

5. Environmental Analysis

5.2 BIOLOGICAL RESOURCES

The analysis in this section is based in part on the following technical report(s):

- *Biological Resources Technical Report, New Fontana Campus, Chaffey Community College District*, Cadre Environmental, September 2021. (Appendix D)
- *Re: Habitat Conditions for Delhi Sands Flower-Loving Fly on a 14.5-Acre Site, Fontana, San Bernardino County, CA*. Osborne Biological Consulting, December 15, 2021. (Appendix E)
- *Chaffey College Fontana Campus Site (11070 Sierra Ave. Fontana, CA 92337) (Assessor's Parcel Numbers 0255-101-05 through 09, Focused Survey for the Delhi Sands Flower-loving Fly*, Powell Environmental Consultants, September 20, 2022. (Appendix F)

Complete copies of these studies are in Appendix D through Appendix F of this Draft EIR.

5.2.1 Environmental Setting

5.2.1.1 REGULATORY BACKGROUND

Federal and State Regulations

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 critical 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 for the impacted species must be developed in support of incidental take permits to minimize impacts to the species and formulate viable mitigation measures.

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 makes it illegal to “pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess...any migratory bird...or any part, nest, or egg of any such bird” (16 US Code Sections 703–712).

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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. Unlike the federal Endangered Species Act, which clearly applies to the incidental and unintentional take of listed species, neither the MBTA nor its legislative history address whether the law was intended to prohibit the incidental and unintentional take of migratory birds, or only hunting and other forms of direct, intentional take. As of December 3, 2021, the incidental take of protected migratory birds is prohibited, and violations are subject to discretionary enforcement by the USFWS.

Bald Eagle and Golden Eagle Protection Act

The Bald Eagle and Golden Eagle Protection Act explicitly protects the bald eagle and golden eagle and imposes its own prohibition on any taking of these species. As defined in this act, take means to pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, or molest or disturb. Current USFWS policy is not to refer the incidental take of bald eagles for prosecution under the Bald Eagle and Golden Eagle Protection Act (16 U.S. Code 668–668d).

Clean Water Act, Section 404

The United States Army Corps of Engineers (USACE) regulates discharge of dredged or fill material into “waters of the United States.”¹ Any filling or dredging within waters of the United States requires a permit, which entails assessment of potential adverse impacts to USACE wetlands and jurisdictional waters and any mitigation measures that the USACE 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 USACE Section 404 permits and National Pollutant Discharge Elimination System (NPDES) permits issued by the US Environmental Protection Agency (EPA) under Section 402 of the CWA. NPDES permits are issued by the applicable RWQCB. The City of Fontana is in the jurisdiction of the Santa Ana RWQCB (Region 8).

¹ “Waters of the United States,” as applied to the jurisdictional limits of the USACE 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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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 the project, as part of a Streambed Alteration Agreement, that address potentially significant adverse impacts within CDFW's jurisdictional limits.

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.

Nesting Bird Protection, California Fish and Game Code

Nesting birds, including raptors, are protected under California Fish and Game Code (CFGF) Section 3503, which reads, "it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto." In addition, under CFGF Section 3503.5, "it is unlawful to take, possess, or destroy any birds in the orders 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." Passerines and nonpasserine land birds are further protected under CFGF 3513.

CFGF Section 3800 indicates that all birds occurring naturally in California that are not resident game birds, migratory game birds, or fully protected birds are nongame birds. And it is unlawful to take any nongame bird except as provided in the CFGF or in accordance with regulations of the commission or, when relating to mining operations, a mitigation plan approved by the department.

Pursuant to these code sections, CDFW recommends surveys for nesting birds that could potentially be directly (e.g., actual removal of trees/vegetation) or indirectly (e.g., noise disturbance) impacted by project-related activities. Disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered "take" by CDFW.

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Local Regulation

City of Fontana Municipal Code

The City of Fontana Municipal Code Article 111, Preservation of Heritage, Significant and Specimen Trees (Tree Preservation Ordinance No. 1126, sec. 1, 8-16-94), preserves and protects heritage, significant, and/or specimen trees within the city on both private and public property. The city council found that such trees are worthy of preservation in order to enhance the scenic beauty of the city, provide wind protection, prevent soil erosion, promote urban forestation, conserve the city's tree heritage for the benefit of all, and thereby promote the public health, safety, and welfare.

According to the Tree Preservation Ordinance, protected trees are described as follows:

- Heritage tree means any tree which: (1) is of historical value because of its association with a place, building, natural feature or event of local, regional or national historical significance as identified by city council resolution; or (2) is representative of a significant period of the city's growth or development (windrow tree, European Olive tree); or (3) is a protected or endangered species as specified by federal or state statute; or (4) is deemed historically or culturally significant by the city manager or his or her designee because of size, condition, location or aesthetic qualities.
- Significant tree means any tree that is one of the following species: southern California black walnut, coast live oak, deodora cedar, California sycamore or London plane.
- Specimen tree is defined as a mature tree (which is not a heritage or significant tree) which is an excellent example of its species in structure and aesthetics and warrants preservation, relocation or replacement as provided in sections 28-66, 28-67 and 28-68. Specimen trees shall not include any tree located on a private parcel of property of less than one acre zoned for residential use.”

The Tree Preservation Ordinance applies to projects that require a subdivision of property and/or a project requiring design advisory board review and/or a design review. Additionally, all heritage trees so designated by city council resolution, or endangered species as specified by federal or state statute are also covered by this ordinance. Because the proposed project would not require a subdivision of property and/or a project requiring design advisory board review and/or a design review, this ordinance does not apply to the proposed project.

5.2.1.2 EXISTING CONDITIONS

Plant Communities/Habitat

Disturbed/Non-native Grassland

The majority of the project site is characterized as disturbed/nonnative grassland habitat as shown on Figure 5.2-1, *Vegetation Communities Map*, and in Table 5.2-1, *Project Site Vegetation Community Acreages*. This vegetation community is dominated by golden crownbeard (*Verbesina encelioides*), lamb's quarters (*Chenopodium album*), annual bursage (*Ambrosia acanthicarpa*), red-stemmed filaree (*Erodium cicutarium*), white-stemmed filaree (*Erodium moschatum*), prickly lettuce (*Lactuca serriola*), tree tobacco (*Nicotiana glauca*), black mustard (*Brassica nigra*), Russian



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thistle (*Salsola tragus*), common fiddleneck (*Amsinckia menziesii*), and puncture vine (*Tribulus terrestris*). Nonnative grasses documented on the project site include wild oats (*Avena fatua*), ripgut brome (*Bromus diandrus*), and foxtail chess (*Bromus madritensis* ssp. *rubens*). Additionally, eight Southern California black walnut trees (*Juglans californica*) are in the southern region of the project site, primarily along the property boundary. Several of the trees are in poor health and exhibit signs of distress.

Table 5.2-1 Project Site Vegetation Community Acreages

Vegetation Community	Acres
Disturbed/Nonnative Grassland	13.52
Ornamental	0.78
TOTAL	14.30
Source: Cadre 2021.	

Ornamental

The northeast region of the project site (APNs 255-101-05, 255-101-06 and 255-101-07) was historically developed with three residential homes. Although all structures have been demolished and removed, several scattered mature ornamental trees remain, including eucalyptus (*Eucalyptus* sp.), tree of heaven (*Ailanthus altissima*), pine (*Pinus* sp.), olive (*Olea europaea*), Peruvian pepper trees (*Schinus molle*), and ash (*Fraxinus* sp.)

Wildlife

General wildlife species documented on or within the vicinity of the project site include the red-tailed hawk (*Buteo jamaicensis*), American kestrel (*Falco sparverius*), mourning dove (*Zenaida macroura*), rock dove (*Columba livia*), European starling (*Sturnus vulgaris*), Cassin's kingbird (*Tyrannus vociferans*), house sparrow (*Passer domesticus*), and house finch (*Haemorrhous mexicanus*).

Sensitive Biological Resources

Protected sensitive species are classified by state and/or federal resource management agencies, or both, as threatened or endangered, under provisions of the state and federal endangered species act. Vulnerable or "at-risk" species that are proposed for listing as threatened or endangered (and thereby for protected status) are categorized administratively as "candidates" by the USFWS. CDFW uses various terminology and classifications to describe vulnerable species. Furthermore, there are additional sensitive species classifications applicable in California. Sensitive biological resources are habitats or individual species that have special recognition by federal, state, or local conservation agencies and organizations as endangered, threatened, or rare. The CDFW, USFWS, and special groups like the California Native Plant Society (CNPS) maintain watch lists of such resources. Table 5.2-2, *Federal, State, and CNPS Special Status Classifications*, provides acronyms used for federal-, state-, and CNPS-status species.

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Table 5.2-2 Federal, State, and CNPS Classifications

Federal Classifications			
FE	Federal Endangered	FPT	Federal Proposed Threatened
FT	Federal Threatened	FC	Federal Candidate for Listing
FPE	Federal Proposed Endangered		
State Classifications			
SE	State Endangered	SP	State Protected
ST	State Threatened	SR	State Rare
SCE	State Candidate Endangered	SSC	California Species of Special Concern
SCT	State Candidate Threatened	CWL	California Watch List
SFP	State Fully Protected		
California Native Plant Society (CNPS) Classifications			
CRPR 1A	Presumed extinct in California		
CRPR 1B	Rare, threatened, or endangered in California and elsewhere		
CRPR 2A	Plants presumed extirpated in California but common elsewhere		
CRPR 2B	Plants rare, threatened, or endangered in California but more common elsewhere		
CRPR 3	Plants about which we need more information – a review list		
CRPR 4	Species of limited distribution in California (i.e., naturally rare in the wild), but whose existence does not appear to be susceptible to threat		
CNPS Classifications Threat Rank			
0.1	Seriously threatened in California (>80% of occurrences threatened / high degree and immediacy of threat)		
0.2	Fairly threatened in California (20 to 80% occurrences threatened / moderate degree and immediacy of threat)		
0.3	Not very threatened in California (<20% of occurrences threatened / low degree and immediacy of threat or no current threats known)		

Sensitive Habitat

According to the Biological Resources Technical Study in Appendix D, the project site is primarily characterized as heavily disturbed nonnative grassland and ornamental trees; therefore, there are no sensitive or undisturbed native habitats within the project site.

Sensitive Plants

A total of 14 sensitive plant species are listed in the CNDDB as potentially occurring within the vicinity of the project site, and suitable habitat for 8 of the species occurs within the city boundary, as presented in Table 5.2-3, *Sensitive Plant Species Assessment* (Cadre 2021). However, no suitable habitat for sensitive plant species listed as federal or state threatened/endangered was documented within the project site, except for eight sensitive Southern California black walnut trees (*Juglans californica*). As shown in Table 5.2-3, Southern California black walnut trees (*Juglans californica*) are listed as a CRPR 4.2. And as shown in Table 5.2-2, the CRPR 4.2 classification represents species of limited distribution in California (i.e., naturally rare in the wild), but whose existence does not appear to be susceptible to threat, with threat rank of “0.2” indicating that the species are fairly endangered in California. However, it should also be noted that CRPR 4 plants generally have large enough populations to not have significant threats to their continued existence in California.

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Table 5.2-3 Sensitive Plant Species Assessment

Species Name (Scientific Name)	Status	Habitat Description	Comments
San Diego ambrosia (<i>Ambrosia pumila</i>)	FE - Federally Endangered CRPR 1B.1 – plants rare, threatened, or endangered in California, but more common elsewhere - Seriously endangered in California	Perennial species. San Diego ambrosia is known from Baja California, Mexico, and San Diego and Riverside counties in the United States. San Diego ambrosia occurs primarily on upper terraces of rivers and drainages as well as in open grasslands, openings in coastal sage scrub, and occasionally in areas adjacent to vernal pools.	Perennial species not detected onsite.
Nevin's barberry (<i>Berberis nevinii</i>)	FE/SE - Federally Endangered/State Endangered CRPR 1B.1 – plants rare, threatened, or endangered in California, but more common elsewhere - Seriously endangered in California	Perennial evergreen shrub which generally blooms from February to June within chaparral, cismontane woodland, coastal scrub, and riparian scrub in sandy, gravelly substrates (CNPS 2021).	Perennial species not detected onsite.
Plummer's mariposa-lily (<i>Calochortus plummerae</i>)	CRPR 4.2 - plants of limited distribution, a watch list - Fairly endangered in California	Perennial bulbiferous herb which generally blooms from May to June within chaparral, cismontane woodland, coastal scrub, lower montane coniferous forest, and grassland habitats with granite and rocky substrates. (CNPS 2021)	No potential to occur onsite based on a lack of suitable undisturbed vegetation or soils.
Smooth tarplant (<i>Centromadia pungens</i> ssp. <i>laevis</i>)	CRPR 1B.1 – plants rare, threatened, or endangered in California, but more common elsewhere - Seriously endangered in California	Annual herb which generally blooms from April to September within chenopod scrub, meadows and seeps, playas, riparian woodland, valley and foothill grassland (alkaline substrates). (CNPS 2021)	No potential to occur onsite based on a lack of suitable substrates and habitat.
Parry's spineflower (<i>Chorizanthe parryi</i> var. <i>parryi</i>)	CRPR 1B.1 – plants rare, threatened, or endangered in California, but more common elsewhere - Seriously endangered in California	Annual herb which generally blooms from April to June within chaparral, cismontane woodland, coastal scrub and grassland habitats with sandy and/or rocky openings. (CNPS 2021)	Not expected to occur onsite based on a lack of suitable undisturbed vegetation or soils.
Slender-horned spineflower (<i>Dodecahema leptoceras</i>)	FE/SE - Federally Endangered/State Endangered CRPR 1B.1 – plants rare, threatened, or endangered in California, but more common elsewhere - Seriously endangered in California	Annual herb which generally blooms from April to June within chaparral, cismontane woodland and coastal scrub (alluvial fan) with sandy substrates. (CNPS 2021)	No potential to occur onsite based on a lack of suitable undisturbed vegetation or soils.
Santa Ana River woollystar (<i>Eriastrum densifolium</i> ssp. <i>sanctorum</i>)	FE/SE - Federally Endangered/State Endangered CRPR 1B.1 – plants rare, threatened, or endangered in California, but more common elsewhere - Seriously endangered in California	Perennial herb which generally blooms from April to September within chaparral, coastal scrub (alluvial fan) in sandy and gravelly substrates (CNPS 2021).	No potential to occur onsite based on a lack of suitable habitat.
Southern California black walnut (<i>Juglans californica</i>)	CRPR 4.2 - plants of limited distribution, a watch list - Fairly endangered in California	Perennial tree generally blooming from March to August (CNPS 2021)	Present – A total of eight southern California black walnuts detected within the southern region of the project site.

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Table 5.2-3 Sensitive Plant Species Assessment

Species Name (Scientific Name)	Status	Habitat Description	Comments
Mesa horkelia (<i>Horkelia cuneata</i> <i>ssp. puberula</i>)	CRPR 1B.1 – plants rare, threatened, or endangered in California, but more common elsewhere - Seriously endangered in California	Perennial herb which generally blooms from February to September within chaparral (maritime), cismontane woodland and coastal scrub with sandy or gravelly substrates. (CNPS 2021)	No potential to occur onsite based on a lack of suitable undisturbed vegetation or soils.
Robinson's pepper-grass (<i>Lepidium virginicum</i> var. <i>robinsonii</i>)	CRPR 4.3 – plants of limited distribution, a watch list- Not very endangered in California	Annual herb which generally blooms from January to July within chaparral and coastal sage scrub habitats (CNPS 2020).	No potential to occur onsite based on a lack of suitable undisturbed vegetation or soils.
Lemon lily (<i>Lilium parryi</i>)	CRPR 1B.1 – plants rare, threatened, or endangered in California, but more common elsewhere - Fairly endangered in California	Perennial bulbiferous herb which generally blooms from July to August within lower montane coniferous forest, meadows and seeps, riparian forest, and upper montane coniferous forest (CNPS 2021)	No potential to occur onsite based on a lack of suitable undisturbed vegetation or soils.
Parish's desert-thorn (<i>Lycium parishii</i>)	CRPR 2B.3 – plants rare, threatened, or endangered in California but more common elsewhere - Not very endangered in California	Perennial herb which generally blooms from March to April in coastal scrub and Sonoran desert scrub habitats. (CNPS 2021)	No potential to occur onsite based on a lack of suitable undisturbed vegetation or soils.
Pringle's monardella (<i>Monardella pringlei</i>)	CRPR 1A – plants presumed extinct in California	Annual herb which generally blooms from May to June in coastal scrub dominated sandy substrates. (CNPS 2021)	No potential to occur onsite based on a lack of suitable undisturbed vegetation or soils.
Chaparral ragwort (<i>Senecio aphanactis</i>)	CRPR 2B – plants rare, threatened, or endangered in California but more common elsewhere - Fairly endangered in California	Annual herb which generally blooms from January to May within chaparral, cismontane woodland and coastal scrub habitats. (CNPS 2021)	No potential to occur onsite based on a lack of suitable undisturbed vegetation or soils.

California Native Plant Society (CNPS): California Rare Plant Rank (CRPR)

CRPR 1A – plants presumed extinct in California

CRPR 1B – plants rare, threatened, or endangered in California, but more common elsewhere

CRPR 2A – plants presumed extirpated in California but common elsewhere

CRPR 2B – plants rare, threatened, or endangered in California but more common elsewhere

CRPR 3 – plants about which we need more information, a review list

CRPR 4 – plants of limited distribution, a watch list

.1 – Seriously endangered in California

.2 – Fairly endangered in California

.3 – Not very endangered in California

Federal (USFWS) Protection and Classification

FE – Federally Endangered

FT – Federally Threatened

FC – Federal Candidate for Listing

State (CDFW) Protection and Classification

SE – State Endangered

ST – State Threatened

Sensitive Wildlife

A total of 28 sensitive wildlife species are listed in the CNDDDB as potentially occurring in the vicinity of the city, and suitable habitat for 17 of the species occurs within the city boundary, as presented in Table 5.2-4,

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Sensitive Wildlife Species Assessment (Cadre 2021). The entire project site is mapped as Delhi fine sand soils and is within the USFWS Jurupa Recovery Unit for the Delhi sands flower-loving fly, so it may be suitable habitat for the species. Figure 7 - Soils Association Map of the Biological Resources Technical Report (see Appendix D to the Draft EIR) illustrates that the entire project site is mapped as Delhi fine sand soils. Suitable nesting habitat for the Cooper's hawk (*Accipiter cooperii*), a state species of special concern (SSC) is in the mature ornamental trees. Suitable foraging habitat for the California horned lark (*Eremophila alpestris actia*), an SSC; white-tailed kite (*Elanus leucurus*), a state fully protected (SFP); and loggerhead shrike (*Lanius ludovicianus*), an SSC, is in the disturbed/nonnative grasslands. The project site is not in or adjacent to a USFWS-designated critical habitat for any federally listed threatened or endangered species.

Table 5.2-4 Sensitive Wildlife Species Assessment

Species Name (Scientific Name)	Status	Habitat Description	Comments
Invertebrates			
Delhi sands flower-loving fly (<i>Rhaphiomidas terminatus abdominalis</i>)	FE - Federally Endangered	Restricted to Delhi sand formations in Riverside and San Bernardino Counties.	The entire project site is in the USFWS Jurupa Recovery Unit for the species (USFWS 2008) and some portions of the site may be characterized as Delhi fine sand soils.
Fish			
Santa Ana sucker (<i>Catostomus santaanae</i>)	FT - Federally Threatened	Preferred habitat, open water and emergent vegetation.	No potential to occur onsite based on a lack of open water.
Arroyo chub (<i>Gila orcuttii</i>)	SSC – State Species of Special Concern	Preferred habitat, open water and emergent vegetation in lower gradient streams with sand or mud substrate.	No potential to occur onsite based on a lack of open water.
Reptiles			
Orange-throated whiptail (<i>Aspidoscelis hyperythra</i>)	SSC – State Species of Special Concern	The orange-throated whiptail occurs in RSS and chaparral where loose soils and occasional rocky areas are found. Although no individuals have been observed during recent project biological surveys, the City provides some suitable habitat for this species, particularly in the north end, south of I-15 and in the Jurupa Mountains.	Not detected. Not expected to occur onsite based on a lack of suitable undisturbed vegetation or soils.
Coastal western whiptail (<i>Aspidoscelis tigris stejnegeri</i>)	SSC – State Species of Special Concern	The coastal western whiptail occurs in a wide variety of habitats including coastal sage scrub, desert scrub, Riversidean alluvial fan scrub, woodlands, grasslands, playas, and respective ecotones between these habitats.	Not detected. Not expected to occur onsite based on a lack of suitable undisturbed vegetation or soils.
Red-diamond rattlesnake (<i>Crotalus ruber</i>)	SSC – State Species of Special Concern	The red-diamond rattlesnake is often found in areas with dense vegetation especially chaparral and sage scrub up to 1,520 meters in elevation.	Not detected. Not expected to occur onsite based on a lack of suitable undisturbed vegetation or soils.
Coast horned lizard (<i>Phrynosoma blainvillii</i>)	SSC – State Species of Special Concern	The horned lizard occurs primarily in scrub, chaparral, and grassland habitats.	Not expected to occur onsite based on a lack of suitable undisturbed vegetation or soils.

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Table 5.2-4 Sensitive Wildlife Species Assessment

Species Name (Scientific Name)	Status	Habitat Description	Comments
Birds			
Bell's sage sparrow (<i>Artemisiospiza belli belli</i>)	CWL – California Watch List	This species is typically found in chaparral on alluvial fans and foothills. This species was observed in north Fontana in 2002, north of the I-15.	Not expected to occur onsite based on a lack of suitable undisturbed foraging or nesting vegetation.
Cooper's hawk (<i>Accipiter cooperii</i>)	SSC – State Species of Special Concern	Cooper's hawk is most commonly found within or adjacent to riparian/oak forest and woodland habitats. This uncommon resident of California increases in numbers during winter migration.	Cooper's hawks may occasionally nest in large pines and Eucalyptus trees onsite.
Southern California rufous-crowned sparrow (<i>Aimophila ruficeps canescens</i>)	CWL – California Watch List	Southern California rufous-crowned sparrow is a non-migratory bird species that primarily occurs within sage scrub and grassland habitats and to a lesser extent chaparral sub-associations. This species generally breeds on the ground within grassland and scrub communities in the western and central regions of California.	Not expected to occur onsite based on a lack of suitable undisturbed foraging or nesting vegetation.
Golden eagle (<i>Aquila chrysaetos</i>)	CWL – California Watch List SFP – State Fully Protected	Within southern California, the species prefers grasslands, brushlands (coastal sage scrub and chaparral), deserts, oak savannas, open coniferous forests, and montane valleys.	Not expected to occur onsite based on a lack of suitable undisturbed foraging or nesting vegetation.
Burrowing owl (<i>Athene cunicularia</i>)	SSC – State Species of Special Concern	The burrowing owl uses predominantly open land, including grassland, agriculture (e.g., dry-land farming and grazing areas), playa, sparse coastal sage scrub, desert scrub habitats. Some breeding burrowing owls are year-round residents and additional individuals from the north may winter throughout the region.	Not detected. Not expected to occur onsite. No potential burrows were documented within or adjacent to the Project Site.
Northern Harrier (<i>Circus cyaneus</i>)	SSC – State Species of Special Concern	The northern harrier frequents open wetlands, wet/lightly grazed pastures, fields, dry uplands/prairies, mesic grasslands, drained marshlands, croplands, meadows, grasslands, open rangelands, fresh and saltwater emergent wetlands.	Not expected to occur onsite based on a lack of suitable undisturbed foraging or nesting vegetation.
Western yellow-billed cuckoo (<i>Coccyzus americanus occidentalis</i>)	FT/SE - Federally Threatened/State Endangered	Although the preferred habitat, riparian scrub and forest, is well distributed at scattered locations within the Plan Area in the Riverside Lowland Bioregions, the western yellow-billed cuckoo apparently no longer inhabits much of this habitat.	No potential to occur onsite based on a lack of riparian scrub, forest or woodland habitats within or adjacent to the Project Site.
White-tailed kite (<i>Elanus leucurus</i>)	SFP – State Fully Protected	The white-tailed kite is found in riparian, oak woodlands adjacent to large open spaces including grasslands, wetlands, savannahs and agricultural fields. This non-migratory bird species occurs throughout the lower elevations of California and commonly nests in coast live oaks (Unitt 2004).	May occasionally forage onsite within the open disturbed habitats.
Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>)	FT/SE - Federally Threatened/State Endangered	The southwestern willow flycatcher is narrowly distributed at few locations within the Plan Area. Although the preferred habitat, riparian woodland and select other forests, is well distributed within all bioregions and spread over the entire Plan Area, few current locations for the willow flycatcher have been documented.	No potential to occur onsite based on a lack of riparian scrub, forest or woodland habitats within or adjacent to the project site.

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Table 5.2-4 Sensitive Wildlife Species Assessment

Species Name (Scientific Name)	Status	Habitat Description	Comments
California horned lark (<i>Eremophila alpestris actia</i>)	CWL – California Watch List	Habitat for the California horned lark includes agriculture (field croplands), grassland, cismontane alkali marsh, playa and vernal pool habitat, Riversidean alluvial fan sage scrub, and coastal sage scrub (Garrett and Dunn 1988). It has been recorded in chaparral and riparian habitat - however these are not typical habitats used by the species.	May occasionally forage onsite within the open disturbed habitats.
Loggerhead shrike (<i>Lanius ludovicianus</i>)	SSC – State Species of Special Concern	This species of shrike hunts in open or grassy areas and nests in large chaparral shrubs such as ceanothus and lemonade berry. The extreme northern and southern portions of the City (foothills of the San Gabriel Mountains and the Jurupa Hills) provide suitable nesting and foraging habitat for this species. (City of Fontana 2018)	May occasionally forage onsite within the open disturbed habitats.
Coastal California gnatcatcher (<i>Poliopitila californica californica</i>)	FT/SSC - Federally Threatened/ State Species of Special Concern	The coastal California gnatcatcher is a non-migratory bird species that primarily occurs within sage scrub habitats in coastal southern California dominated by California sagebrush.	Not expected to occur onsite based on a lack of suitable breeding and foraging habitat.
Least Bell's vireo (<i>Vireo bellii pusillus</i>)	FE/SE - Federally Endangered/ State Endangered	Least Bell's vireo resides in riparian habitats with a well-defined understory including southern willow scrub, mule fat, and riparian forest/woodland habitats.	No potential to occur onsite based on a lack of riparian scrub, forest or woodland habitats within or adjacent to the project site.
Mammals			
Northwestern San Diego pocket mouse (<i>Chaetodipus fallax fallax</i>)	SSC – State Species of Special Concern	The northwestern San Diego pocket mouse occurs in coastal sage, upland sage scrubs, and alluvial fan sage scrub, sage scrub/grassland ecotones, chaparral, and desert scrubs at all elevations up to 6,000 feet.	Not expected to occur onsite based on a lack of suitable undisturbed vegetation or soils.
San Bernardino kangaroo rat (<i>Dipodomys merriami parvus</i>)	FE/SSC - Federally Endangered/ State Species of Special Concern	Prefers alluvial scrub, coastal sage scrub habitats with sandy and gravelly substrates.	Not expected to occur onsite based on a complete lack of suitable undisturbed vegetation or soils. The project site is devoid of native vegetation.
Western mastiff bat (<i>Eumops perotis californicus</i>)	SSC – State Species of Special Concern	Roosts in rocky areas and forages in grassland, shrublands, and woodlands.	Not expected to occur onsite based on a lack of roosting habitat.
Western yellow bat (<i>Lasiurus xanthinus</i>)	SSC – State Species of Special Concern	Roosts in the skirts of palm trees and forages in adjacent habitats.	Not expected to occur onsite based on a lack of roosting habitat.
San Diego black-tailed jackrabbit (<i>Lepus californicus bennettii</i>)	SSC – State Species of Special Concern	The San Diego black-tailed jackrabbit in open habitats, primarily including grasslands, sage scrub, alluvial fan sage scrub, and Great Basin sage scrub.	Not expected or observed onsite.
San Diego desert woodrat (<i>Neotoma lepida intermedia</i>)	SSC – State Species of Special Concern	Prefers sage scrub and chaparral wherever there are rock outcrops, boulders, cactus patches and dense undergrowth.	Not expected to occur onsite based on a lack of suitable habitat.

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Table 5.2-4 Sensitive Wildlife Species Assessment

Species Name (Scientific Name)	Status	Habitat Description	Comments
Pocketed free-tailed bat (<i>Nyctinomops femorosaccus</i>)	SSC – State Species of Special Concern	Usually associated with rugged canyons, high cliffs, and rock outcroppings. Roosts in rock crevices and caves during the day; may also roost in buildings or under roof tiles (Ziener et al. 1988-1990).	Not expected to occur onsite based on a lack of suitable habitat.
Los Angeles pocket mouse (<i>Perognathus longimembris brevinasus</i>)	SSC – State Species of Special Concern	Low elevation grassland alluvial sage scrub and coastal sage scrub habitats.	Not expected to occur onsite based on a lack of suitable undisturbed vegetation or soils. The project site is devoid of native vegetation communities.

Federal (USFWS) Protection and Classification
FE – Federally Endangered
FT – Federally Threatened
FC – Federal Candidate for Listing

State (CDFW) Protection and Classification
SE – State Endangered
SSC – State Species of Special Concern
CWL – California Watch List
SPF – State Fully Protected

Wildlife Corridors

The project site is bordered to the north by commercial development, to the east by high traffic roads and residential/commercial development, to the south by a detention basin, and to the west by disturbed lands similar to those documented onsite. The project site does not represent a wildlife movement corridor or route between open space habitats.

Jurisdictional Waters and Wetlands

There are no wetlands or jurisdictional resources regulated by the USACE, CDFW, or RWQCB on the project site.

5.2.2 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.

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- 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.
- 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.

5.2.3 Plans, Programs, and Policies

Plans, programs, and policies (PPP), including applicable regulatory requirements and project design features for biological resources, are identified below.

- PPP BIO-1 In compliance with California Fish and Game Code Sections 3503, 3503.5, 3513, and 3800, the proposed project shall avoid the incidental loss of fertile eggs or nestlings or other activities that lead to nest abandonment. Chaffey Community College District is required to conduct a preconstruction survey prior to removal of nesting habitat if construction-related vegetation removal occurs during nesting season (typically between February 1 and August 31). Construction outside the nesting season (between September 1st and January 31st) do not require preconstruction nesting bird surveys.

5.2.4 Environmental Impacts

5.2.4.1 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.

Impact 5.2-1: The proposed project would 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. [Threshold B-1]

Sensitive Habitat and Plants

As described in Section 5.2.1.2, *Existing Conditions*, Sensitive Biological Resources subheading, the project site does not contain any suitable habitats for sensitive plant species listed as federal or state threatened/endangered. There are eight sensitive Southern California black walnut trees in the southern region of the project site, which is on the CNPS list, and is considered fairly endangered in California (CRPR 4.2). However, several of the trees

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are in poor health and exhibit signs of distress. As shown on Figure 5.2-2, *Vegetation Communities Impact Map*, the proposed project would impact all vegetation communities within the project site. Therefore, removal of these eight trees would result in potentially significant impact on California's special status species.

Sensitive Wildlife

Delhi Sands Flower-Loving Fly

As described in Section 5.2.1.2, *Existing Conditions*, under "Sensitive Wildlife," the project site is characterized as having Delhi fine sand soils (Db) and is in the USFWS Jurupa Recovery Unit for the Delhi sands flower-loving fly (DSF). In 1997 the USFWS issued the final recovery plan for the DSF. The plan establishes three recovery units: the Colton, Jurupa, and Ontario Recovery Units. The Colton Recovery Unit contains the most known habitat, followed by the Jurupa Recovery Unit. DSF was listed as an endangered species under the Endangered Species Act, as amended on September 23, 1993. The California Natural Diversity Data Base lists the DSFLF rank as being: G1T1S1 - Federally listed as being extremely endangered (G1); found only in California (T1); and as being extremely endangered in California (S1). The DSF is considered to be endangered primarily because of the loss of its habitat, mainly due to the habitat's conversion to agricultural, residential, and industrial uses. The recovery plan indicated that its historic range has been reduced by over approximately 97 percent. The fly is known only to inhabit areas where Delhi series soils are located. These soils consist of fine, sandy soils, often forming wholly or partially consolidated dunes, located in an irregular 40 square mile area, in southwestern San Bernardino and northwestern Riverside Counties. A habitat assessment for the DSF concluded that the project site presents suitable conditions of moderate quality for the federally endangered (FE) DSF (see Appendix E to the Draft EIR). Moderate quality is defined in the habitat assessment report as soil conditions with: 1) abundant clean Delhi sands with little or no foreign soils (such as alluvial material); 2) moderate abundance of exposed sands on the soil surface; 3) low vegetative cover; and 4) evidence of moderate degree of fossorial animal activity by vertebrates and invertebrates. This soil type may represent high quality habitat with mild or superficial disturbance. The adult DSFs frequent open areas, usually near unconsolidated soil. The adult males patrol open areas looking for females to mate with and the females are more sedentary and perch upon plants or sit on the ground for long periods. Fine unconsolidated soils are required for oviposition. The proposed project would disturb onsite unconsolidated Delhi sands that could potentially provide suitable habitats for the DSF. Because the presence or absence of the DSF is unknown until the two-consecutive year focused survey of the DSF is conducted, and the project site provides moderate quality habitat for the DSF, disturbance of the onsite Delhi sands would be considered potentially significant impacts.

A Focused Survey for the DSF was prepared on September 20, 2022, in accordance with the Interim General Guidelines for the Delhi Sands Flower-loving Fly and conditions set forth in the surveyors 10(a)(1)(A) permits. The survey was initiated on July 2, 2022, and continued biweekly until September 19, 2022. This report is included as Appendix F to this Draft EIR. The surveys found no DSF on the project site and detailed survey results are found in Appendix F. Because a two consecutive year focused survey is required to demonstrate that there is no DSF onsite, until a second focused survey is conducted in 2023 and demonstrate the absence of DSF, this impact would remain potentially significant.

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Birds

The project site provides suitable nesting habitat for the following wildlife bird species.

- Cooper's hawk (SSC) within the mature ornamental trees
- California horned lark (SSC) within the disturbed/nonnative grasslands.
- White-tailed kite (SFP) within the disturbed/nonnative grasslands
- Loggerhead shrike (SSC) within the disturbed/nonnative grasslands.

MBTA and California Fish and Game Code Sections 3503, 3503.5, 3513, and 3800 require that a preconstruction survey is conducted so that no incidental take of migratory birds occurs during construction. Furthermore, because Jurupa Hills, a protected high-quality open space habitat of approximately 860 acres, is present approximately 0.35 mile south of the project, direct impacts to 13.52 acres of potential foraging habitat by the proposed project would not represent a substantial adverse effect. As shown on Figure 5.2-1, *Vegetation Communities Map*, the majority of the project site is disturbed/non-native grassland with limited ornamental landscaping and some Southern California Black Walnut trees. Therefore, it is likely that migratory birds would occupy the nearby Jurupa Hills compared to the project site.

No burrowing owl burrows or individuals were detected during the site survey in September 2021 within or adjacent to the project site. However, considering local observations of the species and suitable foraging habitat west of the project site, there is potential for occupation if the project site remains fallow. Therefore, impacts to burrowing owls would be considered potentially significant.

Level of Significance Before Mitigation: Potentially significant impact.

Impact 5.2-2: The proposed project would not 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 Wildlife or U.S. Fish and Wildlife Service. [Threshold B-2]

The project site consists of 13.52 acres of disturbed/nonnative grassland and 0.78 acre of ornamental landscaping. There are no riparian, sensitive, or undisturbed native/natural habitats within or adjacent to the project site. Therefore, no impact would occur to any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS.

Level of Significance Before Mitigation: No impact.

Impact 5.2-3: The proposed project would not have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means. [Threshold B-3]

The project site consists of 13.52 acres of disturbed/nonnative grassland and 0.78 acre of ornamental landscaping. There are no wetlands or jurisdictional resources regulated by the USACE, CDFW, or RWQCB near or within the project site. Furthermore, the required compliance with NPDES permit and municipal

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separate storm sewer system (MS4) provisions, as discussed in Section 5.5, *Hydrology and Water Quality*, would ensure that impacts to downstream water quality and hydrology are less than significant.

Level of Significance Before Mitigation: Less than significant impact.

Impact 5.2-4: The proposed project would not 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. However, the proposed project could adversely impact nesting habitat for common and sensitive birds and raptors. [Threshold B-4]

As stated in Section 5.2.1.2, *Existing Conditions*, under “Wildlife Corridors,” the project site is bordered to the north by commercial development, to the east by high traffic roads and residential/commercial development, to the south by a detention basin, and to the west by disturbed lands similar to those documented onsite. The project site is not a wildlife movement corridor or route between open space habitats.

The project site contains trees and grasslands expected to provide nesting habitat for raptors and migratory birds protected under the CFGC. As described in Section 5.2.1.1, *Regulatory Background*, CFGC Section 3503 protects nesting habitat for common and sensitive bird and raptors and requires compliance. Therefore, if any phase of construction is proposed between February 1 and August 31, a qualified biologist must conduct a preconstruction nesting bird survey(s) no more than three days prior to initiation of grading to document the presence or absence of nesting birds or raptors within or directly adjacent (100 feet) to the impact area. Construction outside the nesting season (between September 1 and January 31) does not require preconstruction nesting bird surveys.

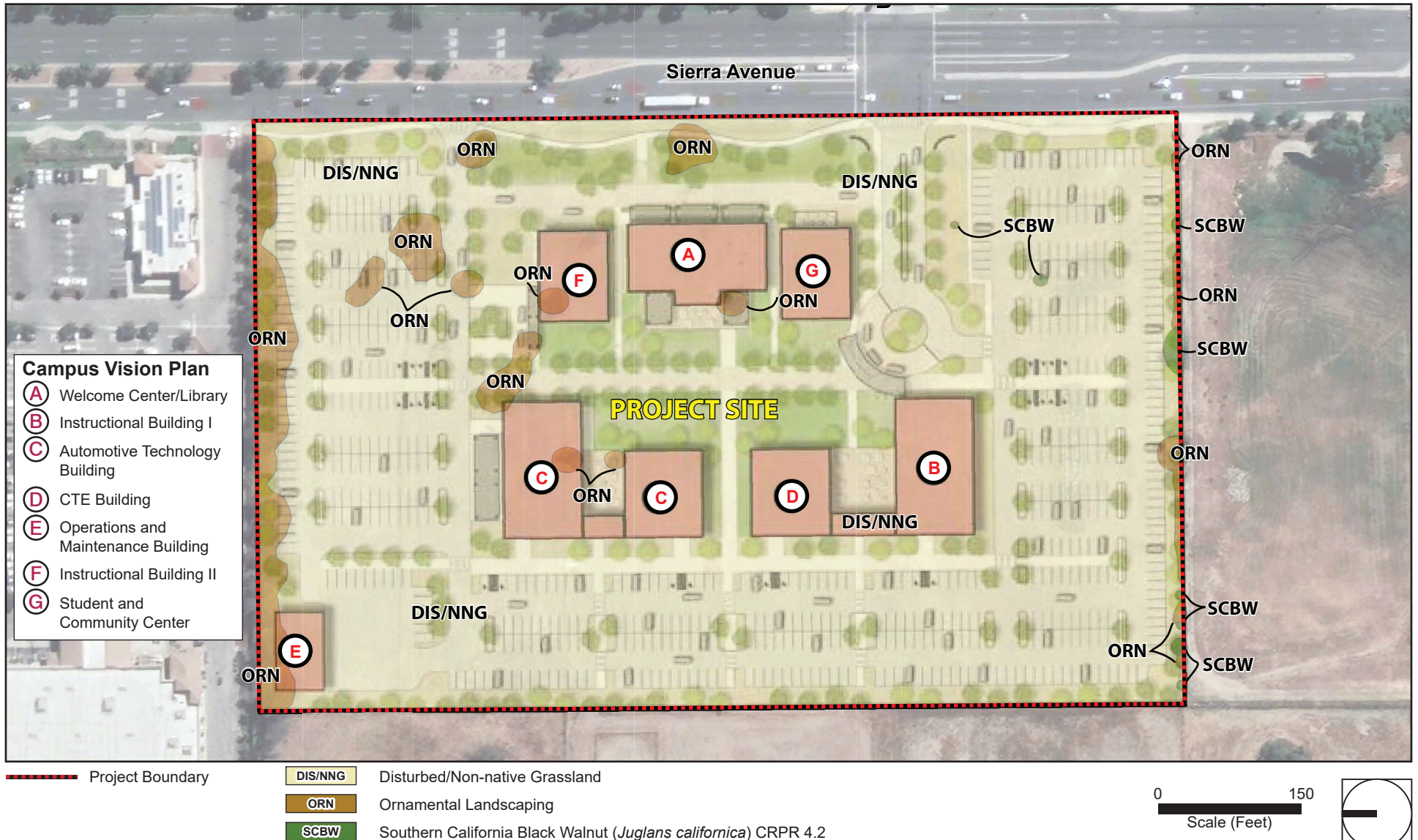
Level of Significance Before Mitigation: Potentially significant impact.

Impact 5.2-5: The proposed project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. [Threshold B-5]

The City of Fontana Municipal Code Article 111, Preservation of Heritage, Significant and Specimen Trees (Tree Preservation Ordinance No. 1126, sec. 1, 8-16-94), preserves and protects heritage, significant, and/or specimen trees within the city on both private and public property. The city council found that such trees are worthy of preservation in order to enhance the scenic beauty of the city, provide wind protection, prevent soil erosion, promote urban forestation, conserve the city's tree heritage for the benefit of all, and thereby promote the public health, safety, and welfare. The City's Tree Preservation Ordinance is applicable to a subdivision of property and/or a project requiring design advisory board review and/or a design review. The District is the lead agency for the proposed project and would not require discretionary approvals or review from the City; therefore, the Tree Preservation Ordinance is not applicable to the proposed project. There are no local policies or ordinances protecting biological resources that are applicable to the proposed project.

Level of Significance Before Mitigation: No impact.

Figure 5.2-2 - Vegetation Communities Impact Map
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Impact 5.2-6: The proposed project could conflict with the provisions of an adopted Habitat Conservation Plan, Native Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. [Threshold B-6]

The project site is not within or adjacent to the North Fontana Conservation Program Area, or in any other adopted habitat conservation plan or native community conservation plan. However, the project site is in the general overlay of the Jurupa Recovery Unit for the Delhi sands flower-loving fly, as identified by the USFWS Recovery Plan for the Delhi Sands Flower-Loving Fly (USFWS 1997). Therefore, a habitat assessment was prepared for the project site, which determined that some portions of the project site have low to moderate presence of Delhi sands which may support ecological conditions for the DSF. The Presence of the DSF will be determined by a two-season protocol survey. The initial habitat suitability study is provided in Appendix E. Implementation of the proposed project may conflict with USFWS Recovery Plan for the DSF unless potential impacts to the DSF are mitigated to a less than significant level, should DSF presence be confirmed through the focused presence/absence surveys conducted in accordance with the Interim General Surveys Guidelines (USFWS 1996) for at least two consecutive years from July 1 to September 20. The intent of Recovery Units (RUs) is to identify and protect areas without which, the target species could not be recovered. The RUs identified for the DSF contain current or restorable habitats for the DSF. Provided that one of the Mitigation Measure BIO-2 options is implemented, the impacted habitat for the DSF would be restored on or offsite through the development and approval of a Habitat Conservation Plan or restored through the purchasing of mitigation bank credits from the existing DSF conservation bank (Vulcan Materials Company), the proposed project would not contribute to the extinction of this species, thus, would not conflict with the Recovery Plan.

Level of Significance Before Mitigation: Potentially significant impact.

5.2.5 Cumulative Impacts

As discussed above, the proposed project would not contribute substantially to the loss of protected natural habitats or other biological resources provided that existing regulatory requirements and mitigation measures are incorporated. The project represents the development of 14.3-acre of disturbed/nonnative grassland and ornamental landscaping vegetation, surrounded by existing and planned urban development and high traffic roads. Although the project provides a habitat for DSF, no development would occur until it is determined that the impact to DSF is reduced to a less than significant level through the implementation of a mitigation measure (MM BIO-2). A large portion of the City is mapped as Delhi fine sand soils and is within the USFWS Jurupa Recovery Unit for the DSF, so it may be suitable habitat for the species. Therefore, as with the proposed project, other development projects in the City are also required to provide appropriate mitigation if it is determined that development sites provide suitable DSF habitat. It is anticipated that other cumulative projects in the City would also have to meet existing requirements and/or implement mitigation measures to reduce impacts related to biological resources to a less than significant level. Implementation of the proposed project combined with the cumulative projects in the city would not incrementally result in significant biological resources.

5.2.6 Level of Significance Before Mitigation

These impacts would be less than significant: 5.2-2, 5.2-3, and 5.2-5.

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

- **Impact 5.2-1** The proposed project could 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.
- **Impact 5.2-4** The proposed project could potentially impact nesting birds.
- **Impact 5.2-6** The proposed project could conflict with the U.S. Fish and Wildlife Service Recovery Plan for the Delhi Sands Flower-Loving Fly.

5.2.7 Mitigation Measures

Impact 5.2-1

BIO-1 **Southern California Black Walnut Trees.** The Chaffey Community College District shall replace or replant the on-site mature and healthy Southern California black walnut trees that have a California Rare Plant Rank (CRPR) ranking of 4.2 with a minimum box size of 36-inch within the project site.

BIO-2 Prior to initial grading, a qualified biologist shall conduct a two-consecutive-years protocol survey for the Delhi sands flower-loving fly (DSF) from July 1 to September 20 to determine presence/absence. If the species is positively detected onsite, a formal consultation with the U.S. Fish and Wildlife Service (USFWS) is required and the Chaffey Community College District (District) shall initiate one of the following mitigation options:

Option 1: Should the DSF be confirmed to be within the project site by the two-year consecutive protocol survey a habitat conservation plan (HCP) shall be prepared and implemented pursuant to the Federal Endangered Species Act. The HCP shall be reviewed and approved by the USFWS. At a minimum, the HCP shall specify the following: 1) the level of impact that will result from the project; 2) steps that will minimize and mitigate the impacts, 3) funding necessary to implement the plan, 4) alternative mitigation measures or actions considered by the District and the reasons why such alternatives were not chosen, and 5) other measures that the USFWS may require as being necessary or appropriate for the HCP.

OR

Option 2: Prior to initial grading, the District shall continue to consult with the USFWS to delineate the acreage considered suitable conditions for potential habitat of the DSF for the purposes of assuming presence without the protocol presence/absence survey and calculating fees to purchase mitigation bank credits from the existing Delhi Sands flower-loving fly conservation bank (Vulcan Materials Company or other approved mitigation sites). The impacted acreage and mitigation ratio shall be determined by the USFWS.

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BIO-3 If any phase of construction is proposed between February 1st and August 31st, a qualified biologist shall conduct a nesting bird survey(s) no more than three days prior to initiation of grading to document the presence or absence of nesting birds within or directly adjacent (100 feet) to the area of disturbance.

The survey(s) shall focus on identifying any raptors and/or bird nests that are directly or indirectly affected by construction activities. If active nests are documented, species-specific measures will be prepared by a qualified biologist and implemented to prevent abandonment of the active nest. At a minimum, grading in the vicinity of a nest shall be postponed until the young birds have fledged. The perimeter of the nest setback zone shall be fenced or adequately demarcated with stakes and flagging at 20-foot intervals, and construction personnel and activities restricted from the area.

A qualified biologist shall serve as a construction monitor when construction activities occur near active nest areas to ensure no inadvertent impacts on these nests.

BIO-4 **Burrowing Owl Preconstruction Surveys.** Prior to initial grading or clearing, a qualified biologist shall conduct a preconstruction survey, in accordance with the California Department of Fish and Wildlife (CDFW) Staff Report on Burrowing Owl Mitigation (2012), to determine the presence or absence of burrowing owl within the proposed area of impact. Specifically, two preconstruction clearance surveys shall be conducted 14 to 30 days and 24 hours prior to any vegetation removal or ground-disturbing activities. If no burrowing owls or occupied burrows are detected, construction may begin. If an occupied burrow is found within the development footprint during preconstruction clearance surveys, a burrowing owl exclusion and mitigation plan would need to be prepared and submitted to CDFW for approval prior to initiating project activities.

Impact 5.2-4

See MM BIO-3.

Impact 5.2-6

See MM BIO-2.

5.2.8 Level of Significance After Mitigation

Impact 5.2-1

Implementation of Mitigation Measure BIO-1 would replace or replant the existing eight Southern California black walnut trees that have a CRPR ranking of 4.2 within the project site so that this special status plant species is not eliminated within the project site. The proposed project would not result in significant impacts to this special status plant species.

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Under Option 1 of Mitigation Measure BIO-2, impacts to DSF would be reduced by providing on- or offsite habitat conservation through the preparation and implementation of a habitat conservation plan. Under Option 2 of Mitigation Measure BIO-2, the purchase of mitigation bank credits from the existing DSF conservation bank would allow the existing DSF conservation bank to aid in the recovery of the DSF habitat. Conservation banks function to offset adverse impacts to specified species that occur elsewhere. In exchange for permanently protecting the land and managing it for the DSF, the USFWS approved a specified number of habitat or species credits bank owners may sell. Therefore, by purchasing these credits, the project impacts to DSF would be reduced to a less than significant level. California Fish and Game Code Section 1797.5(d)(3) recognizes conservation banks established to mitigate significant effects on the environment pursuant to the CEQA and CEQA Guidelines. Therefore, the purchasing of credits from a conservation bank will result in actual mitigation, and impacts to DSF would be reduced to a less than significant level.

Implementation of Mitigation Measure BIO-3 requires a nesting bird survey(s) prior to initiation of grading during the nesting season to ensure that impacts are reduced to a less than significant level to the special status wildlife bird species.

Implementation of Mitigation Measure BIO-4 requires preconstruction Burrowing owl surveys to demonstrate the presence or absence of burrowing owls. If an occupied burrow is found, the District would prepare and implement a burrowing owl exclusion and mitigation plan under the oversight of CDFW prior to initiating project activities. Therefore, the proposed project would not result in a significant impact to this special status wildlife bird species.

As discussed above, Mitigation Measures BIO-1 through BIO-4 would reduce potential impacts to special status plant and wildlife species to a level that is less than significant. No significant and unavoidable adverse impacts would remain.

Impact 5.2-4

Implementation of Mitigation Measure BIO-3 would reduce potential impacts to nesting birds to a less than significant level. No significant and unavoidable adverse impacts would remain.

Impact 5.2-6

Implementation of Mitigation Measure BIO-2 would reduce potential impacts to DSF to a less than significant level, therefore, the proposed project would not conflict with the USFWS Recovery Plan for the DSF. No significant and unavoidable adverse impacts would remain.

5.2.9 References

Cadre Environmental. September 2021. *Biological Resources Technical Report, New Fontana Campus, Chaffey Community College District*. DEIR Appendix D.

Osborne Biological Consulting. 2021, December 15. Re: Habitat conditions for Delhi Sands Flower-loving Fly on a 14.5-acre site, Fontana, San Bernardino County, CA.

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Powell Environmental Consultants. 2022, September 20. Chaffey College Fontana Campus Site (11070 Sierra Ave. Fontana, CA 92337) (Assessor's Parcel Numbers 0255-101-05 through 09, Focused Survey for the Delhi Sands Flower-loving Fly.

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