

## 5. Environmental Analysis

### 5.3 BIOLOGICAL RESOURCES

This section of the Draft Environmental Impact Report (DEIR) evaluates the potential for the Ontario Ranch Business Park Specific Plan (proposed project) to impact biological resources. The analysis in this section is based in part on the following technical report(s):

- *General Biological Assessment for Ontario Ranch Business Center*, Hernandez Environmental Services, September 2019 (Updated January 2020; Appendix D1).
- *Focused Burrowing Owl Surveys*, Ecological Sciences, Inc., October 17, 2019 (Appendix D2).
- *Biological Technical Report for Off-Site Improvements in Support of Ontario Ranch Business Park*, Glenn Lukos Associates, Inc., December 18, 2019. (Appendix D3)
- *General Habitat Suitability Evaluation Ontario Ranch Business Park Off-Site Improvements*, Ecological Sciences, Inc., December 15, 2019. (Appendix D4)

A complete copy of these reports are provided in the DEIR Appendices D1–D4. Appendices D3 and D4 evaluate biological resources in the “off-site improvement area” identified Figures 3-7a, 3-7b, 3-8, 3-9, and 3-10 of this DEIR.

#### 5.3.1 Environmental Setting

##### 5.3.1.1 REGULATORY BACKGROUND

###### Federal

###### *Endangered Species Act*

The Federal Endangered Species Act (FESA) of 1973, as amended, protects and conserves any species of plant or animal that is endangered or threatened with extinction, as well as the habitats where these species are found. “Take” of endangered species is prohibited under Section 9 of the FESA. “Take” means to “harass, harm, pursue, hunt, wound, kill, trap, capture, collect, or attempt to engage in any such conduct.” Section 7 of the FESA requires federal agencies to consult with the U.S. Fish and Wildlife Service (USFWS) on proposed federal actions that may affect any endangered, threatened, or proposed (for listing) species or critical habitat that may support the species. Section 4(a) of the FESA requires that critical habitat be designated by the USFWS “to the maximum extent prudent and determinable, at the time a species is determined to be endangered or threatened.” This provides guidance for planners/managers and biologists by indicating locations of suitable habitat and where preservation of a particular species has high priority. Section 10 of the FESA provides the regulatory mechanism for incidental take of a listed species by private interests and nonfederal government agencies during lawful activities. Habitat conservation plans (HCPs) for the impacted species must be developed in support of incidental take permits to minimize impacts to the species and formulate viable mitigation measures.

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#### *Migratory Bird Treaty Act*

The Migratory Bird Treaty Act of 1918 (MBTA) affirms and implements the United States' commitment to four international conventions—with Canada, Japan, Mexico, and Russia—to protect shared migratory bird resources. The MBTA governs the take, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests. It prohibits the take, possession, import, export, transport, sale, purchase, barter, or offering of these items, except under a valid permit or as permitted in the implementing regulations. USFWS administers permits to take migratory birds in accordance with the MBTA.

#### *Clean Water Act, Section 404*

The United States Army Corps of Engineers (Corps) regulates discharge of dredged or fill material into “waters of the United States.”<sup>1</sup> Any filling or dredging within waters of the United States requires a permit, which entails assessment of potential adverse impacts to Corps wetlands and jurisdictional waters and any mitigation measures that the Corps requires. Section 7 consultation with USFWS may be required for impacts to a federally listed species. If cultural resources may be present, Section 106 review may also be required. When a Section 404 permit is required, a Section 401 Water Quality Certification is also required from the Regional Water Quality Control Board (RWQCB).

#### *Clean Water Act, Section 401 and 402*

Section 401(a)(1) of the CWA specifies that any applicant for a federal license or permit to conduct any activity that may result in any discharge into navigable waters shall provide the federal permitting agency with a certification, issued by the state in which the discharge originates, that any such discharge will comply with the applicable provisions of the CWA. In California, the applicable RWQCB must certify that the project will comply with water quality standards. Permits requiring Section 401 certification include Corps Section 404 permits and National Pollutant Discharge Elimination System (NPDES) permits issued by the Environmental Protection Agency (EPA) under Section 402 of the CWA. NPDES permits are issued by the applicable RWQCB. The City of Ontario is in the jurisdiction of the Santa Ana RWQCB (Region 8).

### State

#### *California Fish and Game Code, Section 1600*

Section 1600 of the California Fish and Game Code requires a project proponent to notify the California Department of Fish and Wildlife (CDFW) of any proposed alteration of streambeds, rivers, and lakes. The intent is to protect habitats that are important to fish and wildlife. CDFW may review and place conditions on

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<sup>1</sup> "Waters of the United States," as applied to the jurisdictional limits of the Corps under the Clean Water Act, includes all waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the tide; all interstate waters, including interstate wetlands; and all other waters, such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds whose use, degradation, or destruction could affect interstate or foreign commerce; water impoundments; tributaries of waters; territorial seas; and wetlands adjacent to waters. The terminology used by Section 404 of the Clean Water Act includes “navigable waters,” which is defined at Section 502(7) of the act as “waters of the United States, including the territorial seas.”

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the project, as part of a Streambed Alteration Agreement (SAA), that address potentially significant adverse impacts within CDFW's jurisdictional limits.

### *California Fish and Game Code, Sections 3503.5, 3511, 3515*

Section 3503.5 of the California Fish and Game Code states that it is “unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto.” Activities that result in the abandonment of an active bird of prey nest may also be considered in violation of this code. In addition, California Fish and Game Code, Section 3511 prohibits the taking of any bird listed as fully protected, and California Fish and Game Code, Section 3515 states that it is unlawful to take any non-game migratory bird protected under the MBTA.

### *California Endangered Species Act*

The California Endangered Species Act (CESA) generally parallels the main provisions of the FESA and is administered by the CDFW. Its intent is to prohibit take and protect state-listed endangered and threatened species of fish, wildlife, and plants. Unlike its federal counterpart, CESA also applies the take prohibitions to species petitioned for listing (state candidates). Candidate species may be afforded temporary protection as though they were already listed as threatened or endangered at the discretion of the Fish and Game Commission. Unlike the FESA, CESA does not include listing provisions for invertebrate species. Under certain conditions, CESA has provisions for take through a 2081 permit or memorandum of understanding (MOU). In addition, some sensitive mammals and birds are protected by the state as “fully protected species.” California “species of special concern” are species designated as vulnerable to extinction due to declining population levels, limited ranges, and/or continuing threats. This list is primarily a working document for the CDFW's California Natural Diversity Database (CNDDDB), which maintains a record of known and recorded occurrences of sensitive species. Informally listed taxa are not protected per se, but warrant consideration in the preparation of biological resources assessments.

## Local

### *City of Ontario General Plan*

The City of Ontario General Plan Environmental Resources Element contains goals and policies which pertain to protecting biological resources in Ontario:

- **Policy ER5-2, *Entitlement and Permitting Process***, states that the City complies with state and federal regulations regarding protected species.

### *City of Ontario Municipal Code*

Chapter 2, *Parkway Trees*, provides provisions on the preservation, regulation on the maintenance and removal of parkway trees, and establishes types and the locations for planting parkway trees. Parkway is defined as “...that portion of any public street right-of-way between the right-of-way boundary line and the curb line, and also the area enclosed within the curblines of a medial divider.” The property owner abutting upon public

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rights-of-way is responsible to water any tree located in the parkway and for trimming that can be done from the ground to preserve the neat appearance and non-obstructed use of the parkway, while the City is responsible for all major pruning. Removal or relocation of any parkway tree requires prior authorization from the Public Works Agency of the City through a permit process, and planting of a replacement tree, whenever feasible, shall be a condition included in any permit issued by the City for the removal of any parkway tree. Alternatively, a cash-in-lieu deposit may be accepted by the City as an alternate to the actual planting of any required parkway tree based on a fair value established by the Public Facilities Manager.

#### *City of Chino, The Preserve Resource Management Plan*

Off-site flood control improvements to the Grove Channel within the Chino Airport, which are necessary to accommodate proposed development in the project area, are located within the boundary of the City of Chino's "The Preserve Specific Plan" (EDAW AECOM 2011 [amended]) and The Preserve, Chino Sphere of Influence – Subarea 2, Environmental Impact Report (EIR) (Michael Brandman Associates, 2003a). A Resources Management Plan (RMP) (Michael Brandman Associates, 2003b) was adopted and provides the roadmap for successfully implementing the vision and requirements of the Specific Plan and the EIR. Therefore, this report provides analysis and mitigation consistent with the RMP for resources located within the RMP boundary; specifically, burrowing owl.

#### 5.3.1.2 EXISTING CONDITIONS

The project site contains an operational dairy farm, dairy barn, storage structure, approximately 10 feed storage barns, and numerous livestock corrals within the northeastern portion of the site. The project site contains two residential structures at the northeastern portion of the site, along Eucalyptus Avenue. The front lawns of these residential structures contain grass and ornamental trees. A majority of the project site is used as irrigated cropland with berms located along the site perimeter. Additionally, the site contains two large existing retention ponds, one in the central portion of the site and the other at the southern portion of the site, closest to the Euclid Avenue and Merrill Avenue intersection.

#### Plant Communities/Habitat

The project site is dominated by four habitat types – approximately 46 acres of agriculture fields, 31.9 acres of disturbed agriculture infrastructure, 5.22 acres of stock/retention ponds, and 1.06 acres of disturbed non-vegetated areas (HES 2020). The entire site has been disturbed by agricultural use and no native habitat is present.

- **Agriculture Fields.** The project site contains approximately 46 acres of agriculture fields which are currently used to grow corn. Small portions of these fields are used for cattle grazing; the agriculture fields are disturbed and dominated by non-native species of grasses and plants. Species observed include *Avena* sp., *Bromus* sp., and alfalfa (*Medicago sativa*).
- **Disturbed Agriculture Infrastructure.** The project site contains approximately 31.9 acres of disturbed agriculture infrastructure. These contain no native habitat and are currently used for containing livestock. These areas are predominantly developed with agricultural-use structures or residential buildings. The

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majority of these areas consist of bare ground associated with active livestock corrals. Vegetation within these areas consists of non-native ornamental plant species.

- **Stock/Retention Ponds.** The project site contains approximately 5.22 acres of areas stock/retention ponds. These ponds are man-made and fed by wells. The ponds are dominated by rushes (*Juncus* sp.) and sedges (*Carex* sp.)
- **Disturbed Non-Vegetated Areas.** The project site contains approximately 1.06 acres of dirt roads and pull-outs that are well maintained and devoid of vegetation.

### Sensitive Resources

A biological resources assessment was prepared by Hernandez Environmental Services. A records search indicated that a total of 45 sensitive plant species and 57 sensitive species of animals have the potential to occur within the vicinity of the project area, which include those species listed or candidates for listing by the United States Fish and Wildlife Service (USFWS), California Department of Fish and Wildlife (CDFW), and California Native Plant Society (CNPS). Based on this inventory, all habitats with the potential to be used by sensitive species were evaluated during the site visit conducted as part of the biological resources assessment, and a determination has been made for the presence or probability of presence for each species (refer to Appendix B of Appendix D1, Biological Resources, in this DEIR). Biological resources assessments were also prepared for the off-site improvement areas identified in Figures 3-7a, 3-7b, 3-8, 3-9, and 3-10. Special status plants evaluated in the off-site study area are identified in Table 4-2 of Appendix D3.

### *Sensitive Plants*

A total of 17 plant species are listed as state and/or federal Threatened, Endangered, or Candidate species; are 1B.1 listed plants on the CNPS Rare Plant Inventory; or have been found to have a potential to exist on the project site, as determined within Appendix B of Appendix D1 of this DEIR. The site visit conducted was not conducted during the blooming season for the majority of these plant species. However, no special-status plant species were detected on the site during the reconnaissance surveys and no special-status plant species are expected to occur on the site due to lack of suitable habitat. Longstanding weed abatement/fire break discing and other anthropogenic disturbances have likely altered soil chemistry and other substrate characteristics such that on-site soils may not currently be capable of supporting sensitive plant species. Based on current site conditions and continual anthropogenic disturbances, it was determined that the project site does not provide suitable habitat, and the 17 plant species are presumed absent. Furthermore, no special-status plants were detected in the off-site improvement area.

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**Table 5.3-1 Plant Species with the Potential to Occur on the Project Site**

Species	Rank	Habitat	Presence
Chaparral Sand-verbena ( <i>Abronia villosa</i> var. <i>aurita</i> )	CNPS Rare Plant Inventory 1B.1	Found in sandy areas of chaparral, coastal scrub, and desert dunes habitats.	Not present. No habitat for this species is present on the project site.
Braunton's milk-vetch ( <i>Astragalus brauntonii</i> )	Federally listed endangered sp. CNPS Rare Plant Inventory 1B.1	Found in recently burned or disturbed areas, usually on sandstone with arbonate layers. Its habitat includes chaparral, coastal scrub, valley, and foothill grassland.	Not present. No habitat for this species is present on the project site.
Malibu baccharis ( <i>Baccharis malibuensis</i> )	CNPS Rare Plant Inventory 1B.1	Found in Conejo volcanic substrates and often on exposed roadcuts. It sometimes occupies oak woodland habitat and grows at elevations of 150 to 320 meters. Its habitat includes chaparral, cismontane woodland, coastal scrub, and Riparian woodland.	Not present. No habitat for this species is present on the project site.
Lucky morning-glory ( <i>Calystegia felix</i> )	CNPS Rare Plant Inventory 1B.1	Found in disturbed sites near the coast, at marsh edges. It is also found in alkaline soils and sometimes with saltgrass. This species is sometimes found on vernal pool margins. Its habitat includes meadow and seep, and riparian scrub.	Not present. No habitat for this species is present on the project site.
Southern tarplant ( <i>Centromadia parryi</i> ssp. <i>australis</i> )	CNPS Rare Plant Inventory 1B.1	Often found in disturbed sites near the coast, at marsh edges. It is also grows in alkaline soils, sometimes with saltgrass and on vernal pool margins. Its habitat includes marsh and swamp, salt marsh, valley and foothill grassland, vernal pool, and wetland.	Not present. No habitat for this species is present on the project site.
Smooth tarplant ( <i>Centromadia pungens</i> ssp. <i>laevis</i> )	CNPS Rare Plant Inventory 1B.1	Habitat includes alkali playa, chenopod scrub, meadows and seeps, riparian woodlands, wetlands, and valley and foothill grasslands.	Not present. No habitat for this species is present on the project site.
San Fernando Valley spineflower (Chorizanthe parryi var. Fernandina)	Federally proposed threatened sp. State listed endangered sp. CNPS Rare Plant Inventory 1B.1	Found in sandy soils. Its habitat includes coastal scrub, and valley and foothill grassland.	Not present. No habitat for this species is present on the project site.
Parry's spineflower (Chorizanthe parryi var. parryi)	CNPS Rare Plant Inventory 1B.1	The species occurs in dry, sandy soils on dry slopes and flats, sometimes at the interface of two vegetations types, such as chaparral and oak woodland. Its habitat includes coastal scrub, chaparral, cismontane woodland, valley and foothill grassland.	Not present. No habitat for this species is present on the project site.
Slender - horned spineflower ( <i>Dodecahema leptoceras</i> )	Federally listed endangered sp. State listed endangered sp. CNPS Rare Plant Inventory 1B.1	Typically found near flood deposited terraces and washes. Its habitat includes chaparral, cismontane woodland, and coastal scrub (alluvial fan sage scrub).	Not present. No habitat for this species is present on the project site.
Santa Ana River woollystar ( <i>Eriastrum densifolium</i> ssp. <i>sanctorum</i> )	Federally listed endangered sp. State listed endangered sp. CNPS Rare Plant Inventory 1B.1	Typically found in sandy soils on river floodplains or terraced fluvial deposits. Its habitat includes chaparral and coastal scrub.	Not present. No habitat for this species is present on the project site.

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**Table 5.3-1 Plant Species with the Potential to Occur on the Project Site**

Species	Rank	Habitat	Presence
Tecate cypress ( <i>Hesperocyparis forbesii</i> )	CNPS Rare Plant Inventory 1B.1	Found on clay or gabbro, primarily on north-facing slopes and in groves often associated with chaparral habitat. Its habitat includes closed-cone coniferous forest, and chaparral.	Not present. No habitat for this species is present on the project site.
Mesa horkelia ( <i>Horkelia cuneate var. puberula</i> )	CNPS Rare Plant Inventory 1B.1	Typically found in sandy or gravelly sites. Its habitat includes chaparral, cismontane woodland, and coastal scrub.	Not present. No habitat for this species is present on the project site.
Jokerst's monardella ( <i>Monardella australis ssp. jokerstii</i> )	CNPS Rare Plant Inventory 1B.1	Found on steep scree or talus slopes between breccia. Its habitat includes chaparral, and lower montane coniferous forest.	Not present. No habitat for this species is present on the project site.
Gambel's water cress ( <i>Nasturtium gambelii</i> )	Federally listed endangered sp. State listed threatened sp. CNPS Rare Plant Inventory 1B.1	Found in freshwater and brackish marshes at the margins of lakes and along streams, in or just above the water level. Its habitat includes brackish marsh, freshwater marsh, marsh and swamp, and wetland.	Not present. No marshes or swamps are present on the project site. Only man-made stock ponds are present on the project site.
Prostrate vernal pool navarretia ( <i>Navarretia prostrata</i> )	CNPS Rare Plant Inventory 1B.1	Typically found in alkaline soils in grassland habitat, or in vernal pools. Its habitat includes coastal scrub, valley and foothill grasslands, vernal pools, meadows, and seeps.	Not present. No habitat for this species is present on the project site.
Allen's pentachaeta ( <i>Pentachaeta aurea ssp. allenii</i> )	CNPS Rare Plant Inventory 1B.1	Found on openings in scrub or grassland areas. Its habitat includes coastal scrub, and valley and foothill grassland.	Not present. No habitat for this species is present on the project site.
Brand's star phacelia ( <i>Phacelia stellaris</i> )	CNPS Rare Plant Inventory 1B.1	Habitat includes coastal dunes and coastal scrub.	Not present. No habitat for this species is present on the project site.

Source: HES 2020.

Notes:

CNPS = California Native Plant Society

Rank = Plants with a California Rare Plant Rank of 1B are rare throughout their range with the majority of them endemic to California.

Sp = species

Additionally, according to the literature search of the Prado Dam 7.5' USGS topographic quadrangle and eight surrounding quadrangles, 11 sensitive plant communities have the potential to occur on or within the vicinity of the project area (HES 2020; GLA 2019). However, none of the sensitive plant communities identified were found on the project site during the field survey. Therefore, it was determined that no sensitive plant communities occur on the project site (HES 2020). Additionally, the off-site improvement area does not support any of the 11 special-status habitats with the potential to occur or any other special-status habitats (GLA 2019).

### Sensitive Wildlife

#### Project Site

- A total of 27 animal species are listed as state and/or federal Threatened, Endangered, or Candidate, and sensitive species that have a potential to occur on the project site, as determined within Appendix B of Appendix D1 of this DEIR, and are discussed below. All sensitive species within the Prado Dam 7.5'

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USGS topographic quadrangle and eight surrounding quadrangles were reviewed and a complete list of those species are listed in Appendix B of the biological assessment (see Appendix D1 of this DEIR).

- **The Cooper's hawk** (*Accipiter cooperii*) is a CDFW watch list wildlife species. It is found in riparian areas with stands of willow and cottonwoods. It nests in trees and its nesting season is between February 15 and August 15. The project site provides suitable foraging opportunities but does not provide suitable nesting opportunities. Potential to be present.
- **Tricolored blackbird** (*Agelaius tricolor*) is a state listed candidate endangered species and listed by the CDFW as a species of special concern. Its habitat includes freshwater marsh, marsh and swamp, swamp, and wetland. This species is largely endemic to California and is most numerous in and around Central Valley. This species requires open accessible water, protected nesting substrate, and foraging area with insect prey within a few kilometers of the colony. There is potential habitat for this species to be present in the stock ponds. Potential to be present.
- **Grasshopper sparrow** (*Ammodramus savannarum*) is a CDFW Species of Special Concern. It favors native grasslands with a mix of grasses, forbs, and scattered shrubs. Its habitat includes valley and foothill grassland. There is potential habitat for this species to be present in the agricultural fields. Potential to be present.
- **Arroyo Toad** (*Anaxyrus californicus*) is a federally listed endangered species and a CDFW Species of Special Concern. The most favorable breeding habitat for this species consists of slow-moving shallow pools, nearby sandbars, and adjacent stream terraces. Its habitat includes desert wash, riparian scrub, riparian woodland, south coast flowing waters, and south coast standing waters. There is no habitat for this species on the project site. The species is not present.
- **Southern California legless lizard** (*Anniella stebbinsi*) is a CDFW Species of Special Concern. It is found in a variety of habitats, generally around moist, loose soil. This species is generally found south of the Transverse Range, extending to northwestern Baja California, with disjunct populations found in the Tehachapi and Piute Mountains in Kern County. Its habitat includes broadleaved upland forest, chaparral, coastal dunes, and coastal scrub. There is potential habitat for this species to be present in the stock ponds. Potential to be present.
- **Great blue heron** (*Ardea Herodias*) is a CDF Sensitive Species. It is found in rookery sites near foraging areas. It is a colonial nester in tall trees, cliffsides, and sequestered spots on marshes. Its habitat includes brackish marsh, estuary, freshwater marsh, marsh and swamp, riparian forest, and wetland. There is potential habitat for this species to be present in the stock ponds. Potential to be present.
- **California glossy snake** (*Arizona elegans occidentalis*) is a CDFW Species of Special Concern. This species is found in arid scrub, rocky washes, grassland and chaparral habitats, often with loose or sandy soils. There is potential habitat for this species to be present on the project site. Potential to be present.
- **Burrowing owl** (*Athene cunicularia*) is a CDFW Species of Special Concern. Its habitat includes coastal prairie, coastal scrub, Great Basin grassland, Great Basin scrub, Mojavean desert scrub, Sonoran desert



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scrub, and valley and foothill grassland. This species is typically found in open and dry annual or perennial grasslands, deserts, and scrublands characterized by low-growing vegetation. It is a subterranean nester and is dependent upon burrowing mammals, most notably the California ground squirrel. There is potential habitat for this species to be present on the project site. Potential to be present.

- **San Diego fairy shrimp** (*Branchinecta sandiegonensis*) is a federally listed endangered species. This species is found in chaparral, coastal scrub, vernal pool, and wetland habitats. The project site consists of a disturbed agriculture area. There is no habitat for this species on the project site. The species is not present.
- **Swainson's hawk** (*Buteo swainsoni*) is a state listed threatened species. This species favors open grasslands for foraging but also occurs in agricultural settings. It relies on scattered stands of trees near agricultural fields and grasslands for nesting sites. Its habitats include great basin grassland, riparian forest, riparian woodland, and valley and foothill grassland. This species is not known to nest within the region of the project site. The project site provides suitable foraging opportunities but does not provide suitable nesting opportunities. Potential to be present.
- **Santa Ana sucker** (*Catostomus santaanae*) is a federally listed threatened species. Its habitat includes aquatic and south coast flowing waters. This species prefers sand-rubble-boulder bottoms, cool and clear water, and algae. It is endemic to Los Angeles Basin south coastal streams. The project site does not contain suitable habitat for this species. This species is not present.
- **Western yellow-billed cuckoo** (*Coccyzus americanus occidentalis*) is a federally listed threatened and state listed endangered species. This species typically nests in riparian jungles of willows, often mixed with cottonwoods, with a lower story of blackberry, nettles, or wild grape. It is found in riparian forest habitat. The project site does not contain suitable habitat for this species. This species is not present.
- **Yellow rail** (*Coturnicops noveboracensis*) is a CDFW Species of Special Concern. This was observed approximately 8.5 miles southeast of the project site in marshland/riparian habitat. This species is widely distributed in the United States and Canada. It nests in shallow freshwater sedge marshes; winters in wet meadows and marshes with cordgrass, saltgrass, sedges, and other low vegetation. There is potential habitat for this species to be present in the stock ponds. Potential to be present.
- **San Bernardino kangaroo rat** (*Dipodomys merriami parvus*) is a federally listed endangered species and a CDFW Species of Special Concern. It is found in coastal scrub habitat. This species is found in alluvial scrub vegetation on sandy loam substrates, characteristic of alluvial fans and flood plains. It needs early to intermediate seral stages. The project site does not contain suitable habitat for this species. This species is not present.
- **Stephens' kangaroo rat** (*Dipodomys stephensi*) is a federally listed endangered and state listed threatened species. This species is found in coastal sage scrub with sparse vegetation cover, and in valley and foothill grasslands. This species prefers buckwheat, chamise, brome grass, and filaree, and will burrow into firm soil. The project site does not contain suitable habitat for this species. This species is not present.

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- **The white-tailed kite** (*Elanus leucurus*) is a CDFW fully protected species and is found in coastal and valley lowlands. It forages in grasslands, wetlands, and meadows and nests in oak trees, willows, or other tree stands between February and October. The project site provides suitable foraging opportunities but does not provide suitable nesting opportunities. Potential to be present.
- **Southwestern willow flycatcher** (*Empidonax traillii extimus*) is a federally and state listed endangered species. It is found in riparian woodland habitat in southern California. The project site does not contain suitable habitat for this species. This species is not present.
- **Western pond turtle** (*Emys marmorata*) is a CDFW Species of Special Concern. This species needs basking sites and suitable upland habitat consisting of sandy banks or grassy open fields up to 0.5 kilometers from water for egg-laying. It is a thoroughly aquatic turtle of ponds, marshes, rivers, streams, and irrigation ditches, usually with aquatic vegetation, below 6000 feet elevation. Its habitat includes aquatic, artificial flowing waters, Klamath/North coast flowing waters, Klamath/North coast standing waters, marsh and swamp, Sacramento/San Joaquin flowing waters, Sacramento/San Joaquin standing waters, South coast flowing waters, South coast standing waters, and wetland. There is potential habitat for this species to be present in the stock ponds. Potential to be present.
- **California horned lark** (*Eremophila alpestris actia*) is listed on the CDFW Watch List. It is found in coastal regions, chiefly from Sonoma County to San Diego County, as well as in parts of the San Joaquin Valley and east to foothills. This species is found in areas with short-grass prairie, “bald” hills, mountain meadows, open coastal plains, fallow grain fields, and/or alkali flats. Its habitat includes marine intertidal and splash zone communities, and meadow and seep. There is potential habitat for this species to be present on the project site. Potential to be present.
- **Western mastiff bat** (*Eumops perotis californicus*) is a CDFW Species of Special Concern. It roosts in crevices in cliff faces, high buildings, trees, and tunnels. It is found in open, semi-arid to arid habitats. Its habitat includes chaparral, cismontane woodland, coastal scrub, and valley and foothill grassland. The project site provides suitable foraging opportunities but does not provide suitable roosting opportunities. Potential to be present.
- **Merlin** (*Falco columbarius*) is listed on the CDFW Watch List. It is found in areas with clumps of trees or windbreaks for roosting in open country. Its habitat includes estuary, Great Basin grassland, and valley and foothill grassland. The project site provides suitable foraging opportunities but does not provide suitable nesting opportunities. Potential to be present.
- **Bald eagle** (*Haliaeetus leucocephalus*) is a state listed endangered and CDFW fully protected species. This species is found in lower montane coniferous forest and old-growth. They nest in large old-growth or trees with open branches, especially ponderosa pine. The project site does not contain suitable habitat for this species. This species is not present.
- **California black rail** (*Laterallus jamaicensis coturniculus*) is a state listed threatened species and is a CDFW Fully Protected Species. It inhabits freshwater marshes, wet meadows, and shallow margins of saltwater

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marshes bordering larger bays. This species needs water depths of about one inch that do not fluctuate throughout the year and dense vegetation for nesting habitat. Its habitat includes brackish marsh, freshwater marsh, marsh and swamp, salt marsh, and wetland. The project site does not have suitable habitat for this species. This species is not present.

- **Coastal California gnatcatcher** (*Poliophtila californica californica*) is a federally listed threatened species and CDFW Species of Special Concern. This species is found in coastal bluff scrub and coastal scrub habitat. This species is typically found in low, coastal sage scrub in arid washes, on mesas and slopes. The project site does not have suitable habitat for this species. This species is not present.
- **Delhi Sands flower-loving fly** (*Rhaphiomidas terminates abdominalis*) is a federally listed endangered species. It requires fine, sandy soils, often with wholly or partly consolidated dunes and sparse vegetation. It is found only in areas of the Delhi Sands formation in southwestern San Bernardino and northwestern Riverside counties. This species is found in interior dune habitat. The project site does not have suitable habitat for this species. This species is not present.
- **Least Bell's vireo** (*Vireo bellii pusillus*) is a federal and state listed endangered species. This species is found in riparian forest, riparian scrub, and riparian woodland. Nesting habitat of this species is restricted to willow and/or mulefat dominated riparian scrub along permanent or nearly permanent streams. The project site does not contain suitable habitat for this species. This species is not present.
- **American peregrine falcon** (*Falco peregrinus anatum*) is a CDFW Fully Protected Species. It is found near wetlands, lakes, rivers, or other water; on cliffs, banks, dunes, mounds; also, humanmade structures. It nests in scrapes, depressions, or ledges in open areas. The project site provides suitable foraging opportunities but does not provide suitable nesting opportunities. Potential to be present.

Of the 27 sensitive animal species were identified, 15 have the potential to occur on the project site either due to the presence of foraging opportunities or suitable habitat.

Focused surveys were conducted to evaluate the presence/absence of the special-status burrowing owl (BUOW) on the 86-acre site (see Appendix D2). No direct BUOW observations were recorded during the April-July 2019 focused BUOW breeding season surveys. None of the potential burrows inspected during the survey were determined to be currently occupied by BUOW based on absence of BUOW observations and sign (feathers, pellets, fecal material, prey remains, etc.) at or near burrow entrances/aprons. BUOW were also not observed utilizing the site for foraging purposes on or adjacent to the site.

Other avian species observed on site included turkey vulture (*Cathartes aura*), red-tailed hawk (*Buteo jamaicensis*), common raven (*Corvus corax*), American crow (*Corvus brachyrhynchos*), killdeer (*Charadrius vociferus*), European starling (*Sturnus vulgaris*), rock pigeon (*Columba livia*), mourning dove (*Zenaida macroura*), northern mockingbird (*Mimus polyglottos*), Brewer's blackbird (*Euphagus cyanocephalus*), western meadowlark (*Sturnella neglecta*), house finch (*Carpodacus mexicanus*), and house sparrow (*Passer domesticus*). Mammal species directly observed, or of which sign was detected, included California ground squirrel (*Spermophilus beecheyi*).

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#### *Off-Site Improvement Area*

A total of 52 animal species are listed as state and/or federal Threatened, Endangered, or Candidate, and sensitive species that have a potential to occur on the project site, as determined in Table 4-3 of Appendix D3. For a full list of wildlife species detected within the off-site improvement area, see Appendix B – Faunal Compendium of Appendix D3. The presence and potential presence of special-status wildlife species are described below.

- A single **burrowing owl** was detected within the off-site improvement area, along the western bank of the Grove Channel within the Chino Airport property (Appendix D3, Exhibit 6 – Burrowing Owl Survey Area Map). Although a single burrowing owl was detected, this owl is assumed to be breeding based upon its presence during the breeding season, and occurs within the portion of the off-site improvement area located within The Preserve Specific Plan area in the City of Chino.
- There is moderate potential for the state Fully Protected **white-tailed kite** (*Elanus leucurus*) to nest within large ornamental trees and forage throughout the off-site improvement area.
- The state listed as **Endangered bald eagle** (*Haliaeetus leucocephalus*) has the potential to forage within the Project study area; however, this species is not expected to nest within the off-site improvement area, as it is located over a mile and a half from the nearest large body of open water.
- The state listed as Threatened **Swainson’s hawk** (*Buteo swainsoni*) has the potential to forage within the off-site improvement area; however, the area is located outside of the nesting range for this species.
- The state Fully Protected **golden eagle** (*Aquila chrysaetos*) has the potential to forage within the off-site improvement area; however, the area does not contain the high cliffs and rocky escarpments used for nesting by this species.
- The state Fully Protected **American peregrine falcon** (*Falco peregrinus anatum*) has the potential to forage within the off-site improvement area; however, the area does not contain the high cliffs, tall buildings, and bridges used for nesting by this species.
- **Yellow-headed blackbird** (*Xanthocephalus xanthocephalus*), an SSC, has the potential to forage within the off-site improvement area; however, the area does not contain the open marsh habitats used for colonial nesting by this species.
- **Yellow warbler** (*Setophaga petechia*), an SSC, has the potential to forage within the off-site improvement area; however, the area does not contain the riparian scrub, woodland, and forest habitats used for nesting by this species.

Five special-status bats have potential to forage within the off-site improvement area: **big free-tailed bat** (*Nyctinomops macrotis*), **pallid bat** (*Antrozous pallidus*), **western mastiff bat** (*Eumops perotis californicus*), **western red bat** (*Lasiurus blossevilli*), and **western yellow bat** (*Lasiurus xanthinus*). None of these species are state or federally listed but all five are state Species of Special Concern. Of these, western red bat has the potential to

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roost and possibly breed within large ornamental trees throughout the off-site improvement area, with the greatest roosting potential within groups of large Eucalyptus trees, and western yellow bat has the potential to roost and possibly breed within unmanicured palm trees located within the off-site improvement area.

### Critical Habitats

Critical habitat is defined as areas of land, water, and air space that contain the physical and biological features essential for the survival and recovery of endangered and threatened species. Designated critical habitat includes sites for breeding and rearing, movement or migration, feeding, roosting, cover, and shelter. Critical habitat is designated by USFWS for endangered and threatened species per the federal ESA (16 U.S.C. § 1533 (a)(3)), and to the extent prudent and determinable. Special management of critical habitat, including measures for water quality and quantity, host animals and plants, food availability, pollinators, sunlight, and specific soil types is required to ensure the long-term survival and recovery of the identified species. Critical habitat designation delineates all suitable habitat for the species, whether or not it is occupied. The project site is not located within or adjacent to designated critical habitat for endangered species. Designated critical habitat for least Bell's vireo occurs approximately two miles south of the project site and one mile south of the off-site improvement area (HES 2020; GLA 2019).

### Jurisdictional Waters and Wetlands

#### *Project Site*

The project site contains approximately 5.22 acres of stock/retention ponds. These ponds are manmade, for agricultural use, and fed by wells. The man-made ponds are not connected to a natural stream, nor do they divert natural flow from any river, stream or lake.

Since the source of the water for these man-made features are not part of a natural stream, river, or lake, the stock ponds are not considered jurisdictional under the California Department of Fish and Wildlife (CDFW) Lake and Streambed Alteration Program. The program states: "An entity shall not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake...". Therefore, the stock ponds on the project site are not a "natural flow" of a stream, river, or lake, and would not be considered jurisdictional by CDFW.

Further, the man-made stock ponds are not adjacent to and are not considered Waters of the United States, because the ponds do not receive hydrologic flow. The stock ponds are isolated features that are not tributary to nor do they have a significant nexus (biological, chemical, or physical connection) to traditional navigable waters of the United States. Therefore, the man-made ponds on the project site would not be considered federally jurisdictional under the Clean Water Act.

#### *Off-Site Improvement Area*

The Glenn Lukos biological report identified 1.67 acres of Corps and RWQCB jurisdiction and 3.30 acres of CDFW jurisdiction within the off-site improvement area (GLA 2019). Specifically, Corps jurisdiction associated with the off-site improvement area totals approximately 1.67 acres, 11,679 linear feet, of waters of the United

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States (WoUS), none of which consists of jurisdictional wetlands. The locations of the WoUS are depicted in Appendix D3, Exhibit 7A – Corps/Regional Board Jurisdictional Delineation Map. All waters within the off-site improvement area that were determined to be potential WoUS pursuant to Section 404 of the Clean Water Act potentially fall within Santa Ana Regional Board jurisdiction pursuant to Section 401 of the Clean Water Act and/or the Porter Cologne Water Quality Act. None of the features at the site were determined to be non-federal waters that would require separate analysis. CDFW jurisdiction associated with the off-site improvement area totals 3.30 acres, 11,679 linear feet, none of which consists of jurisdictional riparian habitat. The locations of CDFW jurisdictional areas are depicted in Appendix D3, Exhibit 7B – CDFW Jurisdictional Delineation Map.

#### Wildlife Movement Corridors

Wildlife movement corridors can be local or regional in scale; their functions may vary temporally and spatially based on conditions and species present. Wildlife corridors represent areas where wildlife movement is concentrated due to natural or anthropogenic constraints. Local corridors provide access to resources such as food, water, and shelter. Animals use these corridors, which are often hillsides or riparian areas, to move between different habitats. Regional corridors provide these functions and link two or more large habitat areas. They provide avenues for wildlife dispersal, migration, and contact between otherwise distinct populations.

The project site is not located within a designated wildlife corridor or linkage. The project site consists of a dairy farm and agricultural fields and is surrounded by development and/or existing agricultural and livestock land uses, which do not connect to any local wildlife corridors. Further, the site is separated from regional wildlife movement corridors associated with the Prado Dam Flood Control Basin and Santa Ana River. Additionally, the site not contain the structural topography and vegetative cover that facilitate regional wildlife movement, is subject to a high level of ongoing human disturbance, and much of the project and surrounding area is fenced or consists of active public roadways, which act as inhibitors to wildlife movement (GLA 2019). Therefore, the project site does not function as a wildlife movement corridor.

#### 5.3.2 Thresholds of Significance

According to Appendix G of the CEQA Guidelines, a project would normally have a significant effect on the environment if the project would:

- B-1 Have a substantial 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.
- B-2 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.
- B-3 Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.

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- B-4 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.
- B-5 Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.
- B-6 Conflict with the provisions of an adopted habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

The Initial Study, included as Appendix A, substantiates that impacts associated with the following thresholds would be less than significant:

- Threshold B-5
- Threshold B-6

These impacts will not be addressed in the following analysis.

### 5.3.3 Plans, Programs, and Policies

- PPP BIO-1 The project shall comply with the Federal Endangered Species Act and Migratory Bird Treaty Act.
- PPP BIO-2 The project shall comply with the California Endangered Species Act and Fish and Game Code.

### 5.3.4 Environmental Impacts

#### 5.3.4.1 METHODOLOGY

A general biological assessment was prepared by Hernandez Environmental Services (HES), which consisted of a literature review and field survey of the approximate 84.1-acre project site. Additionally, two biological technical reports prepared by Glenn Lukos Associates and Ecological Sciences and evaluate biological resources in the off-site infrastructure improvement areas identified in Figures 3-7a, 3-7b, 3-8, 3-9, and 3-10. Glenn Lukos also conducted focused surveys for burrowing owl and conducted a jurisdictional delineation. Detailed methodology for the literature review and field surveys of the off-site areas are provided in Appendices D3 and D4.

HES conducted a literature review and reviewed aerial photographs and topographic maps of the project site and surrounding areas. The Prado Dam 7.5' USGS topographic quadrangle and eight surrounding quadrangles were used to identify sensitive species in the California Natural Diversity Data Base (CNDDB). Additional resources reviewed during the literature search included the United States Fish and Wildlife (USFWS) Endangered Species Lists, and the California Native Plant Society's (CNPS) Rare plant lists to obtain species information for the project area.

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On July 27, 2018, HES conducted a field survey of the project site. Ambient temperature during the field survey was 82 degrees Fahrenheit, sunny, with zero to three mile per hour winds from the southwest. The purpose of the field survey was to document the existing habitat conditions, obtain plant and animal species information, view the surrounding uses, assess the potential for state and federal waters, assess potential for wildlife movement corridors, and if critical habitat is present, assess for the presence of constituent elements.

Linear transects approximately 50 feet apart were walked for 100 percent coverage. All species observed were recorded and Global Positioning System (GPS) way points were taken to delineate specific habitat types, species locations, state or federal waters, or any other information that would be useful for the assessment of the project site. A comprehensive list of all plant and wildlife species that were detected during the field survey, sensitive plant and wildlife species with the potential to occur in the project area, and site photographs are provided in Appendices A–C of the HES report (Appendix D1 of this DEIR).

#### *Burrowing Owl Protocol (BUOW) Survey*

Existing documentation pertinent to the distribution and habitat requirements of the burrowing owl was reviewed and analyzed. This included a review of: (1) the California Natural Diversity Data Base (CNDDB 2019), (2) both the 1995 CDFG Staff Report on Burrowing Owl Mitigation and the 2012 CDFG Staff Report on Burrowing Owl Mitigation, and (3) other literature pertaining to habitat requirements of the BUOW as referenced herein.

The BUOW surveys were conducted in accordance with the March 7, 2012 CDFG Staff Report on Burrowing Owl Mitigation. These guidelines include searches for BUOW, burrows (natural and artificial), and BUOW sign by walking parallel transects (where feasible) through suitable habitat over the entire survey area [i.e., the project site and within a 150 meter (500 feet) buffer area where feasible or at least by visual means]. Upon arrival at the survey area and prior to initiating the walking surveys, the biologist used binoculars and/or spotting scope to scan suitable habitat. Ecological Sciences' Principal Biologist initiated the first of four total focused breeding season BUOW surveys on April 14, 2019. Subsequent surveys were conducted on May 12, June 17, and July 7.

#### 5.3.4.2 IMPACT ANALYSIS

The following impact analysis addresses thresholds of significance for which the Initial Study disclosed potentially significant impacts. The applicable thresholds are identified in brackets after the impact statement.

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**Impact 5.3-1: Development of the proposed project has the potential to impact sensitive animal species and nesting birds; no impacts to sensitive plant species or sensitive habitat would occur. [Threshold B-1]**

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**Impact Analysis:** As provided in Chapter 3, *Project Description*, the proposed project would result in the development of eight warehouse buildings ranging from 46,900 square feet (sf) to 618,353 sf, totaling a maximum development of 1,905,027 SF of warehouse and office uses. Development of the project would impact the project site, including 46 acres of agricultural fields, 31.9 acres of disturbed agriculture infrastructure, 5.22 acres of stock/retention ponds, and 1.06 acres of disturbed non-vegetated areas, in addition



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to areas of off-site roadway and utility infrastructure improvements. Removal of the stock/retention ponds would occur during grading activities for site development.

### **Sensitive Species**

#### *Special-Status Plants*

No sensitive plant species are onsite due to the current site conditions (disturbed with agricultural uses) and continual anthropogenic disturbances. Therefore, construction or operation would not impact any sensitive plant species.

#### *Special-Status Wildlife*

##### ***Project Site***

There are 15 wildlife species that could inhabit the project site due to the potential habitat or foraging opportunities present onsite. The Cooper's hawk, Swainson's hawk, merlin, and American peregrine falcon have the potential to be onsite due to suitable foraging opportunities. However, these species are not expected to nest on site, as it is located outside of the known nesting range or does not contain suitable nesting habitat. Since there is no suitable habitat for these species, no direct impacts would occur, and indirect impacts to foraging habitat would be considered less than significant based on the limited and low-quality habitat (predominately dairy farming and agriculture).

There is moderate potential for the state Fully Protected white-tailed kite to nest within large ornamental trees and forage throughout the off-site improvement area. As this species is state Fully Protected, no take of this species is permissible under the California Fish and Game Code, and direct take or any impact to this species under a nesting role would be a potentially significant impact. However, based on the high level of decades-long ongoing human disturbance, the off-site improvement area represents limited foraging opportunities for this species; therefore, project impacts to foraging by this species are considered less than significant.

The proposed project would remove potential foraging habitat (agriculture) for the western mastiff bat. However, based on the level of ongoing human disturbance within the off-site improvement area, and the regional availability of foraging habitat in the vicinity of the project site, such as the Prado Basin, Chino Hills State Park, and the Santa Ana Mountains, the loss of 27.7 acres of low-quality potential bat foraging habitat is not considered a significant impact. The Tricolored blackbird, grasshopper sparrow, southern California legless lizard, great blue heron, California glossy snake, burrowing owl, yellow rail, western pond turtle, and California horned lark have the potential to be onsite due to the suitable habitat on site. Therefore, project implementation has the potential to impact these species, and impacts would be significant.

##### ***Off-Site Improvement Area***

A single burrowing owl was detected within the off-site improvement area, along the western bank of the Grove Channel within the Chino Airport property. Although a single burrowing owl was detected, this owl is assumed to be breeding based upon its presence during the breeding season. As a large amount of burrowing owl habitat has been converted to developed property within cismontane San Bernardino County, including

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within the City boundaries of Ontario and Chino, causing a regional decline of this species. Impacts to one individual or a pair of burrowing owls would be a potentially significant impact.

A focused habitat assessment for the federally listed as Endangered Delhi sands flower-loving fly determined that the off-site improvement area does not support potential habitat for this species; therefore, this species does not pose a constraint to the construction of the proposed off-site improvements and impacts would be less than significant (HES 2019).

The proposed project would remove 27.7 acres of potential foraging habitat (agriculture) for five special-status bats: big free-tailed bat, pallid bat, western red bat, western mastiff bat, and western yellow bat. However, based on the level of ongoing human disturbance within the off-site improvement area, and the regional availability of foraging habitat in the vicinity of the project site, such as the Prado Basin, Chino Hills State Park, and the Santa Ana Mountains, the loss of 27.7 acres of low-quality potential bat foraging habitat is not considered a significant impact.

Roosting and breeding (nursery sites) by western red bat, western yellow bat, and other non-special-status lasiurine bats may occur within large ornamental trees located within and adjacent to the impact footprint of the proposed off-site improvements, with the highest likelihood occurring within the large Eucalyptus trees and unmanicured palm trees. The removal of potential roosting/breeding bat habitats would be a potentially significant impact if the population of bats potentially impacted is 25 or more individuals with no special status and one individual bat with a special status. The threshold of significance is set at 25 or more individuals for non-special-status bats because the loss of less than 25 individuals would not pose a significant loss to the regional population of any non-special status species with potential to roost at the project.

There is moderate potential for the state Fully Protected white-tailed kite to nest within large ornamental trees and forage throughout the off-site improvement area. As this species is state Fully Protected, no take of this species is permissible under the California Fish and Game Code, and direct take or any impact to this species under a nesting role would be a potentially significant impact. However, based on the high level of decades-long ongoing human disturbance, the off-site improvement area represents limited foraging opportunities for this species; therefore, project impacts to foraging by this species are considered less than significant.

The state listed as Endangered and Fully Protected bald eagle, state listed as Threatened Swainson's hawk, state Fully Protected golden eagle, state Fully Protected American peregrine falcon, California Species of Special Concern yellow warbler, and California Species of Special Concern yellow-headed blackbird have the potential to forage within the off-site improvement area; however, these species are not expected to nest within the off-site improvement area, as it is located outside of the known nesting range or does not contain suitable nesting habitat. Based on the high level of decades-long ongoing human disturbance, as with white-tailed kite, the off-site improvement area represents limited foraging opportunities for these species; therefore, project impacts to foraging by these species are considered less than significant.

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### Sensitive Habitat

The project site and off-site improvement area has been disturbed by agricultural uses. No native habitat is present; and no impacts to native or sensitive habitats and communities would occur. Furthermore, the project is not located within designated federal critical habitat. No impact to critical habitat is expected.

### Nesting Birds

The Project study area contains trees, shrubs, and ground cover that provide suitable habitat for nesting migratory birds. Migratory non-game native bird species are protected under the federal Migratory Bird Treaty Act. Additionally, Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests. Nevertheless, potential impacts to nesting birds could occur if ground disturbing activities or vegetation removal occur during the bird nesting season. Impacts would be potentially significant.

*Level of Significance Before Mitigation:* Potentially significant impact.

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**Impact 5.3-2: Development of the proposed project could result in the loss of 1.67-acres of Corps jurisdictional drainages and 3.3-acres of to CDFW streambed. [Thresholds B-2 and B-3]**

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### *Impact Analysis:*

### Project Site

Wetlands are defined under the federal Clean Water Act as land that is flooded or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that normally does support, a prevalence of vegetation adapted to life in saturated soils. Wetlands include areas such as streams, swamps, marshes, and bogs. Additionally, riparian habitats are plant communities occurring along the banks of rivers, streams, lakes, or drainage ways, and are usually transitional between wetland and upland areas.

The project site does not contain any riparian or other sensitive natural community identified by CDFW or USFWS, nor does it contain any federally protected wetlands developed by Section 404 of the CWA. Project implementation would require the removal of the retention ponds onsite. However, the retention ponds are man-made and are not considered jurisdictional drainages or WoUS because the ponds do not receive hydrologic flow. Additionally, the stock ponds are isolated features that are not tributary to nor do they have a significant nexus (biological, chemical, or physical connection) to traditional navigable waters of the United States (HES 2020). As previously stated, the project site is disturbed and does not contain native or federal-designated critical habitat (HES 2020). Therefore, no impact would occur.

### Off-Site Improvement Area

#### *Corps/Regional Board Jurisdiction*

Proposed impacts to Corps WoUS totals 1.67 acres, none of which consists of jurisdictional wetlands. Proposed impacts to Regional Board jurisdiction are identical to that of the Corps. Although the drainages proposed for impacts are heavily denuded flood control facilities that are subject to ongoing maintenance and do not support

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jurisdictional wetlands or riparian vegetation communities, impacts to 1.66 acres of waters is a potentially significant impact due to the potential for this quantity of loss of surface waters to affect the hydrology supporting downstream wetland and/or riparian resources. CWA Section 404 authorization from the Corps and a CWA Section 401 Water Quality Certification and authorization for discharges under Porter-Cologne from the Regional Board would be required for proposed impacts to waters. Note that for the purpose of analysis, all impacts to jurisdictional aquatic resources have been considered as permanent at this time. However, as project-specific infrastructure design plans are further developed, portions of these impacts may be determined to be temporary in nature, or not required for the development of the project, thereby reducing permanent impacts associated with development of the project.

#### *CDFW Jurisdiction*

Proposed impacts to CDFW streambed totals 3.30 acres; none of which consists of riparian habitat. As with impacts to Corps and Regional Board jurisdiction, although the drainages proposed for impacts are heavily denuded flood control facilities that are subject to ongoing maintenance and do not support jurisdictional wetlands or riparian vegetation communities, impacts to 3.30 acres of streambed is a potentially significant impact due to the potential for this quantity of loss of surface streambeds to affect the hydrology supporting downstream wetland and/or riparian resources. A CDFW Section 1602 Streambed Alteration Agreement would be required for proposed impacts to waters.

***Level of Significance Before Mitigation:*** Potentially significant impact.

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**Impact 5.3-3: The project would not interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, but may impede the use of native wildlife nursery sites. [Threshold B-4]**

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***Impact Analysis:*** The project site is not located within a designated wildlife corridor or linkage (HES 2020). The project site is developed as a dairy farm and includes agricultural fields and is surrounded by existing development and/or agricultural and livestock land uses. Moreover, the site is separated from regional wildlife movement corridors associated with the Prado Dam Flood Control Basin and Santa Ana River. Additionally, the site not contain the structural topography and vegetative cover that facilitate regional wildlife movement, is subject to a high level of ongoing human disturbance, and much of the project and surrounding area is fenced or consists of active public roadways, which act as inhibitors to wildlife movement (GLA 2019). Therefore, the project site does not function as a wildlife movement corridor and would not interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors.

The project site does, however, include non-native shrubs and trees, which would be removed under the proposed project. The project area may potentially represent a nursery site if western red bat, western yellow bat, or other non-special-status lasiurine bat species are found to be utilizing the large ornamental trees within the project area as maternity roosts in a colonial or semi-colonial nature. Therefore, the proposed project may result in an impact to wildlife nurseries if colonial or semi-colonial maternally roosting bats are present, which would be a potentially significant impact.

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***Level of Significance Before Mitigation:*** Potentially significant impact.

### 5.3.5 Cumulative Impacts

The cumulative study area for biological resources includes the southwestern San Bernardino County region. The contains several dairy and agricultural areas and provides limited potential for special-status plants, sensitive habitat, migratory bird species, and jurisdictional resources. No impacts to sensitive plant species or habitats would occur on the project site. Therefore, the proposed project would result in a less than significant contribution to cumulative impacts to these resources, and impacts would be less than cumulatively significant.

The project area does not support suitable habitat for the Delhi sands flower-loving fly. Therefore, development of the project would not make a cumulatively considerable contribution to the regional decline of this species.

The project area is used by nesting red-tailed hawk. Other species of raptors may also use the site for foraging, and other common raptor species, such as American kestrel, may use the site for nesting. These species are common to the region and the removal of nesting habitat for these or other common species of raptors would not make a potentially cumulatively considerable contribution to the regional decline of raptors. The project would remove potential raptor foraging habitat through development of the active agriculture. Although the agriculture may provide foraging habitat for raptors, it is not expected to be valuable, as the lands are actively maintained to minimize use by small mammals (prey for raptors) and active ground squirrel management programs are continually implemented. This loss of potential raptor foraging habitat would not make a cumulatively considerable contribution to the regional decline of raptors.

Mitigation has been incorporated into the project that would avoid direct impacts to nine sensitive wildlife species: Tricolored blackbird, southern California legless lizard, great blue heron, yellow rail, and western pond turtle, grasshopper sparrow, California glossy snake, burrowing owl, and California horned lark. Therefore, the proposed project would mitigate the potential of the project to cumulatively combine with other projects; and the Specific Plan would not contribute to the cumulative loss of any special status wildlife species.

A single burrowing owl was detected within the project study area, along the western bank of the Grove Channel within the Chino Airport property. Although a single burrowing owl was detected, this owl is assumed to be breeding based upon its presence during the breeding season. Over the last several decades, a large amount of burrowing owl habitat has been developed within cismontane San Bernardino County, including within the City boundaries of Ontario and City of Chino. Impact to one individual or a pair of burrowing owls is judged to be a cumulatively considerable contribution to the regional decline of this species.

There is potential for bats to roost in large ornamental trees within the project study area (including western red bat and western yellow bat, both an SSC). The proposed project would directly remove potential roosting/nursery habitat. This would be a potentially significant impact under if the population of bats potentially impacted is 25 or more individuals of non-special-status species, and one individual of special-status species. Given the regional decline of bats over the past several decades, this potential direct impact would make a cumulatively considerable contribution to the regional decline of bats.

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There is potential for native nesting birds to be affected by development of the Project. As discussed in Section 5.6, the types of birds potentially affected are common to the region and the number of individuals would be limited given the type of vegetation proposed for removal (agriculture, ornamental plantings). Based on the types of species and expected limited number of nesting pairs potentially affected and the types of species, development of the project would not make a cumulatively considerable contribution to the regional decline of native nesting bird populations. However, because native birds are protected by MBTA, mortality to a single native bird due to the project would be in violation of both of these laws. Therefore, cumulative impacts related to nesting birds would be less than cumulatively significant.

The jurisdictional waters proposed for removal are heavily denuded flood control facilities and do not provide the functions and values of natural drainages/streambeds, as no riparian or other native vegetation communities are present within the facilities proposed for impacts within the Project study area. As such, the removal of 1.67 acres of Corps non-wetland waters, 1.67 acres of Regional Board non-wetland waters, and 3.30 acres of CDFW non-riparian streambed would not make a cumulatively considerable contribution to the regional decline of jurisdictional waters.

#### 5.3.6 Level of Significance Before Mitigation

Without mitigation, these impacts would be **potentially significant**:

- **Impact 5.3-1** Development of the proposed project could impact sensitive wildlife species and nesting birds.
- **Impact 5.3-2** The proposed project could result in the loss of 1.67-acres of Corps jurisdictional drainages and 3.3-acres of to CDFW streambed.
- **Impact 5.3-3** The proposed project may impede the use of native wildlife nursery sites.

#### 5.3.7 Mitigation Measures

##### Impact 5.3-1

BIO-1 Prior to the issuance of permits for any construction activity, the project applicant shall demonstrate compliance with the federal MBTA to the satisfaction of the City of Ontario that either of the following has been accomplished:

- Conduct grading activities and vegetation removal outside of the nesting season (February 1 to August 31) to avoid impacts to nesting birds, including raptors.
- If vegetation removal will occur during the bird nesting season, between February 1 and August 31, pre-construction nesting bird surveys shall be performed within three days prior to any disturbance of the site, including disking, demolition activities, and grading. If active nests are found, they shall be flagged and the biologist shall establish suitable buffers around the nest (generally a minimum of 200 feet up to 500 feet for raptors and a minimum of 50 feet up to 300 feet for passerine species, with specific buffer widths to

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be determined by a qualified biologist). The buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests.

BIO-2 Three days prior to any ground disturbing activities or vegetation removal, a qualified biologist shall conduct a pre-construction survey to identify the southern California legless lizard and California glossy snake. Any reptile species found to be present within the project area shall be relocated outside of the impact areas under the supervision of a qualified biologist. Biological monitors shall be on-call to relocate any reptile or amphibian that is encountered during construction activities.

BIO-3 Prior to issuance of a demolition or grading permit for any ground disturbing activity, a qualified biologist shall conduct a pre-construction presence/absence survey for burrowing owls within 14 days prior to site disturbance. Surveys shall be conducted consistent with the procedures in outlined in the “California Department of Fish and Wildlife (CDFW) 2012 Staff Report on Burrowing Owl Mitigation.” If the species is absent, no additional mitigation will be required.

**Areas Outside of the Chino RMP Boundary.** If burrowing owl(s) are observed onsite during the pre-construction clearance survey;

- Prior to disturbance of the occupied burrows, suitable and unoccupied replacement burrows shall be provided at a ratio of 2:1 within designated off-site conserved lands to be identified through coordination with CDFW and the City in which the burrowing owl(s) is(are) detected (either the City of Ontario or the City of Chino). A qualified biologist shall confirm that the artificial burrows are currently unoccupied and suitable for use by owls.
- Until suitable replacement burrows have been provided/confirmed within the off-site conserved lands to be identified through coordination with CDFW and the City of Ontario or the City of Chino, no disturbance shall occur within 50 meters (approximately 160 feet) of occupied burrows during the nonbreeding season (September 1 through January 31) or within 75 meters (approximately 250 feet) during the breeding season (February 1 through August 31).
- Occupied burrows should not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg-laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.
- If burrowing owls are present at the time that the occupied burrows are to be disturbed, then the owls shall be excluded from the site following the 2012 CDFG Staff Report.

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**City of Chino, RMP Boundary.** If burrowing owl(s) is(are) detected within the Project's disturbance footprint in the City of Chino RMP boundary, the owl(s) are required to be handled as indicated by the RMP:

The RMP addresses mitigation requirements for impacts to burrowing owls. The RMP states that the 1995 CDFG Staff Report on Burrowing Owl Mitigation (as supplemented by the RMP) shall be followed when burrowing owls are detected on properties. If avoidance of occupied habitat is infeasible, provisions shall be made to passively relocate owls from sites in accordance with the current 2012 CDFG Staff Report (supersedes 1995 CDFG Staff Report).

According to the Preserve EIR and RMP, Burrowing Owls to be relocated from properties within the City's Subarea 2 are intended to be accommodated within a "300-acre conservation area" and/or additional Candidate Relocation Areas as described on Page 4-16 and 4-21 of the RMP. One such contingency conservation area is identified in the RMP as "Drainage Area B".

Drainage Area B consists of a series of Natural Treatment System (NTS) facilities that were constructed south of Kimball Avenue and west of Mill Creek Road. When the NTS facilities were constructed, approximately 50 artificial owl burrows were installed within the basins to accommodate relocated owls and additional owls dispersing to the site. This location was given top priority as an owl relocation site by the RMP due to its proximity to areas that have been and will be converted to urban development. If Burrowing Owls are present at the Project site at time of site disturbance, the Burrowing Owls would be more likely to initially relocate to the immediately surrounding properties, including additional locations within the Chino Airport. However, the NTS basins represent the nearest conservation area providing regional mitigation for the loss of burrowing owl habitat.

Consistent with the RMP, the following measures shall apply to the portion of the Project site within the RMP boundary regarding burrowing owl mitigation:

- Prior to disturbance of the occupied burrows, suitable and unoccupied replacement burrows shall be provided at a ratio of 2:1 within the City of Chino designated relocation area (e.g. the NTS basins). A qualified biologist through coordination with the City shall confirm that the artificial burrows are currently unoccupied and suitable for use by owls.
- Until suitable replacement burrows have been provided/confirmed within the designated relocation area (e.g. the NTS basins), no disturbance shall occur within 50 meters (approximately 160 feet) of occupied burrows during the nonbreeding season (September 1 through January 31) or within 75 meters (approximately 250 feet) during the breeding season (February 1 through August 31).
- Occupied burrows should not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg-laying and incubation; or 2) that



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juveniles from the occupied burrows are foraging independently and are capable of independent survival.

- If Burrowing Owls are present at the time that the occupied burrows are to be disturbed, then the owls shall be excluded from the site following the 2012 CDFG Staff Report and Table 4-6 of the RMP.
- Pursuant to mitigation measure B-3(8) of The Preserve EIR, and as noted on Page 4-39 of the RMP, the Project shall pay the required mitigation fee prior to initiation of ground disturbing activities. One priority for funding supported by the mitigation fees is the establishment and long-term management of burrowing owl habitat within the Drainage Area B conservation area.

BIO-4 Prior to implementation of project activities, a qualified biologist shall be retained to determine whether potential roosting sites for bats may be affected. For large ornamental trees suitable for bat roosting/nursery, exit counts and acoustic surveys shall be performed prior to initial ground disturbance and vegetation removal to determine whether the project footprint and a 300-foot buffer supports a nursery or roost, and by which species. This survey work will occur between late-spring and late summer and/or in the fall (generally mid-March through late October).

If the results of the bat survey finds a total of a single roosting individual of a special-status bat species or 25 or more individuals of non-special-status bat species with potential to be present in the study area (i.e., western Mastiff bat, big free-tailed bat, pallid bat, western red bat, and western yellow bat), a Bat Management Plan shall be developed to ensure mortality to bats does not occur. For each location confirmed to be occupied by bats, the plan will provide details both in text and graphically where exclusion devices/and or staged tree removal will need to occur, the timing for exclusion work, and the timeline and methodology needed to exclude the bats. The plan will need to be reviewed and approved by CDFW prior to disturbance of the roost(s).

BIO-5 Within 14 days prior to the onset construction activities, a qualified biologist shall conduct pre-construction surveys for western pond turtle within all areas that fall within 100 feet of any suitable aquatic and upland nesting habitat for this species (retention ponds). If Western pond turtles are observed during the pre-construction survey, the CDFW shall be contacted to relocate western pond turtles to ensure that no western pond turtles are harmed. If no western pond turtles are observed during the pre-construction survey, then construction activities may begin. If construction is delayed or halted for more than 30 days, another pre-construction survey for western pond turtle shall be conducted. Within seven days of the pre-construction survey, a report of findings from the survey shall be submitted to the CDFW.

During construction, a qualified biological monitor who has been approved by the CDFW to relocate western pond turtles shall be onsite to ensure that no western pond turtles are harmed. If western pond turtles are observed in the construction area at any time during construction,

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the onsite biological monitor shall be notified and construction in the vicinity of the sighting shall be halted until such a time as a turtle has been removed from the construction zone, and relocated by an approved biologist. If a sighting occurs during construction, the biologist shall prepare a report of the event and submit it to CDFW.

#### Impact 5.3-2

BIO-6 To mitigate the loss of Corps, Regional Board, and CDFW jurisdiction, prior to the issuance of grading permits, the project applicant shall purchase credits from an approved mitigation bank/in-lieu fee program at a minimum of a 1:1 ratio, for a minimum of 3.30 acres (inclusive of the 1.67 acres of non-wetland WoUS and Porter-Cologne waters) of mitigation credits, or a number of mitigation credits equal to project impacts based on final infrastructure design during aquatic permitting.

If an approved mitigation bank/in-lieu fee program cannot be identified to mitigate the loss of Corps, Regional Board, and CDFW jurisdiction, the project applicant shall enhance, re-establish, or establish Corps, Regional Board, and CDFW jurisdictional areas on off-site conserved lands at a minimum of a 1:1 ratio, for a minimum of 3.30 acres (inclusive of the 1.67 acres of non-wetland WoUS and Porter-Cologne waters) of enhancement, re-establishment, or establishment, or a number acres equal to Project impacts based on final infrastructure design during aquatic permitting. Compensatory mitigation should be coordinated with CWA 401 and 404 permitting and CDFW 1602 Streambed Alteration Agreement acquisition to ensure efficiencies with the mitigation effort.

#### Impact 5.3-3

Mitigation Measure BIO-4 applies.

### 5.3.8 Level of Significance After Mitigation

#### Impact 5.3-1

The proposed project would result in potential impacts to nesting birds, the southern California legless lizard and, California glossy snake, burrowing owl, roosting bats, and western pond turtle. Mitigation Measures BIO-1 through BIO-5 would require species specific surveys from a qualified biologist prior to any construction activities. If these species are present, measures in accordance with the approach resources agencies protocol would be implemented to avoid or relocate the species to ensure that no significant impacts occur. No significant unavoidable adverse impacts to special-status wildlife and nesting birds have been identified.

#### Impact 5.3-2

The proposed project could result in the loss of 1.67-acres of Corps jurisdictional drainages and 3.3-acres of CDFW streambed. Pursuant to Mitigation Measure BIO-6, the project applicant shall mitigate the loss of Corps, Regional Board, and CDFW jurisdiction, prior to the issuance of grading permits, the project applicant shall purchase credits from an approved mitigation bank/in-lieu fee program at a minimum of a 1:1 ratio or

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ensure off-site restoration at a 1:1 ratio. With implementation this mitigation, impacts to jurisdictional features would be less than significant. No significant unavoidable adverse impacts to jurisdictional features have been identified.

#### Impact 5.3-3

The proposed project may impede the use of native wildlife nursery sites. Mitigation Measure BIO-4 requires, exit counts and acoustic surveys prior to initial ground disturbance and vegetation removal to determine whether the project footprint and a 300-foot buffer supports a nursery or roost, and by which bat species. If the results of the bat survey finds a total of a single roosting individual of a special-status bat species or 25 or more individuals of non-special-status bat species with potential to be present in the study area (i.e., western Mastiff bat, big free-tailed bat, pallid bat, western red bat, and western yellow bat), a Bat Management Plan in coordination with CDFW shall be developed to ensure mortality to bats does not occur. No significant unavoidable adverse impacts to native wildlife nursery sites have been identified.

#### 5.3.9 References

Ecological Sciences, Inc. 2019, October 17. Focused Burrowing Owl Protocol Surveys.

Glenn Lukos Associates (GLA), Inc. 2019, December 18. Biological Technical Report for Off-Site Improvements in Support of Ontario Ranch Business Park.

Hernandez Environmental Services (HES). 2020, January. General Biological Assessment for Ontario Ranch Business Center.

———. 2019, December 15. General Habitat Suitability Evaluation Ontario Ranch Business Park Off-Site Improvements, Ecological Sciences, Inc.

US Fish and Wildlife Service (USFWS). 2019. National Wetlands Mapper.  
<http://www.fws.gov/wetlands/Data/Mapper.html>.

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