitats. Frequently, waters of the U.S., with at least intermittently flowing water or tidal influences are demarcated by an ordinary high water mark (OHWM). The OHWM is defined in CFR Section 328.3(e) as the line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. In this region, the OHWM is typically indicated by the presence of an incised streambed with defined bank shelving.

In June 2001, the USACE South Pacific Division has issued *Guidelines for Jurisdictional Delineations for Waters of the United States in the Arid Southwest*. The purpose of this document was to provide background information concerning physical characteristics of dry land drainage systems. These guidelines were reviewed and used to identify jurisdictional drainage features within the study area.

### Wetlands

According to the USACE Wetlands Delineation Manual, Technical Report, three criteria must be satisfied to classify an area as a jurisdictional wetland:

1. A predominance of plant life that is adapted to life in wet conditions (hydrophytic vegetation)
2. Soils that saturate, flood, or pond long enough during the growing season to develop anaerobic conditions in the upper part (hydric soils)
3. Permanent or periodic inundation or soils saturation, at least seasonally (wetland hydrology)

Wetland vegetation is characterized by vegetation in which more than 50 percent of the composition of dominant plant species are obligate wetland, facultative wetland, and/or facultative species that occur in wetlands. As a result of the 2001 Solid Waste Agency of North Cook County (SWANCC) case, a wetland must show connectivity to a stream course in order for such a feature to be considered jurisdictional. Although wetland criteria was used to identify if areas were considered wetlands, the exact limits of jurisdiction were not measured based on the standard wetland delineation protocol as described in the 1987 USACE manual.

#### United States Army Corp of Engineers Regulated Activities

The USACE regulates the discharge of dredged or fill material, including, but not limited to, grading, placing of rip-rap for erosion control, pouring concrete, laying sod, and stockpiling excavated material. Activities that generally do not involve a regulated discharge, if performed specifically in a manner to avoid discharges, include driving pilings, drainage channel maintenance, temporary mining and farm/forest roads, and excavating without stockpiling.

### Regional Water Quality Control Board Regulations

#### Clean Water Act - Section 401

According to section 401 of the CWA, "any applicant for a Federal permit for activities that involve a discharge to waters of the State, shall provide the Federal permitting agency a certification from the State in which the discharge is proposed that states that the discharge will comply with the applicable provisions under the Federal Clean Water Act." Therefore, before the USACE will issue a Section 404 permit, applicants must apply for and receive a Section 401 water quality certification from the RWQCB.

#### Porter-Cologne Water Quality Act

The RWQCB regulates actions that would involve "discharging waste, or proposing to discharge waste, within any region that could affect the water of the state" (water code §13260(a)), pursuant to provisions of the Porter-Cologne Water Quality Act. "Waters of the State" are defined as "any surface water or groundwater, including saline waters, within the boundaries of the state" (water code Section 13050 (e)).

#### Regional Water Quality Control Board Regulated Activities

Under Section 401 of the CWA, the RWQCB regulates all activities that are regulated by the USACE. Additionally, under the Porter-Cologne Water Quality Act, the RWQCB regulates all activities, including dredging, filling, or discharge of materials into waters of the state that are not regulated by the USACE due to a lack of connectivity with a navigable water body and/or lack of an OHWM.

### California Department of Fish and Game Regulations

#### California Fish and Game Code Section 1600 to Section 16003

The CFG Code mandates that "it is unlawful for any person to substantially divert or obstruct the natural flow or substantially changes the bed, channel, or bank of any river, stream, or lake designated by the department, or use any material from the streambeds, without first notifying the department of such activity." CDFG jurisdiction includes ephemeral, intermittent, and perennial watercourses, including dry washes, characterized by the presence of hydrophytic vegetation, the location of definable bed and banks, and the presence of existing fish or wildlife resources.

Furthermore, CDFG jurisdiction is often extended to habitats adjacent to watercourses, such as oak woodlands in canyon bottoms or willow woodlands that function as part of the riparian system. Historic court cases have further extended CDFG jurisdiction to include watercourses that seemingly disappear, but re-emerge elsewhere. Under the CDFG definition, a watercourse need not exhibit evidence of an OHWM to be claimed as jurisdiction. However, CDFG does not regulate isolated wetlands; that is, those that are not associated with a river, stream, or lake.

#### California Department of Fish and Game Regulated Activities

The CDFG regulates activities that involve diversions, obstruction, or changes to the natural flow or bed, channel, or bank of any river, stream, or lake that supports fish or wildlife resources.