

APPENDIX K – BIOLOGICAL ASSESSMENT

TECHNICAL MEMORANDUM

To: Kimley-Horn
3880 Lemon Street, Suite 240
Riverside, CA 92501
Attn: Miles Eaton

From: Jackie Worden, Lead Biologist/Natural Resources Project Manager

Date: February 10, 2022

Re: Moreno Valley Mall Redevelopment Plan Project: Biological Assessment of One Parcel
SWCA Project No. 71796

INTRODUCTION

This memorandum reports the findings of a desktop literature review and a one day biological survey on the one remaining vacant parcel within the proposed Moreno Valley Mall Redevelopment Plan Project Site. The parcel, referred to herein as the Study Area, is an approximately 1.4-acre site located in the northwestern portion of the Mall Project Site. The Study Area is located immediately north of the existing theater and is proposed for future development under the revised Specific Plan. Figure 1 illustrates the entire Mall Project Site, while Figure 2 outlines the Study Area.

REGULATORY SETTING

The following discussion summarizes federal, state, and local laws, regulations, and policies relating to biological resources. Only those regulations potentially applicable to the proposed project are included herein.

Federal Regulations

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits any person, unless permitted by regulations, to:

...pursue, hunt, take, capture, kill, attempt to take, capture or kill, possess, offer for sale, sell, offer to purchase, purchase, deliver for shipment, ship, cause to be shipped, deliver for transportation, transport, cause to be transported, carry, or cause to be carried by any means whatsoever, receive for shipment, transportation or carriage, or export, at any time, or in any manner, any migratory bird, included in the terms of this Convention ... for the protection of migratory birds ... or any part, nest, or egg of any such bird. (16 USC 703)

The list of migratory birds includes nearly all bird species native to the United States. The statute was extended in 1974 to include parts of birds, as well as eggs and nests. The Migratory Bird Treaty Reform Act of 2004 further defined species protected under the MBTA and excluded all non-native species. Thus, it is illegal under the MBTA to directly kill or destroy a nest of nearly any native bird species.

State Regulations

Nesting Birds and Raptors

Section 3503 of the Fish and Game Code states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto. Section 3503.5 provides protection for all birds of prey, including their eggs and nests.

Migratory Bird Protection

Take or possession of any migratory non-game bird as designated in the MBTA is prohibited by Section 3513 of the Fish and Game Code.

Federal, Regional, and Local Conservation Plans

Western Riverside County Multiple Species Habitat Conservation Plan

The Mall Project Site is located in the City of Moreno Valley (City) and in the Western Riverside County Multiple Species Habitat Conservation Plan (WRMSHCP) area, of which the City is a participant. This MSHCP was developed to address the conservation of 146 special-status plants and animals that occur in the 1,966-square-mile plan area, which includes all of unincorporated Riverside County west of the crest of the San Jacinto Mountains, as well as 14 incorporated cities: Banning, Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, and Temecula. The MSHCP aims to maintain biological and ecological diversity in the plan area while allowing for Riverside County and local cities to support economic development.

Existing development is exempt from the conditions of this HCP. The undeveloped Study Area is not within a Criteria Cell or Habitat Management Unit.

METHODS

Desktop Analysis

SWCA biologists reviewed the WRMSHCP along with other databases and literature to identify special-status biological resources previously reported on or in the immediate vicinity of the Study Area. The following data sources were reviewed:

- California Natural Diversity Database (CNDDDB);
- California Native Plant Society (CNPS) Inventory of Rare and Endangered Plants;
- Consortium of California Herbaria records;
- U.S. Fish and Wildlife Service critical habitat mapper;
- eBird for recent occurrence records of special-status birds;
- Natural Resource Conservation Service (NRCS) Soil Surveys;
- Aerial photographs;
- Wildlife occurrence databases; and
- Biological reports from nearby projects.

Field Survey

SWCA biologist Sharif Durzi conducted a one day reconnaissance-level flora and fauna survey of the Study Area on February 3, 2022. Existing biological conditions were noted, lists of identified plants and animals were compiled, and photos were collected.

Attention was focused on identifying the presence of suitable habitat and/or evidence of current site use by Stephen's kangaroo rat (SKR - *Dipodomys stephensi*; federal endangered/state threatened) and burrowing owl (BUOW - *Athene cunicularia*; California Species of Special Concern) both known to occur in the project vicinity.

FINDINGS

The Study Area is generally level and vegetated primarily with non-native annual plant species and is surrounded by paved roadways and/or parking lots. Large dumpsters and a debris pile were on-site. Photos of the site are provided after the figures. No shrubs or trees were present on or adjacent to the site. Table 1 lists plant identified on the site.

The only wildlife encountered were three bird species flying over the site, all typical of urban areas; common raven (*Corvus corax*), European starling (*Sturnus vulgaris*), and house finch (*Haemorhous mexicanus*). No amphibians, reptiles, mammals, or indication of site use by wildlife (burrows, tracks, scat, etc.) were found. No evidence of SKR or BUOW was observed.

Table 1. Study Area Flora

<i>Latin Name</i>	Vernacular Name	Origin*
<i>Amsinckia intermedia</i>	fiddleneck	N
<i>Bromus diandrus</i>	ripgut brome	I
<i>Bromus rubens</i>	red brome	I
<i>Bromus tectorum</i>	cheat grass; downy brome	I
<i>Erodium cicutarium</i>	coastal heron's bill	I
<i>Festuca myuros</i>	rat-tail fescue	I
<i>Gazania linearis</i>	treasure flower	I
<i>Salsola tragus</i>	Russian thistle	I
<i>Schismus barbatus</i>	Mediterranean grass	I
<i>Senecio vulgaris</i>	common groundsel	I
<i>Sonchus asper ssp. asper</i>	pricky sow thistle	I
<i>Tamarix ramosissima</i>	tamarisk	I

*N= native; I = introduced

The combination of low plant diversity, lack of shrubs and trees, and adjacency of the mall development and Hwy 60 result in the very low biological habitat value found at the Study Area.

Regulatory Compliance

Nesting Bird Protection

Although the Study Area offers minimal habitat for nesting birds, BUOW are known to occupy disturbed areas and may utilize cavities created by rubble piles, old pipes, etc. as well as burrows created by small mammals, such as ground squirrels and gophers. Small mammals, such as mice and voles, are a key prey item for this owl. No evidence of site usage by mammals was found in the Study Area. As such, it is unlikely BUOW would use this site.

Western Riverside County Multiple Species Habitat Conservation Plan


No components of the Project Site or Study Area are within existing or proposed criteria areas or reserves defined in the MSHCP. Similarly, the Project is not within a Narrow Endemic Plant Species Survey Area (NEPSSA) nor a Criteria Area Species Survey Area (CASSA) of the MSHCP.

CONCLUSIONS

No further biological surveys are recommended, based on the overall low biological habitat quality found in the Study Area.



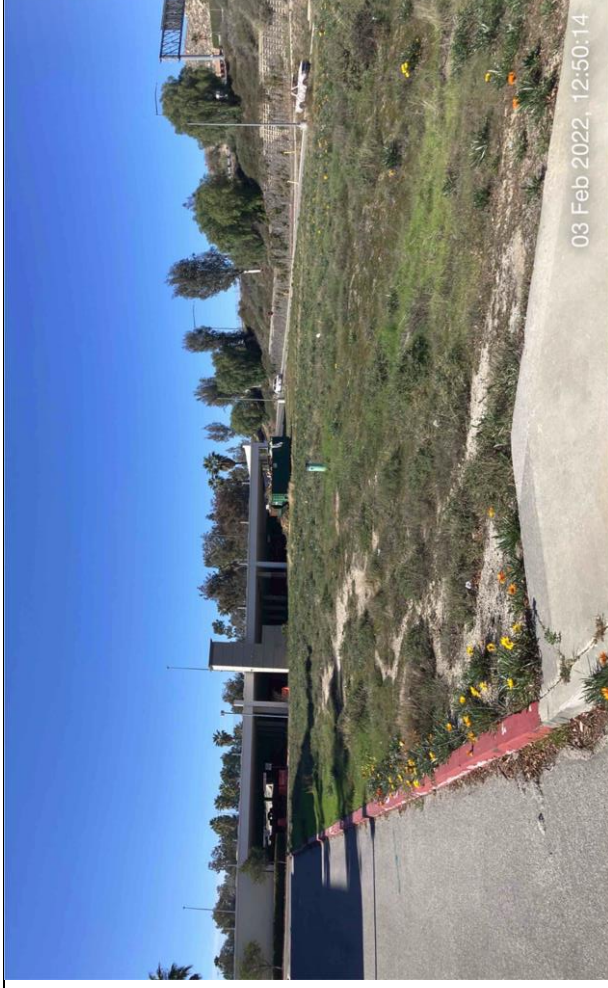
FIGURE 1: Project Site
Moreno Valley Mall Project, City of Moreno Valley

 Not to scale

Kimley»Horn



Figure 2. Study Area (outlined in yellow).



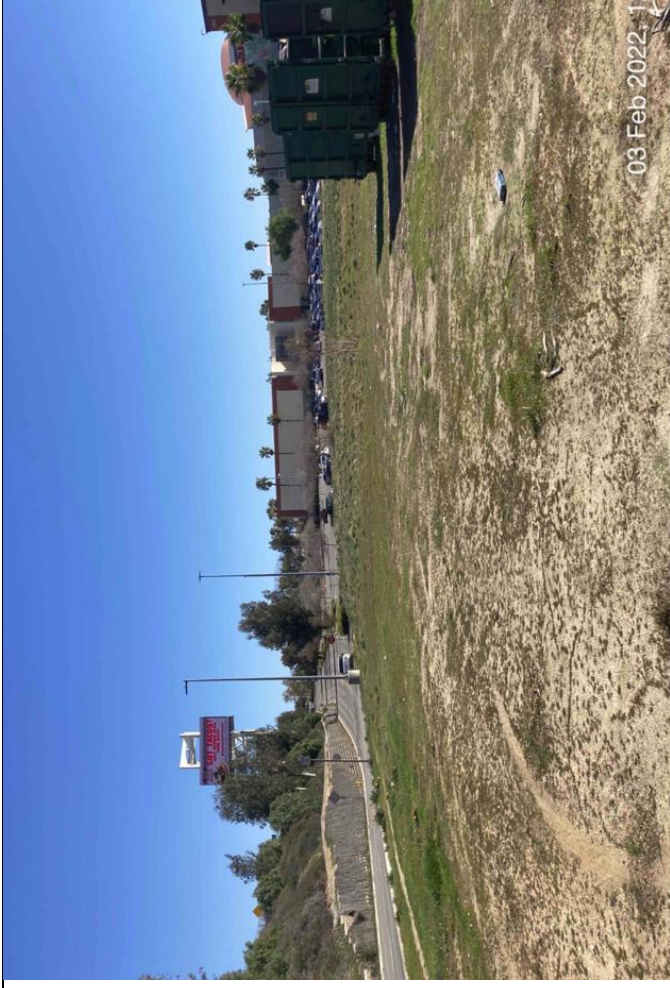
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Photo 1. Viewing NWN. Note existing parking structure in background; paved roadways surrounding parcel.



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Photo 2. Viewing NW. Note Hwy 60 in background; paved roadways surrounding parcel.



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Photo 3. Viewing ESE. Note paved roadway to photo left, parking & buildings in background and photo right; large dumpsters onsite.



03 Feb 2022, 1

Photo 4. Viewing SE. Note theatre, paved parking and roads; dumpsters and debris pile onsite.