

**Biological Resources
Report for :
Desert Greens LLC
Inyo County, California
Contact: Spencer McNeal
702-683-3083**

Prepared by

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August 20, 2020

Project Biologist : Justin Bailey

H&M INDUSTRIES LLC

Negative Cultural Resources Survey Report

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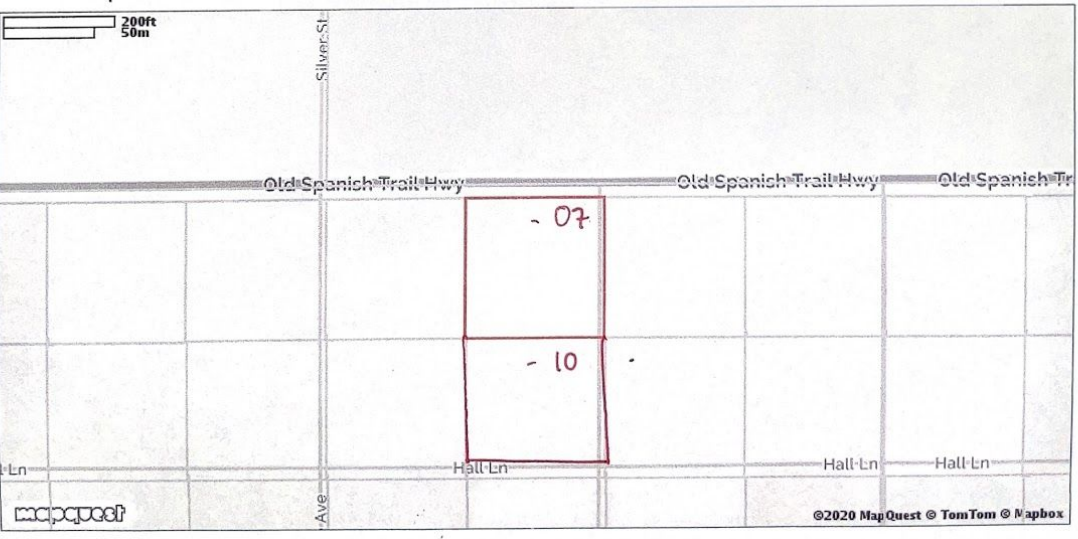
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Property Address:
CA 92395
Parcel # (APN):
048-391-07-00
048-391-10

Vertical Aerial Photo



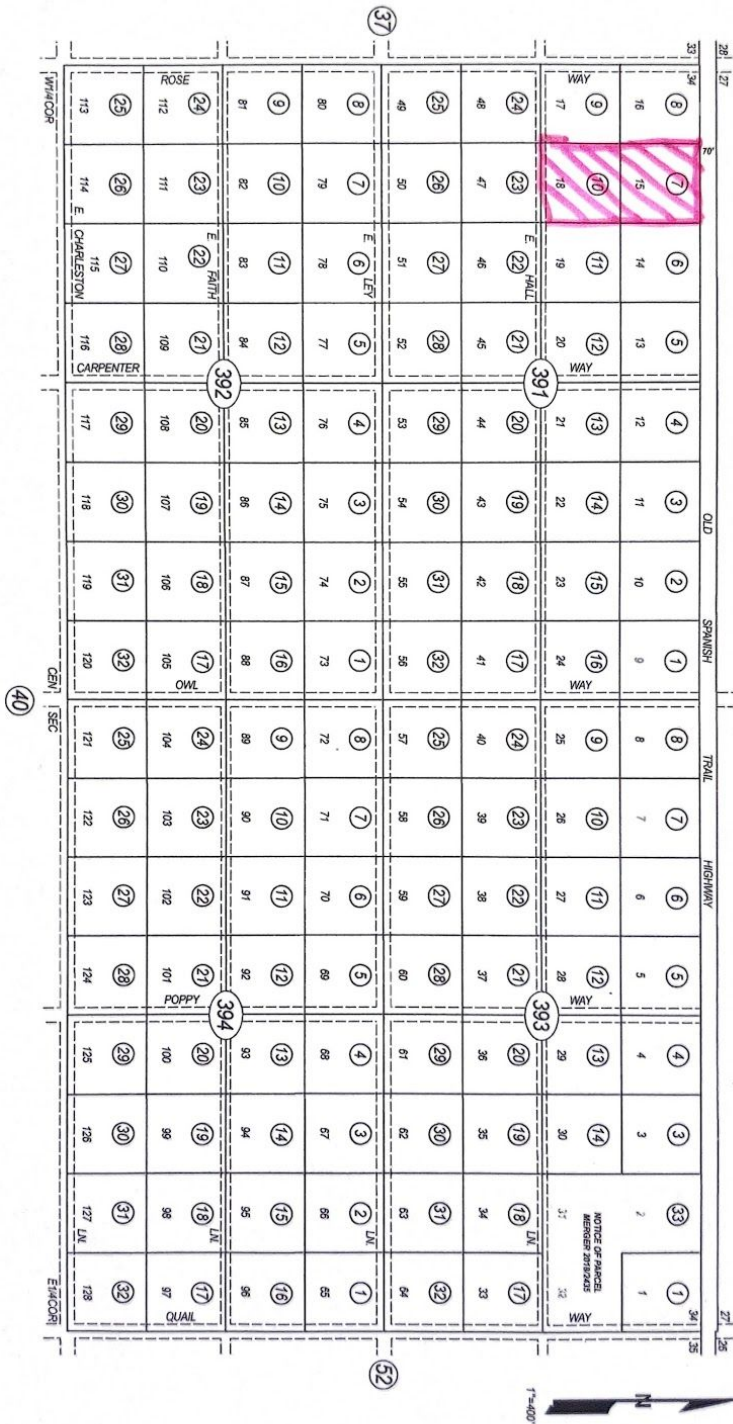
Street Map



N1/2 SEC. 34 T.22N., R.10E., S.B.B. & M.
SPRING VALLEY RANCHOS/CHARLESTON VIEW

TAX RATE AREA
 58-003

48-39

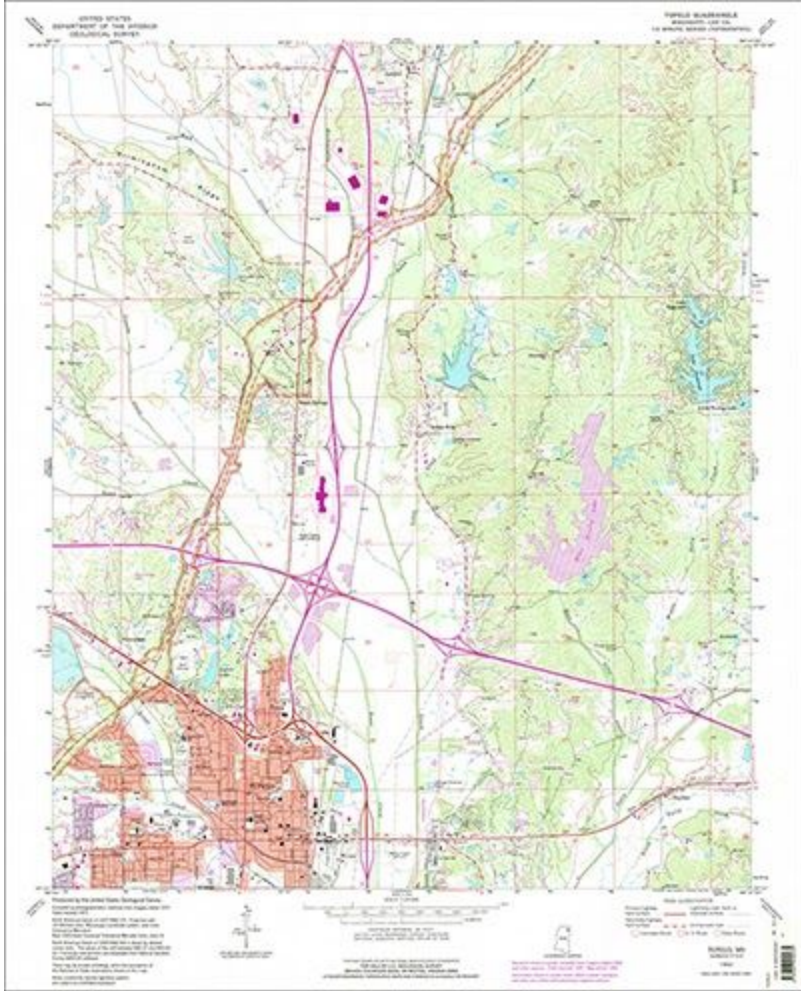


REFERENCED MAPS
 RS. BK. 7 Pg. 43
 EACH LOT IS APPROXIMATELY 330 X 330, 2.5 AC. PRIOR TO ROAD RESERVATIONS.
 ROADS ARE 60 FT. ON SEC. LINES AND 1/4 SEC. LINES. ALL OTHERS 40 FT.
 UTILITY ESMNT. 10 FT. AT REAR OF EACH LOT.

NOTE:
 1. THIS DOCUMENT WAS PREPARED FOR THE ASSessor's OFFICE ONLY.
 2. NO LIABILITY IS ASSURED FOR THE ACCURACY OF THE DATA SHOWN COMPARE WITH LOCAL LOT-SPLIT OR BLDG. SITE ORDINANCES.

Assessor's Map Bk. 48 Pg. 39
 County of Inyo, Calif.
 1966

Handwritten: H&M = Desert Greens LLC
 Proposed Distribution & Site





June 7, 2020 North from Well



June 7, 2020 East view from Well. County Dumpsters neighboring property



June 7, 2020 South view from Well



June 7, 2020 East View from Well

Commercial Cannabis Activities Allowed by Zoning

Zoning	Cultivation ¹ <5,000ft ²	Cultivation ¹ >5,000ft ²	Manufacturing Non-Volatile	Manufacturing Volatile	Testing	Retail	Distribution	Microbusiness
Open Space	YES	YES	YES	NO	NO	NO	NO	YES ²
Rural Residential	YES ³	YES ³	NO	NO	NO	NO	NO	NO
Central Business	NO	NO	NO	NO	NO	YES	YES	YES ²
General Commercial	NO	NO	NO	NO	NO	YES	YES	YES ²
Highway Services and Tourist Commercial	NO	NO	NO	NO	NO	YES	YES	YES ²
Heavy Commercial	NO	NO	YES	NO	YES	NO	YES	YES ²
Light Industrial	YES	YES	YES	NO	YES	NO	YES	YES ²
General industrial	YES	YES	YES	YES	YES	NO	YES	YES ²

¹ All cultivation activities subject to setback except those in industrial zoning and those identified in Inyo County Code Section 18.21.040. Cultivation conducted in industrial zones must be conducted indoors and is subject to odor, noise, and visual resource mitigation requirements.

² All microbusiness activities limited to those expressly allowed in the Title 18 of the Inyo County Code

³ Subject to 12 acre minimum in most areas. Consult Inyo County Code 18:21.040.

REPORT

1.0 Summary

This report provides the results of the cultural resources survey for the Desert Green LLC Cannabis Project in Inyo County, California. The total footprint encompassing permanent and temporary impacts consists of 5 acres of commercially-zoned land located in the unincorporated Charleston View area of the county, approximately 20 miles east of the community of Tecopa, California. The project site is located on the south side of Old Spanish Trail Highway, between Carpenter Road and Rose Avenue. The project site consists of two parcels owned by Jon Faltz and Spencer McNeal totaling approximately 5 acres. The two parcels are proposed for development for both distribution and cultivation facilities for recreational cannabis.

The project would not impact sensitive vegetation communities. Three sensitive plant species are common to this area-gravel milk-vetch, Nye milk-vetch, and Goodding's phacelia-however they were not observed here and do not have a moderate or high potential to occur within the project site. Two sensitive wildlife species, desert tortoise and burrowing owl, have a low potential to occur within the project site. These species have a low potential to breed on or adjacent to the project site. A pre-activity survey can be conducted to detect these species prior to construction. If these species are present, species-specific mitigation can be employed to avoid or minimize impacts to these species. If the species are not observed during pre-activity surveys, the potential impacts are considered less than significant and would, therefore, require no species-specific mitigation measure.

A records search was requested from the Eastern Information Center at University of California, Riverside. The Eastern Information Center is a representative member of the California State Historic Preservation Office. A biological pedestrian survey was conducted by H&M INDUSTRIES LLC as part of the review process. No biological resources were identified during the pedestrian survey. No further action is recommended at this time.

2.0 Introduction and Project Description

This biological resources report was prepared by H&M Industries LLC for Desert Greens LLC Inyo County Cannabis project. The purpose of this biological resources report is to (1) document the existing biological conditions within the project survey area; (2) evaluate the survey area and the vicinity for the potential to support sensitive biological resources; (3) provide an analysis of potential impacts associated with the proposed project; and (4) provide a discussion of potential avoidance, minimization, and mitigation measures that may be required to reduce potential impacts to sensitive biological resources to below a level of significance.

The project would be located in the unincorporated Charleston View area of the Pahrump Valley, in southeastern Inyo County, approximately 20 miles east of the community of Tecopa and approximately 45 miles west of the city of Las Vegas, Nevada. Figure 1 shows the regional location of the project. The project site comprises two parcels: Assessor Parcel Numbers 048-391-10 and APN 048-391-07 totaling approximately 5 acres owned by JON Faltz and Spencer McNeal. Each parcel covers 2.5 acres, and is bounded by roads on two sides.

The project site is located in the northwestern quarter of Section 34, Township 22 North, Range 10 East, on the U.S. Geological Survey (USGS) Calvada Springs quadrangle (USGS 1984; Figure 2). An aerial photograph of the survey area is shown on Figure 3.

The project is a distribution and cultivation facility for recreational cannabis. The total proposed project development footprint, encompassing both temporary and permanent impacts, would be 5 acres. Both lots are planned for development. The first lot to be developed is APN 048-391-10. This will be the site of the Cultivation facility. This site will consist of a 12 x48 office building with a parking lot. The Cultivation will be inside the security fence. Electrical utilities are accessible from Old Spanish Trail

Highway and water would be from a proposed well. Sewage would be handled with an on-site septic system. The second lot to be developed is APN 048-391-07. This will be the site of the Distribution facility. This site will consist of a 12x48 office building for phase 1 with the plans to expand into a 5,000sf building. IT will include a parking site. Electrical utilities are accessible from Old Spanish Trail Highway and water would be from a proposed well. Sewage would be handled with an on-site septic system.

3.0 Background

3.1 Environmental Setting

The project site is located in the Pahrump Valley within the Mojave Desert. The Mojave is the driest of the North American deserts (MacKay 2003). Mountain chains along the southern and western margins cast a broad "rain shadow" by blocking and redirecting the prevailing moisture-bearing westerly winds from the coast. Generally, Death Valley notwithstanding, the lower lying areas of the western Mojave average about five inches of precipitation per year, while the elevated areas of the eastern Mojave average approximately two inches per year. In the western Mojave, the predominant rainy season period is during the winter months, whereas in the eastern Mojave, summer monsoons provide the bulk of precipitation, often accounting for more than half of the annual rainfall total (MacKay 2003).

3.1.1 Physical Characteristics

The project site consists of commercially- and rural residential-zoned land that is partially disturbed due to vehicle access, being close to the dumpsters and utility corridors. The project site is bounded by Old Spanish Trail Highway to the north, undeveloped privately-owned lots to the east and west, and a rural residential area to

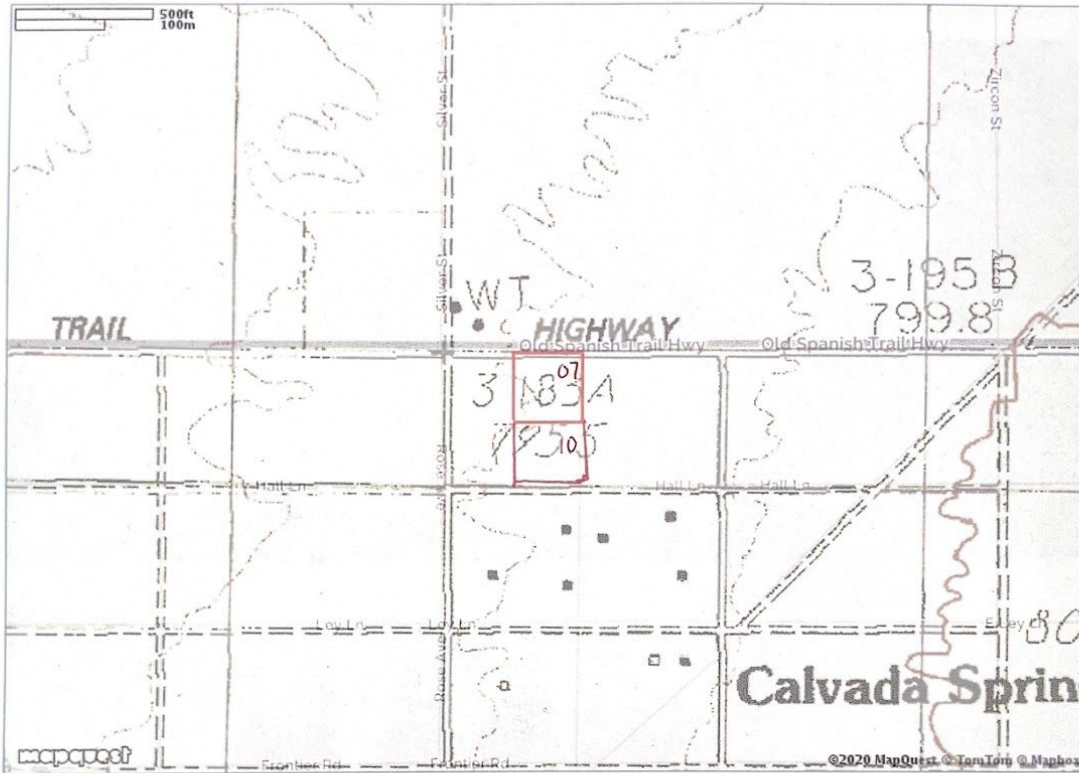
the south. Infrastructure that occurs within the project site includes an electrical distribution line and easement road for Southern California Edison.

3.1.2 Topography, Soils, and Hydrology

Elevation within the project site is approximately 2,600 feet above mean sea level (USGS 1984). Topography is generally level, with the exception of human-made ditches along the boundaries of the project site. The area currently does not have soil maps but the substrate consists of stable alluvium from the surrounding mountains and is likely an aridosol or entisol, as shown on the nearest soil maps in Clark County, Nevada, approximately 2.5 miles east (USDA 2006). Aridosols are soils formed in dry, hot climates, and often exhibit hardpans composed of soluble minerals. The hardpans can support deep animal burrows. Entisols are soils lacking extensive soil horizon development, due to factors such as limited water movement such as in an arid environment. The site is within the Pahrump Valley watershed, a closed basin draining toward a dry lake (USGS 1984).

Topography Report

Property Address:
CA 92395
Parcel # (APN):
048-391-07-00 § 048-391-10



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* The information provided here is deemed reliable, but is not guaranteed.

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3.1.3 Vegetation

The project site supports disturbed habitat that consists of bare ground and dirt roads that are subjected to continued disturbance, preventing establishment of substantial vegetation cover. There are zero vegetation on both parcels. (H&M INDUSTRIES LLC)

4.0 Methods

4.1 Literature Review

H&M conducted an analysis of existing sensitive species data recorded within ten miles of the project site. This analysis included searches of the California Natural Diversity Database (CNDDDB; California Department of Fish and Wildlife [CDFW] 2020), the All Species Occurrences Database (U.S. Fish and Wildlife Service (USFWS] 2020), and a search of the California Native Plant Society (CNPS) online rare plants database within the nine USGS quadrangles including and surrounding the site (CNPS 2020). Additional maps, imagery, and databases reviewed included USGS topographic maps (1984), online aerial satellite imagery (Google Earth 2020), and the Consortium of California Herbaria (2020).

In addition to those species with database records within ten miles of the project site, potentially occurring species were assessed if their ranges extend into the project site and habitat conditions within the project site were potentially suitable. Determination of the potential occurrence for sensitive species was based upon known ranges and habitat preferences for the species (Jennings and Hayes 1994; Baldwin et al 2012; Jepson Flora Project 2020; and CNPS 2020).

4.2 General Biological Survey

H&M biologist Justin Bailey conducted a general biological survey of the project site on June 7, 2020. The survey included preparation of a vegetation map, documentation of plant and animal species present during the survey, a search for sensitive plant and animal species, an assessment potential for jurisdictional waters on the project site. Vegetation community classifications followed Sawyer et al. (2009)

with non-conforming areas defined as disturbed habitat. Dominant plant species, average height, and density were noted for each vegetation community. Digital photographs of representative areas were taken during the surveys. Mr. Bailey saw no sensitive species identified as having potential to occur based on the literature review discussed above.

Zoological nomenclature is in accordance with the Checklist of North and Middle American Birds (Chesser et al. 2020); Scientific and Standard English Names of Amphibians and Reptiles of North America North of Mexico (Crother et al. 2017); the Revised Checklist of North American Mammals North of Mexico (Baker et al. 2003), San Diego Natural History Museum (2002) for butterflies, and Field Guide to Insects and Spiders of North America for (Evans 2008) insects and spiders. Floral nomenclature for common plants follows Baldwin (2012) as updated by the Jepson Online Interchange (Jepson Flora Project 2020) and for sensitive plants the CNPS online database (2020). If a plant's common name was not provided in these resources, common names were obtained from Rebman and Simpson (2014), or the U.S. Department of Agriculture (USDA) maintained database (USDA 2020).

5.0 Survey Results

5.1 Disturbed Habitat and zoological resources

Disturbed habitat consists of bare ground and dirt roads that are subjected to continued disturbance from vehicular use, which prevents establishment of substantial vegetation cover. Both Lots 7 and 10 have been disturbed by the access road and a rough excavation of the land. There are no species of plants and or animals found on these lots. (H&M Industries 2020)

5.2 Sensitive Biological Resources

5.2.1 Regulatory Setting/Regulatory Framework

Various federal and state regulations or policies apply to biological resources on or adjacent to the project parcels and are summarized below.

a. Federal Regulations

The federal Endangered Species Act (ESA) provides the legal framework for the listing and protection of species and their habitats) that are identified as being endangered or threatened with extinction. Actions that jeopardize endangered or threatened species and the habitats upon which they rely are considered 'take' under the ESA. Section 9(a) of the ESA defines 'take as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or

, or attempt to engage in any such conduct." The ESA is administered by the USFWS.

Inyo Retail Cannabis Project

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The Migratory Bird Treaty Act (MBTA; 16 United States Code 703 et seq.) is a federal statute that implements treaties with several countries on the conservation and protection of migratory birds. The regulatory definition of "migratory bird" is broad and includes any mutation or hybrid of a listed species and any part, egg, or nest of such birds (50 Code of Federal Regulations 10.12). The MBTA, which is enforced by USFWS, makes it unlawful "by any means or in any manner, to pursue, hunt, take, capture, [or] kill" any migratory bird, or attempt such actions, except as permitted by regulation. Pursuant to U.S. Department of the Interior Memorandum M-37050, the federal MBTA is no longer interpreted to cover incidental take of migratory birds (U.S. Department of the Interior 2017). Therefore, impacts that are incidental to implementation of an otherwise lawful project would not be considered significant.

The Rivers and Harbors Act of 1899 and the Clean Water Act (CWA) regulate project activities within non-marine navigable waters and/or waters of the U.S. The discharge of any pollutant from a point source into navigable waters is illegal unless a permit under the CWA's provisions is acquired. Permitting for projects that include both permanent and temporary dredging and filling in wetlands and waters of the U.S. is overseen by the U.S. Army Corps of Engineers under Section 404 of the CWA. Projects can be permitted on an individual basis or be covered by one of several approved nationwide or regional general permits.

b. State Regulations

The California Environmental Quality Act (CEQA) requires an environmental review for projects with potentially adverse impacts on the environment. Adverse environmental impacts are typically mitigated in accordance with state laws and regulations.

The California ESA is similar to the federal ESA in that it provides the legal framework for the listing and protection of species (and their habitats) that are identified as being endangered or threatened with extinction.

Section 3503 of the California Fish and Game Code states that 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," and Section 3503.5 states that it is "unlawful to take, possess, or destroy any birds of prey or to take, possess, or destroy the nest or eggs of any such bird" unless authorized (State of California 1991).

California Fish and Game Code Sections 1600 through 1603 regulate project activities within wetlands and riparian habitats. The CDFW can issue a Streambed Alteration Agreement for projects affecting riparian and wetland habitats .

Fill or dredge within waters of the U.S. , or waters of the state, including non-wetland waters, wetland waters, and isolated waters, require a Water Quality Certification by the California Regional Water Quality Control Board under Section 401 of the CWA and Section 13000 et seq. of the California Water Code under the Porter-Cologne Water Quality Control Act.

5.2.1.2 Sensitivity

Criteria

Vegetation communities are considered sensitive natural communities if they are of limited distribution; have federal, state, or local laws regulating their development; and/or support concentrations of sensitive plant or wildlife species. For purposes of this report, vegetation communities are considered sensitive if they are: (1) communities with state rarity ranks of S1-S3, as reviewed by the Vegetation Classification and Mapping Program (VegCAMP) and CNPS, and recognized by CDFW (2020); and (2) wetlands and waters under the jurisdiction of federal and state agencies.

For purposes of this report, plant and wildlife species would be considered sensitive if they are:

1. listed by state or federal agencies as rare, threatened, or endangered or are proposed

- for listing; 2. given a California Rare Plant Rank (CRPR) 1B (considered endangered throughout

- its range), 2 (considered endangered in California but more common elsewhere), 3 (more information about the plant's distribution and rarity needed), or 4 (plants of limited distribution) in the CNPS Inventory of Rare and Endangered Vascular

- Plants of California (2020); 3. considered rare, endangered, or threatened by the CDFW (2019).

5.2.2 Sensitive Vegetation

Communities

None of the vegetation communities on the project site are considered sensitive.

5.3 Sensitive Wildlife Species

No sensitive wildlife species were observed during the biological survey conducted for this project. Two sensitive wildlife species were determined to have potential to occur within or adjacent to the project site: desert tortoise (*Gopherus agassizii*) and burrowing owl (*Athene cunicularia*). Desert tortoise is a federally listed species and while the potential is considered low, the project site is located within the Eastern Mojave Recovery Unit

(USFWS 2011) and a pre-project survey may be required. Burrowing owl is a California species of special concern and while the potential for this species is considered to be low based on habitat quality, pre-activity surveys may be required.

5.4 Wildlife Movement Corridors

Wildlife movement corridors are defined as areas that connect suitable wildlife habitat areas in a region otherwise fragmented by rugged terrain, changes in vegetation, or human disturbance. The project site lies adjacent to a large expanse of undeveloped desert, which provides unconstrained habitat connectivity within the Pahrump Valley and surrounding mountains. While the project site is part of general habitat that provides for local movement of terrestrial wildlife, it does not serve as a corridor.

5.5 Jurisdictional Wetlands and Waters

The project site does not support any jurisdictional waters of the U.S. or State, as defined by U.S. Army Corps of Engineers, CDFW, and the Regional Water Quality Control Board.

6.0 Project Impact Analysis

The total proposed project development footprint across the two lots, encompassing both temporary and permanent impacts, would result in a low impact to the entire 5

acres. The two lots will be built separately and Table 2 (above) provides a breakdown of impacts to the vegetation by lot.

In accordance with Appendix G of the CEQA Guidelines, the project would have a significant impact if it would:

- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the CDFW or USFWS;

- Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies or regulations, or by the CDFW or USFWS;

- 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;

- 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;

- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; and/or

- Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

6.1 Impacts to Sensitive Vegetation Communities

Neither of the vegetation communities present within the project site is considered sensitive. Impacts would not be considered significant and would not require mitigation.

6.2 Impacts to Sensitive Plant Species

The project does not have potential to impact Gravel's milk-vetch or Nye milk-vetch and

Goodding's phacelia, it is not present. These species are known from numerous records within one mile of the project site; however, project impacts are not expected to affect the long-term survival of the species or the local population. Therefore, potential impacts to these species would be less than significant.

6.3 Impacts to Sensitive Wildlife Species

The project has potential to impact to sensitive wildlife species that occur within the project impact area. Direct impacts would result from incidental mortality and habitat removal within the project construction footprint. No sensitive wildlife species were observed and most wildlife would have the ability to disperse away from construction activities.

Desert tortoise has low potential to burrow on-site; however, if present, it would have limited mobility to disperse from construction activities. This could result in the potential for impacts from construction. Approximately 5 acres of unsuitable foraging habitat for desert tortoise is present. Desert tortoise does not like to breed by busy roads. There is no significant impact present.

Adult western burrowing owls are capable of dispersing away from construction activities. Approximately 5 acres of unsuitable breeding and wintering habitat for burrowing owl is present and impacts to breeding is very low. Burrowing owls do not like to breed by busy roads.

Nesting birds including raptors covered under the California Fish and Game Code 3503 and 3503.5 have potential to be directly impacted by the project if construction activities (i.e., clearing, grubbing, grading) occur during the general nesting season of February 1 to September 15. Direct impacts to nesting birds and raptors would be considered significant and require avoidance measures.

Direct impacts to LeConte's thrasher, or other nesting birds from construction activities would be considered less than significant for the following reasons: the site is surrounded by large expanses of desert habitat to the north, east, and west that provides foraging habitat and nesting for bird species that occur locally; the population of any of these species on-site would not represent a substantial component of the region's population and impacts to individuals would not preclude the ability for the species to be self-sustaining. No mitigation beyond what would be required for nesting birds would be required.

6.4 Impacts to Wildlife Corridors

No significant direct or indirect impacts to wildlife movement are expected to occur from implementation of the project, as the project parcels do not function as a true wildlife movement corridor.

6.5 Cumulative Impacts

The project is not expected to result in cumulative impacts to sensitive resource within the region because all potential impacts would be mitigated to a level of less than significant.

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