



LIVE OAK ASSOCIATES, INC.

an Ecological Consulting Firm

June 20, 2014

Brad Napientek
David J. Powers & Associates, Inc.
1871 The Alameda, Suite 200
San Jose, CA 95126

Subject: Biological evaluation of the Keenan property on Jarvis Drive in Morgan Hill, California (PN 1865-01)

Dear Brad:

At your request, Live Oak Associates, Inc. (LOA), completed a biological evaluation for the 19.5-acre Keenan property located on the southeast side of Jarvis Drive between Monterey Road and Butterfield Boulevard in Morgan Hill, Santa Clara County, California. The project proposes to amend Morgan Hill's General Plan land use designation for the site and assumes future buildout of the entire site.

LOA ecologists Davinna Ohlson and Katrina Krakow conducted a site survey on June 3, 2014. The primary objectives of this survey were to:

1. Identify the principal biotic habitats of the area and identify the constituent plants and animals of each;
2. Assess the potential of the site to support sensitive habitats (e.g., wetland and riparian habitats) or suitable habitat for special status plant or animal species;
3. Evaluate potential impacts to the biotic resources of the site and region from future buildout; and
4. Provide guidance on mitigation and/or site protection measures that would be appropriate for any project impacts.

Sources of information used in the preparation of this analysis included the Natural Resource Conservation Service's *Soil Survey of Eastern Santa Clara Area, California* (2014), the *California Natural Diversity Data Base* (CDFW 2014a), the City of Morgan Hill's *Citywide Burrowing Owl Habitat Mitigation Plan* (2003), special status species lists prepared by the California Department of Fish and Wildlife (CDFW) and U.S. Fish and Wildlife Service (2014), the Santa Clara Valley Habitat Plan (ICF 2012), and manuals and references related to plants and animals found in and around Santa Clara County.

EXISTING CONDITIONS

Regional Setting

The 19.5-acre site (APNs 726-25-078, -079, and -061) is located in the Morgan Hill 7.5" U.S. Geological Survey (USGS) quadrangle and is bounded to the northwest by Jarvis Drive, to the northeast by Butterfield Boulevard, to the southeast by an open field and a detention basin, and to the southwest by Monterey Road. Topographically, the site is relatively level, ranging in elevation from approximately 360 ft (110 m) National Geodetic Vertical Datum (NGVD) at the northeastern end to approximately 350 ft (107 m) NGVD at the southwestern end. Surrounding land uses include residential, commercial, and open fields. The site consists of a disked field and a detention basin.

Soils

The project site consists of one soil type, San Ysidro loam, 0 to 2% slopes (NRCS 2014). The San Ysidro series consists of deep, moderately well drained soils that formed in alluvium from sedimentary rocks. These soils have very slow permeability. San Ysidro soils are considered hydric. Hydric soils are soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part; under sufficiently wet conditions, they support the growth and regeneration of hydrophytic vegetation. The soils occurring onsite are not known to support edaphic special status plant species (i.e., the soils of the site are neither serpentine nor alkaline).

Habitats

The site consists of disked annual grassland dominated by non-native and ruderal (i.e., characteristic of disturbed lands) vegetation. Dominant grasses observed include soft chess (*Bromus hordeaceus*), ripgut brome (*Bromus diandrus*), Italian ryegrass (*Festuca perennis*), foxtail barley (*Hordeum murinum*), Mediterranean barley (*Hordeum marinum* ssp. *gussoneanum*), rattail fescue (*Vulpia myuros*), and oats (*Avena* sp.). Other species occurring on the site include yellow star thistle (*Centaurea solstitialis*), rough cat's-ear (*Hypochaeris radicata*), gumweed (*Grindelia camporum*), chicory (*Cichorium intybus*), field bindweed (*Convolvulus arvensis*), wild geranium (*Geranium dissectum*), amaranth (*Amaranthus* sp.), curly dock (*Rumex crispus*), wild radish (*Raphanus sativus*), and summer mustard (*Hirschfeldia incana*).

The southwestern third of the site is a detention basin that serves to capture overflow for an adjacent, offsite retention pond. This portion of the site has also been disked and generally consists of the same annual grassland species occurring over the rest of the property. Along the eastern edge of the basin, vegetation is sparse and consists of a mix of wetland and upland species. Hydrophytic species observed in this part of the basin include Hyssop loosestrife (*Lythrum hyssopifolium*) and common lippia (*Phyla nodiflora*). Other dominant species in this part of the basin include Mediterranean barley, Italian ryegrass, vinegarweed (*Trichostema lanceolatum*), blow-wives (*Achyraea mollis*), and wild geranium. The remainder of the basin supported vegetation similar to that of the annual grassland in the rest of the site along with little rattlesnake grass (*Briza minor*), coyote brush (*Baccharis pilularis*), purple salsify

(*Tragopogon porrifolius*), dove weed (*Croton setigerus*), purple vetch (*Vicia benghalensis*), and scarlet pimpernel (*Anagallis arvensis*).

Birds observed in or flying over the site include American kestrel (*Falco sparverius*), rock pigeon (*Columba livia*), mourning dove (*Zenaida macroura*), western kingbird (*Tyrannus verticalis*), American crow (*Corvus brachyrhynchos*), California horned lark (*Eremophila alpestris actia*), cliff swallow (*Hirundo pyrrhonota*), northern mockingbird (*Mimus polyglottos*), European starling (*Sturnus vulgaris*), and house finch (*Carpodacus mexicanus*). A black-tailed jackrabbit (*Lepus californicus*) was seen in the field. Botta's pocket gopher (*Thomomys bottae*) mounds were present at the southwestern end of the field. No ground squirrels (*Spermophilus beecheyi*) or their burrows were present on the site.

Special Status Species

A search of published accounts for all relevant special status plant and animal species was conducted for the Morgan Hill USGS 7.5" quadrangle in which the project site occurs and for the eight surrounding quadrangles (San Jose East, Lick Observatory, Isabel Valley, Santa Teresa Hills, Mt. Sizer, Loma Prieta, Mt. Madonna, and Gilroy) using the California Natural Diversity Data Base's (CNDDDB) Rarefind 5 application (CDFW 2014a). These species and their potential to occur in the study area are summarized in Appendix A. Figure 1 depicts the location of special status species reported in the CNDDDB within the site's vicinity. Species that may pose constraints to the proposed project are included in the discussion below.

Jurisdictional Waters

Jurisdictional waters include rivers, creeks, and drainages that have a defined bed and bank and which, at the very least, carry ephemeral flows. Jurisdictional waters also include lakes, ponds, reservoirs, and wetlands. Such waters may be subject to the regulatory authority of the U.S. Army Corps of Engineers (USACE), the CDFW, and the California Regional Water Quality Control Board (RWQCB).

As previously mentioned, the southwestern third of the site consists of a detention basin. This basin captures overflow for an adjacent, offsite retention pond owned and maintained by the City of Morgan Hill. (A small area at the corner of Jarvis Drive and Monterey Road is fenced off as an access point to the underground system piping water from surrounding developments to the retention pond.) Thus, it only holds water when the retention pond reaches capacity. The retention pond's purpose is groundwater recharge; however, on an as-needed basis, it infrequently releases water via underground stormwater systems into Fisher Creek, a tributary of Coyote Creek, which flows into San Francisco Bay.

Waste treatment systems such as retention ponds are generally not considered waters of the U.S. By extension, and because it very rarely holds water, the onsite detention basin would not be considered a water of the U.S. Therefore, it is our opinion that jurisdictional waters of the U.S. are not present on the site. However, the regulatory agencies are the final arbiters of the jurisdictional status of any features present.

LEGEND

Special status species observation

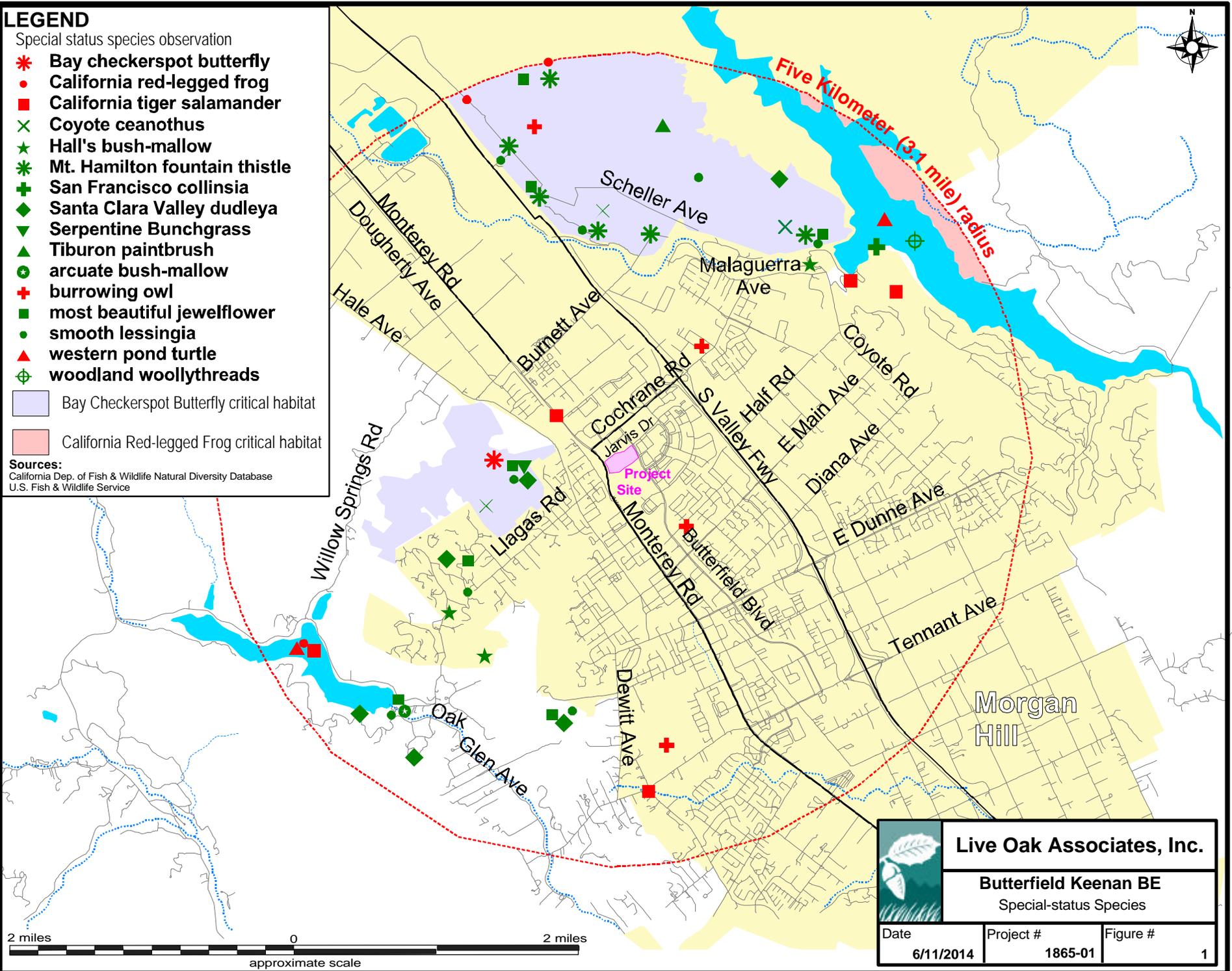
-  Bay checkerspot butterfly
-  California red-legged frog
-  California tiger salamander
-  Coyote ceanothus
-  Hall's bush-mallow
-  Mt. Hamilton fountain thistle
-  San Francisco collinsia
-  Santa Clara Valley dudleya
-  Serpentine Bunchgrass
-  Tiburon paintbrush
-  arcuate bush-mallow
-  burrowing owl
-  most beautiful jewelflower
-  smooth lessingia
-  western pond turtle
-  woodland woollythreads

 Bay Checkerspot Butterfly critical habitat

 California Red-legged Frog critical habitat

Sources:

California Dep. of Fish & Wildlife Natural Diversity Database
U.S. Fish & Wildlife Service



Live Oak Associates, Inc.

Butterfield Keenan BE

Special-status Species

Date	Project #	Figure #
6/11/2014	1865-01	1

IMPACTS AND MITIGATIONS SPECIFIC TO THE PROJECT SITE

Approval of general plans, area plans, and specific projects is subject to the provisions of the California Environmental Quality Act (CEQA). The purpose of CEQA is to assess the significance of a proposed project's impacts on the environment before project build out occurs. Whenever possible, public agencies are required to avoid or minimize environmental impacts by implementing practical alternatives or mitigation measures. For a discussion of significance thresholds and goals, policies, and laws that are relevant to the project, refer to Appendix B.

The proposed project assumes full build-out of the site.

Special Status Plants

Potential Impact. Project buildout would have no effect on regional populations of the special status plant species known to occur regionally since these species are absent from the site. For a more detailed treatment of individual special status plant species that occur regionally, refer to Appendix A.

Mitigation. No mitigation measures are warranted.

Special Status Animals and Native Wildlife

Potential Impact. The site provides marginal to suitable breeding and foraging habitat for native wildlife but does not represent a wildlife movement corridor, although species move within and through it. Four special status species—the white-tailed kite (*Elanus leucurus*), golden eagle (*Aquila chrysaetos*), tricolored blackbird (*Agelaius tricolor*), and pallid bat (*Antrozous pallidus*)—may rarely or occasionally occur on the site as transients, occasional foragers, or winter migrants. Project buildout would, at most, result in a small reduction of foraging habitat that is available regionally for these species. The loss of habitat for these species would be considered less than significant. With the exception of the four species mentioned above, project build-out would have no effect on the loss of habitat for any other special status animals known to occur regionally because they are absent from or unlikely to occur on the site. For a more detailed treatment of individual special status wildlife species that occur regionally, refer to Appendix A.

Mitigation. No mitigation measures are warranted.

Burrowing Owls

Potential Impact. There have been no known or documented occurrences of burrowing owls within Morgan Hill for nearly a decade. According to the CNDDDB (2014), historical sightings of burrowing owls in Morgan Hill include an observation of an owl using an artificial burrow at El Toro Elementary School in March 2003. Owls were previously observed on this same site in 1998, 2000, and 2001. Indirect evidence of burrowing owls (e.g., whitewash, feathers, and pellets) was observed at the water tank facility near the intersection of Dewitt and Edmundson Avenues in August 2002. No burrowing owls have been observed on that site since. In addition to CNDDDB records, in February of 2007, an observation of a single burrowing owl was made at the San Pedro Percolation Ponds. This owl stayed onsite several days and then moved on (Tony

Eulo, 2007, pers. comm.). There is no current evidence of nesting activity within the City's sphere of influence.

The site does not occur within modeled occupied habitat as shown in Fig. 5-11 of the Santa Clara Valley Habitat Plan (SCVHP). No direct or indirect evidence of burrowing owls was observed on the project site, and no ground squirrel burrows are present due to regular disking of the site. Therefore, burrowing owls are not expected to breed or establish nests on the site, and impacts to burrowing owl habitat would be considered less than significant.

Because this species is volant, it is possible for individuals to use the site in the future. Construction activities could result in harm to these birds (see "Nesting Raptors and Other Migratory Birds" below).

Mitigation. No mitigation measures are warranted. For impacts to individual burrowing owls, see "Nesting Raptors and Other Migratory Birds" below.

While burrowing owls are not expected to occur on the site, the applicant would need to provide payment of required fees pursuant to the *City of Morgan Hill Burrowing Owl Mitigation Plan* for impacts to and near suitable burrowing owl habitat. Fees collected by the City shall be used towards burrowing owl conservation; currently, the SCVHP is anticipated to be the conservation vehicle.

Nesting Raptors and Other Migratory Birds

Potential Impact. No trees are present on the site. However, trees are present around the retention pond immediately adjacent to the site along Monterey Road. While no stick nests were observed during the June 2014 survey, large trees around the retention pond provide potential habitat for tree-nesting raptors. Ground-nesting raptors (e.g., burrowing owls and northern harriers) may also establish nests or otherwise occur on the site in the future. If a nesting raptor or other migratory bird were to nest on or adjacent to the site prior to construction, such activities could result in the abandonment of active nests or direct mortality to these birds and would be considered a significant impact.

Mitigation. Site pre-construction surveys should be conducted during the breeding season (1 February through 31 August) for tree-nesting raptors and other migratory birds no more than two weeks prior to the onset of ground disturbance between February and May and within 30 days of the onset of construction from June through August. Pre-construction surveys during the non-breeding season are not necessary for tree-nesting raptors and migratory birds, as they are expected to abandon their roosts during construction. However, pre-construction surveys should be conducted during the non-breeding season for burrowing owls. If the target species are deemed absent from the area, then no mitigations are required, and construction could occur within 14 or 30 days (depending on the timing of the survey) following the survey(s).

If nesting raptors or other migratory birds are detected on or adjacent to the site during the survey, a suitable construction-free buffer should be established around all active nests. The precise dimension of the buffer (up to 250 feet) should be determined at that time and may vary depending on location and species. The buffer areas should be enclosed with temporary fencing,

and construction equipment and workers should not enter the enclosed setback areas. Buffers should remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents. Implementation of these measures would mitigate impacts to nesting raptors and other migratory birds to a less-than-significant level.

Santa Clara Valley Habitat Plan

Potential Impact. The proposed project will comply with the fees and conditions of the SCVHP; therefore, there is no conflict with the SCVHP. Fees and conditions that are applicable to the project are described below.

Fees - Chapter 9 of the SCVHP identifies fees required by this project. The project site falls under SCVHP land cover fee zone B (“Mostly Cultivated Agricultural Lands”). According to the Santa Clara Valley Habitat Agency’s 2014-15 fee schedule, the per-acre fee for development of Zone B lands is \$11,806. Therefore, assuming full build-out of the site, the total land cover fee would be approximately \$230,217. A nitrogen deposition fee will also be applied to the project as a fee per new daily vehicle trip over the existing condition. According to the Santa Clara Valley Habitat Agency’s 2014-15 fee schedule, the nitrogen deposition fee would be \$3.98 for each projected new vehicle trip generated as a result of the project and/or \$39.80 for each new residential unit.

Fee amounts are subject to change at the Santa Clara Valley Habitat Agency’s and may increase or decrease in future years.

No other fees are projected for this project. Wetlands and serpentine soils are absent from the site; therefore, SCVHP fees associated with these features would not apply. The site does not occur within occupied burrowing owl habitat; therefore, the burrowing owl habitat fee also does not apply to the site.

Surveys - Condition 1 of the SCVHP seeks to ensure that all protected plant and wildlife species not directly covered under the SCVHP are protected as required by local, state, and federal law. The measures described elsewhere within this letter report (i.e., surveys for nesting raptors and other migratory birds) will ensure that the project is in compliance with this condition.

No other plant or wildlife surveys are required by the SCVHP for the project site, as none of conditions 15-20 of the SCVHP requiring pre-construction surveys apply to the site.

Mitigation. No mitigation measures are warranted.

CONCLUSION

In summary, development of the site could result in potential impacts to nesting raptors and other migratory birds. Reasonable measures can be taken that would avoid impacts to these species or reduce them to a less-than-significant level. Fees associated with the City’s *Burrowing Owl Mitigation Plan* will be required. In addition, fees and conditions of the Santa Clara Valley

Habitat Plan will be imposed on future development of the project site. No other impacts to biological resources are anticipated as a result of the proposed project.

If you have any questions regarding our findings and conclusions, please contact me at dohlson@loainc.com or (408) 281-5886 at your earliest convenience.

Sincerely,



Davinna Ohlson, M.S.
Senior Project Manager
Staff Ecologist

References

- California Department of Fish and Wildlife. 2014a. California natural diversity database, Rarefind 5. The Resources Agency, Sacramento, CA.
- _____. 2014b. State and federally listed endangered, threatened, and rare plants of California. The Natural Resources Agency, Sacramento, CA.
- _____. 2014c. State and federally listed endangered and threatened animals of California. The Natural Resources Agency, Sacramento, CA.
- California Native Plant Society. 2014. Inventory of Rare and Endangered Vascular Plants. <http://cnps.site.aplus.net/cgi-bin/inv/inventory.cgi>.
- ICF International. 2012. Santa Clara Valley Habitat Plan. California.
- Morgan Hill. 2003. *Citywide Burrowing Owl Habitat Mitigation Plan*. Prepared by Albion Environmental, Inc. Santa Cruz, CA.
- Natural Resource Conservation Service. 2014. Soil Survey of Eastern Santa Clara Area, California, USDA. <http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>.
- U. S. Fish and Wildlife Service. 2014. Endangered and threatened wildlife and plants.

APPENDIX A: SPECIAL STATUS SPECIES

A search of published accounts for all relevant special status plant and animal species was conducted for the Morgan Hill USGS 7.5" quadrangles in which the project site occurs and for the eight surrounding quadrangles (San Jose East, Lick Observatory, Isabel Valley, Santa Teresa Hills, Mt. Sizer, Loma Prieta, Mt. Madonna, and Gilroy) using the California Natural Diversity Data Base's (CNDDDB) Rarefind 5 application (CDFW 2014). These species and their potential to occur in the study area are summarized in Table 1 below.

Serpentine soils are completely lacking from the site; as such, those species that are uniquely adapted to serpentine conditions are considered absent from the site. These species include the Oakland star-tulip (*Calochortus umbellatus*), South Coast Range morning-glory (*Calystegia collina* ssp. *venusta*), chaparral harebell (*Campanula exigua*), Tiburon paintbrush (*Castilleja affinis* ssp. *neglecta*), pink creamsacs (*Castilleja rubicundula* ssp. *rubicundula*), coyote ceanothus (*Ceanothus ferrisiae*), Mt. Hamilton fountain thistle (*Cirsium fontinale* var. *campylon*), San Francisco collinsia (*Collinsia multicolor*), Santa Clara dudleya (*Dudleya abramsii* ssp. *setchellii*), fragrant fritillary (*Fritillaria liliacea*), phlox-leaf serpentine bedstraw (*Galium andrewsii* ssp. *gatense*), woolly-headed lessingia (*Lessingia hololeuca*), smooth lessingia (*Lessingia micradenia* var. *glabrata*), woodland woollythreads (*Monolopia gracilens*), Metcalf Canyon jewel-flower (*Streptanthus albidus* ssp. *albidus*), and most beautiful jewel-flower (*Streptanthus albidus* ssp. *peramoenus*). Other plant species occur in habitats not present in the study area (e.g., chaparral, coastal scrub, etc.) and, therefore, are also considered absent from the site. These species include Santa Clara thorn-mint (*Acanthomintha lanceolata*), Anderson's manzanita (*Arctostaphylos andersonii*), Santa Cruz Mountains pussypaws (*Calyptridium parryi* var. *hesseae*), robust spineflower (*Chorizanthe robusta* var. *robusta*), Santa Clara red ribbons (*Clarkia concinna* ssp. *automixa*), Hospital Canyon larkspur (*Delphinium californicum* ssp. *interius*), Brandegee's eriastrum (*Eriastrum brendegeae*), Tracy's eriastrum (*Eriastrum tracyi*), Loma Prieta hoita (*Hoita strobilina*), Mt. Hamilton coreopsis (*Leptosyne hamiltonii*), Mt. Hamilton lomatium (*Lomatium observatorium*), Indian Valley bush-mallow (*Malacothamnus aboriginum*), arcuate bush-mallow (*Malacothamnus arcuatus*), Hall's bush-mallow (*Malacothamnus hallii*), Oregon meconella (*Meconella oregana*), Santa Cruz Mountains beardtongue (*Penstemon rattanii* var. *kleei*), Mt. Diablo phacelia (*Phacelia phacelioides*), hairless popcornflower (*Plagiobothrys glaber*), warty popcornflower (*Plagiobothrys verrucosus*), Mt. Hamilton jewel-flower (*Streptanthus callistus*), and Santa Cruz clover (*Trifolium buckwestiorum*).

Wildlife species that would not be expected to occur on the site because the habitat(s) necessary to support them are absent include the Bay checkerspot butterfly (*Euphydryas editha bayensis*) and steelhead (*Oncorhynchus mykiss irideus*).

Table 1: Special status species that could occur in the project vicinity.

PLANTS (adapted from CDFW 2014b and CNPS 2014)

Species Listed as Threatened or Endangered under the State and/or Federal Endangered Species Acts

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Monterey spineflower <i>Chorizanthe pungens</i> var. <i>pungens</i>	FT, CRPR 1B	<u>Habitat:</u> Sandy soils within chaparral, cismontane woodland, coastal dunes, coastal scrub and valley and foothill grassland. <u>Elevation:</u> 3-450 meters. <u>Blooms:</u> April-August.	Absent. Sandy soils are absent from the site. The Monterey spineflower is not known to occur in Santa Clara County; all of its locally recorded locations are within Monterey and Santa Cruz counties.
Contra Costa goldfields <i>Lasthenia conjugens</i>	FE, CRPR 1B	<u>Habitat:</u> Vernal pools and mesic areas of valley and foothill grasslands, typically alkaline. <u>Elevation:</u> 0-470 meters. <u>Blooms:</u> March-June.	Absent. Vernal pools and alkaline soils are absent from the site. The nearest documented occurrence is more than ten miles from the site and from 1958. This species was not observed on the site during the June 2014 survey.

Table 1: Special status species that could occur in the project vicinity.

PLANTS (adapted from CDFW 2014b and CNPS 2014)

Other special status plants listed by the CDFG and CNPS

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Bent-flowered fiddleneck <i>Amsinckia lunaris</i>	CRPR 1B	<u>Habitat:</u> Coastal bluff scrub, cismontane woodland, and valley and foothill grasslands. <u>Elevation:</u> 3-500 meters. <u>Blooms:</u> March-June.	Absent. The site has been disked regularly for several years. The current vegetation consists mainly of non-native, weedy species. Any suitable habitat that may have historically occurred onsite is no longer present. This species was not observed on the site during the June 2014 survey.
Big-scale balsamroot <i>Balsamorhiza macrolepis</i> var. <i>macrolepis</i>	CRPR 1B	<u>Habitat:</u> Chaparral, cismontane woodland, and valley and foothill grassland, sometimes on serpentine. <u>Elevation:</u> 90-1555 meters. <u>Blooms:</u> April-October.	Absent. Serpentine soils are absent from the site, and the site supports poor habitat for this species due to regular diskings. This species was not observed on the site during the June 2014 survey.
Round-leaved filaree <i>California macrophylla</i>	CRPR 1B	<u>Habitat:</u> Occurs on clay soils in cismontane woodlands and valley and foothill grasslands. <u>Elevation:</u> 15-1200 meters. <u>Blooms:</u> March to May.	Absent. Clay soils are absent from the site. The site has been disked regularly for several years. The current vegetation consists mainly of non-native, weedy species. Any suitable habitat that may have historically occurred onsite is no longer present. The last documented occurrence of this species in the region is from 1955 in the Silver Creek Hills.
Congdon's tarplant <i>Centromadia parryi</i> ssp. <i>congdonii</i>	CRPR 1B	<u>Habitat:</u> Valley and foothill grassland on alkaline soils. <u>Elevation:</u> 1-230 meters. <u>Blooms:</u> May-October.	Absent. Alkaline soils are absent from the site. This species was not observed on the site during the June 2014 survey.

Table 1: Special status species that could occur in the project vicinity.

PLANTS (adapted from CDFW 2014b and CNPS 2014)

Other special status plants listed by the CDFG and CNPS

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Hoover's button-celery <i>Eryngium aristulatum</i> var. <i>hooveri</i>	CRPR 1B	<u>Habitat</u> : Vernal pools. <u>Elevation</u> : 3-45 meters. <u>Blooms</u> : July–August.	Absent. Vernal pools are absent from the study area.
Legenere <i>Legenere limosa</i>	CNPS 1B	<u>Habitat</u> : Occurs in vernal pools. <u>Elevation</u> : 1-880 meters. <u>Blooms</u> : April–June.	Absent. Vernal pools and alkaline soils are absent from the study area. The nearest documented occurrence of this species is more than eight miles southeast of the site.
Showy golden madia <i>Madia radiata</i>	CNPS 1B	<u>Habitat</u> : Occurs in cismontane woodland, valley and foothill grassland <u>Elevation</u> : 25-1215 meters. <u>Blooms</u> : March–May.	Absent. The site has been disked regularly for several years. The current vegetation consists mainly of non-native, weedy species. Any suitable habitat that may have historically occurred onsite is no longer present. The nearest documented occurrence of this species is more than thirteen miles north of the site.
Mt. Diablo cottonweed <i>Micropus amphibolus</i>	CRPR 3	<u>Habitat</u> : Broadleafed upland forest, chaparral, cismontane woodland, and valley and foothill grassland. Occurs on rocky soils. <u>Elevation</u> : 45-825 meters. <u>Blooms</u> : March–May.	Absent. Rocky soils do not occur on the site.
San Benito pentachaeta <i>Pentachaeta exilis</i> ssp. <i>aeolica</i>	CRPR 1B	<u>Habitat</u> : Cismontane woodland and valley and foothill grassland. <u>Elevation</u> : 640-855 meters. <u>Blooms</u> : March–May.	Absent. The only known occurrence in the region is from 1935 in Isabel Valley.
Hooked popcornflower <i>Plagiobothrys uncinatus</i>	CRPR 1B	<u>Habitat</u> : Chaparral on sandy soils, cismontane woodland, and valley and foothill grassland. <u>Elevation</u> : 300-760 meters. <u>Blooms</u> : April–May.	Absent. The only known occurrence in the region is from 1935 in the Mt. Hamilton range.
Rock sanicle <i>Sanicula saxatilis</i>	CRPR 1B	<u>Habitat</u> : Rocky soils in broadleafed upland forest, chaparral, and valley and foothill grassland. <u>Elevation</u> : 620-1175 meters. <u>Blooms</u> : April–May.	Absent. Rocky soils are absent from the site. The site occurs at an elevation well below that of the species.

Table 2: Special status species that could occur in the project vicinity.

ANIMALS (adapted from CDFW 2014c and USFWS 2014)

Species Listed as Threatened or Endangered under the State and/or Federal Endangered Species Acts

Common and scientific names	Status	General habitat description	*Occurrence in the study area
California tiger salamander <i>Ambystoma californiense</i>	FT, CT	Breeds in vernal pools and stock ponds of central California. Adults aestivate in grassland habitats adjacent to the breeding sites.	Unlikely. Several CTS occurrences have been documented in natural drainages and reservoirs within three miles of the site (CNDDDB 2014). The retention pond immediately south of the site typically holds water for a duration sufficient to support breeding populations. However, the site itself does not provide breeding habitat for this species, nor does it provide suitable habitat for aestivation due to frequent and regular disking. As a result, no burrows are present on the site. Additionally, the retention pond was built sometime after 1998 in an area already surrounded by urban development, which would prevent CTS from migrating to and colonizing this feature.
California red-legged frog <i>Rana draytonii</i>	FT, CSC	Rivers, creeks and stock ponds of the Sierra foothills and coast range, preferring pools with overhanging vegetation.	Absent. The nearest documented occurrences of CRLF are more than three miles from the site. The retention pond immediately south of the site typically holds water for a duration sufficient to support breeding CRLF. However, the site itself does not provide breeding habitat for this species. Additionally, the retention pond was built sometime after 1998 in an area already surrounded by urban development, which would prevent CRLF from migrating to and colonizing this feature.
Swainson's hawk <i>Buteo swainsoni</i>	CT	Nest in trees usually positioned within close proximity of grassland and/or agricultural areas. Forages over wide open habitats.	Absent. Breeding habitat is absent from the site. The site does not provide suitable foraging habitat due to regular and frequent disking, which would discourage rodent populations from establishing on the site.
Least Bell's vireo (nesting) <i>Vireo bellii pusillus</i>	FE, CE	Occurs in southern California during the breeding season; migrates out of the state July through September. Dense brush, mesquite, or cottonwood-willow forests in riparian areas.	Absent. Riparian habitat is absent from the site.

Table 2: Special status species that could occur in the project vicinity.

ANIMALS (adapted from CDFW 2014c and USFWS 2014)

Species Listed as Threatened or Endangered under the State and/or Federal Endangered Species Acts

Common and scientific names	Status	General habitat description	*Occurrence in the study area
San Joaquin kit fox <i>Vulpes macrotis mutica</i>	FE, CT	Frequents annual grasslands or grassy open stages with scattered shrubby vegetation. Needs loose-textured sandy soils for burrowing and suitable prey base. Utilizes enlarged (4 to 10 inches in diameter) ground squirrel burrows as denning habitat. May forage in adjacent agricultural habitats.	Absent. Breeding and foraging habitat is lacking for this species. In addition, due to the known distribution of this species, it is not expected to migrate through or otherwise occur in this area of Santa Clara County.

Table 2: Special status species that could occur in the project vicinity.

ANIMALS (adapted from CDFW 2014c and USFWS 2014)

California Species of Special Concern and Protected Species

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Foothill yellow-legged frog <i>Rana boylei</i>	CSC	Frequents partly shaded, shallow, swiftly-flowing streams and riffles with rocky substrate in a variety of habitats.	Absent. Aquatic habitats are absent from the site, and the adjacent retention pond does not provide the streamside habitat preferred by this species. The nearest documented observation of this species is approximately four miles to the west of the site.
Western pond turtle <i>Emys marmorata</i>	CSC	An aquatic turtle of ponds, marshes, slow-moving rivers, streams and irrigation ditches with aquatic vegetation. Needs basking sites and sandy banks or grassy open fields for egg laying.	Unlikely. While they hold water for most of the year, the retention pond adjacent to the site was built sometime after 1998 and is isolated from any known source populations of western pond turtles. Therefore, this species is not expected to occur on the site. Aquatic habitats are absent from the site itself. The nearest documented occurrences of the WPT are located at Chesbro Reservoir and Anderson Reservoir.
Coast horned lizard <i>Phrynosoma blainvillii</i>	CSC	Grasslands, scrublands, oak woodlands, etc. of central California. Common in sandy washes with scattered shrubs.	Absent. The site constitutes poor habitat for this species. This species has not been documented within three miles of the site.
White-tailed kite <i>Elanus leucurus</i>	CP	Open grasslands and agricultural areas throughout central California.	Likely. Breeding habitat is absent from the site, but this species is likely to forage over the site.

Table 2: Special status species that could occur in the project vicinity.

**ANIMALS (adapted from CDFW 2014c and USFWS 2014)
California Species of Special Concern and Protected Species**

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Golden eagle <i>Aquila chrysaetos</i>	CP	Typically frequents rolling foothills, mountain areas, woodland areas, sage-juniper flats, and desert habitats.	Possible. The site supports suitable foraging habitat for the golden eagle. Suitable nesting habitat is absent. Golden eagles are known to forage in the vicinity of the site.
Burrowing owl <i>Athene cunicularia</i>	CSC	Open, dry grasslands, deserts and ruderal areas. Requires suitable burrows. Often associated with California ground squirrels.	Absent. No burrows were present on the site as a result of regular disking. There have been no known or documented occurrences of burrowing owls within Morgan Hill for more than five years. The nearest recorded observation of BUOW is just south of the site at a small patch of managed grassland at El Toro School. However, this site was presumed extirpated in 2009, and surveys by LOA have not located burrowing owls at this site since 2003.
Black swift <i>Cypseloides niger</i>	CSC	Migrants and transients found throughout many habitats of state. Breeds on steep cliffs or ocean bluffs, or in cracks and crevasses of inland deep canyons.	Unlikely. Suitable breeding and foraging habitats are absent from the site. However, this species may occasionally pass through the site.
Tricolored blackbird <i>Agelaius tricolor</i>	CSC	Breeds near fresh water, primarily emergent wetlands, with tall thickets. Forages in nearby grassland and cropland habitats.	Possible. Breeding habitat is absent from the site. Because potentially suitable breeding habitat is present at the adjacent retention pond, this species would be expected to occasionally migrate through and forage on the site.
Pallid bat <i>Antrozous pallidus</i>	CSC	Grasslands, chaparral, woodlands, and forests of California; most common in dry rocky open areas that provide roosting opportunities.	Possible. Foraging habitat is present on the site. Suitable roosting habitat is absent.
San Francisco dusky-footed woodrat <i>Neotoma fuscipes annectens</i>	CSC	Found in hardwood forests, oak riparian and shrub habitats.	Absent. Suitable habitat for this species is absent from the site.
American badger <i>Taxidea taxus</i>	CSC	Found in drier open stages of most shrub, forest and herbaceous habitats with friable soils.	Unlikely. Badger sign was not observed on the site, and badgers have not been documented within Morgan Hill's urban limits. Urban development has isolated the site from natural, undisturbed habitats where badgers are likely to occur. The site also undergoes regular and frequent disking, which would discourage rodent populations from establishing on the site.

***Explanation of Occurrence Designations and Status Codes**

Present: Species observed on the sites at time of field surveys or during recent past.

Likely: Species not observed on the site, but it may reasonably be expected to occur there on a regular basis.

Possible: Species not observed on the sites, but it could occur there from time to time.

Unlikely: Species not observed on the sites, and would not be expected to occur there except, perhaps, as a transient.

Absent: Species not observed on the sites, and precluded from occurring there because habitat requirements not met.

STATUS CODES

FE	Federally Endangered	CE	California Endangered
FT	Federally Threatened	CT	California Threatened
FPE	Federally Endangered (Proposed)	CR	California Rare
FC	Federal Candidate	CP	California Protected
		CSC	California Species of Special Concern
CRPR	California Rare Plant Rank		
1A	Plants Presumed Extinct in California	3	Plants about which we need more information – a review list
1B	Plants Rare, Threatened, or Endangered in California and elsewhere	4	Plants of limited distribution – a watch list
2	Plants Rare, Threatened, or Endangered in California, but more common elsewhere		

**APPENDIX B:
SIGNIFICANCE CRITERIA AND RELEVANT GOALS, POLICIES, AND LAWS**

Significance Criteria

Approval of general plans, area plans, and specific projects is subject to the provisions of the California Environmental Quality Act (CEQA). The purpose of CEQA is to assess the significance of a proposed project's impacts on the environment before they are carried out. Whenever possible, public agencies are required to avoid or minimize environmental impacts by implementing practical alternatives or mitigation measures.

According to Section 15382 of the CEQA Guidelines, a significant effect on the environment means a "substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic interest."

Specific project impacts to biological resources may be considered "significant" if they would:

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

Furthermore, CEQA Guidelines Section 15065(a) states that a project may trigger the requirement to make a "mandatory findings of significance" if the project has the potential to "substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of an

endangered, rare or threatened species, or eliminate important examples of the major periods of California history or prehistory.”

Relevant Goals, Policies, and Laws

Threatened and Endangered Species

State and federal “endangered species” legislation has provided the California Department of Fish and Wildlife (CDFW) and the U.S. Fish and Wildlife Service (USFWS) with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations. Species listed as threatened or endangered under provisions of the state and federal endangered species acts, candidate species for such listing, state species of special concern, and some plants listed as endangered by the California Native Plant Society are collectively referred to as “species of special status.” Permits may be required from both the CDFW and USFWS if activities associated with a proposed project will result in the “take” of a listed species. “Take” is defined by the state of California as “to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill” (California Fish and Game Code, Section 86). “Take” is more broadly defined by the federal Endangered Species Act to include “harm” (16 USC, Section 1532(19), 50 CFR, Section 17.3). Furthermore, the CDFW and the USFWS are responding agencies under the California Environmental Quality Act (CEQA). Both agencies review CEQA documents in order to determine the adequacy of their treatment of endangered species issues and to make project-specific recommendations for their conservation.

Migratory Birds

Most birds are also protected by state and federal law. The Federal Migratory Bird Treaty Act (FMBTA: 16 U.S.C., sec. 703, Supp. I, 1989) prohibits killing, possessing, or trading in migratory birds, except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs.

Birds of Prey

Birds of prey are also protected in California under provisions of the State Fish and Game Code, Section 3503.5, 1992), which 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”. Construction 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 “taking” by the CDFW.

Bald and Golden Eagle Protection Act.

The Bald and Golden Eagle Protection Act (16 U.S.C., scc. 668-668c) prohibits anyone from taking bald or golden eagles, including their parts, nests, or eggs, unless authorized under a federal permit. The act prohibits any disturbance that directly affects an eagle or an active eagle nest as well as any disturbance caused by humans around a previously used nest site during a time when eagles are not present such that it agitates or bothers an eagle to a degree that interferes with or interrupts normal breeding, feeding, or sheltering habits, and causes injury, death or nest abandonment.

Bats

Section 2000 and 4150 of the California Fish and Game Code states that it is unlawful to take or possess a number of species, including bats, without a license or permit, as required by Section 3007. Additionally, Title 14 of the California Code of Regulations states it is unlawful to harass, herd, or drive a number of species, including bats. To harass is defined as “an intentional act which disrupts an animal's normal behavior patterns, which includes, but is not limited to, breeding, feeding or sheltering.” For these reasons, bat colonies in particular are considered to be sensitive and therefore, disturbances that cause harm to bat colonies are unlawful.

Wetlands and Other Jurisdictional Waters

Natural drainage channels and adjacent wetlands may be considered “Waters of the United States” (hereafter referred to as “jurisdictional waters”) subject to the jurisdiction of the U.S. Army Corps of Engineers (USACE). The extent of jurisdiction has been defined in the Code of Federal Regulations but has also been subject to interpretation of the federal courts.

Jurisdictional waters generally include:

- All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- All interstate waters including interstate wetlands;
- 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, the use, degradation or destruction of which could affect interstate or foreign commerce;
- All impoundments of waters otherwise defined as waters of the United States under the definition;
- Tributaries of waters identified in paragraphs (a)(1)-(4) (i.e. the bulleted items above).

As recently determined by the United States Supreme Court in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* (the SWANCC decision), channels and wetlands isolated from other jurisdictional waters cannot be considered jurisdictional on the basis of their use, hypothetical or observed, by migratory birds. However, the U.S Supreme Court decisions *Rapanos v. United States* and *Carabell v. U.S. Army Corps of Engineers* (referred together as the Rapanos decision) impose a "significant nexus" test for federal jurisdiction over wetlands. In June 2007, the USACE and Environmental Protection Agency (EPA) established guidelines for applying the significant nexus standard. This standard includes 1) a case-by-case analysis of the flow characteristics and functions of the tributary or wetland to determine if they significantly affect the chemical, physical, and biological integrity of downstream navigable waters and 2) consideration of hydrologic and ecologic factors (EPA and USACE 2007).

The USACE regulates the filling or grading of such waters under the authority of Section 404 of the Clean Water Act. The extent of jurisdiction within drainage channels is defined by “ordinary high water marks” on opposing channel banks. Wetlands are habitats with soils that are intermittently or permanently saturated, or inundated. The resulting anaerobic conditions select for plant species known as hydrophytes that show a high degree of fidelity to such soils. Wetlands are identified by the presence of hydrophytic vegetation, hydric soils (soils saturated intermittently or permanently saturated by water), and wetland hydrology according to

methodologies outlined in the 1987 Corps of Engineers Wetlands Delineation Manual (USACE 1987).

All activities that involve the discharge of fill into jurisdictional waters are subject to the permit requirements of the USACE (Wetland Training Institute, Inc. 1991). Such permits are typically issued on the condition that the applicant agrees to provide mitigation that result in no net loss of wetland functions or values. No permit can be issued until the Regional Water Quality Control Board (RWQCB) issues a certification (or waiver of such certification) that the proposed activity will meet state water quality standards. The filling of isolated wetlands, over which the USACE has disclaimed jurisdiction under the SWANCC decision, is regulated by the RWQCB. It is unlawful to fill isolated wetlands without filing a Notice of Intent with the RWQCB. The RWQCB is also responsible for enforcing National Pollution Discharge Elimination System (NPDES) permits, including the General Construction Activity Storm Water Permit. All projects requiring federal money must also comply with Executive Order 11990 (Protection of Wetlands).

The California Department of Fish and Wildlife has jurisdiction over the bed and bank of natural drainages according to provisions of Section 1601 and 1602 of the California Fish and Game Code (2012). Activities that would disturb these drainages are regulated by the CDFW via a Streambed Alteration Agreement. Such an agreement typically stipulates that certain measures will be implemented that protect the habitat values of the drainage in question.

Local Policies and Ordinances

Tree Ordinance. The City of Morgan Hill has a tree ordinance (Chapter 12.32 of the City's municipal code) which seeks to protect all trees having a single stem or trunk with a circumference of forty inches or greater for nonindigenous species (except those in residential zones) and eighteen inches or greater for indigenous species measured at four and one-half feet vertically above the ground or immediately below the lowest branch. Indigenous trees are defined by the City as any tree that is native to the Morgan Hill region, including oaks (all types), California bays, madrones, sycamore and alder. The ordinance states that "it is unlawful for any person to cut down, remove, poison or otherwise kill or destroy, or cause to be removed any tree or community of trees on any city or private property without first securing a permit as provided in this chapter; provided, however, that a permit shall not be required for developments which have been reviewed and approved by the planning commission or architectural and site review board and the tree removal conforms with the landscape plans of those developments."

Citywide Burrowing Owl Habitat Mitigation Plan (Owl Plan). Since 2003, the City of Morgan Hill's Owl Plan has provided a mechanism to conserve suitable burrowing owl habitat by assessing a fee on all new development within the City. This system spreads owl mitigation costs across development projects with the philosophy that owls are impacted by the loss in foraging habitat and potential breeding habitat, not just active breeding habitat. Therefore, every new development project in Morgan Hill is subject to a burrowing owl fee. This fee is levied on residential development per dwelling unit and on commercial/industrial development per acre. The fee for residential development is collected at the time of recordation of the subdivision map. The fee for commercial/industrial development is collected at the time of building permit issuance.

Prior to 2014, fees collected by the City funded monitoring and maintenance of preserved lands established by the City. At the time this report was prepared, the City has the discretion to direct the collected fees towards some other mechanism of burrowing owl conservation. It is believed that collected fees will be used towards burrowing owl conservation via the Santa Clara Valley Habitat Plan.

Santa Clara Valley Habitat Plan

The project will be subject to conditions and fees contained in the Santa Clara Valley Habitat Plan (SCVHP). Six local partners (the County of Santa Clara, Santa Clara Valley Transportation Authority; Santa Clara Valley Water District, and the Cities of San Jose, Gilroy, and Morgan Hill) and two wildlife agencies (the CDFW and the USFWS) prepared and adopted this multi-species habitat conservation plan, which primarily covers southern Santa Clara County, as well as the City of San Jose with the exception of the bayland areas. The SCVHP addresses conservation of listed species and species that are likely to become listed during the plan's 50-year permit term. The eighteen covered species include nine plants and nine animals, including the western burrowing owl and the California tiger salamander. In general, the SCVHP is a fee-based program aimed at providing for the regional conservation of these species.

The SCVHP provides for the option of protecting conservation lands in lieu of fees; however, the specifics of the process for this option have not yet been determined. Land in lieu of fees may include lands coordinated with the County Parks, Open Space Authority, or other organization. If approved by the Implementing Entity, land in lieu of fees will become part of the Reserve System under the SCVHP once success criteria have been met (for restoration projects). Off-site conservation lands in lieu of fees may be acceptable if the Implementing Entity, CDFW, and USFWS approve the proposed conservation lands. Fees for management of the in-lieu lands would still be required.

Fees. Funding sources for the SCVHP include development fees based on land cover types, fees charged based on the occurrence of certain species and sensitive habitat types such as serpentine habitats, and fees based on the number of vehicle trips the project is anticipated to add to the baseline conditions on an annual basis. Chapter 9 of the SCVHP describes fees that may be required by each project.

Fees are generally calculated based on the size and planned usage of the property related to the proposed project. For projects occurring on properties that are 10 acres or greater, the fees are calculated based on the development area for the project plus a 50-foot buffer around permanent impacts and a 10-foot buffer around temporary impacts (e.g., underground utility construction that results in restoration of the surface to pre-project conditions). For permanent impacts, the acreage would be multiplied by the project's Land Cover Fee Zone classification as defined in the SCVHP. Properties that contain sensitive species habitats and/or sensitive habitat communities that are covered by the SCVHP and that would be impacted by the project would also be subject to species and/or sensitive habitat fee surcharges based on the acreages of impact.

In addition to area-based fees, the SCVHP includes a nitrogen deposition fee for diffuse impacts to habitats from increased nitrogen levels resulting from particular projects. This fee is related to the number of vehicle trips or single-family units generated by a project. According to the Santa

Clara Valley Habitat Agency's 2014-15 fee schedule, the nitrogen deposition fee would be required at \$3.98 for each projected new vehicle trip generated as a result of the project and/or \$39.80 for each new residential unit.

Land in Lieu of Fees. The SCVHP provides for the option of protecting conservation lands in lieu of fees; however, the specifics of the process for this option have not yet been determined. Land in lieu of fees may include lands coordinated with the County Parks, Open Space Authority, or other organization. Wetland fees cannot be waived; however, restoration or creation, management, and monitoring of onsite wetlands, streams, ponds, or riparian for mitigation may replace some or all wetland fees for a site if approved by the Implementing Entity. Land in lieu of fees must be approved by the Implementing Entity for the Santa Clara Valley Habitat Conservation Plan. If approved by the Implementing Entity, land in lieu of fees will become part of the Reserve System under the SCVHP once success criteria have been met (for restoration projects). Off-site conservation lands in lieu of fees may be acceptable if both the Implementing Entity and the Wildlife Agencies (i.e., CDFW and USFWS) approve the proposed conservation lands. It is important to note that land in lieu of fees only offsets costs related to land fees and does not include an off-set for management fees. The Implementing Entity is developing the specific program that will define the process of the in lieu program.

Conditions on Covered Activities. As a result of a project occurring within the SCVHP plan area, the project is subject to the requirements and provisions of the SCVHP. The SCVHP specifies twenty conditions for covered activities. These conditions can be found in Chapter 6 of the SCVHP and are summarized below:

- **Condition 1 (page 6-7). Avoid Direct Impacts on Legally Protected Plant and Wildlife Species-** Condition 1 instructs developers to avoid direct impacts on legally protected plant and wildlife species, including federally endangered Contra Costa goldfields and fully protected wildlife species including the golden eagle, bald eagle, American peregrine falcon, southern bald eagle, white-tailed kite, California condor, and ring-tailed cat. Condition 1 also protects bird species and their nests that are protected under the Migratory Bird Treaty Act (MBTA). Additionally, golden eagles and bald eagles are protected under the Bald and Golden Eagle Protection Act.
- **Condition 2 (page 6-9). Incorporate Urban-Reserve System Interface Design Requirements-** Condition 2 provides design requirements for the urban-reserve system interface. Some of the design requirements included in Condition 2 are installing non-permeable fences between urban and reserve areas, fencing public roads that run adjacent to reserve areas, minimizing the length of shared boundaries between urban and reserve areas, outdoor lighting limitations, and landscaping requirements.
- **Condition 3 (page 6-12). Maintain Hydrologic Conditions and Protect Water Quality-** Condition 3 sets forth a consistent approach for applying water quality conditions of each Regional Board across the SCVHP area. This includes programmatic avoidance and minimization measures, performance standards, and control measures to minimize increases of peak discharge of stormwater and to reduce runoff of pollutants to protect water quality, including during project construction. (Avoidance and minimization measures related to Conditions 3, 4, and 5 can be located in Table 6-2 of the SCVHP. These measures relate to stormwater runoff, in-stream channel and floodplain impacts, vegetation control and/or maintenance, materials a project should and

should not use, landscaping and revegetation, free-span bridges at stream crossings, culverts, trails, levees, erosion control, and construction requirements and timing.)

- **Condition 4 (page 6-14). Avoidance and Minimization for In-Stream Projects-** Condition 4 minimizes impacts on riparian and aquatic habitat through appropriate design requirements and construction practices and provides avoidance and minimization measures for in-stream projects that may impact stream morphology, aquatic and riparian habitat, flow conditions, covered species, natural communities, and wildlife movement.
- **Condition 5 (page 6-18). Avoidance and Minimization Measures for In-Stream Operations and Maintenance-** Condition 5 provides avoidance and minimization measures for in-stream operations and maintenance activities, which includes, but is not limited to trail, bridge, road, and culvert maintenance, bank stabilization, removal of debris, and vegetation management.
- **Condition 6 (Page 6-21). Design and Construction Requirements for Covered Transportation Projects-** Condition 6 provides requirements for rural development design, construction, and post-construction. Types of projects affected by Condition 6 include highway projects, mass transit projects, roadway projects and interchange upgrades, road safety and operational improvements, and dirt road construction.
- **Condition 7 (page 6-28). Rural Development Design and Construction Requirements-** Condition 7 provides requirements for development design and construction of new development outside of the urban service area including requirements relating to site hydrology, vineyards, private rural roads, vegetation management, soils, and lighting.
- **Condition 8 (page 6-35). Implement Avoidance and Minimization Measures for Rural Road Maintenance-** Condition 8 provides requirements for rural roads, road median, and barrier maintenance including requirements regarding riparian setbacks, erosion measures, herbicide and pesticide use, seasonal restrictions, mower cleaning, revegetation, ground-disturbing road maintenance, and flow lines.
- **Condition 9 (page 6-37). Prepare and Implement a Recreation Plan-** Condition 9 requires providing public access to all reserve lands owned by a public entity. Each reserve land must provide a recreation plan.
- **Condition 10 (page 6-42). Fuel Buffer-** Condition 10 provides requirements for fuel buffers between 30 and 100 feet of structures. Requirements include measures relating to fuel buffers near structures and on reserve lands; the most notable measure is the requirement for nesting bird surveys prior to any fuel buffer maintenance during the nesting season.
- **Condition 11 (page 6-44). Stream and Riparian Setbacks-** Condition 11 provides requirements for stream and riparian setbacks.
- **Condition 12 (page 6-56). Wetland and Pond Avoidance and Minimization-** Condition 12 provides measures to protect wetlands and ponds, including planning actions, design, and construction actions.
- **Condition 13 (page 6-58). Serpentine and Associated Covered Species Avoidance and Minimization-** Condition 13 requires surveys for special status plants and the Bay checkerspot butterfly as well as its larval host plant in appropriate areas that support serpentine bunchgrass grassland, serpentine rock outcrops, serpentine seeps, and serpentine chaparral. Fees apply for impacts to serpentine habitat.

- **Condition 14 (page 6-60). Valley Oak and Blue Oak Woodland Avoidance and Minimization-** Condition 14 provides requirements for project planning and project construction, including avoidance of large oaks, guidance on irrigation near oak trees, and a buffer around the root protection zone, roads and pathways within 25 feet of the dripline of an oak tree, trenching, and pruning activities.
- **Condition 15 (page 6-62). Western Burrowing Owl-** Condition 15 requires preconstruction surveys for burrowing owls in appropriate habitat prior to construction activities, provides avoidance measures for owls and nests in the breeding season and owls in the non-breeding season, and requirements for construction monitoring.
- **Condition 16 (page 6-68) Least Bell's Vireo-** Condition 16 requires preconstruction surveys in appropriate habitat for the least Bell's vireo prior to construction activities, and provides avoidance and construction monitoring measures.
- **Condition 17 (page 6-69) Tricolored Blackbird-** Condition 17 requires preconstruction surveys in appropriate habitat for the tricolored blackbird prior to construction activities, and provides avoidance and construction monitoring measures.
- **Condition 18 (page 6-71) San Joaquin Kit Fox-** Condition 18 requires preconstruction surveys in appropriate habitat for the San Joaquin kit fox prior to construction activities, and provides avoidance and construction monitoring measures.
- **Condition 19 (page 6-74). Plant Salvage when Impacts are Unavoidable-** Condition 19 provides salvage guidance and requirements for covered plants.
- **Condition 20 (page 6-76). Avoid and Minimize Impacts to Covered Plant Occurrences-** Condition 20 provides requirements for preconstruction surveys for appropriate covered plants (per habitat).