

Biological Resources

Chapter 3.4

SUMMARY OF FINDINGS

The proposed Project will result in *Less Than Significant Impacts with Mitigation* to Biological Resources. A detailed review of potential impacts is provided in the following analysis. A Biological Evaluation conducted by Kamansky's Ecological Consulting is included as Appendix "D" of this document which is used as the basis for determining this Project will result in less than significant impacts.

INTRODUCTION

California Environmental Quality Act (CEQA) Requirements

"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."¹

The California Environmental Quality Act (CEQA; California Public Resources Code §§ 21000-21177) requires that State agencies, local governments, and special districts evaluate and disclose impacts from "projects" in the State. CEQA Guidelines Section 15380 clearly indicates that species of special concern (SSCs) should be included in an analysis of project impacts if they can be shown to meet the criteria of sensitivity.²

CEQA Guidelines Sections 15063 and 15065 address how an impact is identified as significant. These sections are particularly relevant to SSCs. Project-level impacts on listed rare, threatened, or endangered species are generally considered significant, and therefore require lead agencies to prepare an Environmental Impact Report to fully analyze and evaluate the impacts. In determining to assign "impact significance" to populations of non-listed species, factors which are usually considered include population-level effects, proportion of the species' range affected by a project, regional effects, and impacts to habitat features.³

This section of the Draft Environmental Impact Report (DEIR) for the Project meets CEQA requirements by addressing potential impacts to biological resources on the proposed Project site, which is located in a portion of the San Joaquin Valley in Tulare County. The "Environmental Setting" section provides a description of biological resources in the region, with special emphasis on the proposed Project site and vicinity. The "Regulatory Setting" provides a description of applicable State and local regulatory policies. A description of the

¹California Department of Fish and Wildlife. Wildlife: Nongame: Species of Special Concern. <http://www.dfg.ca.gov/wildlife/nongame/ssc/>. Accessed June, 2014.

² Ibid.

³ Ibid.

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potential impacts of the proposed project is also provided and includes the identification of feasible mitigation to avoid or lessen the impacts.

Thresholds of Significance

The geographical area may be either statewide or nationwide, depending on the sensitive status of the species. Standards for listing as federal endangered species are determined by the Federal Endangered Species Act, administered by U.S. Department of Fish and Wildlife. Standards for listing of California special status species (Endangered, Threatened, Candidate Endangered, Candidate Threatened, and Sensitive Species) are administered by the California Department of Fish and Wildlife (DFW). These requirements are described in further detail in the “Regulatory” section of this document.

ENVIRONMENTAL SETTING

The project site is located in western Tulare County approximately three miles east of the Kings County border, and is located immediately west of the City of Visalia Sphere of Influence. The topography of the Project site is relatively flat, with the exception of a small drainage basin at the southwest corner of the site. Site elevation is approximately 278 feet National Geodetic Vertical Datum. Natural drainage features such as creeks, ponds, vernal pools, etc. are absent from the proposed Project site.⁴

Kamansky’s Ecological Consulting (KEC) prepared a Biological Evaluation for the proposed Project site in June 2014, and can be found in Appendix D. This evaluation included a reconnaissance-level biological field survey for biotic habitats, the plants and animals occurring in those habitats, and significant habitat values that may be protected by state and federal law. Particular attention was paid to areas of the proposed Project site supporting vegetation.

The Biological Evaluation identified potential special status species which might occur onsite or in the proposed Project vicinity. Sources of information used in their research included: (1) the *California Natural Diversity Data Base*⁵ (CNDDDB), (2) the *Online Inventory of Rare and Endangered Vascular Plants of California*⁶, and (3) manuals, reports, and references related to plants and animals of the San Joaquin Valley region. See Table 3.4-1 below.

Table 3.4-1
Special Status Species that could occur in the proposed Project Vicinity

Species	Status	Habitat	Occurrence in the Project site*
Hoover’s Spurge (<i>Chamaesyce hooveri</i>)	FT, CNPS 1B	Occurs in vernal pools of California’s Central Valley forming on volcanic mud flows and clay substrate.	Unlikely. No vernal pools were observed on site and no vernal pools are adjacent.
San Joaquin Adobe Sunburst	FT, CE CNPS	Occurs in grasslands of the western foothills of the Sierra	Unlikely. Associated with cismontaine woodland, valley and

⁴ Reconnaissance-Level Biological Evaluation, Kamansky’s Ecological Consulting, August 8, 2014. Appendix D.

⁵ California Department of Fish and Wildlife, 2014, Natural Diversity Data Base, Special Animal and Special Plants.

⁶ California Native Plant Society, Rare Plant Program. 2014. Inventory of Rare and Endangered Plants (online edition, V8-02). <http://www.rareplants.cnps.org/>. Accessed July, 2014.

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<i>(Pseudobahia peirsonii)</i>	1B	Nevada in heavy clay soils of the Porterville, Cibo, Mt. Olive and Centerville series. Blooms March-April	foothill grassland/adobe clay. Habitat for this plant does not exist on-site.
San Joaquin Orcutt Grass <i>(Orcuttia inaequalis)</i>	FE, CE CNPS 1B	Vernal pools California's Central Valley. Requires deep pools with prolonged periods of inundation. Blooms April-September.	Unlikely. This plant is associated with vernal pool vegetation communities. No vernal pools were observed on-site.
Vernal Pool Fairy Shrimp <i>(Branchinecta lynchi)</i>	FT	Found in vernal pools of California's Central Valley.	Unlikely. No vernal pools were observed on the site.
Vernal Pool Tadpole Shrimp <i>(Lepidurus packardii)</i>	FE	Found in deep vernal pools of California.	Unlikely. No vernal pools were observed on the site.
California Tiger Salamander <i>(Ambystoma californiense)</i>	FT, CT	Requires vernal pools for breeding and rodent burrows in annual grasslands for refuge.	Unlikely. Suitable aquatic habitat was not observed on the site and is not present nearby.
Swainson's Hawk <i>(Buteo swainsoni)</i>	CT	Uncommon resident and migrant in the Central Valley. Forages in grasslands and fields close to riparian areas.	Present. Hawks observed foraging in adjacent fields, over site and nesting within 0.25 miles.
Willow Flycatcher <i>(Empidonax traillii extimus)</i>	FE, CE	Breeds in willow thickets found in montane meadows of the Sierra Nevada.	Unlikely. This species forages and nests in dense riparian vegetation. No such habitat exists within or nearby the site.
San Joaquin Kit Fox <i>(Vulpes macrotis mutica)</i>	FE, CT	Frequents desert alkali scrub, annual grasslands and may forage in adjacent agricultural habitats.	Possible. Although denning areas are limited on the site, surrounding fields may provide suitable foraging habitat.
Earlimart Orache <i>(Atriplex cordulata var. erecticaulis)</i>	CNPS 1B.2	Occurs in valley and foothill grasslands between 130 and 330 feet in elevation; blooms August-September.	Unlikely. Very little undisturbed ground occupies the site.
Brittlescale <i>(Atriplex depressa)</i>	CNPS 1B.2	Occurs in relatively barren areas with alkaline clay soils in chenopod scrub, playas, valley grasslands, and vernal pools of the Central Valley.	Unlikely. The site is heavily disturbed and no plants were observed during the surveys.
Lesser Saltscale <i>(Atriplex minuscula)</i>	CNPS 1B.1	Occurs in cismontane woodland and valley and foothill grassland of the San Joaquin Valley; blooms May–October.	Unlikely. This species is known from annual grasslands and saltbush/alkaline areas. Very little of this habitat exists on the site. This species was not observed during the surveys.
Recurved Larkspur <i>(Delphinium recurvatum)</i>	CNPS 1B.2	Chenopod scrub, cismontane woodlands, and alkaline soils of valley and foothill grasslands.	Unlikely. Habitat includes Chenopod scrub, cis-montaine woodland, valley and foothill grassland/alkaline soils. This

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		Blooms March-May.	species was not observed during field surveys.
Spiny-sepaed Button Celery (<i>Eryngium spinosepalum</i>)	CNPS 1B.2	Vernal pools of California's Central Valley. Blooms in April-May	Unlikely. Associated with valley and foothill grassland and vernal pools. These communities do not exist on or near the site and the species was not observed during field surveys.
Western Spadefoot Toad (<i>Spea hammondi</i>)	CSC	Frequents annual grasslands and foothill hardwood woodlands; requires vernal pools or other temporary wetlands for breeding.	Unlikely. Wetland habitats were not observed during field surveys and this species was not observed during field surveys.
Western Pond Turtle (<i>Emys marmorata</i>)	CSC	Frequents suitable aquatic habitats throughout California.	Unlikely. Riparian habitats, pools or flowing water were not observed during field surveys.
Burrowing Owl (<i>Athene cunicularia</i>)	CSC	Frequents open, dry grasslands, deserts and ruderal areas; requires rodent burrows for nesting and roosting cover.	Possible. Although denning areas are limited on the site, a few areas do provide habitat and the surrounding agricultural lands may provide suitable habitat for both denning and foraging.
Loggerhead Shrike (<i>Lanius ludovicianus</i>)	CSC	Frequents open habitats with sparse shrubs and trees, other suitable perches, bare ground, and low herbaceous cover. Can often be found in cropland.	Possible. This species often forages in fallow fields/grasslands and nests in dense vegetation. Very small suitable habitat patches on the site and nearby.
Western Mastiff Bat (<i>Eumops perotis</i>)	CSC	Occurs in a variety of habitats from woodlands to grasslands along central and southern coast and the Central Valley.	Possible. This species is known to forage in a variety of habitats including agricultural lands, which occur adjacent to the site. There are also suitable potential roosting sites in the area.
An andrenid bee (<i>Andrena macswaini</i>)		Occurs in upland areas near vernal pools and uncultivated areas.	Possible. Potential habitat in the uncultivated areas near the site.
California jewelflower (<i>Caulanthus californicus</i>)	FE, CE, 1B.1	Known populations in Santa Barbara Canyon, Carrizo Plain, and Kreyenhagen Hills primarily. Rangeland is potential habitat.	Unlikely. Very little undisturbed habitat exists on the site.
Ewan's larkspur (<i>Delphinium hansenii</i> ssp. <i>ewanianum</i>)	4.2	Typically occurs in foothill woodland, Yellow Pine Forest and chaparral.	Unlikely. Valley and foothill grassland habitat absent on the site.
California satintail (<i>Imperata brevifolia</i>)	2B.1	Occurs in wet springs, meadows, streambanks and floodplains.	Unlikely. Very little undisturbed habitat exists on the site.

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Hopping's blister beetle (<i>Lytta hoppingi</i>)		Found in flowers in the foothills in the southern end of the Central Valley, also found in Fresno and Tulare Counties.	Unlikely. Very little undisturbed ground occupies the site.
Tipton Kangaroo Rat (<i>Dipodomys nitratoide nitratoide</i>)	FE, CE	Inhabit arid-land vegetative communities with level terrain in the southern San Joaquin Valley.	Unlikely. As this species is often associated with saltbush species and alkali grasslands, neither of these habitats exist on the site.
Blunt-nosed leopard lizard (<i>Gambelia sila</i>)	FE, CE, FP	Lives in expansive, arid regions with scattered vegetation, typically non-native grassland and alkali sink scrub communities of the Valley floor.	Unlikely. This species was not observed during surveys on the site. Very little undisturbed habitat exists on or near the site.
Coast horned lizard (<i>Phrynosoma blainvillii</i>)	CSC	This species frequents areas with abundant, open vegetation such as chaparral or coastal sage scrub.	Unlikely. Because of the disturbed nature of the site and surrounding fields, very little habitat exists on the site for this species.
Ferruginous hawk (<i>Buteo regalis</i>)	WL	Inhabit open country, primarily prairies, plains and badlands. Breed in trees near streams or on steep slopes.	Possible. This species winters in the area and although the site does not provide foraging habitat, this species may forage in the surrounding fields.
Heartscale (<i>Atriplex cordulata</i>)	1B.2	Grows in sandy, alkaline soils of saltbush scrub and grassland communities.	Unlikely. This species is known from annual grasslands. Very little of this habitat exists on the site. This species was not observed during surveys.
Mountain plover (<i>Charadrius montanus</i>)	CSC	Typically inhabit areas with sparse vegetation or bare ground. Winters in California, southern Arizona, Texas and Mexico	Unlikely. This species forages on large grasslands during the winter period. Grasslands in the areas are very small and constitute poor habitat.
Northern leopard frog (<i>Lithobates pipiens</i>)	CSC	Inhabits aquatic habitats that include slow-moving or still water along streams and rivers, wetlands, and permanent or temporary pools.	Unlikely. This species habitat includes riparian areas. This habitat is absent from the site.
Osprey (<i>Pandion haliaetus</i>)	WL	Ospreys gravitate toward shallow fishing grounds, but will inhabit almost any expanse of shallow, fish-filled water, including rivers, lakes, reservoirs, lagoons, swamps, and marshes.	Unlikely. This species is closely linked with aquatic environments, as its diet consists entirely of fish. Habitat for this species does not occur on or adjacent to the site.
Sharp-shinned hawk (<i>Accipiter striatus</i>)	WL	Typically found in the forest and forest edge. Requires dense forest, ideally with a closed canopy for breeding.	Unlikely. This bird may be found in the area during winter months, but suitable woodland foraging and nesting habitat is not found on or

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			adjacent to the site.
Subtle orache (<i>Atriplex subtilis</i>)	1B.2	Grows on sandy soils in alkaline areas, typically in association with slough systems and river floodplains.	Unlikely. This species is known from annual grasslands. Very little of this habitat exists on the site.
Vernal barley (<i>Hordeum intercedens</i>)	3.2	This annual grass typically occurs in saline flats and depressions in grasslands or with vernal pool basins.	Unlikely. This species is only known from southern California and is associated with vernal pools.
Northern Claypan Vernal Pool			Absent. This community was not observed on the site.
Northern Hardpan Vernal Pool			Absent. This community was not observed on the site.
Valley Sacaton Grassland			Absent. This community was not observed on the site.

***OCCURRENCE EXPLANATIONS: Key for terms or codes used in Table 3.4-1**

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

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

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

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

STATUS CODES

FE	Federally Endangered	CE	California Endangered
FT	Federally Threatened	CT	California Threatened
WL	California Watch List	CR	California Rare
FC	Federal Candidate	FP	California Fully Protected
		CSC	California Species of Special Concern
CNPS	California Native Plant Society Listing		
1A	Plants Presumed Extinct in California	3	Plants about which we need more
1B	Plants Rare, Threatened, or Endangered in California and elsewhere		information – a review list
		4	Plants of limited distribution – a watch list
2	Plants Rare, Threatened, or Endangered in California, but more common elsewhere		

There are two habitat conservation plans that apply in Tulare County: 1) Recovery Plan for Upland Species of the San Joaquin Valley, and 2) the Kern Water Bank Habitat Conservation Plan.

The Recovery Plan for Upland Species of the San Joaquin Valley identifies the following species that are important in the San Joaquin Valley:

- California Jewelflower (*Caalanthus californicus*),
- Hoover's Woolly-Star (*Eriastrum hoox'eri*)
- Palmate-Bracted Bird's-Beak (*Cordylanthus palmatus*)
- San Joaquin Woolly-Threads (*Lemnbertia congdonii*)
- Kern Mallow (*Eremalche kernensis*)
- Bakersfield Cactus (*Opurmtia basilaris* var.

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| <ul style="list-style-type: none">➤ Lesser Saltscale (<i>A triplex nminuscula</i>)➤ Bakersfield Smallscale (<i>A triplex tularensis</i>)➤ Lost Hills Saltbush (<i>Atriplex vallicola</i>)➤ Vasek's Clarkia (<i>Clarkia tembloriensis</i> ssp. <i>calientensis</i>)➤ Temblor Buckwheat (<i>Eriogonum tentblorense</i>)➤ Tejon Poppy (<i>Eschscholzia lenmnionii</i> ssp. <i>kernensis</i>)➤ Diamond-petaled California Poppy (<i>Eschscholzia rhomimbipetala</i>)➤ Comanche Point Layia (<i>La via leucopappa</i>)➤ Munz's Tidy-tips (<i>Layia rnunzii</i>)➤ Jared's Peppergrass (<i>Lepidiumjaredii</i>)➤ Merced Monardella (<i>Monardella leucocephala</i>)➤ Merced Phacelia (<i>Phacelia ciliata</i> var. <i>opaca</i>)➤ Oil Neststraw (<i>Stylocline citroleurn</i>)➤ Giant Kangaroo Rat (<i>Dipodomys ingens</i>)➤ Fresno Kangaroo Rat (<i>Dipodomys nitratoides exilis</i>) | <ul style="list-style-type: none">➤ Tipton Kangaroo Rat (<i>Dipodomys nitratoides nitratoides</i>)➤ Blunt-Nosed Leopard Lizard (<i>Gambelia si/a</i>)➤ San Joaquin Kit Fox (<i>Vulpes macrotis nmutica</i>)➤ Ciervo Aegialian Scarab Beetle (<i>Aegialia concinna</i>)➤ San Joaquin Dune Beetle (<i>Coelus gracilis</i>)➤ Doyen's Dune Weevil (<i>Trigonoscuta</i> sp.)➤ San Joaquin Antelope Squirrel (<i>Antmospermophilus nelsoni</i>)➤ Short-Nosed Kangaroo Rat (<i>Dipodomys nitratoides brevinasus</i>)➤ Riparian Woodrat (<i>Neotomafuscipes riparia</i>)➤ Tulare Grasshopper Mouse (<i>Onychomys torridus tu/arensis</i>)➤ Buena Vista Lake Shrew (<i>Sorex ormmatus relictus</i>)➤ Riparian Brush Rabbit (<i>Sylvilagus bachmani riparius</i>)➤ Le Conte's Thrasher (<i>Toxostoma lecontei leconrel</i>) |
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The Kern Water Bank Habitat Conservation Plan also applies to Tulare County. This plan; however, only applies to an area in Allensworth.

“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.”⁷

REGULATORY SETTING

Applicable Federal, State, and local regulations specific to biological resources are described below. The following environmental regulatory settings were summarized, in part, from information contained in the Tulare County General Plan 2010 Background Report.

Federal Agencies & Regulations

Federal Endangered Species Act

⁷ Reconnaissance-Level Biological Evaluation, Kamansky's Ecological Consulting, August 8, 2014. Appendix D.

“The U.S. Fish and Wildlife Service (USFWS) administers the federal Endangered Species Act (16 USC Section 153 et seq.) and thereby has jurisdiction over federally listed threatened, endangered, and proposed species. Projects that may result in a “take” of a listed species or critical habitat must consult with the USFWS. “Take” is broadly defined as harassment, harm, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collection; any attempt to engage in such conduct; or destruction of habitat that prevents an endangered species from recovering (16 USC 1532, 50 CFR 17.3). Federal agencies that propose, fund, or must issue a permit for a project that may affect a listed species or critical habitat are required to consult with the USFWS under Section 7 of the Federal Endangered Species Act. If it is determined that a federally listed species or critical habitat may be adversely affected by the federal action, the USFWS will issue a “Biological Opinion” to the federal agency that describes minimization and avoidance measures that must be implemented as part of the federal action. Projects that do not have a federal nexus must apply for a take permit under Section 10 of the Act. Section 10 of the act requires that the project applicant prepare a habitat conservation plan as part of the permit application (16 USC 1539).”⁸

“Under Section 4 of the Federal Endangered Species Act, a species can be removed, or delisted, from the list of threatened and endangered species. Delisting is a formal action made by the USFWS and is the result of a determined successful recovery of a species. This action requires posts in the federal registry and a public comment period before a final determination is made by the USFWS.”⁹

Habitat Conservation Plans

“Habitat Conservation Plans (HCPs) are required for a non-federal entity that has requested a take permit of a federal listed species or critical habitat under Section 10 of the Endangered Species Act. HCPs are designed to offset harmful effects of a proposed project on federally listed species. These plans are utilized to achieve long-term biological and regulatory goals. Implementation of HCPs allows development and projects to occur while providing conservation measures that protect federally listed species or their critical habitat and offset the incidental take of a proposed project. HCPs substantially reduce the burden of the Endangered Species Act on small landowners by providing efficient mechanisms for compliance with the ESA, thereby distributing the economic and logistic effects of compliance. A broad range of landowner activities can be legally protected under these plans (County of Tulare, 2010 Background Report, pages 9-6 and 9-7, 2010a). There are generally two types of HCPs, project specific HCPs which typically protect a few species and have a short duration and multi-species HCPs which typically cover the development of a larger area and have a longer duration.”¹⁰

Migratory Bird Treaty and Bald and Golden Eagle Protection Act

“The Migratory Bird Treaty Act (MBTA, 16 USC Section 703-711) and the Bald and Golden Eagle Protection Act (16 USC Section 668) protect certain species of birds from direct “take”. The MBTA protects migrant bird species from take by setting hunting limits and seasons and protecting occupied nests and eggs. The Bald and Golden Eagle Protection Act (16 USC Sections 668-668d) prohibits the take or commerce of any part of Bald and Golden Eagles. The

⁸ Tulare County General Plan 2030 Update DEIR, Page 3.11-2

⁹ Ibid.

¹⁰ Ibid.

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USFWS administers both acts, and reviews federal agency actions that may affect species protected by the acts.”¹¹

Clean Water Act - Section 404

“Wetlands and other waters of the U.S. are subject to the jurisdiction of the U.S. Army Corp of Engineers (USACE) and U.S. Environmental Protection Agency (EPA) under Section 404 of the Clean Water Act (33 U.S.C. 1251 et seq., 1972). Together, the EPA and the USACE determine whether they have jurisdiction over the non-navigable tributaries that are not relatively permanent based on a fact-specific analysis to determine if there is a significant nexus. These non-navigable tributaries include wetlands adjacent to non-navigable tributaries that are not relatively permanent and wetlands adjacent to but that do not directly abut a relatively permanent non-navigable tributary.”¹²

“Wet areas that are not regulated by this Act do not have a hydrologic link to other waters of the U.S., either through surface or subsurface flow and include ditches that drain uplands, swales or other erosional features. The USACE has the authority to issue a permit for any discharge, fill, or dredge of wetlands on a case-by-case basis, or by a general permit. General permits are handled through a Nationwide Permit (NWP) process. These permits allow specific activities that generally create minimal environmental effects. Projects that qualify under the NWP program must fulfill several general and specific conditions under each applicable NWP. If a proposed project cannot meet the conditions of each applicable NWP, an individual permit would likely be required from the USACE.”¹³

State Agencies & Regulations

California Department of Fish and Wildlife (formerly Dept. of Fish and Game)

The California Department of Fish and Wildlife (DFW) regulates the modification of the bed, bank, or channel of a waterway under Sections 1601-1607 of the California Fish and Game Code. Also included are modifications that divert, obstruct, or change the natural flow of a waterway. Any party who proposes an activity that may modify a feature regulated by the Fish and Game Code must notify DFW before project construction. DFW will then decide whether to enter into a Streambed Alteration Agreement with the project applicant either under Section 1601 (for public entities) or Section 1603 (for private entities) of the Fish and Game Code.

California Endangered Species Act

DFW administers the California Endangered Species Act of 1984 (Fish and Game Code Section 2080), which regulates the listing and “take” of endangered and threatened State-listed species. A “take” may be permitted by California Department of Fish and Game through implementing a management agreement. “Take” is defined by the California Endangered Species Act as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill” a State-listed species (Fish and Game Code Sec. 86). Under State laws, DFW is empowered to review projects for their potential impacts to State-listed species and their habitats.

The DFW maintains lists for Candidate-Endangered Species (SCE) and Candidate-Threatened Species (SCT). California candidate species are afforded the same level of protection as State-

¹¹ Ibid. Page 3.11-3

¹² Ibid. Page 3.11-1

¹³ Tulare County General Plan 2030 Update DEIR, Pages 3.11-1 to 3.11.2

listed species. California also designates Species of Special Concern (CSC) that are species of limited distribution, declining populations, diminishing habitat, or unusual scientific, recreational, or educational value. These species do not have the same legal protection as listed species, but may be added to official lists in the future. The CSC list is intended by DFW as a management tool for consideration in future land use decisions (Fish and Game Code Section 2080).¹⁴

All State lead agencies must consult with DFW under the California Endangered Species Act when a proposed project may affect State-listed species. DFW would determine if a project under review would jeopardize or result in taking of a State-listed species, or destroy or adversely modify its essential habitat, also known as a “jeopardy finding” (Fish and Wildlife Code Sec. 2090). For projects where DFW has made a jeopardy finding, DFW must specify reasonable and prudent alternatives to the proposed project to the State lead agency (Fish and Wildlife Code Sec. 2090 et seq.).¹⁵

Natural Communities Conservation Planning Act

The Natural Communities Conservation Planning Act allows a process for developing natural community conservation plans (NCCPs) under DFW direction. NCCPs allow for regional protection of wildlife diversity, while allowing compatible development. DFW may permit takings of State-listed species whose conservation and management are provided in a NCCP, once a NCCP is prepared (Fish and Game Code Secs. 2800 et seq.).¹⁶

Federally and State-Protected Lands

Ownership of California’s wildlands is divided primarily between federal, state, and private entities. State-owned land is managed under the leadership of the Departments of Fish and Wildlife (DFW), Parks and Recreation, and Forestry and Fire Protection (CDF). Tulare County has protected lands in the form of wildlife refuges, national parks, and other lands that have large limitations on appropriate land uses. Some areas are created to protect special status species and their ecosystems.¹⁷

California Wetlands Conservation Policy

The California Wetlands Conservation Policy’s goal is to establish a policy framework and strategy that will ensure no overall net loss and achieve a long-term net gain in the quantity, quality, and permanence of wetlands acreage and values in California. Additionally, the policy aims to reduce procedural complexity in the administration of State and federal wetlands conservation programs and to encourage partnerships with a primary focus on landowner incentive programs and cooperative planning efforts. These objectives are achieved through three policy means: statewide policy initiatives, three geographically based regional strategies in which wetland programs can be implemented, and creation of interagency wetlands task force to direct and coordinate administration and implementation of the policy. Leading agencies include the Resources Agency and the California Environmental Protection Agency (Cal/EPA) in cooperation with Business, Transportation and Housing Agency, Department of Flood and Agriculture, Trade and Commerce Agency, Governor’s Office of Planning and Research,

¹⁴ Tulare County General Plan 2030 Update, *Background Report*, Pages 9-7 and 9-8

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid. Page 9-9

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Department of Fish and Wildlife, Department of Water Resources, and the State Water Resources Control Board.¹⁸

Birds of Prey

Birds of Prey are protected under the California Fish and Wildlife Code Section 3503.5, which states:

“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.”

This includes any construction disturbance which could lead to nest abandonment, which is considered a “taking” by the DFW.

Special Status Species

“Several species of plants and animals within the state of California have low populations and/or limited distributions. Such species may be considered “rare” and are vulnerable to extirpation as the state’s human population grows and the habitats these species occupy are converted to agricultural and urban uses. As described more fully in Section 3.2, state and federal laws have provided the California Department of Fish and Wildlife (CDFW) (previously called the California Department of Fish and Game – CDFG) and the U.S. Fish and Wildlife Service (USFWS) with a mechanism for conserving and protecting the diversity of plant and animal species native to the state. A sizable number of native plants and animals have been formally designated as “threatened” or “endangered” under state and federal endangered species legislation. Others have been designated as candidates for such listing. Still others have been designated as “species of special concern” by the CDFW. The California Native Plant Society (CNPS) has developed its own set of lists of native plants considered rare, threatened, or endangered. Collectively, these plants and animals are referred to as “special status species.”¹⁹

CEQA and Oak Woodland Protection

CEQA Statute Section 21083.4, “Counties; Conversion of Oak Woodlands; Mitigation Alternatives,” requires that counties determine whether a development will have potential impacts on oak woodlands:

21083.4(a): “For purposes of this section, “oak” means a native tree species in the genus *Quercus*, not designated as Group A or Group B commercial species pursuant to regulations adopted by the State Board of Forestry and Fire Protection pursuant to Section 4526, and that is 5 inches or more in diameter at breast height.”

21083.4(b): “...a county shall determine whether a project within its jurisdiction may result in a conversion of oak woodlands that will have a significant effect on the environment. If a county determines that there may be a significant effect to oak woodlands, the county shall require one or more of the...[listed] oak woodlands mitigation alternatives...”

Local Policy & Regulations

¹⁸ Tulare County General Plan 2030 Update, *Background Report*, Page 9-9

¹⁹ Reconnaissance-Level Biological Evaluation, Kamansky’s Ecological Consulting, August 8, 2014. Page 19. See Appendix “D” of this DEIR.

Tulare County General Plan Policies

The Tulare County General Plan has a number of policies that apply to projects within County of Tulare. General Plan policies that relate to the proposed Project are listed below.

ERM-1.1 Protection of Rare and Endangered Species - The County shall ensure the protection of environmentally sensitive wildlife and plant life, including those species designated as rare, threatened, and/or endangered by State and/or Federal government, through compatible land use development.

ERM-1.2 Development in Environmentally Sensitive Areas - The County shall limit or modify proposed development within areas that contain sensitive habitat for special status species and direct development into less significant habitat areas. Development in natural habitats shall be controlled so as to minimize erosion and maximize beneficial vegetative growth.

ERM-1.15 Minimize Lighting Impacts - The County shall ensure that lighting associated with new development or facilities (including street lighting, recreational facilities, and parking) shall be designed to prevent artificial lighting from illuminating adjacent natural areas at a level greater than one foot candle above ambient conditions.

ERM-1.16 Cooperate with Wildlife Agencies - The County shall cooperate with State and federal wildlife agencies to address linkages between habitat areas.

IMPACT EVALUATION

Would the project:

- a) **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 Game or U.S. Fish and Wildlife Service?**

Project Impact Analysis: *Less than Significant Impact with Mitigation*

The Project site is a heavily disturbed active asphalt batch plant and contains sand and gravel piles. Kamansky's Ecological Consulting (KEC) inspected the site and noted that all lands on the Project site have been disturbed to some degree by grading, scraping, paving, heavy equipment traffic, equipment storage, and product stockpiling.

According to the CNDDB search and as seen in Table 3.4-1, 14 Special Status plant species, 21 Special Status animal species, and three special habitats are known to occur in the general proposed Project vicinity. Field surveys were conducted by KEC in July of 2014 and it was determined that of the 35 Special Status species and three sensitive habitat areas, there was only the possibility of seven species to actually be in the area, due to the disturbance on the site and the quality of habitat on and around the proposed Project site. A brief description of these seven species is provided in the following paragraphs.

“Swainson’s hawks (*Buteo swainsoni*) prefer open habitats, including mixed and short grass grasslands with scattered trees or shrubs for perching; dry grasslands; irrigated meadows; and edges between two habitat types. In Tulare County and Kings County, the local range of this State threatened species is an approximately 625 square mile region bounded by Cross Creek at Highway 99, 14 ½ Avenue just north of Nevada Avenue, Corcoran, Angiola, Alpaugh, Tipton, and Inside Creek (at Highway 137). No Swainson’s hawks were observed nesting on the site, but up to six were observed foraging in the proposed Project vicinity during the July 2014 field survey and three active nests were observed immediately south of the proposed Project site, across State Highway 198 (see Figure 3.4-1).”²⁰

Figure 3.4-1
Off-site Swainson’s Hawk



Swainson’s hawk sitting on a power pole adjacent to the nest and Highway 198, across from the subject property (Photograph 1 contained in the Biological Evaluation).

The western burrowing owl (*Athene cunicularia*) is a State Species of Concern known to be present in the proposed Project region. “This species prefers short grass prairie and other sparsely-vegetated areas where foraging is optimal. The proposed Project site is sub-optimal burrowing owl habitat, but ground squirrel burrows suitable for burrowing owls were observed directly adjacent to the site. No western burrowing owls were found on or near the site; however it is possible that they could be denning and foraging in the fallow fields and farm edges nearby or could move into the proposed Project site prior to construction.”²¹

“Ferruginous hawks (*Buteo regalis*) have been observed in the proposed Project area, as they are winter migrants in the San Joaquin Valley and often forage in agricultural and grasslands.

²⁰ Reconnaissance-Level Biological Evaluation, Kamansky’s Ecological Consulting, August 8, 2014. Page 22. See Appendix “D” of this DEIR.

²¹ Reconnaissance-Level Biological Evaluation, Kamansky’s Ecological Consulting, August 8, 2014. Page 22. See Appendix “D” of this DEIR.

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No ferruginous hawks were observed on the site; however, they were not expected to be present during the summer survey. Should these bird species, or any other migratory bird species migrate to the site during the winter months, they could be negatively impacted by the proposed Project.”²²

“Loggerhead shrike (*Lanius ludovicianus*) were not observed on the site during the site visit. They can typically be seen foraging in fallow fields and grassland habitats and they nest in dense vegetation. Very small suitable habitat patches exist on and nearby the proposed Project site.”²³

“The Western Mastiff Bat (*Eumops perotis*) is known to forage in a variety of habitats including agricultural lands, which occur adjacent to the site. There are also a few suitable potential roosting sites in the area; however, due to the existing site disturbance, the proposed Project site lacks adequate breeding ground for the bat.”²⁴

“The surrounding Tulare and Tipton USGS 7.5 minute quadrangles have had occurrences of an andrenid bee (*Adrena macswaini*). No andrenid bees were found on the site; however, it is likely to be present in uncultivated areas along the edges of farm fields, road edges and property boundaries and adjacent to the site. Because the site is already heavily disturbed, this species, if present now or in the future, will not likely be impacted by the proposed Project, as the proposed activities will not result in extensive conversion of the small patches of habitat present on the existing site and adjacent sites.”²⁵

“San Joaquin kit fox (*Vulpes macrotis mutica*) is a species that is both State Endangered and State Threatened.”²⁶ They inhabit grasslands and scrublands, many of which have been extensively modified. “Kit foxes are active year-round and are primarily nocturnal.”²⁷ “Records of San Joaquin kit fox occurrences are widespread within the proposed Project area. The proposed Project site is sub-optimal kit fox habitat as it does not provide important intrinsic habitat values unique to the area. San Joaquin kit fox may occasionally pass through the site while foraging, but based on habitat characteristics and prey availability, this species would not be expected to den on the site; however, it is within the range of this species and potential kit fox dens were observed directly adjacent to the site. It should be noted though that no evidence of kit fox tracks or scat was found anywhere on the site.”²⁸

Based on this analysis, implementation of Mitigation Measures 4-1 through 4-22 would reduce potential Project-specific impacts related to this Checklist Item to Less Than Significant.

²² Ibid. Page 23

²³ Op. Cit. Page 24

²⁴ Op. Cit.

²⁵ Op. Cit. Page 24

²⁶ Op. Cit. Page 25

²⁷ Op. Cit.

²⁸ Reconnaissance-Level Biological Evaluation, Kamansky’s Ecological Consulting, August 8, 2014. Page 25-26. See Appendix “D” of this DEIR.

Cumulative Impact Analysis ***Less than Significant Impact with Mitigation***

The geographic area of this cumulative analysis is the San Joaquin Valley. While the study area is limited to Tulare County, sensitive species with similar habitat requirements may exist in other portions of the San Joaquin Valley, and therefore cumulative impacts would extend beyond Tulare County political boundaries.

The proposed Project would only contribute to cumulative impacts related to this Checklist Item if Project-specific impacts were to occur. As the proposed Project does not result in significant loss of habitat or direct impact to these special status species, ***Less Than Significant Cumulative Impacts with Mitigation*** will occur. Consultants KEC recommended the following Mitigation Measures as contained in the Biological Evaluation (See Appendix “D” of this DEIR). For easier reading, the Mitigation Measures contained in the Biological Evaluation have been sequenced differently and numbered rather than using the format contained in the Biological Evaluation.

Mitigation Measure(s):

“Protection of Swainson’s hawks and other raptors (including Ferruginous hawks) and migratory birds (including Loggerhead Shrike).”

- 4-1. Pre-construction surveys shall be conducted to determine the presence of nesting birds if ground clearing or construction activities will be initiated during the breeding season (February 15 through September 15). Potential nesting areas on the proposed Project site and potential nesting areas within 500 feet of the site should be surveyed prior to June 5th. Surveys shall be performed by a qualified biologist to verify the presence or absence of nesting birds. Construction shall not occur within a 500 foot buffer surrounding active nests of raptors or a 250 foot buffer surrounding active nests of migratory birds. If construction within these buffer areas is required or if nests must be removed to allow continuation of construction, then approval and specific removal methodologies should be obtained from California Department of Fish and Wildlife.
- 4-2. All trees which are suitable for Swainson’s hawk nesting that are within 2,640 feet of construction activities shall be inspected by a qualified biologist.
- 4-3. If potential Swainson’s hawk nests are found during the inspection, then surveys shall be conducted at the following intensities, depending upon dates of initiation of construction:

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Construction start	Survey period	Number of surveys	Timing
1 January to 20 March	1 January to 20 March	1	All day
21 March to 24 March	1 January to 20 March	1	All day
	21 March to 24 March	Up to 3	Sunrise to 10 am and 4 pm to sunset
24 March to 5 April	1 January to 20 March	1	All day
	21 March to 5 April	3	Sunrise to 10 am and 4 pm to sunset
6 April to 9 April	21 March to 5 April	3	Sunrise to 10 am and 4 pm to sunset
	6 April to 9 April	Up to 3	Sunrise to 10 am and 4 pm to sunset
	1 January to 20 March	1 (if all 3 surveys are performed between 6 and 9 April, then this survey need not be conducted)	All day
10 April to 30 July	21 March to 5 April	3	Sunrise to 10 am and 4 pm to sunset
	6 April to 20 April	3	Sunrise to 12 pm and 4:30 pm to sunset
31 July to 15 September	6 to 20 April	3	Sunrise to 12 pm and 4:30 pm to sunset
	10 to 30 July	3	Sunrise to 12 pm and 4 pm to sunset

- 4-4. If Swainson’s hawks are detected to be actively nesting in trees within 2,640 feet of the construction area, construction shall not occur within this zone until after young Swainson’s hawks have fledged (this usually occurs by early June). The nest shall be monitored by a qualified biologist to determine fledging date.**
- 4-5. If Ferruginous hawks (foraging) or other raptors are found actively nesting within 250 feet of the construction area, construction should be postponed until after young have fledged. The date of fledging should be determined by a qualified biologist. If construction cannot be delayed, the CDFW shall be consulted and alternative protection measures required by the CDFW shall be followed.**
- 4-6. If other nesting birds (particularly non-raptor species listed on the MBTA) are found actively nesting within 250 feet of the construction area, construction should be postponed until after young have fledged. The date of fledging should be determined by a qualified biologist. If construction cannot be delayed within this zone, the CDFW and/or the USFWS shall be consulted and alternative protection measures required by the CDFW and/or the USFWS shall be followed.”²⁹**

²⁹ Reconnaissance-Level Biological Evaluation, Kamansky’s Ecological Consulting, August 8, 2014. Page 33-35. See Appendix “D” of this DEIR.

“Protection of San Joaquin kit fox

- 4-7. A standardized pre-construction/ pre-activity shall be conducted no less than 14 days and no more than 30 days prior to the beginning of ground disturbance and/or construction activities or any Project activity likely to impact the San Joaquin kit fox. Surveys shall identify kit fox habitat features on the Project site and evaluate use by kit fox and, if possible, assess the potential impacts to the kit fox by the proposed activity. The status of all dens shall be determined and mapped. Written results of pre-construction/pre-activity surveys must be received by the Service within five days after survey completion and prior to the start of ground disturbance and/or construction activities.
- 4-8. Disturbance to all San Joaquin kit fox dens shall be avoided to the maximum extent possible.
- 4-9. If a natal/pupping den is discovered within the Project area or within 200-feet of the site boundary, USFWS shall be immediately notified and under no circumstances should the den be disturbed or destroyed without prior authorization. If the pre-construction/pre-activity survey reveals an active natal pupping or new information, the Project applicant shall contact USFWS immediately to obtain the necessary take authorization/permit.
- 4-10. Destruction of any den shall be accomplished by careful excavation until it is certain that no kit foxes are inside. The den shall be fully excavated, filled with dirt and compacted to ensure that kit foxes cannot reenter or use the den during the construction period.
- 4-11. If at any point during excavation, a kit fox is discovered inside the den, the excavation activity shall cease immediately and monitoring of the den as described above shall be resumed. Destruction of the den may be completed when, in the judgment of the qualified biologist, the animal has escaped without further disturbance from the partially destroyed den.
- 4-12. Project-related vehicles shall observe a daytime speed limit not to exceed 20-mph throughout the site in all proposed Project areas, except on county roads and State and Federal highways; this is particularly important at night when kit foxes are most active. Night-time construction shall be minimized to the extent possible. However if it does occur, then the speed limit shall be reduced to 10-mph. Off-road traffic outside of designated project areas shall be prohibited.
- 4-13. To prevent inadvertent entrapment of kit fox or other animals during the construction phase of the proposed Project, all excavated, steep-walled holes or trenches more than 2-feet deep shall be covered at the close of each working day by plywood or similar materials. If the trenches cannot be closed, one or more escape ramps constructed of earthen-fill or wooden planks shall be installed. Before such

holes or trenches are filled, they shall be thoroughly inspected for trapped animals. If at any time a trapped or injured kit fox is discovered, the USFWS and the California Department of Fish and Wildlife shall be contacted as noted under Mitigation Measure 4-20 referenced below.

- 4-14. Kit fox are attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored at a construction site for one or more overnight periods shall be thoroughly inspected for kit fox before the pipe is used or moved, buried, or capped in any way. If a kit fox is discovered inside a pipe, that section of pipe shall not be moved until the CFW has been consulted. If necessary, and under the direct supervision of a qualified biologist, the pipe may be moved only once to remove it from the path of construction activity, until the fox has escaped.
- 4-15. All food-related trash outside of the enclosed facility such as wrappers, cans, bottles, and food scraps shall be disposed of daily in securely closed containers and removed at least once a week during both construction and operational phases.
- 4-16. No pets, such as dogs or cats, shall be allowed on the Project site in order to prevent harassment, mortality of kit fox, or destruction of dens.
- 4-17. Use of rodenticides and herbicides in Project areas shall be restricted. If rodent control must be used it shall be limited to the use of zinc phosphide because of its demonstrated lower risk to kit fox.
- 4-18. A representative shall be appointed by the Project Applicant to serve as the contact source for any employee or contractor who might inadvertently kill or injure a kit fox or who finds a dead, injured or entrapped kit fox. The representative will be identified during the employee education program and their name, telephone number, or other pertinent contact information shall be provided to the Service.
- 4-19. An employee education program shall be conducted to alert employees of potential impacts to kit fox or other species of concern. The program shall consist of a brief presentation by persons knowledgeable in kit fox biology and legislative protection to explain endangered species concerns to contractors, their employees, and military and/or agency personnel involved in the project. The program shall include the following: A description of the San Joaquin kit fox and its habitat needs; a report of the occurrence of kit fox in the Project area; an explanation of the status of the species and its protection under the Endangered Species Act; and a list of measures being taken to reduce impacts to the species during Project construction and implementation. A fact sheet conveying this information shall be prepared for distribution to the previously referenced people and anyone else who may enter the Project site.

- 4-20. Any contractor, employee, or military or agency personnel who are responsible for inadvertently killing or injuring a San Joaquin kit fox shall immediately report the incident to their representative. The Sacramento Fish and Wildlife Office and CFW shall be notified in writing within three working days of the accidental death or injury to a San Joaquin kit fox. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal and any other pertinent information. The Sacramento Fish and Wildlife Office contact is:

Mr. Paul Hoffman
1701 Nimbus Road, Suite A,
Rancho Cordova, California 95670
(530) 934-9309

- 4-21. New sightings of kit fox shall be reported to the California Natural Diversity Database (CNDDDB). A copy of the reporting form and a topographic map clearly marked with the location of where the kit fox was observed shall also be provided to Fish and Wildlife at the address below.

Endangered Species Division
2800 Cottage Way, Suite W2605
Sacramento, California 95825-1846
(916) 414-6620 or (916) 414-6600”³⁰

“Protection of burrowing owl

- 4-22. In accordance with CDFG’s 2012 *Staff Report on Burrowing Owl Mitigation*, a qualified biologist shall conduct three surveys for burrowing owls where potential burrowing owl habitat occurs within 500 feet of Project activities. Surveys shall occur during the peak breeding season for this species (15 April through 15 July), and spaced three weeks apart. If active burrowing owl burrows are identified within 500 feet of the Project site, then avoidance, take avoidance surveys, site surveillance, minimization, and buffer mitigation measures shall be implemented, in accordance with the 2012 CDFG *Staff Report* and direct consultation with CFW.”³¹

Conclusion: Less Than Significant Impact

As noted earlier, *Less Than Significant Project-specific and Cumulative Impacts* related to this Checklist Item will occur.

- b) 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 US Fish and Wildlife Service?

³⁰ Reconnaissance-Level Biological Evaluation, Kamansky’s Ecological Consulting, August 8, 2014. Page 35-38. See Appendix “D” of this DEIR.

³¹ Ibid. Page 38

Project Impact Analysis: *No Impact*

KEC noted in the Biological Evaluation that natural drainage features such as creeks, ponds, and vernal pools were absent from the Project site. Soils were either covered with asphalt pavement or were significantly altered through addition of organic material and compaction by regular heavy equipment use. The site is heavily disturbed and the surrounding land is also heavily disturbed with active agricultural production. There are no sensitive riparian or natural habitats in the proposed Project area and as such, *No Project-specific Impacts* related to this Checklist Item will occur.

Cumulative Impact Analysis: *No Impact*

The geographic area of this cumulative analysis is the San Joaquin Valley. While the study area is limited to Tulare County, sensitive species with similar habitat requirements may exist in other portions of the San Joaquin Valley; and therefore, cumulative impacts will extend beyond Tulare County political boundaries.

The proposed Project would only contribute to cumulative impacts related to this Checklist Item if Project-specific impacts were to occur. As the proposed Project does not result in loss of habitat or direct impact to these special status species, *No Cumulative Impacts* will occur.

Mitigation Measure(s): *None Required.*

Conclusion: *No Impact*

As noted earlier, *No Project-specific or Cumulative Impacts* related to this Checklist Item will occur.

- c) **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?**

Project Impact Analysis: *No Impact*

There was no wetland habitat identified at the proposed Project site during the site visit conducted by KEC.

As such, *No Project-specific Impacts or Cumulative Impacts* related to this Checklist Item will occur.

Conclusion: *No Impact*

As noted earlier, *No Project-specific or Cumulative Impacts* related to this Checklist Item will occur.

- d) **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?**

Project Impact Analysis: *Less Than Significant Impact*

The subject property is not along any known substantial wildlife corridor, and the proposed Project has a limited scope and will not obstruct wildlife movement. A considerable amount of open space lands in the proposed Project vicinity will continue to be used by native species for home range and dispersal movements. As such, ***Less Than Significant Project Specific Impacts*** related to this Checklist Item will occur.

Cumulative Impact Analysis: ***Less Than Significant Impact***

The geographic area of this cumulative analysis is the San Joaquin Valley. While the study area is limited to Tulare County, corridors for fish and wildlife species with similar habitat requirements may exist in other portions of the San Joaquin Valley, and therefore cumulative impacts will extend beyond Tulare County political boundaries.

The proposed Project would only contribute to cumulative impacts related to this Checklist Item if Project-specific impacts were to occur. As the proposed Project does not impact federally protected wetlands, ***Less Than Significant Cumulative Impacts*** will occur.

Mitigation Measure(s): ***None Required.***

Conclusion: ***Less Than Significant Impacts***

As noted earlier, ***Less Than Significant Project-specific or Cumulative Impacts*** related to this Checklist Item will occur.

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Project Impact Analysis: ***No Impact***

The proposed Project will not conflict with any policies or ordinances protecting biological resources. ***No Project-specific Impacts*** related to this Checklist Item will occur.

Cumulative Impact Analysis: ***No Impact***

The geographic area of this cumulative analysis is Tulare County.

There will be no impacts to policies or ordinances relating to biological resources, and therefore there will be ***No Cumulative Impacts*** related to this Checklist Item.

Mitigation Measure(s): ***None Required.***

Conclusion: ***No Impact***

As noted earlier, ***No Project-specific or Cumulative Impacts*** related to this Checklist Item will occur.

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

Project Impact Analysis: ***No Impact***

As noted earlier, there are two habitat conservation plans that apply in Tulare County. The Kern Water Habitat Conservation Plan only applies to an area in Allensworth and the project site is not subject to this plan. The Recovery Plan for Upland Species in the San Joaquin Valley outlines a number of species that are important to the San Joaquin Valley. None of

these species were identified on the project site. As such, *No Project-specific Impacts* related to this Checklist Item will occur.

Cumulative Impact Analysis: *No Impact*

The geographic area of this cumulative analysis is California. This cumulative analysis is based on the information provided in the Tulare County 2030 General Plan, General Plan background Report, and/or Tulare County 2030 General Plan EIR.

There are *No Impacts* related to habitat conservation plans, and therefore there are *No Cumulative Impacts* that will conflict with local policies or ordinances.

Mitigation Measure(s): *None Required.*

Conclusion: *No Impact*

As noted earlier, *No Project-specific or Cumulative Impacts* related to this Checklist Item will occur.

REFERENCES

California Department of Fish and Wildlife, 2014, Natural Diversity Data Base, Special Animal and Special Plants.

California Department of Fish and Wildlife. Wildlife: Nongame: Species of Special Concern. <http://www.dfg.ca.gov/wildlife/nongame/ssc/>. Accessed June, 2014.

California Native Plant Society, Rare Plant Program. 2014. Inventory of Rare and Endangered Plants (online edition, V8-02). <http://www.rareplants.cnps.org/>. Accessed July, 2014.

Reconnaissance-Level Biological Evaluation, Kamansky's Ecological Consulting, August 8, 2014. (See Appendix "D" of this DEIR).

Tulare County General Plan 2030 Update, Background Report, Pages 9-7, 9-8, 9-9

Tulare County General Plan 2030 Update DEIR, Page 3.11-1, 3.11-2, 3.11-3