



Appendix B  
**Biological Resources Assessment**



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# **GENERAL BIOLOGICAL RESOURCES ASSESSMENT AND ENDANGERED SPECIES REPORT**

## **VICTORVILLE, SAN BERNARDINO COUNTY, CALIFORNIA**

**APNs: 3106-201-24, 25, AND -27**

**PROJECT NUMBER: PLAN24-00001**

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## 1.0 INTRODUCTION AND SUMMARY

Blackhawk Environmental (Blackhawk) was contracted by Kimley-Horn (Project Proponent) to conduct a biological resources survey and provide a General Biological Resources Assessment and Endangered Species Report for the proposed RC1051 Project (Project) located on a combination of three parcels totaling 4.413 acres (APNs 2106-201-24, -25, and -27) of undeveloped land in the City of Victorville in San Bernardino County, California. APN 2106-201-24 totals 1.651 acres, APN 2106-201-25 totals 1.975 acres, and APN 2106-201-27 totals 0.787 acres. The Project site is located immediately west of an existing development at the northwest corner of Civic Drive and Roy Rogers Drive on the southwest quarter of Section 17, Township 5 North, Range 4 West in the Victorville USGS 7.5-minute California Quadrangle (USGS 2021). The property is located in an area of Victorville zoned for commercial use. The Project Proponent is proposing to develop a Raising Cane's restaurant extending west from an existing developed driveway area at the corner of Civic Drive and Roy Rogers Drive (Figure 1). Construction impact totals are limited to 2.0 acres within the overall combined 4.413-acre combination of parcels.

As required by the San Bernardino Land Use Services Department (Planning Division), the Project Proponent shall prepare a General Biological Resources Assessment and Endangered Species Report for the Project focusing on Desert Tortoise (*Gopherus agassizii*), Mohave ground squirrel (*Xerospermophilus mohavensis*), burrowing owl (*Athene cunicularia*; BUOW), and western Joshua tree (*Yucca brevifolia*). Blackhawk conducted a literature review, field survey, and biological resources assessment of the proposed Project to assess existing site conditions, as well as assess the potential for sensitive species or habitats to occur within the Project site.

## 2.0 EXISTING CONDITIONS

The Project site is situated on an approximately 4.413-acre combined parcel located west of current developed areas on the northwestern corner of Civic Road and Roy Rogers Drive in the City of Victorville, San Bernardino County, California (Township 5 North, Range 4 West, Section 17, USGS Victorville California quadrangle) (Figure 1). A gas station with a convenience mart and car wash is located immediately east of the Project site at the northwestern corner of Civic Drive and Roy Rogers Drive. Vacant land abuts the Project site to the north and west providing connectivity to undeveloped areas from the northeast to southwest interrupted by Civic Drive/Midtown Drive and Roy Rogers Drive. The further surrounding areas mostly include scattered residential complexes and commercial shopping centers with islands of undeveloped parcels intermixed.

The Project site is generally flat with the highest elevations of approximately 2,943 feet above mean sea level (amsl) along the western boundary to approximately 2,937 feet amsl along the eastern boundary. Soils are characteristically sandy, and appear to exhibit excessive draining with no occasional frequency of ponding or flooding. Vegetation communities found within the Project site and associated 100-foot buffer (Survey Area) include Creosote Bush Scrub, Creosote Bush Scrub-Disturbed, along with Disturbed Habitat. Vegetation mostly consists of native shrubs; however, non-native annual species were abundant in the herb stratum below the trees and shrubs, and within the Disturbed portions of the Survey Area. Wildlife observed in the Survey Area during the survey included common species adapted to living in/around humans such as common raven (*Corvus corax*), house finch (*Haemorhous mexicanus*), and rock dove (*Columba livia*). A complete plant and wildlife compendium of species observed or detected during the field survey can be found in Attachment C.

Overall, the Survey Area consists of sparse areas of undisturbed native vegetation surrounded by areas of anthropogenic disturbance. Trash, debris, and sign of off-road vehicle use are present onsite with a small encampment nearby, located just outside the Project boundary's northwestern border. No significant hydrological features are present within the Survey Area. Hydrology within the Survey Area is limited to evidence of minor surface sheet flow (from northeast to southwest) and shallow concentrated flow immediately following rain events. However, the soils on-site are moderately well-drained. A concrete curb along the southern border of the Project Boundary prevents sediment discharge onto the surface of a concrete sidewalk and even further onto Roy Rogers Drive. Evidence of possible previous grading exists in the western portion of the Project Boundary. A linear row of what appears to be mounded excess native soil likely from previous grading occurs in the northwest corner of the Project and extends beyond the Project boundary to the north. Positioned from northeast to southwest, this berm is likely an artificial result of previous grading within the Project site.

### 3.0 METHODS

#### 3.1 Database and Literature Review

Blackhawk conducted a database records search consisting of a query of the California Department of Fish and Wildlife (CDFW) California Natural Diversity Database (CNDDDB) (CDFW 2024), the US Fish & Wildlife Service (USFWS) Species Occurrence Database (USFWS 2024), and the California Native Plant Society's (CNPS) Electronic Inventory (EI) of Rare and Endangered Vascular Plants of California (CNPS 2024) for the quadrangle containing the Project site; a 5-mile radius surrounding the Project site was reviewed. The CNDDDB contains records of reported occurrences of federal- and state-listed species, proposed endangered or threatened species, federal Birds of Conservation Concern, California Species of Special Concern (SSC), or otherwise sensitive species or communities that may occur within and/or in the vicinity of a given project. In addition to the database queries, Blackhawk biologists reviewed the project-specific *Western Joshua Tree Report* (Hunter 2023) which documents all occurrences of western Joshua trees within the Project site. This database and literature review were used to provide details on sensitive species occurring or that have potential to occur within the Survey Area. All species from the database query are included in Tables 2 and 3 below.

#### 3.2 Field Survey

Utilizing the background data described above, a field survey was conducted on March 7, 2024, by Blackhawk biologists Seth Reimers, Kris Alberts, and Katie Quint to document existing conditions, conduct an aquatic resources assessment, and assess the Survey Area's capacity to potentially harbor sensitive biological resources identified in the database and literature review (collectively known as target species). Methods included walking parallel belt transects (from west to east) spaced approximately 5 to 10 meters apart for the entirety of the Survey Area. Additional, and overlapping, meandering transects were also performed throughout the Survey Area. Where appropriate, the biologists paused at select vantage points to provide full visual coverage of the Survey Area. During the field survey, all plant and wildlife species observed or detected were recorded in field notebooks. Binoculars were used as needed to identify wildlife species. Plant species observed were identified to species level when feasible according to the nomenclature in *The Jepson Manual: Vascular Plants of California Edition 2* (Baldwin et al. 2012). Vegetation communities were described according to dominant plant species and annotated on high-resolution aerial imagery of the Survey Area for GIS interpolation (Figure 5). During the field survey, Global Positioning System (GPS) locations of all target species and/or their sign (burrows, tracks, scats, etc.) were recorded in the ArcGIS Online application Field Maps. Results of all observations and detections are depicted in Figure 5.

A habitat assessment (Phase 1) was conducted for burrowing owl to determine if the Survey Area (Project Boundary and 500-foot buffer) supports suitable habitat for the species per CDFW Guidelines. As part of the burrowing owl survey, transects were walked throughout the entirety of the Survey Area, during which any suitable burrows were evaluated for owls and owl sign (whitewash, feathers, castings, etc.).

Following the general plant and animal portion of the field survey, a habitat assessment and survey for desert tortoise was performed for the presence of any tortoise and/or their sign (burrows, tracks, scat, etc.). Parallel belt transects spaced 5 to 10 meters apart were walked in a north-south direction, plus overlapping meandering transects, for the entirety of the Survey Area. Survey of the zone of influence (ZOI) was also conducted where accessible. Comprehensive field surveys were conducted throughout the Project Survey Area and ZOI (where accessible) and no tortoise, their sign, or suitable burrows were identified. Therefore, desert tortoise will not be further discussed in this document.

Methods described below focused on determination of potential for occurrence of sensitive plant and wildlife species. Species are considered to be sensitive, and are therefore subject to analysis in this section, if they meet one or more of the following criteria:

- Plant and animal species listed as endangered (FE), threatened (FT), or candidates (FC) for listing under the Federal Endangered Species Act (FESA);
- Plant and animal species listed as endangered (SE), threatened (ST), or candidates (SC) for listing under the California Endangered Species Act (CESA);
- Animals designated as Fully Protected Species (FP), as defined in California Fish and Game Code Sections 3511, 4700, 5050, and 5515;
- Animal species designated as SSC by the CDFW;
- Bat species designated as High Priority (H) by the Western Bat Working Group;
- Plants that are state-listed as Rare;
- Plant species ranked by the CNPS as having a California Rare Plant Rank (CRPR) of 1 or 2;
- Plant species identified by the California Desert Native Plants Act in Division 23 of the California Food and Agriculture Code Sections 80071-80075; or
- Plant species identified by the San Bernardino County Development Code 88.01.060 that is intended to augment and coordinate with the California Desert Native Plants Act (above).
- Western Joshua trees protected by the City of Victorville Municipal code 13.33 (Ordinance No. 1224) and the Western Joshua Tree Conservation Act (WJTCA).

Sensitive natural communities are communities that have a limited distribution and are often vulnerable to the environmental effects of projects. These communities may or may not contain sensitive species or their habitats. For purposes of this assessment, sensitive natural communities are considered to be any of the following:

- Vegetation communities listed in the CNDDDB;
- Communities listed in the Natural Communities List with a rarity rank of S1 (critically imperiled), S2 (imperiled), or S3 (vulnerable)

Following the field survey, potentials for sensitive species to occur were evaluated based on proximity, recency and abundance of known occurrences, availability of suitable habitats, and historic distributions of the species. Potentials for occurrence were generally evaluated based on the following criteria:

- **Observed** – The species was observed within the Survey Area during the survey effort.
- **High** – Historic records indicate that the species has been known to occur within the vicinity of the Survey Area (5 miles), and suitable habitat occurs onsite.
- **Moderate** – Historic records indicate that the species has been known to occur within the vicinity of the Survey Area, but low-quality suitable habitat occurs onsite, or; no historic records occur within the Survey Area, but the Survey Area occurs within the historic range of the species, and moderate to high quality habitat occurs.
- **Low** – Historic records indicate that the species has not been known to occupy the immediate vicinity of the Survey Area, and low-quality habitat for the species exists onsite.
- **Unlikely** – The species is restricted to habitats not occurring within the Survey Area or is considered extirpated from the Survey Area.

## 4.0 RESULTS

### 4.1 Literature Review Results

The literature review resulted in a total of 20 sensitive wildlife species, 12 sensitive plant species, no sensitive natural communities, and no USFWS-designated critical habitat areas (Figure 3 and Figure 4) known to occur within five miles of the Project. From this list, 20 wildlife species and 12 plant species were determined to be sensitive based on the criteria described in Section 3.2 above. The potential, species status, and habitat requirements for each sensitive species are further described in Tables 2 and 3 in Sections 4.3 and 4.4 below.

### 4.2 General Biological Resources

The Survey Area consists of a relatively flat, undeveloped, rectangular area characterized by Creosote Bush Scrub, Creosote Bush Scrub – Disturbed, and Disturbed Habitat. Evidence of past disturbances include areas where a graded pad occur and excess native soil has been stockpiled in the western portion of the Survey Area, as well as occasional tire tracks from offroad vehicle use. The Project site occurs on vacant land that supports moderate-quality habitat; however, paved roads associated with residential and commercial developments further surround the Project in all other directions despite connectivity to similar habitat immediately to the northeast and southwest.

The Survey Area includes 0.35 acres of Creosote Bush Scrub, 0.08 acres of Creosote Bush Scrub – Disturbed, and 1.08 acres of Disturbed Habitat (Figure 5).

Vegetative cover ranged from 0% in bare ground areas of Disturbed Habitat to 25% in Creosote Bush Scrub and Creosote Bush Scrub – Disturbed habitats. Non-native plant species were more strongly correlated to disturbed Creosote Bush Scrub than the non-disturbed variant. Average shrub heights ranged from one to four feet. The Survey Area provides suitable habitat for many common and a few sensitive plant and wildlife species known to occur in the region.

A total of three vegetation communities and/or land cover types were observed within the Survey Area, including Creosote Bush Scrub, Creosote Bush Scrub – Disturbed, and Disturbed Habitat (Figure 5). Vegetation communities were preliminarily described according to *Preliminary Descriptions of the Terrestrial Natural Communities of California* (Holland 1986). Specific habitats were further described based on dominant plant(s) species generally characterizing the specific vegetation community.

### **Creosote Bush Scrub**

Within the Project Boundary, 0.35 acres of Creosote Bush Scrub (CBS) is present. Dominant species include creosote bush (*Larrea tridentata*), Mediterranean grass (*Schismus barbatus*), and Russian thistle (*Salsola tragus*). Within CBS, annual herbaceous coverage was generally low, with only a few grass and forb species sparsely covering the ground between shrubs. Shrub coverage ranged between 10 and 30 percent with an average shrub height of one to four feet.

### **Creosote Bush Scrub - Disturbed**

Within the Survey Area, 0.08 acres of Creosote Bush Scrub - Disturbed (CBS-D) is present, primarily associated with disturbed areas in the western half of the Project Boundary. These areas exhibit increased levels of anthropogenic disturbance where vegetation had been previously cleared or thinned adjacent to areas of Disturbed Habitat. Dominant species include creosote bush, Russian thistle, and rubber rabbitbrush (*Ericameria nauseosa*) with subdominant species that include Mediterranean grass and flatcrown buckwheat (*Eriogonum deflexum*). Within CBS-D, large areas of bare ground and increased dominance of non-native species are present. Shrub coverage was much less than the undisturbed CBS, ranging between 5 and 10 percent with an average shrub height of three feet.

### **Disturbed Habitat**

Within the Project Boundary, 1.08 acres of Disturbed Habitat is present, occurring as the dominant vegetation community type. Disturbed Habitat is characterized by a mosaic of bare ground and non-native ruderal species such as Mediterranean grass and redstem filaree (*Erodium cicutarium*). Disturbance includes dirt roads and tire tracks that are evident in nearly all areas of the Project Boundary except in the northeast portion.



**Table 1. Vegetation Communities/Land Cover Type Present**

Vegetation Community/ Land Use Type	Project Boundary (Acres)
Creosote Bush Scrub	0.35
Creosote Bush Scrub - Disturbed	0.08
Disturbed Habitat	1.08
<b>TOTAL</b>	<b>1.51</b>

**4.3 Sensitive Wildlife Species**

The literature review resulted in a list of 20 sensitive wildlife species with potential to occur within the Survey Area; however, no sensitive wildlife species were observed during the field survey.

One sensitive wildlife species has a high potential to occur within the Survey Area, the State-Threatened Mojave ground squirrel (*Xerospermophilus mohavensis*).

Two sensitive wildlife species, the burrowing owl and loggerhead shrike (*Lanius ludovicianus*), have a moderate potential to occur within the Survey Area due to the presence of suitable habitat and context of nearby occurrences.

Five sensitive wildlife species have a low potential to occur within the Survey Area due to the absence of habitat quality and connectivity and/or limited number of historic observation records within five miles of the Project.

All 20 wildlife species and their potentials for occurrence are further described in Table 2 below. A complete list of wildlife species observed during the survey is included in Attachment C.

**Table 2. Sensitive Wildlife Species Potentially Occurring Within the Survey Area**

Species Name	Listing Status	Habitat Requirements	Observed	Potential to Occur	Factual Basis for Potential
<b>Reptiles</b>					
<b>Western pond turtle</b> ( <i>Acitinemys marmorata</i> )	Federal: <b>FC</b> State: <b>SSC</b>	Found in ponds, lakes, rivers, streams, creeks, marshes, and irrigation ditches, with abundant vegetation, and either rocky or muddy bottoms, in woodland, forest,	No	<b>Unlikely</b>	Suitable habitat and obligatory water features do not occur in the Survey Area.



Species Name	Listing Status	Habitat Requirements	Observed	Potential to Occur	Factual Basis for Potential
		<p>and grassland. In streams, prefers pools to shallower areas. Logs, rocks, cattail mats, and exposed banks are required for basking. May enter brackish water and even seawater. Estivates during summer droughts by burying itself in mud.</p>			
<p><b>Desert tortoise</b> (<i>Gopherus agassizi</i>)</p>	<p>Federal: <b>FT</b> State: <b>ST</b></p>	<p>Found in canyon lands, sandy flats, desert washes, alluvial fans and rocky foothills of the Sonoran and Mojave Deserts, this long-lived species spends 95% of its time underground in burrows, shelters and pallets. Peak activity levels occur after seasonal rains when fresh foraging opportunities present themselves. This herbivorous species consumes a wide variety of plant matter.</p>	<p>No</p>	<p><b>Low</b></p>	<p>Suitable habitat for this species occurs in the Survey Area; however, no sign or suitable burrows were identified during the survey. Additionally, the Survey Area is surrounded by residential and commercial development and intersected by paved and dirt roads, resulting in a highly disturbed and fragmented landscape that would restrict movement of this species into the Survey Area.</p>

Species Name	Listing Status	Habitat Requirements	Observed	Potential to Occur	Factual Basis for Potential
<p><b>Blainville's horned lizard</b> (<i>Phrynosoma blainvillii</i>)</p>	<p>Federal: -- State: <b>SSC</b></p>	<p>Found in open areas of sandy soil and low vegetation in valleys, foothills, and semiarid mountains. Found in coastal sage scrub, chaparral, desert scrub, grassland, woodland, coniferous forest habitats. This species is commonly associated with native harvester ants.</p>	<p>No</p>	<p><b>Low</b></p>	<p>Suitable habitat for this species occurs in some areas on site. However, connectivity to these areas is interrupted by off-road driving and other disturbance factors; coupled with low shrub cover, overall suitability of the project site is limited.</p>
<p><b>Amphibians</b></p>					
<p><b>Arroyo toad</b> (<i>Anaxyrus californicus</i>)</p>	<p>Federal: <b>FE</b> State: <b>SSC</b></p>	<p>Requires low gradient streams with exposed sandy stream-sides and stable terraces for burrowing, with scattered vegetation for shelter, and quiet pools free of predatory fishes with sandy or gravel bottoms for breeding.</p>	<p>No</p>	<p><b>Unlikely</b></p>	<p>Suitable habitat and obligatory water features do not occur within the Survey Area.</p>
<p><b>California red-legged frog</b> (<i>Rana draytonii</i>)</p>	<p>Federal: <b>FT</b> State: <b>SSC</b></p>	<p>Found mainly near ponds in humid forests, woodlands, grasslands, coastal scrub, and streamsides with plant cover. Most common in lowlands or foothills. Breeding habitat is in permanent or</p>	<p>No</p>	<p><b>Unlikely</b></p>	<p>Suitable habitat and obligatory water features do not occur within the Survey Area.</p>

Species Name	Listing Status	Habitat Requirements	Observed	Potential to Occur	Factual Basis for Potential
		ephemeral water sources; lakes, ponds, reservoirs, slow streams, marshes, bogs, and swamps. Ephemeral wetland habitats require animal burrows or other moist refuges for estivation when the wetlands are dry.			
<b>Fish</b>					
<b>Mohave tui chub</b> ( <i>Siphateles bicolor mohavensis</i> )	Federal: <b>FE</b> State: <b>SE</b>	Formerly found in deep pools and slough-like areas of the Mojave River, this species now only occurs in highly modified refuge sites in San Bernardino County.	No	<b>Unlikely</b>	Suitable habitat and obligatory water features do not occur within the Survey Area. Considered extirpated from the area.
<b>Birds</b>					
<b>Tricolored blackbird</b> ( <i>Agelaius tricolor</i> )	Federal: -- State: <b>ST, SSC</b>	Nests in colonies and prefers freshwater marshes dominated by cattails or bulrushes and occasionally in willows, blackberries, thistles and nettles. Breeding habitat now includes diverse upland and agricultural areas. Small breeding colonies in southern California occur at lakes, reservoirs, and parks surrounded by urban development. Adults from such colonies may forage	No	<b>Unlikely</b>	Suitable breeding habitat does not occur within the Survey Area. Therefore, potential for occurrence is limited to transient or foraging behaviors and not breeding.

Species Name	Listing Status	Habitat Requirements	Observed	Potential to Occur	Factual Basis for Potential
		in nearby undeveloped uplands.			
<p><b>Golden eagle</b> (<i>Aquila chrysaetos</i>)</p>	<p>Federal: -- State: <b>FP</b></p>	<p>In Southern California, occupies grasslands, brushlands, deserts, oak savannas, open coniferous forests, and montane valleys. Typically nests on rock outcrops and ledges and forages semi-open areas primarily for rabbits and ground squirrels.</p>	<p>No</p>	<p><b>Unlikely</b></p>	<p>Suitable nesting habitat does not occur within the Survey Area. Although suitable prey species were observed onsite, foraging opportunities are limited by surrounding residential and commercial developments and limited natural perch sites.</p>
<p><b>Burrowing owl</b> (<i>Athene cunicularia</i>)</p>	<p>Federal: -- State: <b>SSC</b></p>	<p>Found in grasslands and open scrub habitats, but may also be found in vacant lots and other open disturbed areas. Occupies abandoned ground squirrel burrows as well as artificial structures such as culverts and underpasses.</p>	<p>No</p>	<p><b>Moderate</b></p>	<p>Low-quality suitable habitat for this species occurs within the Project Area with more suitability occurring within the 150m Survey Area. Several historical occurrences have been documented near the Project vicinity. Suitable ground squirrel burrows</p>

Species Name	Listing Status	Habitat Requirements	Observed	Potential to Occur	Factual Basis for Potential
					present within the Survey Area.
<b>Swainson's hawk</b> ( <i>Buteo swainsoni</i> )	Federal: -- State: <b>ST</b>	Prefers open habitats including plains, dry grasslands, agricultural fields, and ranchlands with nearby stands of trees for nesting sites.	No	<b>Low</b>	Suitable nesting habitat does not occur in or around the Survey Area. Connectivity to potential foraging habitat for migratory or dispersing individuals within the Project vicinity.
<b>Western yellow-billed cuckoo</b> ( <i>Coccyzus americanus occidentalis</i> )	Federal: <b>FT</b> State: <b>SE</b>	Restricted to dense, wide riparian woodlands with well-developed understories and a perennial water source for breeding. It occurs in densely foliated, deciduous trees and shrubs, especially willows.	No	<b>Unlikely</b>	Suitable habitat does not occur within the Survey Area or immediate vicinity.
<b>Southwestern willow flycatcher</b> ( <i>Empidonax traillii extimus</i> )	Federal: <b>FE</b> State: <b>SE</b>	Restricted to riparian woodlands along streams and rivers with mature, dense stands of willows, cottonwoods, or smaller spring fed or boggy areas with willows or alders.	No	<b>Unlikely</b>	Suitable habitat does not occur within the Survey Area or immediate vicinity.
<b>Yellow-breasted chat</b> ( <i>Icteria virens</i> )	Federal: -- State: <b>SSC</b>	This migratory species utilizes riparian woodlands, riparian scrub and tall, dense vegetation adjacent to riparian	No	<b>Unlikely</b>	Suitable habitat does not occur within the Survey Area or immediate vicinity.

Species Name	Listing Status	Habitat Requirements	Observed	Potential to Occur	Factual Basis for Potential
		and wetland systems for nesting and foraging purposes.			
<b>Loggerhead shrike</b> ( <i>Lanius ludovicianus</i> )	Federal: -- State: <b>SSC</b>	Inhabits open country with short vegetation and well-spaced shrubs or low trees, particularly those with spines or thorns. Frequents agricultural fields, pastures, old orchards, riparian areas, desert scrublands, savannas, prairies, golf courses and cemeteries.	No	<b>Moderate</b>	Suitable habitat occurs in the Survey Area for breeding and foraging.
<b>Summer tanager</b> ( <i>Piranga rubra</i> )	Federal: -- State: <b>SSC</b>	Inhabits mature riparian woodland, especially where Fremont cottonwoods form a fairly continuous canopy.	No	<b>Unlikely</b>	Suitable habitat does not occur within the Survey Area or immediate vicinity.
<b>Yellow warbler</b> ( <i>Setophaga petechia</i> )	Federal: -- State: <b>SSC</b>	Breeds in shrubby thickets and woods, particularly along watercourses and in wetlands.	No	<b>Low</b>	Suitable nesting habitat does not occur within the Survey Area; however, portions of the population are migratory and can be found foraging desert scrub habitats especially in Spring and Fall.

Species Name	Listing Status	Habitat Requirements	Observed	Potential to Occur	Factual Basis for Potential
<b>LeConte's thrasher</b> ( <i>Toxostoma lecontei</i> )	Federal: -- State: <b>SSC</b>	Found in open desert scrub, alkali desert scrub, and desert succulent scrub habitats of the arid southwest. Favored nest sites consist of low, dense cholla and other low shrubs.	No	<b>Low</b>	Suitable nesting substrate does not occur in the Survey Area. Low-quality foraging habitat occurs onsite but is limited.
<b>Least Bell's Vireo</b> ( <i>Vireo bellii pusillus</i> )	Federal: FE State: SE	Occupies riverine riparian habitats that typically feature dense cover within 1-2 meters of the ground and a dense, stratified canopy. It inhabits low, dense riparian growth along water or along dry parts of intermittent streams. Primarily associated with willows and mule fat.	No	<b>Unlikely</b>	Suitable habitat does not occur within the Survey Area or immediate vicinity.
<b>Mammals</b>					
<b>Mojave ground squirrel</b> ( <i>Xerospermophilus mohavensis</i> )	Federal: -- State: <b>ST</b>	Occurs in open desert scrub, alkali desert scrub, Joshua tree woodland, and annual grasslands with preference for sandy to gravelly soils. Uses burrows at the base of shrubs for cover and nests are built within a burrow system.	No	<b>High</b>	Several suitable burrows observed onsite in suitable habitat.
<b>Mojave river vole</b> ( <i>Microtus californicus mohavensis</i> )	Federal: -- State: <b>SSC</b>	Occurs within moist areas of the grassy or riparian areas of the Mojave River corridor within riparian areas, oak woodlands,	No	<b>Unlikely</b>	Suitable habitat does not occur within the Survey Area or immediate vicinity.



Species Name	Listing Status	Habitat Requirements	Observed	Potential to Occur	Factual Basis for Potential
		grasslands, and freshwater marshes, and irrigated pastures where flooding does not occur regularly.			

#### 4.4 Sensitive Plant Species

The literature review resulted in a list of 12 sensitive plant species with potential to occur in the Survey Area.

One sensitive plant species identified during the database review was observed within the Project site during the field survey, the western Joshua tree. This observation was consistent with the findings detailed in the project-specific *Western Joshua Tree Survey Report* (Hunter 2023).

These species and their potentials for occurrence are further described in Table 3 below. A complete list of plant species observed is included in Attachment C.

**Table 3. Sensitive Plant Species Observed or Potentially Occurring Within the Survey Area**

Species Name	Listing Status	Habitat Requirements	Observed	Potential to Occur	Factual Basis for Potential
<b>Pinyon rockcress</b> ( <i>Boechera dispar</i> )	Federal: -- State: -- CRPR: 2B.3 County: --	Perennial herb occurs in rocky slopes with gravelly soil in desert scrub and pinyon-juniper woodland, and Joshua tree woodland associated with desert and mountain areas. Blooms: Mar-Jun Elevation: 1,200-2,540 m	No	<b>Unlikely</b>	Suitable habitat does not occur within the Survey Area.
<b>Desert cymopterus</b> ( <i>Cymopterus deserticola</i> )	Federal: -- State: -- CRPR: 1B.2 County: --	Endemic to western Mojave Desert. Occurs in deep, loose, well-drained, fine and coarse sandy soils of alluvial fans and basins in creosote bush scrub, desert saltbush scrub,	No	<b>Low</b>	Low-quality habitat and soil occur within the Survey Area.

Species Name	Listing Status	Habitat Requirements	Observed	Potential to Occur	Factual Basis for Potential
		and Joshua tree woodland. Blooms: Mar-May Elevation: 630-1,500 m			
<b>Mojave monkeyflower</b> ( <i>Diplacus mohavensis</i> )	Federal: -- State: -- CRPR: 1B.2 County: --	Annual herb endemic to the Mojave Desert found in gravelly, sandy habitat associated with creosote bush scrub and Joshua tree woodland communities and arroyos. Blooms: Apr-Jun Elevation: 600-1200 m	No	<b>Low</b>	Low-quality suitable habitat occurs onsite, however elevation range within the Survey Area is less suitable.
<b>San Bernardino Mountains dudleya</b> ( <i>Dudleya abramsii</i> ssp. <i>affinis</i> )	Federal: -- State: -- CRPR: 1B.2 County: --	Perennial herb endemic to parts of the San Bernardino Mountains in well-draining, rocky soils of pebble plain, pinyon and juniper woodland, and upper montane coniferous forest. Found in granitic, carbonate, and sometimes quartzite outcroppings. Blooms: Apr-Jul Elevation: 1,250-2,600 m	No	<b>Unlikely</b>	Suitable habitat does not occur within the Survey Area.
<b>Booth's evening primrose</b> ( <i>Eremothera boothii</i> ssp. <i>boothii</i> )	Federal: -- State: -- CRPR: 2B.3 County: --	Annual herb that occurs in sandy flats and steep, loose slopes associated within pinyon-juniper woodland and Joshua tree woodland. Blooms: Apr-Sep Elevation: 815-2,400 m	No	<b>Low</b>	Low-quality suitable habitat occurs within the Survey Area.
<b>Sagebrush loefingia</b>	Federal: -- State: -- CRPR: 2B.2	Annual herb that occurs in dry soils and loose sands of	No	<b>Unlikely</b>	Suitable habitat and elevation

Species Name	Listing Status	Habitat Requirements	Observed	Potential to Occur	Factual Basis for Potential
( <i>Loeflingia squarrosa</i> var. <i>artemisiarum</i> )	County: --	washes, areas bordering clay slicks and stabilized, low sand dunes. Known to occur in desert dunes, great basin scrub, and Sonoran Desert scrub. Blooms: Apr-May Elevation: 700-1,295 m			range do not occur within the Survey Area.
<b>Short-joint beavertail</b> ( <i>Opuntia basilaris</i> var. <i>brachyclada</i> )	Federal: -- State: Harvest regulated by Desert Native Plant Act CRPR: 1B.2 County: Harvest regulated by San Bernardino County Development Code	A shrub-like succulent associated with Joshua tree woodland, Mojave Desert scrub, and pinyon-juniper woodland in sandy soils of slopes above the desert floor. Blooms: Apr-Jun Elevation: 425-1,800 m	No	<b>Unlikely</b>	Suitable habitat and elevation range do not occur within the Survey Area.
<b>Beaver dam breadroot</b> ( <i>Pediomelum castoreum</i> )	Federal: -- State: -- CRPR: 1B.2 County: --	A perennial herb that grows in open areas and roadcuts, including disturbed areas. Blooms: Apr-May Elevation: 610-1,525 m	No	<b>Low</b>	Suitable elevation range does not occur within the Survey Area.
<b>Latimer's woodland-gilia</b> ( <i>Saltugilia latimeri</i> )	Federal: -- State: -- CRPR: 1B.2 County: --	Annual herb that occurs along dry desert slopes within coarse sand to rocky soils. Blooms: Mar-Jun Elevation: 400-1,900 m	No	<b>Unlikely</b>	Suitable habitat and elevation range do not occur within the Survey Area.
<b>Southern mountains skullcap</b> ( <i>Scutellaria bolanderi</i> ssp. <i>austromontana</i> )	Federal: -- State: -- CRPR: 1B.2 County: --	A perennial rhizomatous herb typically occurring in mesic soils in chaparral, cismontane woodland, lower	No	<b>Unlikely</b>	Suitable habitat does not occur within the Survey Area

Species Name	Listing Status	Habitat Requirements	Observed	Potential to Occur	Factual Basis for Potential
		montane coniferous forest habitats. Blooms: Jun-Aug Elevation: 425-2000 m			
<b>San Bernardino aster</b> ( <i>Symphotrichum defoliatum</i> )	Federal: -- State: -- CRPR: 1B.2 County: --	Usually found near ditches, streams or springs in cismontane woodland, coastal scrub, lower montane coniferous forest, meadow and seep, marsh and swamp and valley and foothill grassland communities (vernally mesic). Blooms: Jul-Nov Elevation: 0-2280 m	No	<b>Unlikely</b>	Suitable habitat does not occur within the Survey Area.
<b>Western Joshua tree</b> ( <i>Yucca brevifolia</i> )	Federal: -- State: SC, Harvest regulated by Desert Native Plant Act CRPR: 1B.2 County: Harvest regulated by San Bernardino County Development Code	A perennial succulent that occurs in Joshua tree woodland, creosote bush scrub, and pinyon-juniper woodland habitats. Requires well-drained soils. Blooms: Apr-May Elevation: 400-2,000 m	Yes	<b>Observed</b>	One occurrence of this species was observed within the Project site in an area planned for development.

#### 4.5 Protected Plants

One protected plant species was identified within the Project site during the biological resources assessment, the western Joshua tree.

In addition to the field survey conducted by Blackhawk biologists, a complete inventory of all western Joshua trees (alive and dead) was conducted by Ryan Hunter and Brian Bunyi of RCA Associates on September 6, 2023, which identified one western Joshua tree within the Project boundary. The specific western Joshua tree location is situated within areas planned for development. The location for this tree is depicted on the Vegetation Communities map (Figure 5).

#### 4.6 Aquatic Resources

No wetlands, non-wetland waters, or desert riparian areas occur in any portion of the Survey Area.

### 5.0 IMPACTS AND MITIGATION MEASURES

#### 5.1 General Biological Resources

Development of the proposed Project will impact the general biological resources on the site since plans call for grading of land and construction of impermeable surfaces associated with a new Raising Cane's restaurant facility and associated access driveways. Plants and wildlife will be impacted (directly and indirectly) causing mortality to plants and wildlife species with limited mobility (small mammals and reptiles), as well as displacement of wildlife species with more mobility (birds and larger mammals). Impacts to general biological resources can be avoided and/or minimized with the implementation of the following mitigation measures.

- **Mitigation Measure BIO-1:** A qualified biologist obtained by the City of Victorville Planning Department shall develop a Worker Environmental Awareness Program (WEAP) that will include information on general and special status species within the Project site, identification of these species and their habitats, techniques being implemented during construction to avoid impacts to species, consequences of killing or injuring an individual of a listed species and reporting procedures when encountering listed or sensitive species. The WEAP will be submitted to the City of Victorville Planning Department for approval before implementation. Construction crews, foremen, and other personnel potentially working on site will attend this education program and place their name on a sign-in sheet. This briefing shall include provisions of any requirements required for the project. The Worker Environmental Awareness Program training will be implemented on the first day of work and periodically throughout construction as needed. The WEAP sign-in sheet will then be submitted to the City of Victorville Planning Department for documentation.
- **Mitigation Measure BIO-2:** Bird nesting season generally extends from February 1 through September 15 in southern California and specifically, April 15 through August 31 for migratory passerine birds. In general, projects should be constructed outside of this time to avoid impacts to nesting birds. If a project cannot be constructed outside of nesting season, the project site shall be surveyed for nesting birds by a qualified avian biologist obtained by the City of Victorville Planning Department within three (3) days prior to initiating the construction activities. If active nests are found during the pre-construction nesting bird surveys, a Nesting Bird Plan (NBP) will be prepared by the qualified avian biologist and implemented. At a minimum, the NBP will include guidelines for addressing active nests, establishing buffers, monitoring, and reporting. The NBP will include a copy of maps showing the location of all nests and an appropriate buffer zone around each nest sufficient to protect the nest from direct and indirect impact. The size and location of all buffer zones, if required, shall be determined by the biologist, and shall be based on the nesting species, its sensitivity to disturbance, and expected types of disturbance. The nests and buffer zones shall be field checked weekly by a qualified biological monitor. The approved buffer zone shall be marked in the field with construction fencing, within which no vegetation clearing or ground disturbance shall commence until the qualified biologist has determined the young birds have successfully fledged. Following the nesting bird survey(s), a

report with findings will be prepared by the qualified avian biologist and submitted to the City of Victorville Planning Department for documentation.

## 5.2 Sensitive Wildlife and Plant Species

The database and literature review did not reveal any documented observations of any listed or otherwise sensitive wildlife species within the Survey Area. The Project site is not expected to support populations of desert tortoise despite the presence of suitable habitat given the absence of sign (i.e., burrows, tracks, scat, etc.) and the lack of suitable burrows. Furthermore, the isolated nature of the parcel (surrounded by rural residential development) renders the overall potential of tortoise occupying the site as low. Although not observed during the survey, Blainville's horned lizard and Le Conte's thrasher each have a moderate potential to be present on the Project site. Impacts to these species may be minimized or avoided altogether by implementing Mitigation Measures BIO-1 and BIO-2, as well as the following mitigation measure.

- **Mitigation Measure BIO-3:** A biologist experienced with identification of the sensitive and common biological resources in the region shall be present to monitor all initial ground disturbing and vegetation clearing activities regardless of the time of year such activities are scheduled to begin (biological monitor). The biological monitor shall perform biological clearance sweeps at the start of each workday that ground disturbing activities take place. The biological monitor shall be present on a full-time basis during the initial ground-disturbing and vegetation-clearing activities to ensure the activities do not affect sensitive biological resources and to move or redirect wildlife out of harm's way as necessary. The monitor will be responsible for communicating regularly with the Project Proponent and onsite contractor on non-compliance issues and ways to ensure that impacts to sensitive biological resources will be avoided to the fullest extent possible in accordance with the appropriate Project agreements and permits, as applicable. Biological monitoring shall take place until the Proposed Project impact area has been completely cleared of any vegetation. The biological monitor shall keep a record of monitoring activities in a log that contains representative photographs of the work activities monitored and any sensitive biological resources incidentally encountered during Project activities and provide them to the City upon request.

Aside from Joshua tree, no other federal or State-listed plant species were observed or detected in the Survey Area. Every reasonable effort has been made to avoid and minimize impacts to, and the taking of, western Joshua trees on the Project site; however, the one western Joshua tree that occurs within the Project Area is situated within areas planned for development. The loss of a single (one) western Joshua tree is not expected to have a significant cumulative impact on overall associated biological resources because higher quality habitat is found throughout the surrounding desert region. The one western Joshua tree present within the Project site is 1 meter in height, in poor condition due to excessive leaning, and has been determined to not be suitable for replanting or transplantation (Hunter 2023). Therefore, take authorization and the following mitigation measure will apply.

- **Mitigation Measure BIO-4:** The Western Joshua Tree Conservation Act effective July 10, 2023, prohibits the importation, export, take, possession, purchase, or sale of any western Joshua tree in California unless authorized by the CDFW.

A western Joshua tree census will be conducted throughout the Project site to determine the number of trees present, their locations, size, health status, and impacts as directed by CDFW



(Census Instructions (ca.gov)). The census will include but not be limited to quantifying the trees within the proposed project's impact footprint, measurements, flower/fruit status, and photographs. A census Report including CDFW WJTCA incidental take permit application form (Section 1927.3 CDFW 405); description of the methodology used to conduct the census; data sheets; and maps showing the location of trees in the Project area will be prepared and submitted to the City of Victorville for initial review then to CDFW for final review and approval. Following CDFW review and approval of the permit application, the CDFW will provide the applicant an invoice for the required mitigation in-lieu fee.

In-lieu fees streamline the approach to permitting and will allow permittees to satisfy mitigation obligations by paying a set amount for the take of each individual western Joshua tree, based on the tree's height and location. Under the WJTCA, all in-lieu fees collected will be deposited into the Western Joshua Tree Conservation Fund for appropriation to CDFW solely for the purposes of acquiring, conserving, and managing western Joshua tree conservation lands and completing other activities to conserve the western Joshua tree.

A summary of applicable western Joshua tree mitigation fees (City of Victorville 2023) is provided in Table 4 below.

**Table 4. Reduced Western Joshua Tree Mitigation Fee Schedule (CA Fish and Game Code Section 1927.3[d])**

Western Joshua tree categories by height	Associated fee
Trees 5 meters or greater in height	\$1,000.00
Trees 1 meter or greater but less than 5 meters in height	\$200.00
Trees less than 1 meter in height	\$150.00

The Project site contains suitable habitat for burrowing owls within the Project Boundary and 150-meter buffer burrowing owl survey area. Several burrowing owl occurrence records are within the immediate vicinity of the Project despite the absence of burrowing owl sign detected during the burrowing owl Habitat Assessment survey. Evidence of routine disturbance somewhat limits the potential for burrowing owls to occupy the Project Area. In order to minimize or avoid impacts to burrowing owl, Breeding Season Surveys are recommended in accordance with the California Department of Fish and Game (CDFG) Staff Report on Burrowing Owl Mitigation (CDFG 2012) as well as the following mitigation measure.

- Mitigation Measure BIO-05:** Pre-construction take avoidance surveys for burrowing owl shall be completed for the Project prior to the start of initial ground-disturbing activities. The surveys shall be performed on the property and within a 500-foot buffer, where accessible, in accordance with the take avoidance survey methods identified in the CDFG Staff Report on Burrowing Owl Mitigation (CDFG 2012). The first survey shall be conducted within 14 days prior to the start of initial ground-disturbing activities and a second survey shall be conducted no more than 24 hours prior to the start of initial ground-disturbing activities (including vegetation removal). If survey results are negative, Project activities may occur and no additional protection measures are required. If burrowing owl or occupied burrowing owl burrow(s) (e.g., whitewash, feathers, pellets, bones of prey items) is/are observed on or immediately adjacent to the Proposed Project impact area, additional mitigation measures will need to be implemented to offset impacts to burrowing owl. These measures shall be developed in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012) and may include additional biological

monitoring, seasonal work restrictions, establishing a non-disturbance buffer around each burrow location, or passive relocation. Coordination with CDFW may need to occur to perform passive relocation of burrowing owls and/or to devise a specific mitigation methodology for the Project Site if one is found to be necessary.

### **5.3 Aquatic Resources**

No wetlands, non-wetland waters, or desert riparian areas potentially regulated by USACE, RWQCB and/or CDFW are present within the Survey Area. Permits are therefore not required from any of the three regulatory agencies.

## **6.0 CONCLUSIONS AND RECOMMENDATIONS**

Every effort has been made to avoid and minimize impacts to biological resources on the Project site. Any Project impacts to plants or trees protected by the California Endangered Species Act, California Desert Native Plants Act, City of Victorville Municipal Code, and/or San Bernardino County Development Code will be mitigated through the procurement of a permit from the State and/or County and payment of any requisite fees, implementation of industry standard Best Management Practices (BMPs), and implementation of mitigation measures detailed herein. The isolated nature of the parcel (surrounded by urban development), lack of regional wildlife movement corridors, evidence of previous disturbance and disturbed habitat, as well as efforts to implement BMPs and mitigation measures ensure that Project impacts remain less than significant.





## 7.0 SURVEYOR CERTIFICATION

This report was prepared for Kimley-Horn and Associates, Inc. All data, statements, analyses, findings, and attachments within this report are accurate and truthful in terms of describing the existing conditions and the Project as proposed to Blackhawk and are based on best available knowledge at the time of the report. Any use which a third party makes of this report, or any reliance on or decisions made based on it, are the responsibilities of such third parties. Blackhawk Environmental accepts no responsibility for damages, if any, suffered by any third party as a result of decisions made or actions based on this report.

A handwritten signature in black ink that reads 'K Quint'.

Katie Quint  
Staff Biologist

## 8.0 REFERENCES

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