HELIX
Environmental Planning

ALDI-Ramona, CA

Biological Technical Report

December 2019 | ALD-01

Prepared for:

ALDI, Inc.
12661 ALDI Place
Moreno Valley, CA 92555

Prepared by:

HELIX Environmental Planning, Inc.
7578 El Cajon Boulevard
La Mesa, CA 91942

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ACRONYMS AND ABBREVIATIONS

CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CNDDB	California Natural Diversity Database
CNPS	California Native Plant Society
County	County of San Diego
DPDS	Department of Planning and Development Services
ERS	Ecological Resource Services
ESA	Endangered Species Act
HCP	habitat conservation plan
HELIX	HELIX Environmental Planning, Inc.
MBTA	Migratory Bird Treaty Act
MM	Mitigation Measure
MSCP	Multiple Species Conservation Program
NCCP	Natural Communities Conservation Planning
NC-MSCP	North County's MSCP Subarea Plan
NPPA	Native Plant Protection Act
PAMA	Pre-approved Mitigation Area
RBWQCB	California Regional Water Quality Control Board
RPO	Resource Protection Ordinance
SAA	Streambed Alteration Agreement
SDNHM	San Diego Natural History Museum
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish and Wildlife Service
USGS	U.S. Geological Survey
WS	Waters of the State
WUS	Waters of the United States

SUMMARY (ABSTRACT)

This biological technical report was prepared to evaluate the approximately 2.5-acre project site, which consists of mostly vacant land, located in the community of Ramona in central San Diego County, California.

The project is a site plan for a proposed commercial development over the entire site. Preparation of the site for development would involve rough grading to accommodate building pads, driveways, and a parking lot. It is anticipated that a balance of approximately 10,000 cubic yards of cut and fill will be required for site development. No off-site road improvements are required.

Three vegetation communities/habitats occur within the project site: non-native grassland, eucalyptus woodland, and disturbed habitat. No areas under the jurisdiction of the U.S. Army Corps of Engineers (USACE) and the California Department of Fish and Wildlife (CDFW) occur on-site. In addition, no County of San Diego (County) Resource Protection Ordinance (RPO) wetlands occur on-site. The basins on-site do not meet the definition of RPO wetlands.

No sensitive plant species were observed on-site. One sensitive animal species was observed on the site during surveys – the federally listed endangered San Diego fairy shrimp (*Branchinecta sandiegonensis*).

The proposed project would result in direct impacts to approximately 1.6-acres of non-native grassland vegetation, including 0.01 acre of basins with San Diego fairy shrimp.

Impacts to basins with fairy shrimp and non-native grassland would be mitigated through purchase of two vernal pool credits from the Ramona Grasslands Conservation Bank.

Implementation of the proposed mitigation measures would reduce impacts to below a level of significance.

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1.0 INTRODUCTION

1.1 PURPOSE OF THE REPORT

A biological resources study was conducted for the proposed Aldi-Ramona, CA project to provide the project applicant, County of San Diego (County), resource agencies, and the public with current biological data to satisfy review of the proposed project under the California Environmental Quality Act (CEQA), and to demonstrate compliance with federal, state, and county regulations. This report describes the project site's current biological conditions, vegetation communities, and plant and wildlife species observed or detected during the surveys, and identifies those resources that are sensitive. It also identifies sensitive species with potential to occur within the project site. In addition, project impacts are assessed and mitigation is proposed to offset the proposed project's unavoidable significant impacts to sensitive biological resources, consistent with County Guidelines for Determining Significance (County 2010a) and County Report Format and Content Requirements (County 2010b).

1.2 PROJECT LOCATION AND DESCRIPTION

1.2.1 Project Location

The approximately 2.5-acre project site (Assessor's Parcel Numbers 281-171-04) is located in the community of Ramona (Figure 1, *Regional Location Map*) on State Route 67 (SR-67)/Main Street between Ramona Street and 16th Street (Figure 2, *Project Vicinity Map [Aerial Photograph]*). It is located in the Santa Maria Section of Township 13 South, Range 1 East on the U.S. Geological Survey (USGS) 7.5-minute San Pasqual quadrangle map (Figure 3, *Project Vicinity Map [USGS Topography]*). Land uses in the surrounding area include a mixture of existing commercial and residential (Figure 4, *Aerial Photograph).*

1.2.2 Project Description

The project proposes commercial development over the entire approximate 2.5-acre site. Preparation of the site for development would involve rough grading to accommodate building pad, parking lot and storm water facilities. It is anticipated that a balance of approximately 10,000 cubic yards of cut and fill will be required for site development. The anticipated use is a commercial retail space. A grocery store located at the southwestern corner of the site is currently proposed.

1.3 SURVEY METHODS

This report identifies vegetation communities, sensitive species with potential to occur within the project site but that were not observed or detected during surveys, and sensitive species actually observed during focused project surveys. Surveys discussed in this report were conducted by HELIX Environmental Planning, Inc. (HELIX) in 2013 and by Chuck Black in 2004, 2005-2006, and 2010-2011 and are consistent with County survey requirements (County 2010a and b).

1.3.1 Literature Review

Prior to conducting biological field surveys, a search of the California Natural Diversity Database (CNDDB) for information regarding sensitive species known to occur within the vicinity of the project

site, as well as a review of U.S. Fish and Wildlife Service (USFWS) and Multiple Species Conservation Program (MSCP) sensitive species databases, was performed by HELIX in 2013. A search of the San Diego Plant Atlas (San Diego Natural History Museum [SDNHM] 2010) also was conducted.

1.3.2 Biological Surveys

A general biological survey of the project site was conducted by HELIX on May 2, 2013. Vegetation was mapped on a 1"=100' scale aerial of the site. The entire site was surveyed on foot with the aid of binoculars, and all detected plant and animal species were recorded. Animal identifications were made in the field by direct, visual observation or indirectly by detection of calls, burrows, tracks, or scat. All plant identifications were made in the field or in the lab through comparison with voucher specimens or photographs. The site was examined for evidence of vernal pools during the general biological survey as well as during focused surveys. In addition to the general biological survey, HELIX conducted a jurisdictional delineation and sensitive plant surveys. See Table 1, *Survey Information* for a list of survey dates.

Table 1
SURVEY INFORMATION

Date	Personnel	Survey Type
August-September 2004	Chuck Black	Fairy Shrimp cyst presence surveys
2005-2006	Chuck Black	Fairy Shrimp protocol wet and dry sampling
2010-2011	Chuck Black	Fairy Shrimp protocol wet sampling
July 21, 2010	Larry Sward	Jurisdictional Delineation
April 5, 2013	Larry Sward	Sensitive Plant Survey
May 2, 2013	Barry Jones	General Biology and Sensitive Plant Survey

1.3.3 Focused Species Surveys

Focused surveys conducted within the project site are described below.

Special Status Plant Survey

Sensitive plant surveys were conducted on-site on April 5, 2013 by HELIX biologist Larry Sward and on May 2, 2013 by HELIX biologist Barry Jones. Sensitive plants investigated included those that are listed as threatened or endangered by the USFWS or the California Department of Fish and Wildlife (CDFW); those that are on the County Sensitive Plant List (County 2010b); and narrow endemic species with potential to occur on-site. The entire site was traversed by foot and all habitat areas were inspected for the presence of sensitive plant species. Sensitive plant species also were looked for during other surveys.

San Diego and Riverside Fairy Shrimp

Chuck Black of Ecological Restoration Services (ERS) conducted wet and dry season fairy shrimp sampling in 2004, 2005-2006, and 2010-2011. Surveys were performed under ERS's Threatened/Endangered species permit (TE835549-3) and were conducted pursuant to USFWS protocol (1996). Focused survey reports for fairy shrimp are included in Appendix F (Black 2004, 2006, 2011).

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Regional Location Map

MAIN 16, LP. RAMONA PROJECT

HELIX Environmental Planning

N 0 8 Miles

Figure 1

I:\PROJECTS\MMIN\MIN-01_Ramona\Map\BIO\BLR\Fig2_Vicinity.mxd MIN-01 08/01/13 -EV

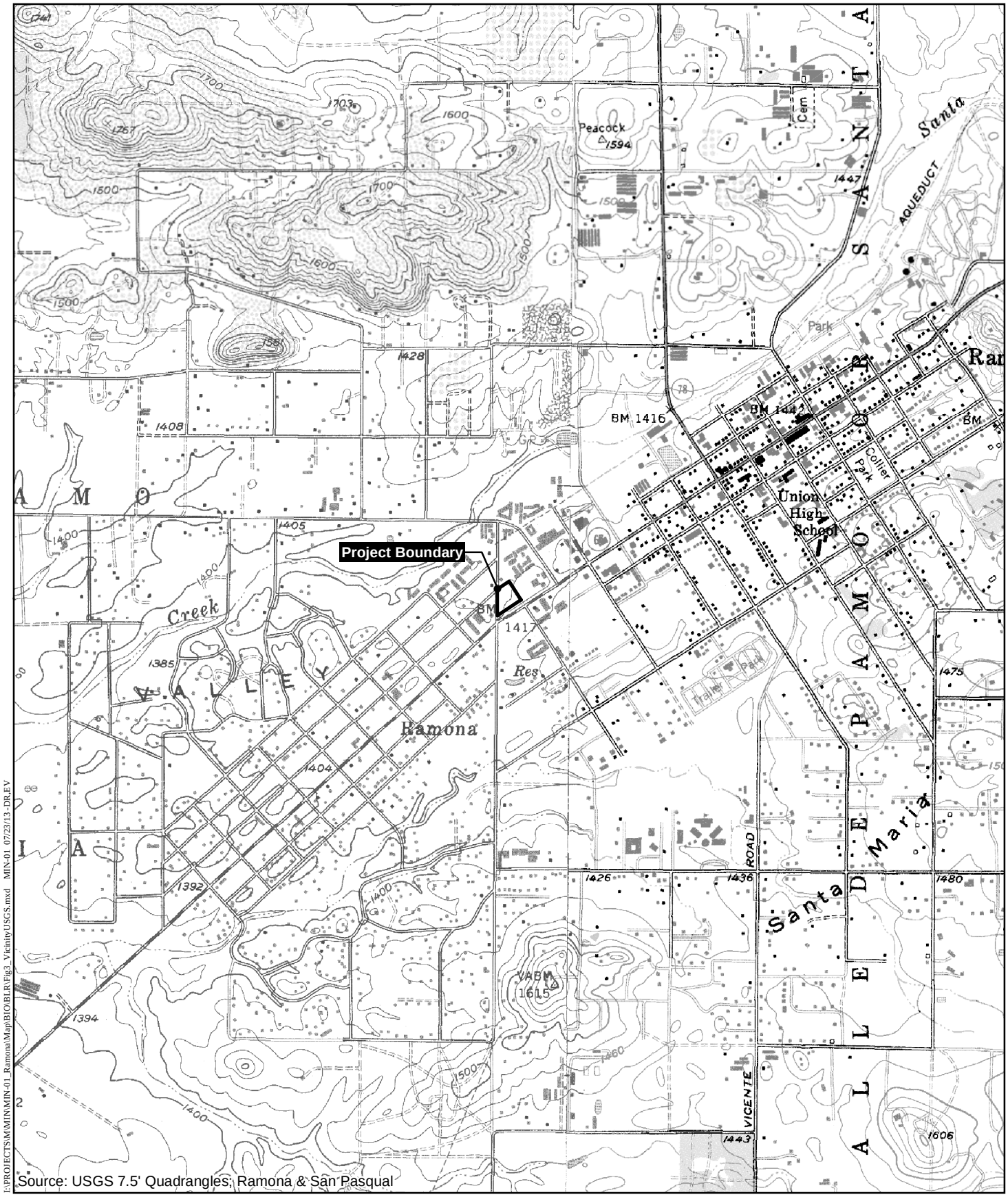
Project Vicinity Map (Aerial Photograph)

MAIN 16, LP. RAMONA PROJECT

HELIX Environmental Planning

N 0 1,000 Feet

Figure 2



Source: USGS 7.5' Quadrangles; Ramona & San Pasqual

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Project Vicinity Map (USGS Topography)

MAIN 16, LP. RAMONA PROJECT

HELIX Environmental Planning

N 0 2,000 Feet

Figure 3

I:\PROJECTS\M\MIN\MIN-01_Ramona\Map\BIO\BLR\Fig4_Aerial.mxd MIN-01 07/23/13 -DR

Aerial Photograph

MAIN 16, LP. RAMONA PROJECT

HELIX Environmental Planning

N 0 200 Feet

Figure 4

1.3.4 Jurisdictional Delineation

A jurisdictional delineation was performed by HELIX on July 21, 2010 and reconfirmed in 2013. Prior to beginning fieldwork, aerial photographs (1"=100' scale), USGS topographic maps, and soil survey maps were reviewed to determine the location of potential jurisdictional areas that may be affected by the project.

USACE Jurisdictional Areas

All areas with depressions, drainage channels, or wetland vegetation (if present) were evaluated for the presence of U.S. Army Corps of Engineers (USACE) Waters of the U.S. (WUS), including jurisdictional wetlands. USACE wetlands were delineated pursuant to the Wetlands Delineation Manual (Environmental Laboratory 1987) and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (USACE 2008). Areas were determined to be non-wetland WUS if there was evidence of regular surface flow (e.g., bed and bank) but the vegetation and/or soils criterion were not met.

CDFW Jurisdictional Areas

The CDFW jurisdictional boundaries were determined based on the presence of riparian vegetation or regular surface flow. Streambeds (if present) within CDFW jurisdiction were delineated based on the definition of streambed as “a body of water that flows at least periodically or intermittently through a bed or channel having banks and supporting fish or other aquatic life. This includes watercourses having a surface or subsurface flow that supports riparian vegetation” (Title 14, Section 1.72).

County Resource Protection Ordinance Wetlands

Areas were considered County wetlands if they met one of the three following attributes pursuant to the County Resource Protection Ordinance (RPO; County 2007): (1) at least periodically, the land supports a predominance of hydrophytes (plants whose habitat is water or very wet places); (2) the substratum is predominantly undrained hydric soil; or (3) an ephemeral or perennial stream is present, whose substratum is predominately non-soil and such lands contribute substantially to the biological functions or values of wetlands in the drainage system.

1.3.5 Survey Limitations

All noted animal species were identified by direct observation, vocalizations, or the observance of scat, tracks, or other signs. However, the lists of species identified are not necessarily comprehensive accounts of all species that occur on the site, as species that are nocturnal, secretive, or seasonally restricted may not have been observed.

1.3.6 Nomenclature

Nomenclature used in this report follows the conventions used in the County’s Biology Guidelines (County 2010a and b). Nomenclature also follows Baldwin *et al* (2012) for plants; Holland (1986) and Oberbauer (2008) for vegetation communities; the American Ornithologists’ Union (2012) for birds; Collins and Taggart (2006) for reptiles; and Baker *et al* (2003) for mammals. Plant species status is taken from the California Native Plant Society ([CNPS] 2015). Animal species status is from CDFW (2015).

1.4 ENVIRONMENTAL SETTING

The project site consists of a relatively flat, disturbed site surrounded by development. SR-67/Main Street (a four-lane high-traffic highway) and a large shopping complex borders the southern boundary. Single and multi-family housing occupy land north of the site. Commercial development similar to the proposed project sits east and west of the site. There are small areas of undeveloped land that support grassland that border the site to the north and west. Elevations on-site are approximately 1,400 feet above mean sea level. Placentia sandy loam (two to nine percent slopes), Fallbrook sandy loam (five to nine percent slopes, eroded), and Bonsall sandy loam (two to nine percent slopes) are the soils present on-site (Bowman 1973).

1.4.1 Regional Context

The project site is located within the Draft North County's MSCP Subarea Plan (NC-MSCP), and the entire project site is identified as outside any Pre-approved Mitigation Area (PAMA) (Figure 5, *MSCP Habitat Evaluation Model*).

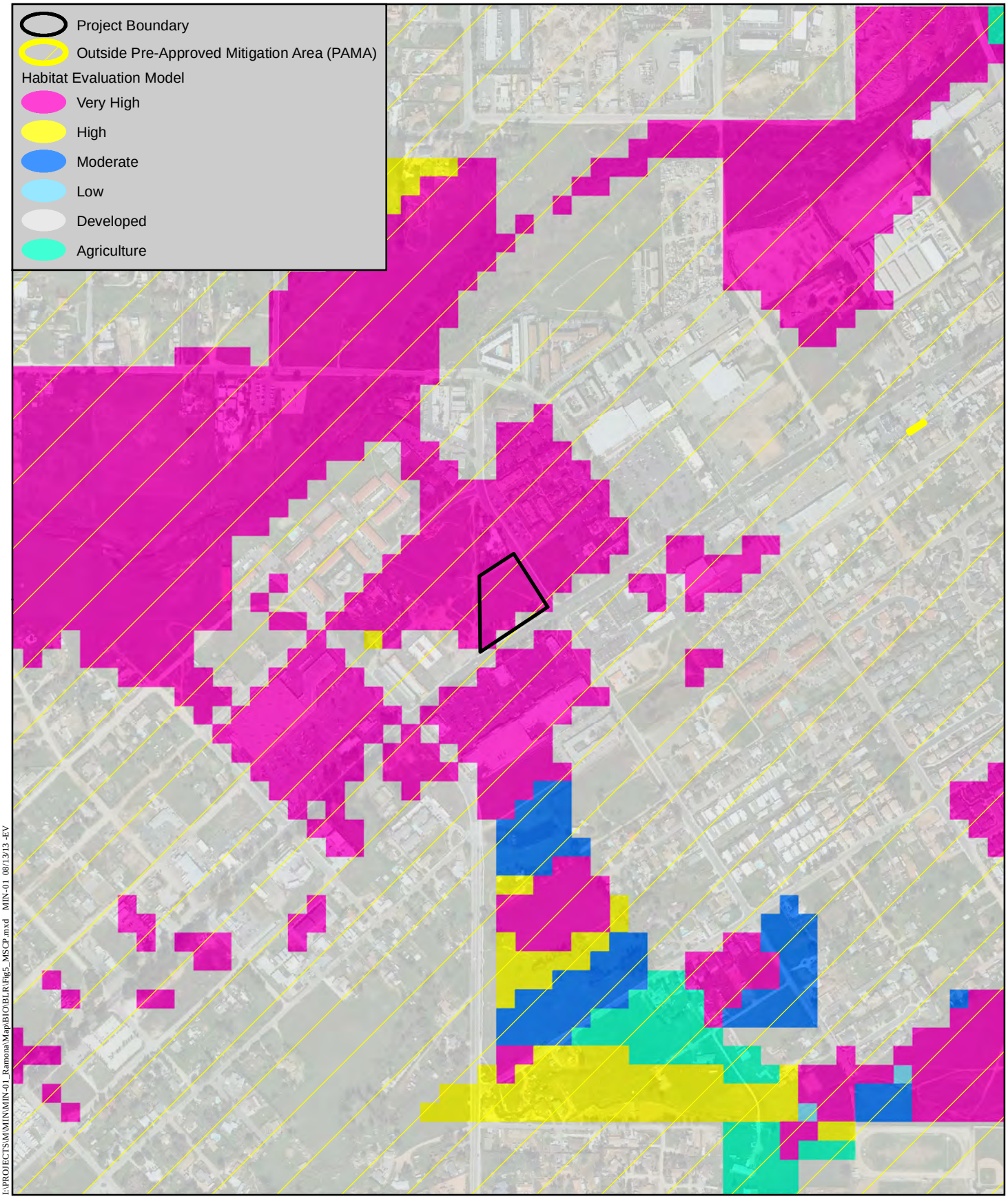
The Ramona Grasslands Preserve is located west of the unincorporated community of Ramona, and covers 4,500 acres, with over 2,900 acres currently conserved. This area hosts a unique assemblage of resources: the southernmost population of the endangered Stephens' kangaroo rat (*Dipodomys stephensi*); vernal pools and associated species including San Diego fairy shrimp; several sensitive plant species such as Coulter's saltbush (*Atriplex coulteri*); and a diverse raptor community, including the largest population of wintering ferruginous hawks (*Buteo regalis*) in the County. Santa Maria Creek and associated habitats are important for neotropical migrant songbirds and the endangered arroyo toad. Oak savannah, riparian woodlands, alkali playas, native perennial grasslands, and rock outcrops contribute to the diversity and ecosystem functions within the grasslands. The project is in downtown Ramona and lies outside of the area identified as the Ramona Grasslands.

The property does lie within the Downtown Ramona Vernal Pool Planning Area (VP Planning Area) of the Draft NC-MSCP (see Figure 7-2 in the Draft NC-MSCP). The VP Planning Area identifies areas of downtown Ramona with the potential to support vernal pools. The Draft NC-MSCP has guidelines on development and mitigation for vernal pool resources in the VP Planning Area. But because the NC-MSCP is still in draft form, these guidelines are not requirements for the project.

1.4.2 Vegetation Communities/Habitat Types

Three vegetation communities/habitats occur within the project site impact areas: non-native grassland, disturbed habitat, and eucalyptus woodland (Figure 6, *Vegetation and Sensitive Species*; Table 2, *Existing Vegetation Communities On-Site).* These vegetation communities are further discussed below.

Sensitive habitat is defined as land that supports unique vegetation communities or the habitats of rare or endangered species or subspecies of animals or plants as defined by Section 15380 of the CEQA Guidelines. Sensitive vegetation communities on-site include non-native grassland.



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MSCP Habitat Evaluation Model

MAIN 16, LP. RAMONA PROJECT

HELIX Environmental Planning

N

0 700 Feet

Figure 5

Vegetation and Sensitive Species

MAIN 16, LP. RAMONA PROJECT

HELIX Environmental Planning

N 0 100 Feet

Figure 6

Table 2
EXISTING VEGETATION COMMUNITIES ON-SITE

Vegetation Community/Habitat*	Acre(s)‡
Non-native grassland (42200)	1.6
Eucalyptus Woodland (11100)	0.4
Disturbed habitat (11300)	0.5
TOTAL	**2.5**

*Vegetation categories and numerical codes are from Holland (1986) and Oberbauer (2008)
‡Habitats are rounded to the nearest 0.1 acre; thus, totals reflect rounding

Non-Native Grassland

Non-native grassland is a dense to sparse cover of annual grasses, often associated with native annual forbs. This association occurs on gradual slopes with deep, fine-textured, usually clay soils. Most of the introduced annual species that comprise non-native grassland originated from the Mediterranean region of Europe, an area with a climate similar to that in California and a long history of agriculture. These two factors have contributed to the successful invasion and establishment of these species and the replacement of native grasslands with an annual-dominated non-native grassland (Jackson 1985).

Non-native grassland covers 1.6 acres of the site (Table 2) with characteristic species consisting of ripgut grass (*Bromus diandrus*), barley (*Hordeum* sp.), and black mustard (*Brassica nigra*). Portions of the grassland habitat on-site is dominated by non-native broadleaf species rather than grasses, including species such as black mustard, cheeseweed (*Malva parviflora*), and bristly ox-tongue (*Picris echioides*). Three of the basins that hold water during the winter months occur within the non-native grassland on-site.

Eucalyptus Woodland

Eucalyptus woodland is dominated by eucalyptus (Eucalyptus sp.), an introduced species that has often been planted for wind blocking, ornamental, and hardwood production purposes. Most groves are monotypic with the most common species being either the blue gum (Eucalyptus gunnii) or red gum (E. camaldulensis ssp. obtusa). The understory within well-established groves is usually very sparse due to the closed canopy and allelopathic nature of the abundant leaf and bark litter. If sufficient moisture is available, this species becomes naturalized and is able to reproduce and expand its range. The sparse understory offers only limited wildlife habitat; however, as a wildlife habitat, these woodlands provide excellent nesting sites for a variety of raptors, including Red-shouldered hawks (Buteo lineatus). During winter migrations, a large variety of warblers may be found feeding on the insects that are attracted to the eucalyptus flowers. Eucalyptus trees with active raptor nests are considered sensitive. Eucalyptus woodland covers approximately 0.4 acre of the project site along the southern property line adjacent to Main Street (Table 2).

Disturbed Habitat

Disturbed habitat includes land cleared of vegetation (e.g., dirt roads), land containing a preponderance of non-native plant species such as ornamentals or ruderal exotic species that take advantage of disturbance (previously cleared or abandoned landscaping), or land showing signs of past or present animal usage that removes any capability of providing viable habitat.

Disturbed habitat totals approximately 0.5 acre on-site (Table 2) and is comprised of unvegetated dirt roads that traverse the site, bare dirt areas surrounding existing development, and previously disturbed soils supporting only non-native forbs such as cheeseweed, black mustard, and dwarf nettle (Urtica urens). These areas occur in the north and south sides of the site. One of the basins that holds water during the winter months occurs within the disturbed habitat on-site.

1.4.3 Flora

HELIX observed a total of 31 plant species within the project site during surveys, as well as during other biological surveys (Appendix A).

1.4.4 Fauna

HELIX observed a total of seven animal species during various biological surveys, including four birds and three mammal species (Appendix B).

1.4.5 Special Status Plant Species

Sensitive species are those considered unusual or limited in that they are: (1) only found in the San Diego region; (2) a local representative of a species or association of species not otherwise found in the region; or (3) severely depleted within their ranges or within the region.

No sensitive plant species were observed on-site. Based on the highly disturbed nature of the site, and the fact that focused surveys of the site for sensitive plant species were negative, no sensitive plant species are expected to occur on the project site. Sensitive plant species with potential to occur on-site are included in Appendix C (alphabetically by scientific name). Refer to Appendix E for an explanation of status codes.

1.4.6 Sensitive Animal Species

One sensitive animal species has been observed on the project site and is further discussed below.

Invertebrates

San Diego fairy shrimp (*Branchinecta sandiegonensis*)
Status: FE/--; County Group 1
Distribution: San Diego County and extreme northern Baja California, Mexico.
Habitat(s): Seasonally astatic pools, which occur in tectonic swales or earth slump basins and other areas of shallow, standing water often in patches of grassland and agriculture interspersed in coastal sage scrub and chaparral.
Status on-site: The site is highly disturbed due to the adjacency to SR-67. San Diego fairy shrimp cysts were observed in 3 unvegetated basins (Basins 2, 3, and 4) on-site in the 2004 and 2006 dry season surveys and hatched fairy shrimp were observed in Basins 1 and 2 during the 2010-2011 wet season surveys (Figure 7, *Fairy Shrimp Cyst Basins*). Basin 1 in the northwestern corner of the Project site is adjacent to several basins located within an off-site sewer and power line easement. During maximum ponding as occurred in 2011, the off-site basins and Basin 1 can form into one basin with only a small portion of this larger basin occurring on the Project site. When drying, the larger basin separates into four small basins, one of which occurs on the Project site (i.e., Basin 1). Figure 5 depicts Basin 1 when there is maximum ponding. During a drier year (2006), Basin 1 remains distinct from the off-site basins.

The cyst concentrations likely represent past locations of vernal pools that are no longer present because of ongoing disturbance of the site for many years. It is likely that the continued moderate disturbance along the easement and to a lesser extent along the north boundary helps maintain the rut topography and disturbed areas that make them suitable for continued fairy shrimp habitat (Black 2011).

Sensitive Animals with Potential to Occur

Sensitive animal species present on-site or with potential to occur on-site are included in Appendix D. The species are grouped into invertebrates and vertebrates (amphibians, reptiles, birds, and mammals) and alphabetized by scientific name. Refer to Appendix E for an explanation of status codes.

1.4.7 Wetlands/Jurisdictional Waters

The jurisdictional delineation determined that there are no areas on-site that meet the definition of USACE WUS, CDFW waters of the state, or County RPO wetlands.

1.4.8 Habitat Connectivity and Wildlife Corridors

There are two types of wildlife corridors: local and regional. Local corridors provide animals with access to resources such as food, water, and shelter. Animals can use these corridors to travel from riparian to upland habitats and back. Regional corridors allow for animal movement between large core areas of habitat that are regionally important. They include major creeks and rivers, ridges, valleys, and large swaths of undeveloped land.

The project site is not part of a Biological Core Area in the Draft NC-MSCP, nor does it function as a regional wildlife corridor. Movement of larger animals is likely to occur off-site approximately 0.25 mile to the north through Santa Maria Creek, a known wildlife corridor that goes through the Ramona Grasslands (Ogden 1993). Implementation of the proposed project would not impact local or regional wildlife corridors as the project site is very small, is part of a patchwork of small, undeveloped parcels within a patchwork of development to the north, and abuts Main Street to the south, with no potential for wildlife movement to the south. As stated previously, wildlife movement into the Ramona Valley and east is likely to occur north of the site along Santa Maria Creek, which is better suited to wildlife usage than the proposed project site. There is no habitat connection between the site and Santa Maria Creek.

In addition, the project site is not included within the PAMA of the Draft NC-MSCP, which typically includes core habitat areas essential to the conservation of sensitive species. Rather, the project site is located within an area where development is being directed because of the limited biological resources. As such, the project site does not contain biological resources that are critical for sensitive species within the Draft NC-MSCP, and, therefore, does not comprise a substantial wildlife movement corridor.

1.5 APPLICABLE REGULATIONS

Biological resources within the project site are subject to regulatory review by the federal government, State of California, and County. The federal government administers non-marine plant- and wildlife-related issues through the USFWS, while the USACE administers WUS (including wetland and non-wetland) issues. California law relating to wetland, water-related, and wildlife issues is administered

by CDFW. The County is the lead agency for the CEQA environmental review process in accordance with state law and local ordinances.

Coordination efforts for the proposed project to date consist of two pre-application meetings with staff from the County of San Diego Department of Planning and Development Services on April 26, 2012 and September 2, 2015, and multiple meetings with the USFWS since 2011 regarding the San Diego fairy shrimp issue.

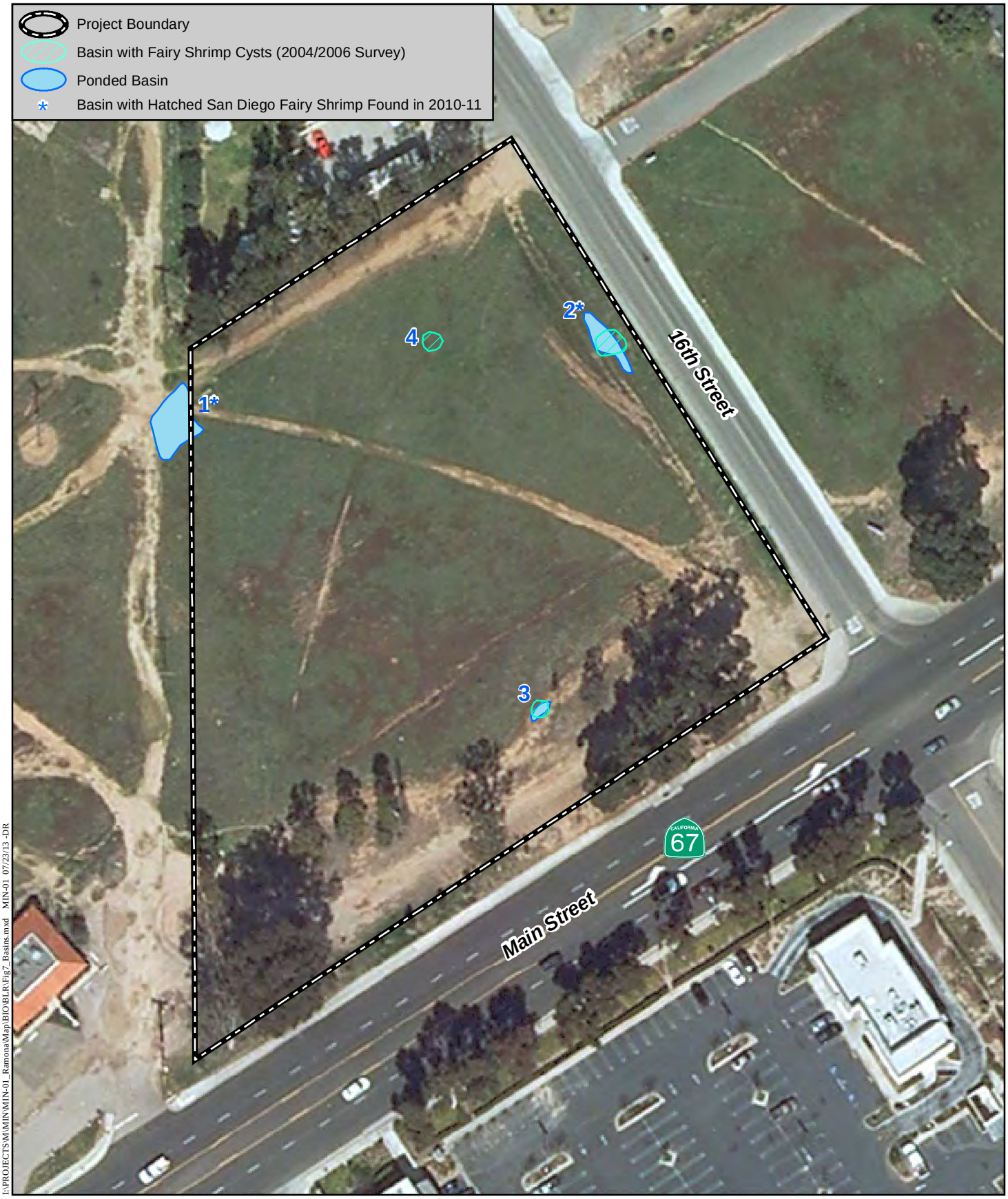
Laws and regulations that apply include the federal Endangered Species Act (ESA), Clean Water Act, CEQA, California Fish and Game Code, and RPO. Under CEQA, impacts associated with a proposed project or program are assessed with regard to significance criteria determined by the CEQA Lead Agency (in this case, the County) and pursuant to CEQA and State CEQA Guidelines.

1.5.1 Federal Government

Administered by the USFWS, the federal ESA provides the legal framework for the listing and protection of species (and their habitats) identified as being endangered or threatened with extinction. Actions that jeopardize endangered or threatened species and the habitats upon which they rely are considered a "take" under the ESA. Section 9(a) of the ESA defines take as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." "Harm" and "harass" are further defined in federal regulations and case law to include actions that adversely impair or disrupt a listed species' behavioral patterns.

The USFWS identifies critical habitat for endangered and threatened species. Critical habitat is defined as areas of land that are considered necessary for endangered or threatened species to recover. The ultimate goal is to restore healthy populations of listed species within their native habitat so they can be removed from the list of threatened or endangered species. Once an area is designated as critical habitat pursuant to the federal ESA, all federal agencies must consult with the USFWS to ensure that any action they authorize, fund, or carry out is not likely to result in destruction or adverse modification of the critical habitat. The project site is located within designated critical habitat (Figure 8, *San Diego Fairy Shrimp Critical Habitat)* and, therefore, the project would impact critical habitat.

Sections 7 and 10(a) of the federal ESA regulate actions that could jeopardize endangered or threatened species. Section 7 describes a process of federal interagency consultation for use when federal actions may adversely affect listed species. A biological assessment is required for any major construction activity if it may affect listed species. In this case, take can be authorized via a letter of biological opinion, issued by the USFWS for non-marine related listed species issues. A Section 7 consultation (formal or informal) is required when there is a nexus between endangered species' use of the site and impacts to USACE jurisdictional areas. Section 10(a) allows issuance of permits for incidental take of endangered or threatened species with the preparation of a habitat conservation plan (HCP). The term "incidental" applies if the taking of a listed species is incidental to, and not the purpose of, an otherwise lawful activity. An HCP demonstrating how the taking would be minimized and how steps taken would ensure the species' survival must be submitted for issuance of Section 10(a) permits. A Section 10(a) permit would be required for the proposed project as a federally listed species and critical habitat occur on-site (Figure 8). The Project has received a Section 10(a) Incidental Take permit (USFWS 2015; Appendix G).



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Fairy Shrimp Cyst Basins

MAIN 16, LP. RAMONA PROJECT

HELIX Environmental Planning

N

0 75 Feet

Figure 7

I:\PROJECTS\M\MIN\MIN-01_Ramona\Map\BIO\BLR\Fig8_SDFS_CriticalHab.mxd MIN-01 07/23/13 -DR

San Diego Fairy Shrimp Critical Habitat

MAIN 16, LP. RAMONA PROJECT

HELIX Environmental Planning

N 0 1,000 Feet

Figure 8

All migratory bird species that are native to the United States or its territories are protected under the federal Migratory Bird Treaty Act (MBTA), as amended under the Migratory Bird Treaty Reform Act of 2004 (FR Doc. 05-5127). The MBTA is generally protective of migratory birds but does not actually stipulate the type of protection required. In common practice, the MBTA is now used to place restrictions on disturbance of active bird nests during the nesting season (generally February 1 to July 30). In addition, the USFWS commonly places restrictions on disturbances allowed near active raptor nests.

Federal wetland regulation (non-marine issues) is guided by the Rivers and Harbors Act of 1899 and the Clean Water Act. The Rivers and Harbors Act deals primarily with discharges into navigable waters, while the purpose of the Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of all WUS. Permitting for projects filling WUS (including wetlands) is overseen by the USACE under Section 404 of the Clean Water Act. Projects could be permitted on an individual basis or be covered under one of several approved Nationwide Permits. Individual Permits are assessed individually based on the type of action, amount of fill, etc., and typically require substantial time (often longer than six months) to review and approve, while Nationwide Permits are pre-approved if a project meets appropriate conditions. A 404 permit is not required for the project.

1.5.2 State of California

Primary environmental legislation in California is found in CEQA and its implementing guidelines (State CEQA Guidelines), which require that projects with potential adverse effects (or impacts) on the environment undergo environmental review. Adverse environmental impacts are typically mitigated as a result of the environmental review process in accordance with existing laws and regulations.

The California ESA is similar to the federal ESA in that it contains a process for listing of species and regulating potential impacts to listed species. California ESA Section 2081 authorizes the CDFW to enter into a memorandum of agreement for the take of listed species for scientific, educational, or management purposes.

The Native Plant Protection Act (NPPA) enacted a process by which plants are listed as rare or endangered. The NPPA regulates the collection, transport, and commerce of listed plants. The California ESA follows the NPPA and covers both plants and animals designated as endangered or threatened with extinction. Plants listed as rare under NPPA were also designated rare under the California ESA.

The California Fish and Game Code (Sections 1600 through 1603) requires a CDFW agreement for projects affecting riparian and wetland habitats through issuance of a Streambed Alteration Agreement (SAA). An SAA is not required for the project.

1.5.3 County of San Diego

Multiple Species Conservation Program

The California Natural Communities Conservation Planning (NCCP) Act of 1991 (Section 2835) allows the CDFW to authorize take of species covered by plans in agreement with NCCP guidelines. A Natural Communities Conservation Program initiated by the State of California focuses on conserving coastal sage scrub, and in concert with the USFWS and the federal ESA, is intended to avoid the need for future federal and state listing of coastal sage scrub dependent species.

The Draft NC-MSCP Subarea Plan has been prepared to meet the requirements of the California NCCP, federal ESA, and California ESA. It is a comprehensive, long-term HCP that addresses the needs of multiple species by identifying key areas for preservation as open space in order to link core biological areas into a regional wildlife preserve. The Draft NC-MSCP Subarea Plan has been circulated for public review, but it has not yet been approved. As noted above, the property lies within the VP Planning Area of the Draft NC-MSCP. Because the NC-MSCP is in draft form, the project is not required to show compliance with this plan.

Resource Protection Ordinance

The County regulates natural resources (among other resources) via the RPO, the regulations of which cover wetlands, sensitive plants and animals, sensitive habitats, and habitats containing sensitive animals or plants as sensitive biological resources. Wetland habitats are defined per the RPO, as described in Section 1.3.4, above. Sensitive habitat lands are identified by the RPO as lands that "support unique vegetation communities, or habitats of rare or endangered species or sub-species of animals or plants as defined by Section 15380 of the CEQA Guidelines." It is the intent of the RPO to increase the preservation and protection of the County's unique topography, natural beauty, biological diversity, and natural and cultural resources. No RPO wetlands or RPO sensitive habitat lands occur on-site.

"D" Designator Zoning Regulation

The County regulates the eucalyptus trees within the right-of-way of SR-67/Main Street, within the community of Ramona, with the use of a special area zoning designator placed on the subject parcels. The "D" designator triggers a site plan review of any development or improvements proposed on those specified parcels. The standards applied to the site plan evaluation include the following:

1. Development or land improvements that would necessitate or result in the removal or destruction of the exiting trees shall not be permitted unless the following conditions are met:
    a. The Ramona Community Planning Group shall be notified of any proposal to remove any of the existing tress.
    b. Any trees that are removed must be replaced on the basis of one tree replaced for each tree removed prior to the final approval of any development permit.
    c. Replacement of trees shall be a minimum size of 15 gallons and shall be one of the following: Eucalyptus camaldulensis, Eucalyptus citriodora, Eucalyptus cladocalyx, Eucalyptus ficifolia.
    d. Where possible, replacement trees shall be planted within the right-of-way of SR-67/Main Street in accordance with the encroachment regulations of the California Department of Transportation. If this is not possible, replacement trees shall be planted on the development site.
    e. If necessary, an irrigation system shall be installed.
    f. Adequate space shall be provided for the trees to grow and mature.
    g. New trees planted on private property shall be protected by barriers or by location to prevent damage from normal foot and vehicle traffic.

Due to grading requirements, it is likely all eucalyptus trees on-site will be removed. In accordance with the "D" designator, all trees will be replaced at a 1:1 ratio.

2.0 PROJECT EFFECTS

Direct impacts are immediate impacts resulting from permanent habitat removal. Direct impacts were quantified by overlaying the limits of all project-related impacts on the biological resources map of the site. Indirect impacts are all actions that are not direct removal of habitat but affect the surrounding biological resources either as a secondary effect of the direct impacts or as the cause of degradation of a biological resource over time. Projects can have a wide variety of indirect impacts (depending on the nature of the project) such as edge effects, animal behavioral changes, and errant construction. Cumulative impacts are those caused by numerous projects in the region and their additive effect of multiple direct and indirect impacts to biological resources over time.

2.1 SPECIAL STATUS PLANT SPECIES

As previously stated, no sensitive plant species were observed on-site during surveys, and none are expected. The potential for sensitive plant species to occur on-site is included in Appendix C. An explanation of status codes is provided in Appendix E.

2.2 SPECIAL STATUS ANIMAL SPECIES

One sensitive animal species was observed on-site during surveys: San Diego fairy shrimp (a federal endangered species and County Group 1 species). The potential for additional sensitive animal species to occur on-site is included in Appendix D. An explanation of status codes is provided in Appendix E. Sensitive species status was taken from CDFW (2013).

2.3 RIPARIAN HABITAT OR SENSITIVE NATURAL COMMUNITY

The proposed project would result in direct impacts to approximately 1.6 acres of a sensitive vegetation community: non-native grassland (Figure 6; Table 3, *Impacts to Vegetation Communities*). No wetland or riparian habitat occurs on-site.

Table 3
IMPACTS TO VEGETATION COMMUNITIES

Vegetation Community/Habitat*	Acre(s)‡		
	On-site	Off-site	Total
Non-native grassland (42200)	1.6	0.0	1.6
Eucalyptus woodland (11100)	0.4	0.0	0.4
Disturbed habitat (11300)	0.5	0.0	0.5
TOTAL	**2.5**	0.0	**2.5**

*Vegetation categories and numerical codes are from Holland (1986) and Oberbauer (2008)
‡Habitats are rounded to the nearest 0.1 acre; thus, totals reflect rounding

2.4 JURISDICTIONAL WETLANDS AND WATERWAYS

No USACE or CDFW jurisdictional areas or County RPO wetlands occur on-site and, therefore, no impacts would occur.

2.5 WILDLIFE MOVEMENT AND NURSERY SITES

The site is not part of a regional or local corridor and does not serve as a nursery site.

2.6 INDIRECT IMPACTS

Potential indirect impacts from construction noise may occur as a result of project implementation; they are further described below.

2.6.1 Noise

Construction-related noise from such sources as clearing and grading would be a temporary impact to wildlife. Breeding birds and mammals may temporarily or permanently leave their territories to avoid disturbances from construction activities, which could lead to reduced reproductive success and increased mortality. Potential short-term noise impacts could result from construction for the proposed project. The site is adjacent to SR-67, a high-traffic noise corridor that creates noise levels exceeding the hourly average of 60 decibels (dB L_{eq}). Additionally, it is assumed that the eucalyptus trees that have the potential to support nesting raptors will be removed prior to the start of grading the site. Therefore, because noise levels already exceed an hourly average of 60 dB L_{eq}, and because the eucalyptus trees will be removed prior to the start of grading, no significant impacts resulting from noise are anticipated.

3.0 SPECIAL STATUS SPECIES

3.1 GUIDELINES FOR THE DETERMINATION OF SIGNIFICANCE

Would the project 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 USFWS or CDFW (County 2010b)?

Any of the following conditions would be considered significant if:

A. The project would impact one or more individuals of a species listed as federally or state endangered or threatened.

B. The project would impact an on-site population of a County List A or B plant species, or a County Group I animal species, or a species listed as a state Species of Special Concern.

C. The project would impact the local long-term survival of a County List C or D plant species or a County Group II animal species.

D. The project may impact arroyo toad aestivation, foraging, or breeding habitat.

E. The project would impact golden eagle habitat.

F. The project would result in a loss of functional foraging habitat for raptors.

G. The project would impact the viability of a core wildlife area, defined as a large block of habitat (typically 500 acres or more not limited to project boundaries, though smaller areas with particularly valuable resources may also be considered a core wildlife area) that supports a viable population of a sensitive wildlife species or supports multiple wildlife species.

H. The project would cause indirect impacts, particularly at the edge of proposed development adjacent to proposed or existing open space or other natural habitat areas, to levels that would likely harm sensitive species over the long term.

I. The project would impact occupied burrowing owl habitat.

J. The project would impact occupied cactus wren habitat, or formerly occupied coastal cactus wren habitat that has been burned by wildfire.

K. The project would impact occupied Hermes copper habitat.

L. The project would impact nesting success of the following sensitive bird species through grading, clearing, fire fuel modification, and/or other noise generating activities such as construction:

- Coastal cactus wren
- Coastal California gnatcatcher
- Least Bell's vireo
- Southwestern willow flycatcher
- Tree-nesting raptors
- Ground-nesting raptors
- Golden eagle
- Light-footed clapper rail

3.2 ANALYSIS OF PROJECT EFFECTS

The proposed project would result in significant impacts under the above guidelines for the following reasons:

3.1.A Implementation of the proposed project would impact unvegetated basins supporting San Diego fairy shrimp (federally endangered species; Figures 7 and 8) and San Diego fairy shrimp critical habitat. Impacts to San Diego fairy shrimp would be significant under County Guideline 3.1.A.

3.1.B The project would impact the San Diego fairy shrimp, which is a County Group I animal species. Impacts to San Diego fairy shrimp would be significant under County Guideline 3.1.B.

3.1.F The project site may support raptor foraging habitat. Impacts to 1.6 acres of non-native grassland would occur and would be significant under County Guideline 3.1.F.

3.1.L Grading and clearing of 1.6 acres of non-native grassland and 0.4 acre of eucalyptus woodland may impact the nesting success of potential ground and tree nesting raptors if clearing takes place during the breeding season for tree-nesting raptors (January15 to July 15) and ground-nesting raptors (February 1 to July 15).

The proposed project would not result in significant impacts under the above guidelines for the following reasons:

3.1.C The project would not impact any County List C or D plant species or a County Group II animal species.

3.1.D The site contains no habitat suitable for the arroyo toad.

3.1.E No impacts to golden eagle nest locations would occur. The site does not support potential foraging habitat for golden eagles because it is a small undeveloped parcel surrounded by development.

3.1.G The project site is not part of a core wildlife area.

3.1.H The project would not cause indirect impacts to adjacent natural habitat areas. There is no existing or proposed open space adjacent to the project site. This site, as well as any adjacent undeveloped parcels, is disturbed. As previously described, the site is surrounded by adjacent commercial development along Main Street within downtown Ramona.

3.1.I The project site does not contain suitable habitat for burrowing owls. No owls were observed during field surveys and they are not expected to occur on-site due to the small size and highly disturbed nature of the site.

3.1.J The project site does not contain suitable habitat for the coastal cactus wren.

3.1.K The project site does not contain Hermes copper habitat.

3.3 CUMULATIVE IMPACT ANALYSIS

A cumulative study area and request for a cumulative analysis has not been provided by the County. A cumulative analysis will be provided in the next submittal if determined to be necessary.

3.4 MITIGATION MEASURES AND DESIGN CONSIDERATIONS

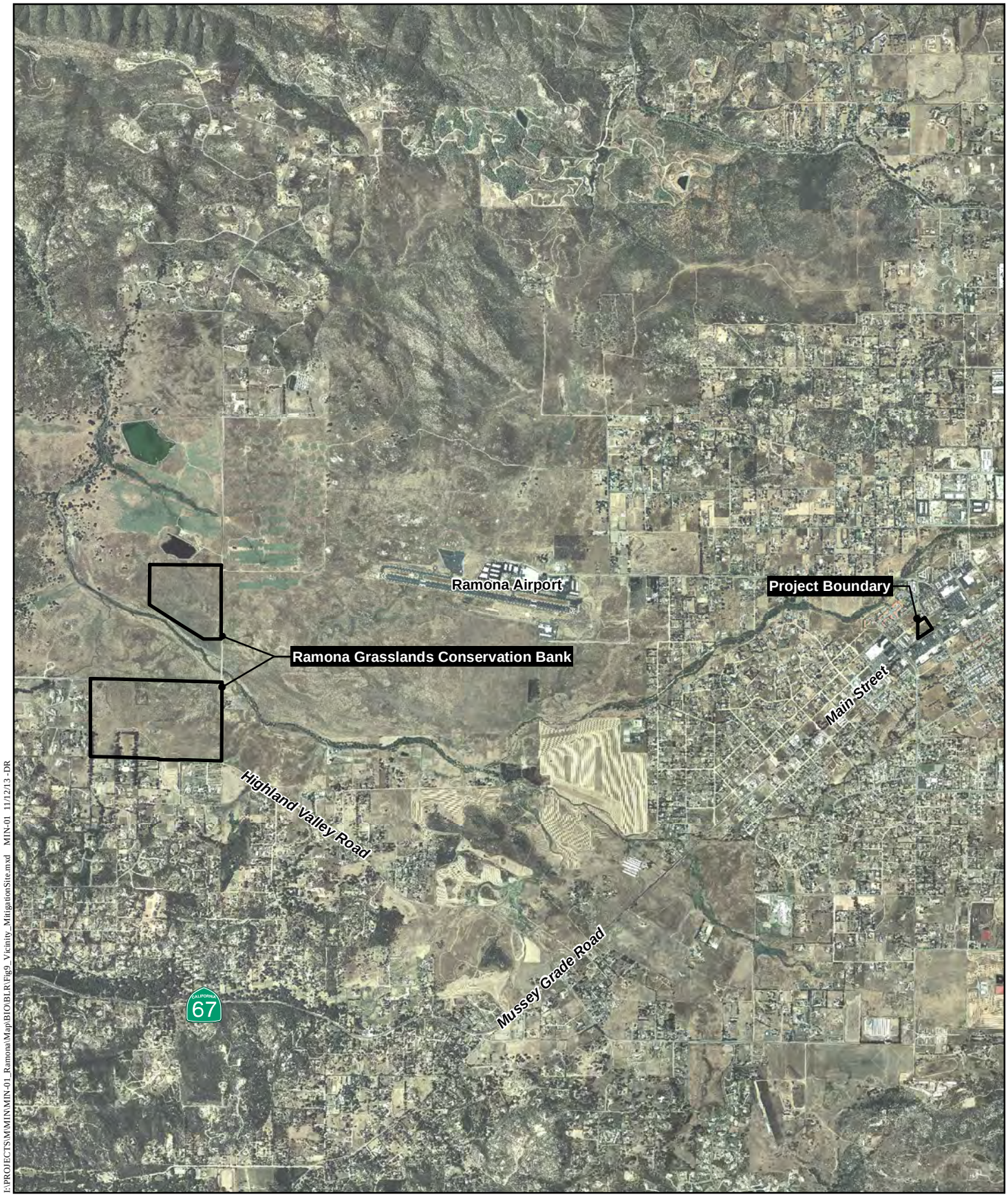
The following mitigation measures are recommended to reduce the impacts to special status species to less than significant.

Impact 3.4.1 Implementation of the proposed project would impact San Diego fairy shrimp.

Mitigation Measure (MM)

MM 3.4.1 Mitigation for impacts to 0.01 acre of habitat supporting the federally endangered San Diego fairy shrimp will occur through purchase of two vernal pool credits from the Ramona Grasslands Conservation Bank (Figure 9, *Project Vicinity to Ramona Grasslands Conservation Bank*). This is consistent with Incidental Take Permit for the Project (USFWS 2015; Appendix G).

Impact 3.4.2 Implementation of the proposed project would impact San Diego fairy shrimp.



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Project Vicinity to Ramona Grasslands Conservation Bank

MAIN 16, LP. RAMONA PROJECT

HELIX Environmental Planning

Figure 9

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MM 3.4.2 Mitigation for impacts to 0.01 acre of habitat supporting the federally endangered San Diego fairy shrimp will occur through purchase of two vernal pool credits from the Ramona Grasslands Conservation Bank (Figure 9). This is consistent with Incidental Take Permit for the Project (USFWS 2015; Appendix G).

Impact 3.4.3 Implementation of the proposed project would impact 1.6 acres of non-native grassland.

MM 3.4.3 Mitigation for impacts to non-native grassland will occur at a 0.5:1 ratio through off-site preservation of 0.8 acre of grassland habitat within the Ramona Grassland Conservation Bank as part of the purchase of two vernal pool mitigation credits (see MM 3.4.1 and Table 4, *Impacts and Mitigation for Habitat/Vegetation Communities [Acre(s)]).*

Impact 3.4.4 Clearing and grading may result in potential impacts to tree or ground-nesting raptors that may be nesting within 300 feet of the construction area.

MM 3.4.4 No grubbing, clearing, or grading within 300 feet of an active raptor nest during the raptor-breeding season (January 15 to July 15) will occur. As such, all grading permits, improvement plans, and the final map will state the same. If grubbing, clearing, or grading is proposed during the raptor-breeding season, a pre-grading survey will be conducted within three days prior to clearing to determine whether raptors occur within the areas directly impacted by grading. If there are no raptors nesting (includes nest building or other breeding/nesting behavior) within this area, development will be allowed to proceed upon approval of the Director of the Department of Planning and Development Services (DPDS) with concurrence from USFWS and CDFW. However, if raptors are observed nesting or displaying breeding/nesting behavior within the area, construction will be postponed until all nesting (or breeding/nesting behavior) has ceased or until after July 15, to the satisfaction of the Director of DPDS with concurrence from USFWS and CDFW.

3.5 CONCLUSION

Implementation of the proposed project would directly impact San Diego Fairy shrimp and non-native grassland habitat. In addition, indirect impacts as a result of loss of habitat to ground and tree nesting raptors could occur. If implemented, the recommended mitigation measures would reduce these impacts to below a level of significance.

4.0 RIPARIAN HABITAT OR SENSITIVE NATURAL COMMUNITY

4.1 GUIDELINES FOR THE DETERMINATION OF SIGNIFICANCE

Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the USFWS or CDFW (County 2010b)?

Any of the following conditions would be considered significant if:

A. Project-related grading, clearing, construction, or other activities would temporarily or permanently remove sensitive native or naturalized habitat (as listed in Table 5, *Summary of Mitigation Measures* in the County Guidelines for Determining Significance [County 20010b], excluding those without a mitigation ratio) on or off the project site.

B. Any of the following will occur to or within jurisdictional wetlands and/or riparian habitats as defined by the USACE, CDFW, and County: vegetation removal; grading; obstruction or diversion of water flow; adverse change in velocity, siltation, volume of flow, or runoff rate; placement of fill; placement of structures; road crossing construction; placement of culverts or other underground piping; any disturbance of the substratum; and/or any activity that may cause an adverse change in native species composition, diversity, and abundance.

C. The project would draw down the groundwater table to the detriment of groundwater-dependent habitat, typically a drop of three feet or more from historical low groundwater levels.

D. The project would cause indirect impacts, particularly at the edge of proposed development adjacent to proposed or existing open space or other natural habitat areas, to levels that would likely harm sensitive habitats over the long term.

E. The project does not include a wetland buffer adequate to protect the functions and values of existing wetlands.

4.2 ANALYSIS OF PROJECT EFFECTS

The proposed project would result in significant impacts under the above guidelines for the following reasons:

4.1.A As discussed above, implementation of the proposed project would result in direct impacts to approximately 1.6 acres of non-native grassland (Figures 6 and 7; Table 3). These impacts would be significant according to County Guideline 4.1.A.

The proposed project would not result in significant impacts under the above guidelines for the following reasons:

4.1.B The project site does not support jurisdictional wetlands or riparian habitat as defined by the USACE, CDFW, and County.

4.1.C No groundwater withdrawals or activities that could result in lowering of the groundwater table are proposed. Under County Guideline 4.1.C, no significant impact would occur.

4.1.D Because nearly the entire project site and most of the surrounding area is characterized by disturbed and non-native grassland, indirect impacts, such as from the spread of non-native plant species during construction, are not anticipated to cause a significant impact. Furthermore, invasive plant species included in the California Invasive Plant Inventory prepared by California Invasive Plant Council ([Cal-IPC] 2006) would not be installed on-site. Under County Guideline 4.I.D, no significant impact would occur.

4.1.E No wetlands occur adjacent to the project site.

4.3 CUMULATIVE IMPACT ANALYSIS

Analysis will be provided in the next submittal if determined to be necessary by the County.

4.4 MITIGATION MEASURES AND DESIGN CONSIDERATIONS

Impact 4.4.1 Implementation of the proposed project would result in direct impacts to approximately 1.6 acres of non-native grassland considered a sensitive vegetation community.

MM 4.4.1 Mitigation for impacts to 1.6 acres of non-native grassland will occur at a 0.5:1 ratio through off-site preservation of 0.8 acre of grassland habitat within the Ramona Grassland region (Table 4). Currently, the off-site mitigation location is proposed as the purchase of credits within the proposed Ramona Conservation Bank as part of the two vernal pool credits being purchased (Figure 9).

4.5 CONCLUSION

Implementation of the proposed project would result in significant impacts to sensitive natural communities; however, mitigation measures for loss of habitat resulting from implementation of the project would reduce impacts to below a level of significance. Mitigation includes off-site preservation at ratios consistent with those required by the County and resource agencies.

5.0 JURISDICTIONAL WETLANDS AND WATERWAYS

5.1 GUIDELINES FOR THE DETERMINATION OF SIGNIFICANCE

Would the project 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 (County 2010b)?

5.2 ANALYSIS OF PROJECT EFFECTS

As previously stated in Sections 2.4 and 4.2, implementation of the proposed project would not result in wetland impacts.

5.3 CUMULATIVE IMPACT ANALYSIS

No cumulative impacts to USACE jurisdictional areas would occur as a result of the proposed project, as none occurs within the study area.

5.4 MITIGATION MEASURES AND DESIGN CONSIDERATIONS

No mitigation measures are required as no impacts to USACE jurisdictional areas would occur.

5.5 CONCLUSION

Implementation of the proposed project would not result in significant impacts to USACE jurisdictional areas as none occurs within the study area.

6.0 WILDLIFE MOVEMENT AND NURSERY SITES

6.1 GUIDELINES FOR THE DETERMINATION OF SIGNIFICANCE

Would the project 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 (County 2010b)?

Any of the following conditions would be considered significant if:

A. The project would impede wildlife access to foraging habitat, breeding habitat, water sources, or other areas necessary for their reproduction.

B. The project would substantially interfere with connectivity between blocks of habitat, or would potentially block or substantially interfere with a local or regional wildlife corridor or linkage.

C. The project would create artificial wildlife corridors that do not follow natural movement patterns.

D. The project would increase noise and/or nighttime lighting in a wildlife corridor or linkage to levels proven to affect the behavior of the animals identified in a site-specific analysis of wildlife movement.

E. The project does not maintain an adequate width for an existing wildlife corridor or linkage and/or would further constrain an already narrow corridor through activities such as (but not limited to) reduction of corridor width, removal of available vegetative cover, placement of incompatible uses adjacent to it, and placement of barriers in the movement path.

F. The project does not maintain adequate visual continuity (i.e., long lines-of-site) within wildlife corridors or linkage.

6.2 ANALYSIS OF PROJECT EFFECTS

The proposed project would not result in significant impacts under the above guidelines for the following reasons:

6.1.A The project site is surrounded by commercial and residential development, thus inhibiting wildlife access from all directions. The project is not part of the PAMA in the Draft NC-MSCP and is not connected with local or regional corridors. Project implementation would not impede

wildlife access to areas necessary for their survival. As such, no significant impact would occur under County Guideline 6.1.A.

6.1.B The project site does not provide core wildlife habitat or linkage areas and, therefore, would not interfere with wildlife movement along a local or regional corridor. As such, no significant impact would occur under County Guideline 6.1.B.

6.1.C The project would not create artificial wildlife corridors. Under County Guideline 6.1.C, no significant impact would occur.

6.1.D All proposed project-related lighting would be required to adhere to Division 9 of the San Diego County Light Pollution Code. Additionally, the site is not part of a regional corridor or linkage. Under County Guideline 6.1.D, no significant impact to the wildlife corridor resulting from lighting would occur.

6.1.E The project would not reduce an existing wildlife corridor or linkage or further constrain an already narrow wildlife corridor. As discussed in Section 1.4.8, the project site is not part of a local or regional wildlife corridor or linkage. Under County Guideline 6.1.E, no significant impact would occur.

6.1.F The project would not affect visual continuity within wildlife corridors or linkages, as none exist on or adjacent to the site. Under County Guideline 6.1.F, no significant impact would occur.

6.3 CUMULATIVE IMPACT ANALYSIS

No significant impacts would occur and no mitigation is required.

6.4 MITIGATION MEASURES AND DESIGN CONSIDERATIONS

No significant impacts would occur and no mitigation is required.

6.5 CONCLUSION

No significant impacts would occur and no mitigation is required.

7.0 LOCAL POLICIES, ORDINANCES, AND ADOPTED PLANS

7.1 GUIDELINES FOR THE DETERMINATION OF SIGNIFICANCE

Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? Would the project conflict with the provisions of an adopted HCP, NCCP plan, or other approved local, regional, or state HCP (County 2010b)?

Any of the following conditions would be considered significant if:

A. For lands outside of the MSCP, the project would impact Diegan coastal sage scrub vegetation in excess of the County's five percent habitat loss threshold as defined by the Southern California Coastal Sage Scrub NCCP Guidelines.

B. The project would preclude or prevent the preparation of the subregional NCCP. For example, the project proposes development within areas that have been identified by the County or resource agencies as critical to future habitat preserves.

C. The project will impact any amount of wetlands or sensitive habitat lands as outlined in the RPO.

D. The project would not minimize and/or mitigate coastal sage scrub habitat loss in accordance with Section 4.3 of the NCCP Guidelines.

E. The project does not conform to goals and requirements outlined in any applicable HCP, Resource Management Plan, Special Area Management Plan, Watershed Plan, or similar regional planning effort.

F. For lands within the MSCP, the project would not minimize impacts to the Biological Resource Conservation Area (BRCA), as defined in the Biological Mitigation Ordinance ([BMO] County 2010c).

G. The project would preclude connectivity between areas of high habitat values, as defined by the Southern California Coastal Sage Scrub NCCP Guidelines.

H. The project does not maintain existing movement corridors and/or habitat linkages as defined by the BMO.

I. The project does not avoid impacts to MSCP narrow endemic species and would impact core populations of narrow endemics.

J. The project would reduce the likelihood of survival and recovery of listed species in the wild.

K. The project would result in the killing of migratory birds or destruction of active migratory bird nests and/or eggs (MBTA).

L. The project would result in the take of eagles, eagle eggs or any part of an eagle (Bald and Golden Eagle Protection Act; BGEPA).

7.2 ANALYSIS OF PROJECT EFFECTS

The proposed project would result in significant impacts under the above guidelines for the following reason:

7.1.K Implementation of the proposed project could potentially result in the killing of migratory birds or destruction of active migratory bird nests and/or eggs (MBTA). This would be significant according to County Guideline 7.1.K.

The proposed project would not result in significant impacts under the above guidelines for the following reasons:

7.1.A The project is outside the MSCP Subarea Plan and there are no proposed impacts to coastal sage scrub on-site. Therefore, County Guideline 7.1.A is not applicable.

7.1.B Implementation of the proposed project would not preclude or prevent the preparation of the subregional NCCP as the project site occurs within the Draft NC-MSCP and is not identified as an area critical to future habitat preserves. Under County Guideline 7.1.B, no significant impacts would occur.

7.1.C The proposed project would directly impact a total of 1.6 acres of non-native grassland habitat. Non-native grassland is not considered sensitive under the RPO. There are no defined RPO wetlands on-site. According to County Guideline 7.1.C, no significant impacts would occur.

7.1.D The project will not impact any coastal sage scrub; thus, no significant impacts would occur under County Guideline 7.1.D.

7.1.E The Project site is within the Draft NC-MSCP. The Project provides mitigation consistent with all County and state regulations and otherwise conforms to the goals and requirements outlined in the Draft NC-MSCP. Under County Guideline 7.1.E, no significant impact would occur.

7.1.F The project site is not within the MSCP and thus not within a BRCA. No significant impact would occur under County Guideline 7.1.F,

7.1.G Although lands on and adjacent to the project site are identified as high value habitat on the County's Habitat Evaluation Map (2002), the project would not preclude connectivity between areas of high habitat values because the site is surrounded by development and there is no habitat connectivity between the site and high value conservation lands to the north along Santa Maria Creek (County,1997). The site and undeveloped parcels immediately adjacent are also highly disturbed. As noted on Figure 5, a majority of the areas labeled as high value habitat surrounding the site have been developed since the original modeling was conducted. While it may have been considered high value habitat when the site was part of a larger contiguous block of undeveloped land, it now has very low conservation value due to the development surrounding the site. The site is also within a commercial corridor on Main Street, thus, ideal for development. The County of San Diego General Plan and Ramona Community Plan also anticipates commercial development on this site. As such it is determined that the development of this site will not preclude the connectively in the area, no significant impact would occur under County Guideline 7.1.G.

7.1.H As discussed in Section 1.4.8, the project site is not part of a local or regional wildlife corridor or linkage. Under County Guideline 7.1.H, no significant impacts would occur.

7.1.I The project is not within an approved MSCP plan.

7.1.J Locations of one listed species (San Diego fairy shrimp) would be impacted upon project implementation. These impacts, however, would not reduce the likelihood of survival and recovery of this species in the wild.

7.1.L Implementation of the proposed project would not result in the take of eagles, eagle eggs, or any part of an eagle. Under County Guideline 7.1.L, no significant impact would occur.

7.3 CUMULATIVE IMPACT ANALYSIS

Analysis will be provided in the next submittal if determined to be necessary by the County.

7.4 MITIGATION MEASURES AND DESIGN CONSIDERATIONS

Impact 7.4.1 Implementation of the proposed project could potentially result in the killing of migratory birds or destruction of active migratory bird nests and/or eggs.

MM 7.4.1 In order to ensure compliance with the MBTA, clearing of native vegetation will occur outside of the breeding season of most avian species (February 1 through September 1). Clearing during the breeding season of MBTA-covered species could occur if it is determined that no nesting birds (or birds displaying breeding or nesting behavior) are present immediately prior to clearing. If clearing of vegetation is to occur during the breeding season, a pre-construction survey will be conducted three days prior to clearing or grading activities to determine whether breeding or nesting avian species occur within impact areas prior to project implementation.

7.5 CONCLUSION

Implementation of the proposed project would result in potentially significant impacts to breeding birds. In order to ensure potential impacts are below a level of significance, avoidance of the bird breeding season shall be implemented.

8.0 SUMMARY OF PROJECT IMPACTS AND MITIGATION

Implementation of the proposed project would result in significant impacts to special status animal species, natural communities, and local policies.

Implementation of the proposed project would result in direct impacts to the following special status species: San Diego fairy shrimp. In addition, project implementation would impact potential foraging and/or nesting habitat of raptors in the vicinity.

Implementation of the proposed project would result in impacts to the following sensitive vegetation community: non-native grassland.

Mitigation for impacts to sensitive animal species would occur through purchase of vernal pool credits from the Ramona Grasslands Conservation Bank. Impacts to sensitive vegetation communities would be mitigated by purchase of vernal pool credits from the Ramona Grasslands Conservation Bank (Table 4).

Table 4
IMPACTS AND MITIGATION FOR HABITAT/VEGETATION COMMUNITIES (acre[s])[1]

Vegetation Community/Habitat[2]	Acreage			Mitigation				
	Existing	Impacts	Off-Site Impacts	Mitigation Ratio	Required	Preserved On-Site	Impact Neutral	Off-site Mitigation
Non-native grassland (42200)	1.6	1.6	0.0	0.5:1	0.8	0.0	0.0	0.8
Eucalyptus Woodland (11100)	0.4	0.4	0.0	--	0.0	0.0	0.0	0.0
Disturbed habitat (11300)	0.5	0.5	0.0	--	0.0	0.0	0.0	0.0
TOTAL	**2.5**	**2.5**	**0.0**	**--**	**0.8**	**0.0**	**0.0**	**0.8**

[1]Habitats are rounded to the nearest 0.1 acre, thus totals reflect rounding.

[2]Vegetation categories and numerical codes are from Holland (1986) and Oberbauer (2008).

With implementation of the mitigation measures listed in Sections 3.4, 4.4, and 7.4 for significant impacts to sensitive biological resources, all project-specific impacts would be mitigated to below a level of significance. Table 5 provides a summary of the proposed mitigation measures.

Table 5
SUMMARY OF MITIGATION MEASURES

Proposed Mitigation	Level Of Significance After Mitigation	Guideline Number(s)
MM 3.4.1 Mitigation for impacts to 0.01 acre of habitat supporting the federally endangered San Diego fairy shrimp will occur through purchase of two vernal pool credits from the Ramona Grasslands Conservation Bank (Figure 9).	Less than significant	3.1. 3.1.E 3.1.F 4.1.A 7.1.I
MM 3.4.2 Mitigation for impacts to 0.01 acre of habitat supporting the federally endangered San Diego fairy shrimp will occur through purchase of two vernal pool credits from the Ramona Grasslands Conservation Bank (Figure 9).	Less than significant	3.1.B
MM 3.4.3 Mitigation for impacts to non-native grassland will occur at a 0.5:1 ratio through off-site preservation of 0.8 acre of grassland habitat within the Ramona Grasslands Conservation Bank as part of the purchase of two vernal pool mitigation credits (see MM 3.4.1).	Less than significant	3.1.L 7.1.K
MM 3.4.4 No grubbing, clearing, or grading within 300 feet of an active raptor nest during the raptor-breeding season (January 15 to July 15) will occur. As such, all grading permits, improvement plans, and the final map will state the same. If grubbing, clearing, or grading is proposed during the raptor-breeding season, a pre-grading survey will be conducted within three days prior to clearing to determine whether raptors occur within the areas directly impacted by grading. If there are no raptors nesting (includes nest building or other breeding/nesting behavior) within this area, development will be allowed to proceed upon approval of the Director of the Department of Planning and Development Services (DPDS) with concurrence from USFWS and CDFW. However, if raptors are observed nesting or displaying breeding/nesting behavior within the area, construction will be postponed until all nesting (or breeding/nesting behavior) has ceased or until after July 15, to the satisfaction of the Director of DPDS with concurrence from USFWS and CDFW.	Less than significant	3.1.L 7.1.K

Table 5 (cont.)
SUMMARY OF MITIGATION MEASURES

Proposed Mitigation	Level Of Significance After Mitigation	Guideline Number(s)
MM 4.4.1 Mitigation for impacts to 1.6 acres of non-native grassland will occur at a 0.5:1 ratio through off-site preservation of 0.8 acre of grassland habitat within the Ramona Grasslands region. Currently the off-site mitigation location is proposed as the purchase of credits within the proposed Ramona Grasslands Conservation Bank (Figure 9).	Less than significant	4.1.A
MM 7.4.1 In order to ensure compliance with the MBTA, clearing of native vegetation will occur outside of the breeding season of most avian species (February 1 through September 1). Clearing during the breeding season of MBTA-covered species could occur if it is determined that no nesting birds (or birds displaying breeding or nesting behavior) are present immediately prior to clearing. A pre-construction survey will be conducted three days prior to clearing or grading activities to determine whether breeding or nesting avian species occur within impact areas prior to project implementation.	Less than significant	7.1.K

9.0 LIST OF PREPARERS AND PERSONS/ORGANIZATIONS CONTACTED

The following individuals contributed to the fieldwork and/or preparation of this report.

Barry Jones*†	B.A., Biology, Point Loma College, 1982.
W. Larry Sward	M.S., Biology, San Diego State University, 1979; B.S., Biology, San Diego State University, 1975

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*Primary report author

†County-approved Biological Consultant

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Appendix A

Plant Species Observed

Appendix A
PLANT SPECIES OBSERVED —
SOUTHWEST INVESTMENTS PROJECT IN RAMONA

FAMILY	SCIENTIFIC NAME	COMMON NAME
EUDICOTS		
Amaranthaceae	*Amaranthus albus**	White tumbleweed
	*Atriplex semibaccata**	Australian saltbush
	*Salsola tragus**	Russian thistle
Asteraceae	*Ambrosia psilostachya*	Western ragweed
	Corethrogyne filaginifolia	California-aster
	Deinandra fasciculata	Fascicled tarplant
	Grindelia robusta	Gum plant
	*Hypochaeris glabra**	Smooth cat's-ear
	Isocoma menziesii	Goldenbush
	*Lactuca serriola**	Wild lettuce
	*Osteospermum fructicosum**	Freeway daisy
Brassicaceae	*Brassica nigra**	Black mustard
	*Sisymbrium orientale**	Hare's ear cabbage
Caryophyllaceae	*Spergularia villosa*	Villous sand-spurry
Convolvulaceae	*Cressa truxillensis*	Alkali weed
Euphorbiaceae	*Croton setigerus*	Dove weed
Fabaceae	*Acmispon americanus*	Spanish clover
Lamiaceae	*Trichostema lanceolatum*	Woolly blue curls
Myrtaceae	*Eucalyptus camaldulensis**	Red gum
Polygonaceae	*Rumex crispus**	Curly dock
MONOCOTS		
Hyacinthaceae	*Chlorogalum parviflora*	Small-flower soap-plant
Iridaceae	*Sisyrinchium bellum*	Blue-eyed grass
Poaceae	*Avena fatua**	Wild oat
	*Bromus dianandrus**	Common rip-gut grass
	*Cynodon dactylon**	Bermuda grass
	Distichlis spicata	Salt grass
	*Festuca myuros**	Fescue
	*Festuca perennis**	Italian ryegrass
	*Hordeum murinum ssp. sasso**	Barley
	Lamarckia aurea	Goldentop
	Schismus barbata	Mediterranean grass

*Non-native species

Appendix B

Animal Species Observed or Detected

Appendix B
ANIMAL SPECIES OBSERVED OR DETECTED —
SOUTHWEST INVESTMENTS PROJECT IN RAMONA

FAMILY	SCIENTIFIC NAME	COMMON NAME
VERTEBRATES		
Birds		
Corvidae	*Zenaida macroura*	mourning dove
Fringillidae	*Carpodacus mexicanus*	house finch
Mimidae	*Mimus polyglottos*	northern mockingbird
Trochilidae	*Calypte anna*	Anna's hummingbird
Mammals		
Canidae	*Canis domesticus*	dog
Geomyidae	*Thomomys bottae*	Botta’s pocket gopher
Leporidae	*Sylvilagus bachmani*	Brush Rabbit

Appendix C

Sensitive Plant Species with Potential to Occur

Appendix C
SENSITIVE PLANT SPECIES WITH POTENTIAL TO OCCUR — SOUTHWEST INVESTMENTS PROJECT IN RAMONA

SPECIES	SENSITIVITY CODES AND STATUS*	HABITAT PREFERENCE/ REQUIREMENTS	VERIFIED ON SITE	POTENTIAL TO OCCUR ON SITE	FACTUAL BASIS FOR DETERMINATION OF OCCURRENCE POTENTIAL
San Diego thorn-mint (*Acanthomintha ilicifolia*)	FT/SE CNPS List 1B.1 County Group A	Ranges from San Diego County to Baja California, Mexico (Baja). Prefers heavy clay soils near vernal pools, in grasslands, and in chaparral and coastal sage scrub.	No	Moderate	Suitable habitat (grasslands, water holding basins) and soils occur on site. Would have been observed if present.
Coulter's saltbush (*Atriplex coulteri*)	--/-- CNPS List 1B.2 County Group A	Occurs in coastal areas of central and southern California and islands off the southern coast. Prefers coastal bluff scrub, coastal dunes, valley and foothill grasslands, and desert slopes. May be extirpated from San Diego County as well as nearing extirpation elsewhere in mainland California.	No	Moderate	Suitable habitat occurs on site. Species recorded within the Ramona Grasslands Preserve. Would have been observed if present.
Parish's brittlescale (*Atriplex parishii*)	--/-- CNPS List 1B.1 County Group A	Occurs in Riverside and San Diego counties. Prefers chenopod scrub; vernal pools; playas; alkaline flats on the periphery of salt pannes.	No	Low	Species known in California from only 3 occurrences in Riverside and San Diego counties. Requires alkali soils, which do not occur on site. Would have been observed if present.
Orcutt's brodiaea (*Brodiaea orcuttii*)	--/-- CNPS List 1B.1 County Group A	Found in Riverside, San Bernardino, Orange, and San Diego counties and Baja. Vernally moist grasslands, mima-mound topography, and the periphery of vernal pools are all preferred habitat for this corm.	No	Moderate	Suitable habitat (grasslands, water holding basins) and soils occur on site. Would have been observed if present.

Appendix C (cont.)
SENSITIVE PLANT SPECIES WITH POTENTIAL TO OCCUR — SOUTHWEST INVESTMENTS PROJECT IN RAMONA

SPECIES	SENSITIVITY CODES AND STATUS*	HABITAT PREFERENCE/ REQUIREMENTS	VERIFIED ON SITE	POTENTIAL TO OCCUR ON SITE	FACTUAL BASIS FOR DETERMINATION OF OCCURRENCE POTENTIAL
Southern tarplant (*Centromadia parryi* ssp. *australis*)	--/-- CNPS List 1B.1 County Group A	Found in San Diego, Los Angeles, Orange, Ventura, and Santa Barbara counties. Prefers seasonally moist (saline) grasslands. Mesic areas in valley and foothill grasslands, alkaline locales, and peripheral salt marsh are utilized.	No	Low	Although suitable habitat (grasslands, water holding basins) occurs on site, suitable soils (saline) do not. Would have been observed if present.
Round-leaved filaree (*Erodium macrophyllum*)	--/-- CNPS List 1B.1 County Group B	Widely distributed but rare in occurrence throughout western California. Occurs in clay soils in open areas of grassland or sage scrub in coastal valleys.	No	Low	Suitable habitat (grasslands) occurs on site.
Palmer's grapplinghook (*Harpagonella palmeri*)	--/-- CNPS List 4.2 County Group B	Ranges from Arizona and New Mexico to southern California. Annual herb that occurs on clay soils in chaparral, coastal sage scrub, and grasslands.	No	Low	Suitable habitat (grasslands) and soils occur on site. Would have been observed if present.
Graceful tarplant (*Holocarpha virgata* ssp. *elongata*)	--/-- CNPS List 4.2 County Group D	Found in San Diego, Riverside, and Orange counties in coastal mesas and foothills with grassland habitats.	No	Moderate	Suitable habitat (grasslands) and soils occur on site. Would have been observed if present.
Vernal barley (*Hordeum intercedens*)	--/-- CNPS List 3.2 County Group C	Range primarily southwestern California, with some occurrences in central coast of the state. Occurs in saline flats and depressions in grasslands or in vernal pool basins.	No	Moderate	Suitable habitat (grasslands, water holding basins) and soils occur on site. Would have been observed if present.
Spreading navarretia (*Navarretia fossalis*)	FT/-- CNPS List 1B.1 County Group A	Range from western Riverside through southwestern San Diego counties into Baja. Vernal pools and vernal swales preferred habitat of this small annual. Population size strongly correlated with rainfall; during drought years, numbers may be drastically reduced.	No	Moderate	Suitable habitat (grasslands, water holding basins) and soils occur on site. Would have been observed if present.

Appendix C (cont.)
SENSITIVE PLANT SPECIES WITH POTENTIAL TO OCCUR — SOUTHWEST INVESTMENTS PROJECT IN RAMONA

SPECIES	SENSITIVITY CODES AND STATUS*	HABITAT PREFERENCE/ REQUIREMENTS	VERIFIED ON SITE	POTENTIAL TO OCCUR ON SITE	FACTUAL BASIS FOR DETERMINATION OF OCCURRENCE POTENTIAL
Engelmann oak (*Quercus engelmannii*)	--/-- CNPS List 4.2 County Group D	Range from southern California (primarily from the Santa Ana Mountains to Baja California, Mexico). Occurs in oak woodland and southern mixed chaparral. Larger oaks sometimes occur in vast savannah grasslands. In foothills, may also occur as a shrubby element within the chaparral.	No	None	Conspicuous species that would have been observed if present.
Caraway leaved gilia (*Saltugilia caruifolia*)	--/-- CNPS List 4.3 County Group D	Found on east slopes of Palomar Mountain in San Diego County within chaparral and sandy openings in the lower montane coniferous forest.	No	None	No suitable habitat occurs on site.
Southern skullcap (*Scutellaria bolanderi* ssp. *austromontana*)	--/-- CNPS List 1B.2 CA Endemic County Group A	Central San Diego County, western Riverside County, and San Bernardino County. Occurs in chaparral and montane creek areas.	No	None	No suitable habitat occurs on site.
Rush-like bristleweed (*Xanthisma junceum*)	--/-- CNPS List 4.3 County Group D	Occurs in San Diego County and Baja. A xeric, low-growing chamise chaparral or Diegan coastal sage scrub is preferred habitat.	No	Low	Little suitable habitat occurs on site.

*Refer to Appendix H for an explanation of status sensitivity codes

Appendix D

Sensitive Animal Species with Potential to Occur

Appendix D
SENSITIVE ANIMAL SPECIES WITH POTENTIAL TO OCCUR —
SOUTHWEST INVESTMENTS PROJECT IN RAMONA

SPECIES	SENSITIVITY CODES AND STATUS*	HABITAT PREFERENCE/ REQUIREMENTS	VERIFIED ON SITE	POTENTIAL TO OCCUR ON SITE	FACTUAL BASIS FOR DETERMINATION OF OCCURRENCE POTENTIAL
INVERTEBRATES					
San Diego fairy shrimp (*Branchinecta sandiegonensis*)	FE/-- County Group 1 Proposed NC-MSCP covered Proposed NC-MSCP Narrow Endemic	Found seasonally at static pools that occur in tectonic swales or earth slump basins and other areas of shallow, standing water, often in patches of grassland and agriculture interspersed in coastal sage scrub and chaparral.	Yes	Observed	Species observed during protocol surveys in 2005-2006 and 2010-2011 (Black 2006, 2011).
Monarch butterfly (*Danaus plexippus*)	--/-- County Group 2	Roosts located in wind-protected tree groves (eucalyptus, Monterey pine, cypress), with nectar and water sources nearby. Larval host plants consist of milkweeds (*Asclepias* sp.).	No	Low	Some eucalyptus woodland occurs on site but it is limited and adjacent to SR-67.
Quino checkerspot butterfly (*Euphydryas editha quino*)	FE/-- County Group 1 Proposed NC-MSCP covered Proposed NC-MSCP Narrow Endemic	Potential habitat includes vegetation communities with areas of low-growing and sparse vegetation. These habitats include open stands of sage scrub and chaparral, adjacent open meadows, old foot trails and dirt roads.	No	Low	Site is outside of current USFWS survey area. The site does not contain potential habitat used by the species.

Appendix D (cont.)
SENSITIVE ANIMAL SPECIES WITH POTENTIAL TO OCCUR — SOUTHWEST INVESTMENTS PROJECT IN RAMONA

SPECIES	SENSITIVITY CODES AND STATUS*	HABITAT PREFERENCE/ REQUIREMENTS	VERIFIED ON SITE	POTENTIAL TO OCCUR ON SITE	FACTUAL BASIS FOR DETERMINATION OF OCCURRENCE POTENTIAL
INVERTEBRATES (cont.)					
Riverside fairy shrimp (*Streptocephalus woottonii*)	FE/-- County Group 1 Proposed NC-MSCP covered Proposed NC-MSCP Narrow Endemic	Typically deep vernal pools and seasonal wetlands at least 30 centimeters deep.	No	Low	Protocol surveys for this species were negative in 2006 and 2011 (Black 2004, 2006, 2011).
VERTEBRATES					
Amphibians					
Arroyo toad (*Anaxyrus californicus*)	FE/SSC County Group 1 Proposed NC-MSCP covered	Breeds in slow-moving streams within open-canopy riparian habitats. May also be found in upland scrub habitats adjacent to these areas.	No	Low	The nearest known breeding area for this species is approximately a quarter mile northwest of the site within the Santa Maria Creek. Clay soils on site not suitable for species.
Western spadefoot (*Spea hammondii*)	--/SSC County Group 2 Proposed NC-MSCP covered	Prefers floodplains, washes, and low hills. Southern California habitats include coastal sage scrub, chaparral, and grassland. Important habitat components include temporary pools, which form during winter and spring rains, for breeding and friable soils for burrowing.	No	Low	No suitable habitat occurs on site.

Appendix D (cont.)
SENSITIVE ANIMAL SPECIES WITH POTENTIAL TO OCCUR — SOUTHWEST INVESTMENTS PROJECT IN RAMONA

SPECIES	SENSITIVITY CODES AND STATUS*	HABITAT PREFERENCE/ REQUIREMENTS	VERIFIED ON SITE	POTENTIAL TO OCCUR ON SITE	FACTUAL BASIS FOR DETERMINATION OF OCCURRENCE POTENTIAL
VERTEBRATES (cont.)					
Reptiles					
California legless lizard (*Anniella pulchra pulchra*)	--/SSC County Group 2	Burrows in loose soils, sandy washes, or leaf litter. Occurs in moist areas of chaparral, pine, and oak woodlands, and riparian streamside growth.	No	Low	Little suitable habitat occurs on site.
Belding's orange-throated whiptail (*Aspidoscelis hyperythra*)	--/SSC County Group 2 Proposed NC-MSCP covered	Occurs in coastal sage scrub and chaparral, particularly washes and other sandy areas with patches of brush and rocks for cover.	No	Low	No suitable habitat occurs on site.
Coastal whiptail (*Aspidoscelis tigris stejnegeri*)	--/-- County Group 2	Open coastal sage scrub, chaparral, and woodlands. Frequently found along edges of dirt roads traversing its habitats. Important habitat components include open, sunny areas, shrub cover with accumulated leaf litter, and an abundance of invertebrate prey, particularly termites (*Reticulitermes* sp.).	No	Low	No suitable habitat occurs on site.
San Diego banded gecko (*Coleonyx variegatus abbotti*)	--/-- County Group 1	Chaparral and coastal sage scrub in areas with rock outcrops.	No	Low	No suitable habitat occurs on site.

Appendix D (cont.)
SENSITIVE ANIMAL SPECIES WITH POTENTIAL TO OCCUR — SOUTHWEST INVESTMENTS PROJECT IN RAMONA

SPECIES	SENSITIVITY CODES AND STATUS*	HABITAT PREFERENCE/ REQUIREMENTS	VERIFIED ON SITE	POTENTIAL TO OCCUR ON SITE	FACTUAL BASIS FOR DETERMINATION OF OCCURRENCE POTENTIAL
VERTEBRATES (cont.)					
Reptiles (cont.)					
Red-diamond rattlesnake (*Crotalus ruber ruber*)	--/SSC County Group 2 Proposed NC-MSCP covered	Favors rocky outcrops in coastal sage scrub, chaparral, creosote bush scrub, and areas dominated by cactus. Also encountered along rocky canyon bottoms and on the flats adjacent to rocky, desert foothills.	No	Low	Site does not support sage scrub habitat or rock outcrops.
San Diego ring-necked snake (*Diadophis punctatus similis*)	--/-- County Group 2	Generally occurs in moist habitats such as oak woodlands and canyon bottoms, but is also sometimes encountered in grassland, chaparral, and coastal sage scrub.	No	Low	No suitable habitat occurs on site.
Large-blotched salamander (*Ensatina eschscholzii klauberi*)	--/SSC County Group 1	Found in hardwood and coniferous forest, woodlands, and chaparral; often found underground, under rotting logs, or in caves.	No	None	No suitable habitat occurs on site.
Coastal rosy boa (*Lichanura trivirgata roseofusca*)	--/-- County Group 2	Found in dry, rocky brushlands and arid habitats, usually near intermittent streams but does not require permanent water.	No	Low	No suitable habitat occurs on site. Site supports some sage scrub habitat and a modest amount of rock outcrops; however, no intermittent streams occur on site.

Appendix D (cont.)
SENSITIVE ANIMAL SPECIES WITH POTENTIAL TO OCCUR — SOUTHWEST INVESTMENTS PROJECT IN RAMONA

SPECIES	SENSITIVITY CODES AND STATUS*	HABITAT PREFERENCE/ REQUIREMENTS	VERIFIED ON SITE	POTENTIAL TO OCCUR ON SITE	FACTUAL BASIS FOR DETERMINATION OF OCCURRENCE POTENTIAL
VERTEBRATES (cont.)					
Reptiles (cont.)					
San Diego horned lizard (*Phrynosoma coronatum*)	--/SSC County Group 2 Proposed NC-MSCP covered	Frequents a variety of habitats from sage scrub and chaparral to coniferous and broadleaf woodlands. Habitat requirements include open areas for sunning, bushes for cover, fine loose soil for rapid burial, and native ant species such as harvester ants (*Pogonomyrmex* sp.). Generally excluded from areas invaded by Argentine ants (*Linepithema humile*).	No	Low	No suitable habitat occurs on site.
California red-legged frog (*Rana aurora draytonii*)	FT/SSC County Group 1	Appropriate habitat is characterized by dense, shrubby riparian vegetation with deep, slow-moving water. Readily displaced by introduced aquatic predators, including bullfrogs (*Rana catesbiana*) or crayfish (*Procambarus* sp). Believed extirpated from San Diego County.	No	None	No suitable habitat occurs on site.
Coast patch-nosed snake (*Salvadora hexalepis virgultea*)	--/SSC County Group 2	This species prefers brushy or shrubby vegetation, such as chaparral with low shrub structure of minimum density.	No	None	No suitable habitat occurs on site.

Appendix D (cont.)
SENSITIVE ANIMAL SPECIES WITH POTENTIAL TO OCCUR — SOUTHWEST INVESTMENTS PROJECT IN RAMONA

SPECIES	SENSITIVITY CODES AND STATUS*	HABITAT PREFERENCE/ REQUIREMENTS	VERIFIED ON SITE	POTENTIAL TO OCCUR ON SITE	FACTUAL BASIS FOR DETERMINATION OF OCCURRENCE POTENTIAL
VERTEBRATES (cont.)					
Birds					
Cooper's hawk (*Accipiter cooperi*)	--/WL County Group 1	Nests in oak groves, mature riparian woodlands, and eucalyptus stands or other mature forests.	No	Moderate	Suitable foraging habitat and some nesting habitat occur on site.
Sharp-shinned hawk (*Accipiter striatus*)	--/WL County Group 1	In San Diego County, it has widespread distribution but occurs in small numbers and only during winter. Usually observed in areas with tall trees or other vegetative cover but can be observed in a variety of habitats.	No	Moderate	Suitable foraging habitat and some nesting habitat occur on site.
Tricolored blackbird (*Agelaius tricolor*)	BCC/SSC County Group 1 Proposed NC-MSCP Narrow Endemic	Highly colonial species occurring mostly in coastal lowland grasslands near open water sources for foraging.	No	Low	Although suitable foraging habitat occurs on site, no open water occurs.
Southern California rufous-crowned sparrow (*Aimophila ruficeps canescens*)	--/WL County Group 1 Proposed NC-MSCP covered	Coastal sage scrub where it occurs on rocky hillsides and in canyons but also may be found in open sage scrub/grassy areas of successional growth (i.e., after a fire).	No	Low	No suitable habitat occurs on site.
Grasshopper sparrow (*Ammodramus savannarum*)	--/SSC County Group 1 Proposed NC-MSCP covered	Grassland with sparse brush.	No	Moderate	Suitable grassland habitat and some nesting habitat occur on site. The site is highly disturbed adjacent to SR-67.

Appendix D (cont.)
SENSITIVE ANIMAL SPECIES WITH POTENTIAL TO OCCUR — SOUTHWEST INVESTMENTS PROJECT IN RAMONA

SPECIES	SENSITIVITY CODES AND STATUS*	HABITAT PREFERENCE/REQUIREMENTS	VERIFIED ON SITE	POTENTIAL TO OCCUR ON SITE	FACTUAL BASIS FOR DETERMINATION OF OCCURRENCE POTENTIAL
VERTEBRATES (cont.)					
Birds (cont.)					
Bell's sage sparrow (*Amphispiza belli belli*)	BCC/WL County Group 1 Proposed NC-MSCP covered	Occurs in sunny, dry stands of coastal sage scrub and chaparral.	No	Low	No suitable habitat occurs on site.
Golden eagle (*Aquila chrysaetos*)	Nesting and wintering; BCC, BGEPA/ WL, Fully Protected County Group 1 Proposed NC-MSCP covered	Forage in grassy and open, shrubby habitats. Nest most often on cliffs, less often in trees. Tend to require places of solitude and are usually found at a distance from human habitation.	No	Low	The site is highly disturbed in downtown Ramona. Species is not likely to forage site due to urban location.
Burrowing owl (*Athene cunicularia*)	BCC/SSC (burrow sites) County Group 1 Proposed NC-MSCP covered Proposed NC-MSCP Narrow Endemic	Open areas such as grasslands, pastures, coastal dunes, desert scrub, and edges of agriculture fields.	No	Low	The site is highly disturbed in downtown Ramona surrounded by commercial and residential development. Species is not likely to use the site due to urban location.

Appendix D (cont.)
SENSITIVE ANIMAL SPECIES WITH POTENTIAL TO OCCUR — SOUTHWEST INVESTMENTS PROJECT IN RAMONA

SPECIES	SENSITIVITY CODES AND STATUS*	HABITAT PREFERENCE/ REQUIREMENTS	VERIFIED ON SITE	POTENTIAL TO OCCUR ON SITE	FACTUAL BASIS FOR DETERMINATION OF OCCURRENCE POTENTIAL
VERTEBRATES (cont.)					
Birds (cont.)					
Canada goose (*Branta canadensis*)	--/-- County Group 2	Observed in winter in San Diego County near wetland habitats, often in flocks. Occurs in mixed fresh and brackish water habitats with low grass or succulent leaves.	No	Low	No suitable habitat occurs on site.
Red-shouldered hawk (*Buteo lineatus*)	--/-- County Group 1	Occurs in riparian woodland, oak woodland, orchards, eucalyptus groves, or other areas with tall trees.	No	Moderate	Suitable but not ideal foraging habitat and some nesting habitat occur on site.
Ferruginous hawk (*Buteo regalis*)	BCC/WL County Group 1	Uncommon winter visitor to San Diego County, usually in fall and winter. Prefers open grassland.	No	Moderate	Suitable but not ideal foraging habitat and some nesting habitat occur on site.
Turkey vulture (*Cathartes aura*)	--/-- County Group 1	Foraging habitat includes most open habitats with breeding occurring in crevices among boulders.	No	Moderate	Suitable but not ideal foraging habitat and some nesting habitat occur on site.
Northern harrier (*Circus cyaneus*)	--/SSC County Group 1 Proposed NC-MSCP covered	Marshes and open grasslands but often seen flying over shrub-covered hillsides.	No	Moderate	Suitable but not ideal foraging habitat and some nesting habitat occur on site.

Appendix D (cont.)
SENSITIVE ANIMAL SPECIES WITH POTENTIAL TO OCCUR — SOUTHWEST INVESTMENTS PROJECT IN RAMONA

SPECIES	SENSITIVITY CODES AND STATUS*	HABITAT PREFERENCE/ REQUIREMENTS	VERIFIED ON SITE	POTENTIAL TO OCCUR ON SITE	FACTUAL BASIS FOR DETERMINATION OF OCCURRENCE POTENTIAL
VERTEBRATES (cont.)					
Birds (cont.)					
Yellow warbler (*Dendroica petechia brewsteri*)	--/SSC County Group 2	Observed throughout much of San Diego County during the breeding season with rare sightings in winter. Preferred habitat is riparian woodland.	No	No	No suitable habitat occurs on site.
White-tailed kite (*Elanus leucurus*)	--/Fully Protected County Group 1	Riparian woodlands and oak or sycamore groves adjacent to grassland.	No	Moderate	No suitable habitat occurs on site.
California horned lark (*Eremophila alpestris actia*)	--/WL County Group 2	Sandy beaches, agricultural fields, grasslands, and open areas	No	Moderate	Suitable but not ideal foraging habitat and some nesting habitat occur on site.
Merlin (*Falco columbarius*)	--/WL County Group 2	Usually observed in grasslands but can occur in any habitat except dense woodlands. Rare in San Diego County and can only be found during winter.	No	Moderate	Suitable but not ideal foraging habitat and some nesting habitat occur on site.
Loggerhead shrike (*Lanius ludovicianus*)	BCC/SSC County Group 1	Found in open habitats including grasslands, shrublands, and ruderal vegetation with adequate perching locations.	No	Moderate	Suitable but not ideal foraging habitat and some nesting habitat occur on site.
California gull (*Larus californicus*)	--/WL County Group 2	In San Diego County, species observed in winter throughout coastal lowland. Prefers coastal areas and lakes.	No	No	No suitable habitat occurs on site.

Appendix D (cont.)
SENSITIVE ANIMAL SPECIES WITH POTENTIAL TO OCCUR — SOUTHWEST INVESTMENTS PROJECT IN RAMONA

SPECIES	SENSITIVITY CODES AND STATUS*	HABITAT PREFERENCE/ REQUIREMENTS	VERIFIED ON SITE	POTENTIAL TO OCCUR ON SITE	FACTUAL BASIS FOR DETERMINATION OF OCCURRENCE POTENTIAL
VERTEBRATES (cont.)					
Birds (cont.)					
Coastal California gnatcatcher (*Polioptila californica californica*)	FT/SSC County Group 1 Proposed NC-MSCP covered	Coastal sage scrub in the coastal belt of southern California.	No	Low	No suitable habitat occurs on site.
Western bluebird (*Sialia mexicana*)	--/-- County Group 2	Occurs throughout much of San Diego County, but concentrated in foothills and mountains. Prefers montane coniferous and oak woodlands.	No	No	No suitable habitat occurs on site.
Least Bell's vireo (*Vireo bellii pusillus*)	FE, BCC/SE, County Group 1 Proposed NC-MSCP covered	Mature riparian woodland	No	None	No suitable habitat on site. Site several miles from known breeding populations.
Mammals					
Pallid bat (*Antrozous pallidus pacificus*)	--/SSC County Group 2 Proposed NC-MSCP covered	Roosts in caves, mines, bridges, crevices, abandoned buildings, and trees.	No	Very low	Very little opportunity for foraging on site. No roosting areas on site.
Ringtail (*Bassariscus astutus*)	--/-- County Group 2	Occurs in various riparian habitats and in brush stands of moist forest and shrub habitats at low to middle elevations. Less common but found in wooded areas with hollow trees, sometimes around buildings.	No	Low	No suitable habitat occurs on site.

Appendix D (cont.)
SENSITIVE ANIMAL SPECIES WITH POTENTIAL TO OCCUR — SOUTHWEST INVESTMENTS PROJECT IN RAMONA

SPECIES	SENSITIVITY CODES AND STATUS*	HABITAT PREFERENCE/ REQUIREMENTS	VERIFIED ON SITE	POTENTIAL TO OCCUR ON SITE	FACTUAL BASIS FOR DETERMINATION OF OCCURRENCE POTENTIAL
VERTEBRATES (cont.)					
Mammals (cont.)					
Dulzura (California) pocket mouse (*Chaetodipus californicus femoralis*)	--/SSC County Group 2	Occurs in chaparral and coastal sage scrub, often adjacent to grassland.	No	Low	No suitable habitat occurs on site.
Northwestern San Diego pocket mouse (*Chaetodipus fallax fallax*)	--/SSC County Group 2	Open areas of coastal sage scrub and weedy growth, often on sandy substrates.	No	Low	No suitable habitat occurs on site.
Stephens' kangaroo rat (*Dipodomys stephensi*)	FE/ST County Group 1 Proposed NC-MSCP covered Proposed NC-MSCP Narrow Endemic	Range is San Jacinto Valley and adjacent areas of western Riverside County as well as San Bernardino and northwestern San Diego counties. Occurs in sparsely vegetated habitats of sagebrush or annual grasses.	No	Low	No suitable habitat occurs on site.
Spotted bat (*Euderma maculatum*)	--/SSC County Group 2	Prefers mountainous regions with ponderosa pines. Roosts primarily in crevices in rocky cliffs and canyons.	No	None	No suitable foraging or roosting habitat occurs on site.

Appendix D (cont.)
SENSITIVE ANIMAL SPECIES WITH POTENTIAL TO OCCUR — SOUTHWEST INVESTMENTS PROJECT IN RAMONA

SPECIES	SENSITIVITY CODES AND STATUS*	HABITAT PREFERENCE /REQUIREMENTS	VERIFIED ON SITE	POTENTIAL TO OCCUR ON SITE	FACTUAL BASIS FOR DETERMINATION OF OCCURRENCE POTENTIAL
VERTEBRATES (cont.)					
Mammals (cont.)					
Greater western mastiff bat (*Eumops perotis californicus*)	--/SSC County Group 2	Occurs in chaparral and oak woodland with coast live oaks and arid, rocky areas. Roosts in buildings, crevices in cliffs, in trees, and in tunnels.	No	None	No suitable foraging or roosting habitat occurs on site.
Western red bat (*Lasiurus blossevillii*)	--/SSC County Group 2	Day roosts are commonly in edge habitats adjacent to streams or open fields, in orchards, and sometimes in urban areas. Possible association with intact riparian habitat (particularly willows, cottonwoods, oaks, walnuts, and sycamores).	No	None	No suitable foraging or roosting habitat occurs on site.
San Diego black-tailed jackrabbit (*Lepus californicus bennettii*)	--/SSC County Group 2 Proposed NC-MSCP covered	Occurs primarily in open habitats including open coastal sage scrub, chaparral, grasslands, croplands, and disturbed areas (if at least some shrub cover present).	No	Moderate	Suitable habitat occurs on site.
Small-footed myotis (*Myotis ciliolabrum*)	--/-- County Group 2	Range is western U.S. Prefers arid and shortgrass prairie regions, cliffs, talus, or clay buttes or riverbeds in prairie areas.	No	None	No suitable habitat occurs on site.

Appendix D (cont.)
SENSITIVE ANIMAL SPECIES WITH POTENTIAL TO OCCUR — SOUTHWEST INVESTMENTS PROJECT IN RAMONA

SPECIES	SENSITIVITY CODES AND STATUS*	HABITAT PREFERENCE/ REQUIREMENTS	VERIFIED ON SITE	POTENTIAL TO OCCUR ON SITE	FACTUAL BASIS FOR DETERMINATION OF OCCURRENCE POTENTIAL
VERTEBRATES (cont.)					
Mammals (cont.)					
Long-eared myotis bat (*Myotis evotis*)	--/SSC County Group 2	Prefers thinly forested areas and is found around buildings or trees, but is occasionally found in caves.	No	None	No suitable foraging or roosting habitat occurs on site.
Fringed myotis bat (*Myotis thysanodes*)	--/SSC County Group 2	Generally in pinyon-juniper or conifer woodlands. Within San Diego County, known from Cleveland National Forest.	No	None	No suitable foraging or roosting habitat occurs on site.
Long legged myotis (*Myotis volans*)	--/-- County Group 2	In summer, found in trees, crevices, and buildings, particularly in forested areas. They form nursery colonies of several hundred that disperse in the fall. Their winter behavior is unknown.	No	None	No suitable foraging or roosting habitat occurs on site.
Yuma myotis bat (*Myotis yumanensis*)	--/SSC County Group 2	Occurs in arid areas. Roosts in buildings, mines, caves, and crevices.	No	None	No suitable foraging or roosting habitat occurs on site.
San Diego desert woodrat (*Neotoma lepida intermedia*)	--/SSC County Group 2	Trapping necessary for detection but not warranted due to the species low sensitivity.	No	Very low	Species not detected on site during surveys.
Pocketed free-tailed bat (*Nyctinomops femorosaccus*)	--/SSC County Group 2	Occurs in desert; roosts in rock outcrops.	No	Very low	No suitable foraging or roosting habitat occurs on site.

Appendix D (cont.)
SENSITIVE ANIMAL SPECIES WITH POTENTIAL TO OCCUR — SOUTHWEST INVESTMENTS PROJECT IN RAMONA

SPECIES	SENSITIVITY CODES AND STATUS*	HABITAT PREFERENCE/ REQUIREMENTS	VERIFIED ON SITE	POTENTIAL TO OCCUR ON SITE	FACTUAL BASIS FOR DETERMINATION OF OCCURRENCE POTENTIAL
VERTEBRATES (cont.)					
Mammals (cont.)					
Big free-tailed bat (*Nyctinomops macrotis*)	--/SSC County Group 2	Occurs in rocky areas; in day they roost in rocky cliffs, sometimes caves, buildings, or tree holes.	No	Very low	No suitable foraging or roosting habitat occurs on site.
Southern mule deer (*Odocoileus hemionus fuliginata*)	--/-- County Group 2	Coastal sage scrub, riparian and montane forests, chaparral, grasslands, croplands, and open areas if some scrub cover present. Crepuscular activity and movements along routes with greatest amount of protective cover.	No	Low	Scat not observed during surveys.
Southern grasshopper mouse (*Onychomys torridus ramona*)	--/SSC County Group 2	Occurs in open, arid habitats, including coastal sage scrub and chaparral, particularly in sandy soils.	No	Low	No suitable habitat occurs on site.
Townsend's big-eared bat (*Plecotus townsendii pallescens*)	--/SSC County Group 2 Proposed NC-MSCP covered	Roosts in caves, mines, and buildings.	No	None	No suitable foraging or roosting habitat occurs on site.
Mountain lion (*Puma concolor*)	--/-- County Group 2 Proposed NC-MSCP covered	Originally varied; now generally mountainous, semi-arid terrain and subtropical and tropical forests and swamps.	No	Low	Scat not observed during surveys.

Appendix D (cont.)
SENSITIVE ANIMAL SPECIES WITH POTENTIAL TO OCCUR — SOUTHWEST INVESTMENTS PROJECT IN RAMONA

SPECIES	SENSITIVITY CODES AND STATUS*	HABITAT PREFERENCE/ REQUIREMENTS	VERIFIED ON SITE	POTENTIAL TO OCCUR ON SITE	FACTUAL BASIS FOR DETERMINATION OF OCCURRENCE POTENTIAL
VERTEBRATES (cont.)					
Mammals (cont.)					
American badger (*Taxidea taxus*)	--/SSC County Group 2 Proposed NC-MSCP covered	Occurs in open plains and prairies, farmland, and sometimes edges of woods.	No	Low	No suitable habitat occurs on site.

*Refer to Appendix E for an explanation of status codes

Appendix E

Explanation of Status Codes for Plant and Animal Species

Appendix E
EXPLANATION OF STATUS CODES FOR PLANT AND ANIMAL SPECIES

FEDERAL, STATE, AND COUNTY CODES

U.S. Fish and Wildlife Service (USFWS)

FE Federally listed endangered
FT Federally listed threatened
BGEPA Bald and Golden Eagle Protection Act (see more information below)
BCC Birds of Conservation Concern (see more information below)

USFWS Bald and Golden Eagle Protection Act (BGEPA)

In 1782, the Continental Congress adopted the bald eagle as a national symbol. During the next one-and-a-half centuries, the bald eagle was heavily hunted by sportsmen, taxidermists, fisherman, and farmers. To prevent the species from becoming extinct, Congress passed the Bald Eagle Protection Act in 1940. The Act was extremely comprehensive, prohibiting the take, possession, sale, purchase, barter, or offer to sell, purchase, or barter, export or import of the bald eagle "at any time or in any manner."

In 1962, Congress amended the Eagle Act to cover golden eagles, a move that was partially an attempt to strengthen protection of bald eagles, since the latter were often killed by people mistaking them for golden eagles. The golden eagle, however, is accorded somewhat lighter protection under the Act than the bald eagle. Another 1962 amendment authorizes the Secretary of the Interior to grant permits to Native Americans for traditional religious use of eagles and eagle parts and feathers.

USFWS Birds of Conservation Concern (BCC)

The primary legal authority for Birds of Conservation Concern (2002) is the Fish and Wildlife Conservation Act of 1980 (FWCA), as amended. Other authorities include the Endangered Species Act, Fish and Wildlife Act (1956) and 16 USC §701. A FWCA 1988 amendment (Public Law 100-653, Title VIII) requires the Secretary of the Interior through the USFWS to "identify species, subspecies, and populations of all migratory non-game birds that, without additional conservation actions, are likely to become candidates for listing under the Endangered Species Act of 1973." The BCC report is the most recent effort by the USFWS to carry out this proactive conservation mandate.

The BCC report aims to identify accurately the migratory and non-migratory bird species (beyond those already designated as federally threatened or endangered) that represent the USFWS' highest conservation priorities and draw attention to species in need of conservation action. The USFWS hopes that by focusing attention on these highest priority species, the report will promote greater study and protection of the habitats and ecological communities upon which these species depend, thereby ensuring the future of healthy avian populations and communities. The report is available online at http://www.fws.gov/migratorybirds/reports/BCC2002.pdf.

Appendix E (cont.)
EXPLANATION OF STATUS CODES FOR PLANT AND ANIMAL SPECIES

FEDERAL, STATE, AND COUNTY CODES (cont.)

California Department of Fish and Wildlife (CDFW)

SE State listed endangered
ST State listed threatened
SR State listed rare
SSC State species of special concern
Fully Protected Fully Protected species may not be taken or possessed without a permit from the Fish and Wildlife Commission and/or CDFW.

County of San Diego

Plant Sensitivity

Group A Plants rare, threatened or endangered in California or elsewhere
Group B Plants rare, threatened or endangered in California but more common elsewhere
Group C Plants that may be quite rare, but more information is needed to determine rarity status
Group D Plants of limited distribution and are uncommon, but not presently rare or endangered

Animal Sensitivity

Group 1 Animals that have a very high level of sensitivity, either because they are listed as threatened or endangered or because they have very specific natural history requirements.

Group 2 Animal species that are becoming less common, but are not yet so rare that extirpation or extinction is imminent without immediate action. These species tend to be prolific within their suitable habitat types.

OTHER CODES AND ABBREVIATIONS

Draft North County Multiple Species Conservation Program (NC-MSCP)

NC-MSCP covered species for which County is working on a plan to authorize take for 63 species. The plan is in draft from and has not been approved yet.

MSCP Narrow Endemic (NE) Species

Some native species (primarily plants with restricted geographic distributions, soil affinities, and/or habitats) are referred to as a narrow endemic species. For vernal pools and identified narrow endemic species, the jurisdictions will specify measures in their respective subarea plans to ensure that impacts to these resources are avoided to the maximum extent practicable.

Appendix E (cont.)
EXPLANATION OF STATUS CODES FOR PLANT AND ANIMAL SPECIES

California Native Plant Society (CNPS) Codes

List

1A = Presumed extinct.

1B = Rare, threatened, or endangered in California and elsewhere. Eligible for state listing.

2 = Rare, threatened, or endangered in California but more common elsewhere. Eligible for state listing.

3 = Distribution, endangerment, ecology, and/or taxonomic information needed. Some eligible for state listing.

4 = A watch list for species of limited distribution. Needs monitoring for changes in population status. Few (if any) eligible for state listing.

Threat Code Extension

.1 = Seriously endangered in California (over 80 percent of occurrences threatened/high degree and immediacy of threat)

.2 = Fairly endangered in California (20 to 80 percent occurrences threatened)

.3 = Not very endangered in California (less than 20 percent of occurrences threatened, or no current threats known)

A CA Endemic entry corresponds to those taxa that only occur in California.

All List 1A (presumed extinct in California) and some List 3 (need more information; a review list) plants lacking threat information receive no threat code extension. Threat Code guidelines represent only a starting point in threat level assessment. Other factors, such as habitat vulnerability and specificity, distribution, and condition of occurrences, are considered in setting the Threat Code.

Appendix F

Focused Survey Reports for Fairy Shrimp

Listed Fairy Shrimp Presence and Recommendations for a Ramona, CA Urban Lot.

Chuck Black
Ecological Restoration Service
San Diego, CA
June 7, 2006

10(a)(1)(A) permit
TE835549-3
Effective 5/27/03-5/26/07

Introduction

Ecological Restoration Service [ERS] performed U. S. Fish and Wildlife Service [Service] protocol dry and wet sampling for basins and depressions on a lot located at 1703 Main St., Ramona CA (Figure 1) in 2004 and 2006 (Black 2004, Black 2006). This report reiterates the results from those samplings, and discusses their significance and issues affecting commercial development of the parcel.

Methods

At the request of the property owner in 2004, depressions at the site were sampled for fairy shrimp cyst presence in August and September 2004 (Black 2004). Since ponding of basins on the site had not been observed by ERS prior to this sampling, every depression on the parcel that showed evidence or potential for ponding (including topographical position in the landscape, the presence of clay skins and drift lines, and vegetation changes potentially associated with ponding) was sampled.

In March 2006 ERS was requested by a corporation purchasing the property to perform protocol wet sampling on the basins. Basins had not ponded for any extended period during the 2005-06 rainfall season prior to commencement of sampling in March 2006.

Results

Site Condition

The site (Figure 2) is highly disturbed, with no trace of the original rolling mima-mound topography and chaparral vegetation that was probably present at one time. A small remnant of this original type of topography, with fairly natural vernal pools, is present at the Ramona Unified School District Site 0.6 miles to the southeast of the sampled area. The majority the parcel is covered with either a thick non-native grassland (principally *Avena* sp., *Bromus*. sp, and *Lolium* sp.), or

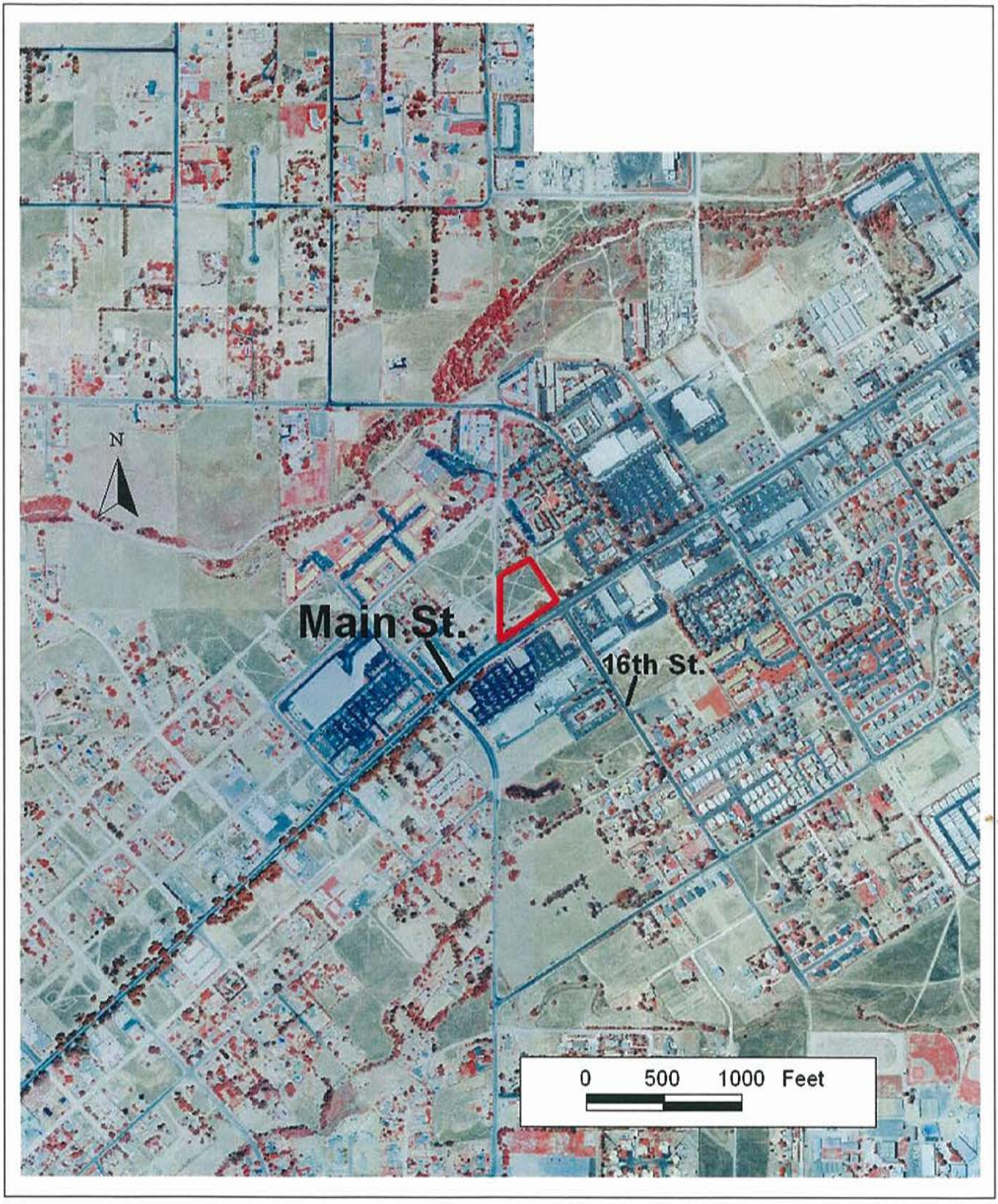

Figure 1 - Ramona, California area with location of the survey area.

is compacted parking and road or path bare dirt. Several of the depressions have *Hordeum murianum*, a non-native species that is frequently found on vernal pool margins. No native vernal pool plant species were observed in any basins or low areas on the site. Berms formed by the paved roads to the northeast and southwest, and by the dirt road along the San Diego Gas and Electric [SDG&E] right-of-way running north-south along the western border of the property tend to cause water to be directed towards the center of the subject parcel.

2005-06 Rainfall and Basin Water Holding

Basins on the site and on the adjacent parcels did not start ponding water until a moderate storm event of 0.77" on February 28 and with associated storm events through March and early April 2006 (Figure 2). Several basins on the

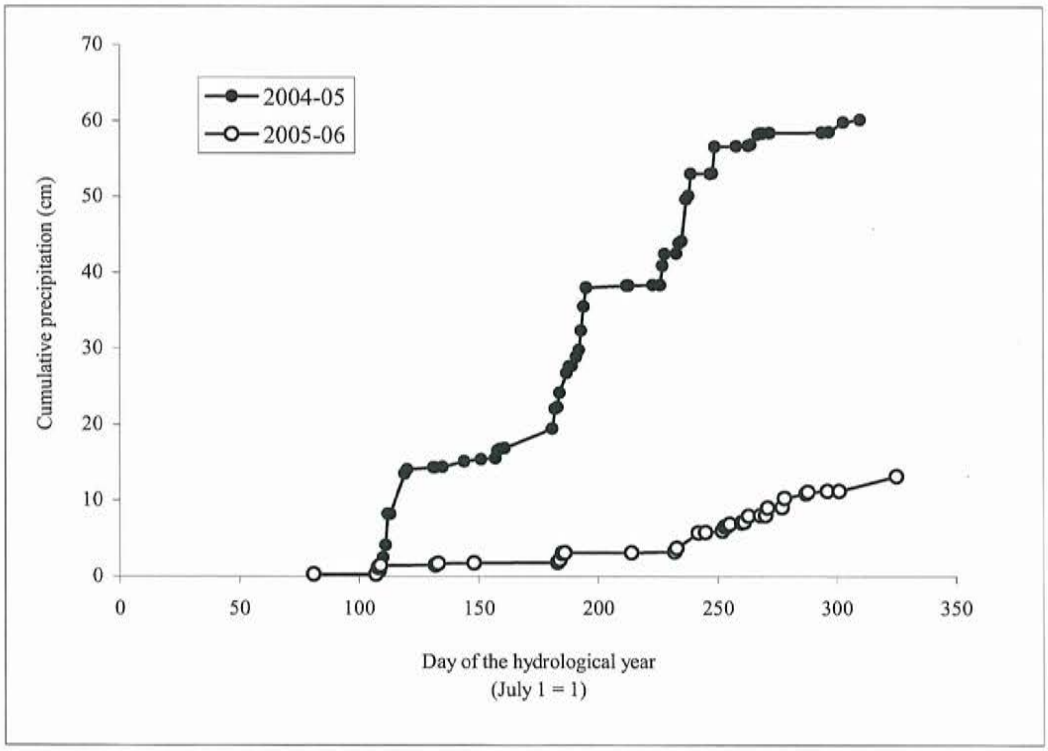

Figure 2 - Cumulative daily precipitation totals, 2004-05 and 2005-06 through June 5, 2006 at Lindbergh Field, San Diego.

parcel held water continuously until mid-April 2006, and several shallower basins ponded and dried several times through the March and April rainfall events. Ponded basin margins were mapped with a sub-meter accuracy Trimble global positioning system (gps) unit during monitoring visits.

The larger and deeper basins that ponded in the spring of 2006 corresponded well with the basins mapped and dry sampled in 2004 (Figure 3).

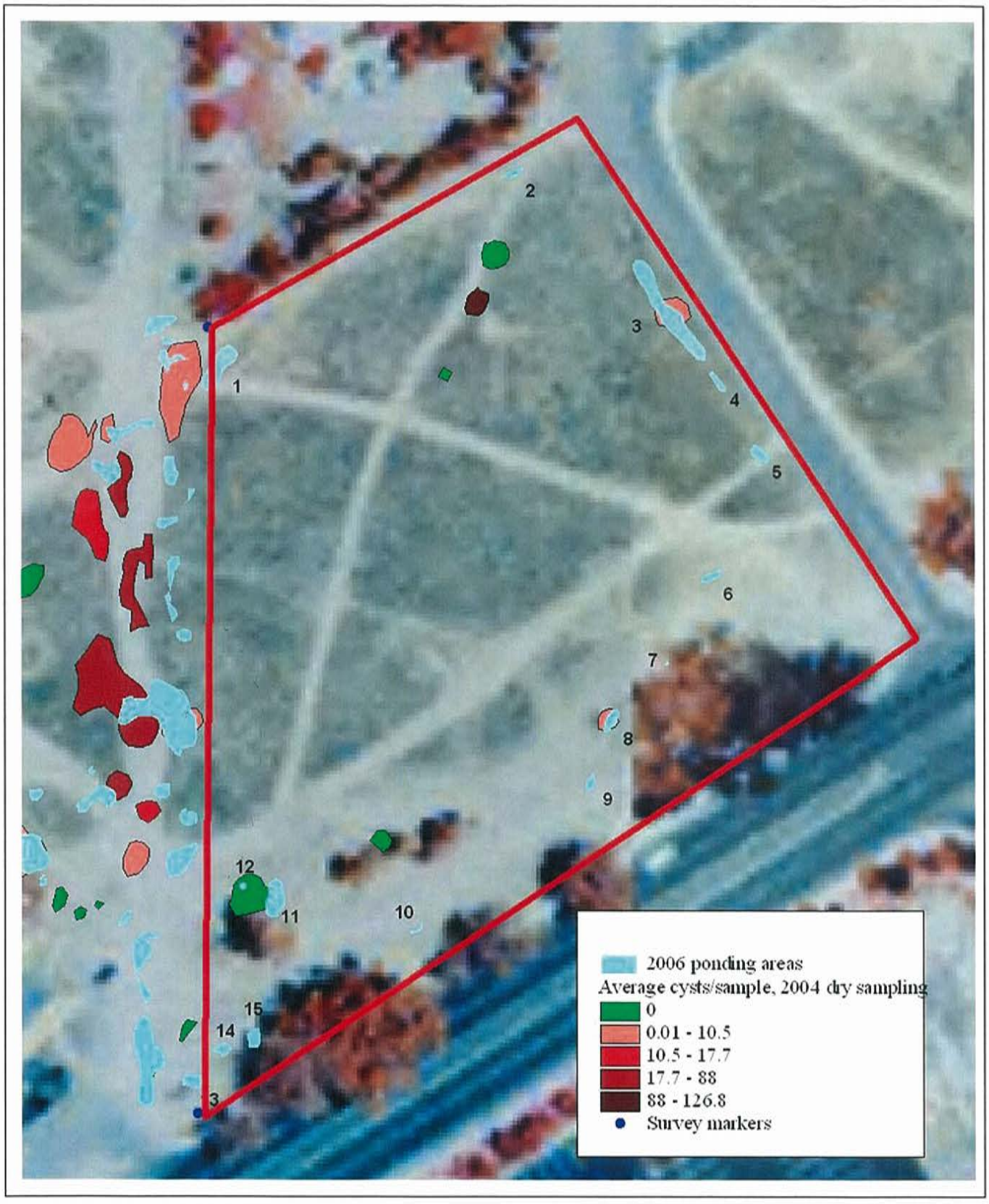

Figure 3- Average cyst numbers in sampled depressions from 2004 dry sampling, and ponded areas monitored for hatched shrimp in 2006.

Nine additional shallow puddles ponded for short periods on compacted surfaces. Ponding Basin 3 (Figure 3) became extended as traffic along the road where it was found enlarged ruts during the ponding period.

Hatched Shrimp Presence

None of the basins on the survey parcel had hatched shrimp present during the 2005-06 sampling period.

Immature hatched shrimp were observed in several basins in the SDG&E right of way to the west of the survey property on March 8, 2006. Shrimp matured and were present in several of these basins and in basins on the adjacent parcels during March and early-mid April. All individuals collected were endangered San Diego Fairy Shrimp, *Branchinecta sandiegonensis*.

Hatched Shrimp and Cyst Sampling Results

Three sampled depressions within the current survey area were found to have cysts present in the Black (2004) survey (Figure 3). Very small numbers of cysts (3.5 and 0.3 cysts per sample in Basins 3 and 8, respectively) were found in basins that ponded water in 2006 (Figure 3). High numbers of cysts (126.8 cysts/sample) were found in a depression that did not pond water in 2006 (Figure 3). The hatched fairy shrimp that were found in basins on the adjacent parcels to this sample area were mostly found in depressions that had high cyst numbers in 2004 sampling (Black 2004 and personal observation). A number of basins, both at this site and at other in Ramona and on MCAS Miramar that had small numbers of cysts in soil samples did not have hatched shrimp in 2006 either (personal observation). The ponding characteristics of the single depression with high soil cyst numbers in a high rainfall year is not known. It is possible that it might support a population of hatched fairy shrimp, or cysts may remain in high concentrations from a time when the topography was more conducive to normal vernal pool functioning. This may be the case for the areas of low cyst numbers also. Since they are both on roads that get a moderate amount of vehicle traffic (including traffic during the March 2006 ponding period), they might also represent cysts that were transported to the depressions in mud from other more densely populated basins.

Area of Basins With Cysts Present

The ponded areas of the Basins 3 and 8, which had very small numbers of cysts present in 2004 sampling, were 210 and 92 square feet. The estimated ponding area in an average rainfall year of the basin with large numbers of cysts in soil samples, which did not pond in 2005-06, is 36 square feet. The graded topography on this site is very flat, and estimated watersheds for the basins would be very localized.

Restoration-Enhancement/Salvage Possibilities for the Site

The highly disturbed condition of the site, combined with the constraints on drainage patterns imposed by the adjacent paved roads, easements, and development make this parcel a poor candidate for restoration and enhancement of the existing depressions that have fairy shrimp cysts present. The two basins that had very small numbers of cysts present in dry sampling are unlikely to support viable fairy shrimp populations even in optimal ponding years. Cysts in these basins are likely to represent remnants of populations from past pools on the site, or more likely contamination by vehicle traffic driving through some of the more densely occupied puddles and depositing soil with cysts. The single depression with high cysts numbers would likely pond and support hatched fairy shrimp in higher precipitation years. Soil from the central 36 square feet of basin surface from this puddle should be salvaged to a depth of 5-10 cm for use of inoculum in newly created habitat, or appropriate habitat unoccupied by San Diego fairy shrimp. Numbers of cysts and the doubtful viability of these few cysts from the two other basins where they cysts were found provide poor justification for salvaging the soils from these basins or using it to inoculate un-occupied habitat elsewhere.

References

Black, C. 2006. Wet Sampling for the Presence of Hatched Fairy Shrimp at a Ramona, California Property- May, 2006. A report to Joe O'Keefe, to be bunmitted to the U.S. Fish and Wildlife Service in the 10(a)(1)(A) permit report for 2006. 4 p.

Black, C. 2004. Examination of Basins for Fairy Shrimp Cyst Presence at a Ramona, California Property- September 2004. A report to Dr. Habib, submitted to the U.S. Fish and Wildlife Service in the 10(a)(1)(A) permit report for 2004. 5 p.

Wet Sampling for the Presence of Hatched Fairy Shrimp at a Ramona, California Property- 2010-11.

Chuck Black
Ecological Restoration Service
San Diego, CA
April 20, 2011

10(a)(1)(A) permit
TE835549-5&6
Effective to 3/9/2015

Introduction

Ecological Restoration Service [ERS] was contracted by Joe O'Keefe of Main16, L.P. in December, 2010, and asked to sample basins on Parcel #281-171-04 located at 1703 Main St., Ramona, California (Figure 1) for the presence of hatched fairy shrimp during the 2010-11 rainfall season. Depressions on this parcel and two adjacent parcels to the west (Figure 2) had been sampled in 2004 for the presence of fairy shrimp cysts (Black 2004), and in the 2005-06 wet season for the presence of hatched fairy shrimp (Black 2006).

Methods

Basins on the site were first visited on December 23, 2011 when ponding was at near maximum. The upper margins of basins holding water were mapped with a Trimble GeoXT sub-meter accuracy global positioning system (gps) unit. This unit has an integrated receiver that uses Wide Area Augmentation System (WAAS) messages to improve gps accuracy. The Trimble gps data was exported through a Pathfinder Data computer program to Arcview Shapefiles in the 1983 State Plane, California Zone VI geographic coordinate system. Shapefiles were overlain on a 2001- flown orthocorrected aerial photograph obtained from the San Diego Association of Governments (SANDAG). Survey markers identifying the southeast and southwest corners of the parcel were pointed out by Ms. Lynn Clark, a realtor representing the property owner, in March, 2006. These were mapped with the gps unit.

The site was visited and sampled for the presence of fairy shrimp on the dates listed in Table 1. The margins of basins were observed for hatched fairy shrimp, then basins were swept repeatedly with a fine-mesh aquarium net. If hatched shrimp were present, two-ten mature fairy shrimp were collected for identification and voucher specimens, depending on estimated total population sizes.

Table 1 – Dates of visits and observations made during the sampling period.

Date	Observation	Fairy shrimp presence
12/24/10	GPS pools at full ponding	
1/1/11	Basins mostly ponded	Immature fairy shrimp present in 2 basins
1/9/11	Basins ponded	San Diego fairy shrimp present in 2 basins
1/19/11	Basins dry	
1/23/11	Basins dry	
2/6/11	Basins dry	
2/21/11	All basins ponding	No shrimp observed
2/27/11	Basins ponding	Immature shrimp in 2 basins
3/5/11	Basins ponding	San Diego fairy shrimp present in corner and north basin, low 100s
3/17/11	Basins dry	
3/30/11	Basins ponding	Shrimp 10s in corner pool, 100s north ruts
4/10/11	Large corner basin ponding	Shrimp 1s in basin
4/17/11	Basins dry	

Results

Site Condition

The site (Figures 2, 4) is highly disturbed, with no trace of the original rolling mima-mound topography and chaparral vegetation that was probably present at one time. A small remnant of this original type of topography, with fairly natural vernal pools, is present at the Ramona Unified School District Site 0.6 miles to the southeast of the sampled area. The majority the area of the three parcels is covered with either a thick non-native grassland (principally *Avena* sp., *Bromus*. sp, and *Lolium* sp.), or is compacted parking and road or path bare dirt. Several of the depressions have *Hordeum murianum*, a non-native species that is frequently found on vernal pool margins, or *Rumex crispus*, a wetland weed species. No native vernal pool plant species were observed in any basins or low areas on the site. Berms formed by the paved roads to the northeast and southwest, and by the dirt road along the San Diego Gas and Electric [SDG&E] right-of-way running north-south through the properties tend to cause water to be directed towards the center of the subject parcel.

2010-11 Rainfall and Basin Water Holding

There were moderate storm events in early October, late October, and late November 2010 (Figure 3). Basins probably ponded briefly with these events, but sampling did not begin until late December. Basins were at maximum ponding on the first visit, December 23, after a large storm event of nearly 4" of rainfall (Figure 3). Basins ponded from this storm event until late January. Major storm events in late February and late March caused basin ponding again, with pools drying between storm events. Subject basins were sampled for fairy shrimp

presence during the last three ponding-drying cycles. Total rainfall as of April 20 for the rainfall year was 31 cm, nearly twice the seasonal total during the 2005-06 wet season (Figure 3), and above the long term seasonal average of 25 cm for recorded at San Diego between 1859 and 2011 .

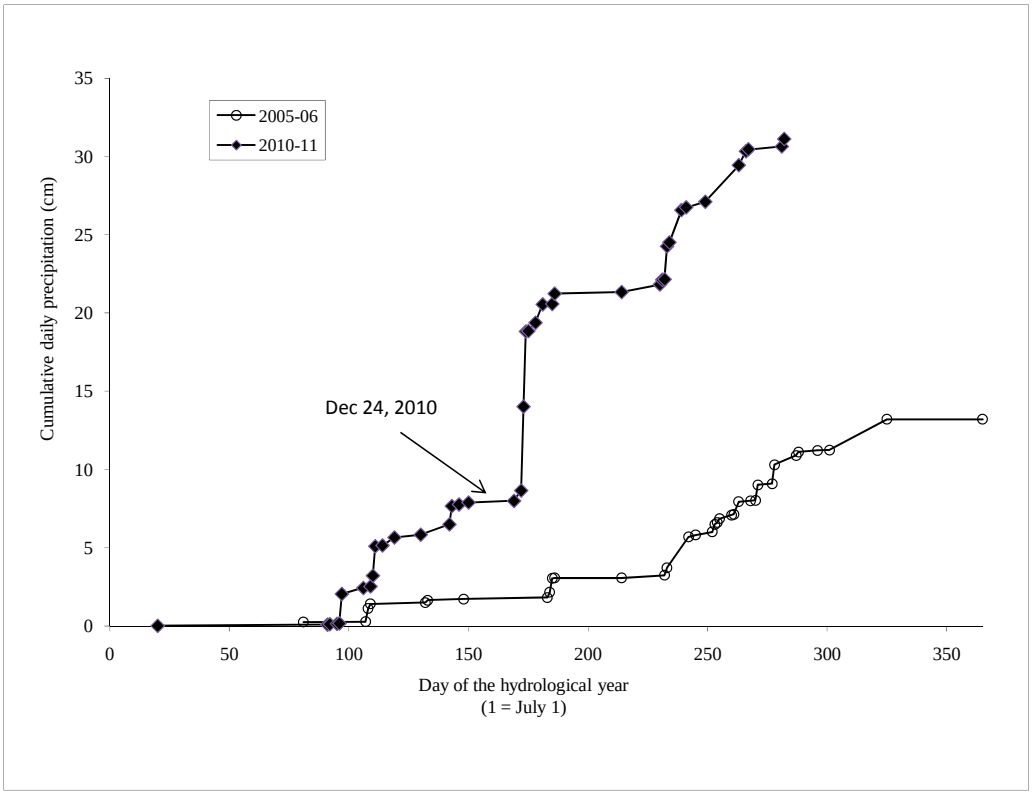

Figure 3 - Cumulative daily precipitation totals, 2005-06 and 2010-11 through April 20, 2011 at Lindbergh Field, San Diego.

Hatched Shrimp Presence and Comparisons to Past Sampling

Hatched fairy shrimp were observed in areas 1 and 2 (Figure 4 and image 1) during all three sampled ponding periods (Table 1). All individuals collected were endangered San Diego Fairy Shrimp, *Branchinecta sandiegonensis*. A group of several road puddles in the southwest corner of the parcel (area 1 in Figure 4) merge into one large puddle at maximum ponding, and separate into several smaller puddles on drying. The large puddle is only partially on the subject parcel- the majority is on the sewer and power line easement area to the west. One of the separate basins in this area had cysts present in 2004 dry sampling, and hatched shrimp were casually observed (non-protocol incidental observations, C. Black) in 2004-05 and in subsequent yeaars.

Several distinct ruts also merge into a single larger rut in area 2 (Figure 4 and image 2), which has a thick covering of exotic annual grasses. Hatched fairy shrimp were not observed in this area in the drought 2005-06 season, when ponding occurred only very late in the season.

Cysts were found in areas 3 and 4 of Figure 4 in 2004 dry sampling (Black 2004). The area 3 road puddle did pond for more than a week several times during this season, but no hatched shrimp or other invertebrates were observed. The area 4 puddle with higher cyst concentrations also ponded for more than 10 days several times during the 2010-11 sampling period, but it was characterized by a very dense stand of grass, and no hatched shrimp were present.

Areas of mapped basins that had hatched fairy shrimp present in 2010-11 sampling and where cysts had been found in 2004 are presented in Table 2.

Table 2 – Areas of basins.

Basin number	Area (square feet)
1	172*
2	232
3	38
4	69

*area esttimated actually within parcel boundary.
Total area of pool is 652 square feet.

Vernal Pool Plants and other Vernal Pool Invertebrate Presence

The only plant generally found in vernal pools present in any of the basins on the subject parcel was *Lythrum hyssopifolium*, an exotic weed common in natural and disturbed San Diego vernal pool basins. No ostracodes or other invertebrates or amphibians were observed in any basins during sampling.

Discussion

Although sampling of the basins on this site probably missed brief ponding periods in the early part of the season (October and November), monitoring of all basins from late December through April, during three separate filling and drying cycles, showed consistent results, with hatched San Diego fairy shrimp present in two areas during all three cycles. The two additional areas of the site where cysts were found in 2004 dry sampling ponded for more than 10 days several times, but had no hatched shrimp present. These cyst concentrations likely represent past locations of vernal pools before the site was graded and disturbed (probably much more than 5 years before the present). It is likely that the continued moderate disturbance along the easement and to a lesser extent along the north boundary helps maintain the rut topography and disturbed areas that make them suitable for continued fairy shrimp habitat. These occupied

depressions represent only very marginal habitat, with low fairy shrimp populations and no native pool plant or vernal pool animal species other than San Diego fairy shrimp.

References

Black, C. 2004. Examination of Basins for Fairy Shrimp Cyst Presence at a Ramona, California Property- September 2004. A report to Dr. Habib, submitted to the U.S. Fish and Wildlife Service in the 10(a)(1)(A) permit report for 2004. 5 p.

Black, C. 2004. Wet Sampling for the Presence of Hatched Fairy Shrimp at a Ramona, California Property- May, 2006. A report prepared for J. O'Keefe and submitted to the U.S. Fish and Wildlife Service in the 10(a)(1)(A) permit report for 2006. 6 p.

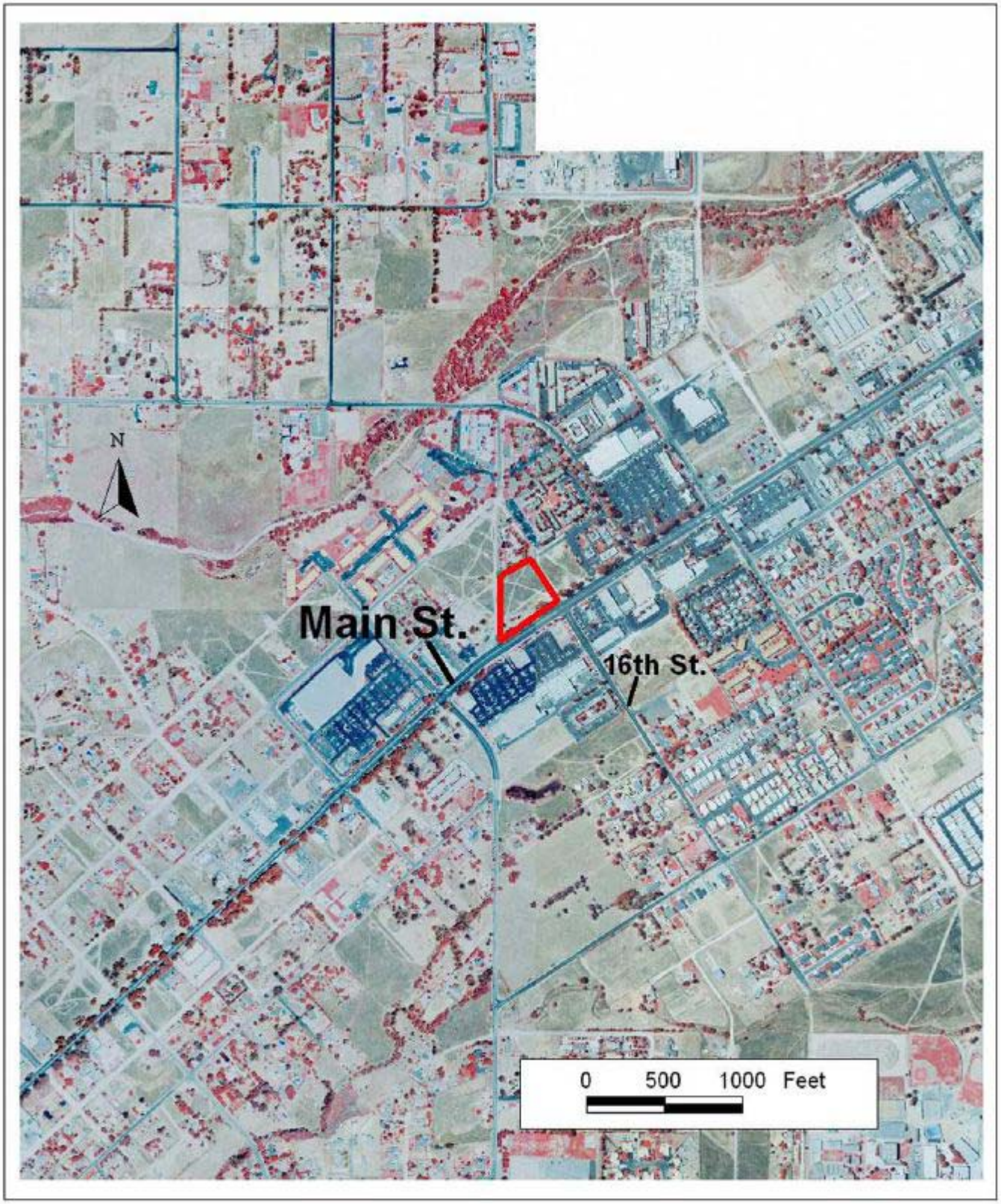

Figure 1 - Ramona, California area with location of the survey area.

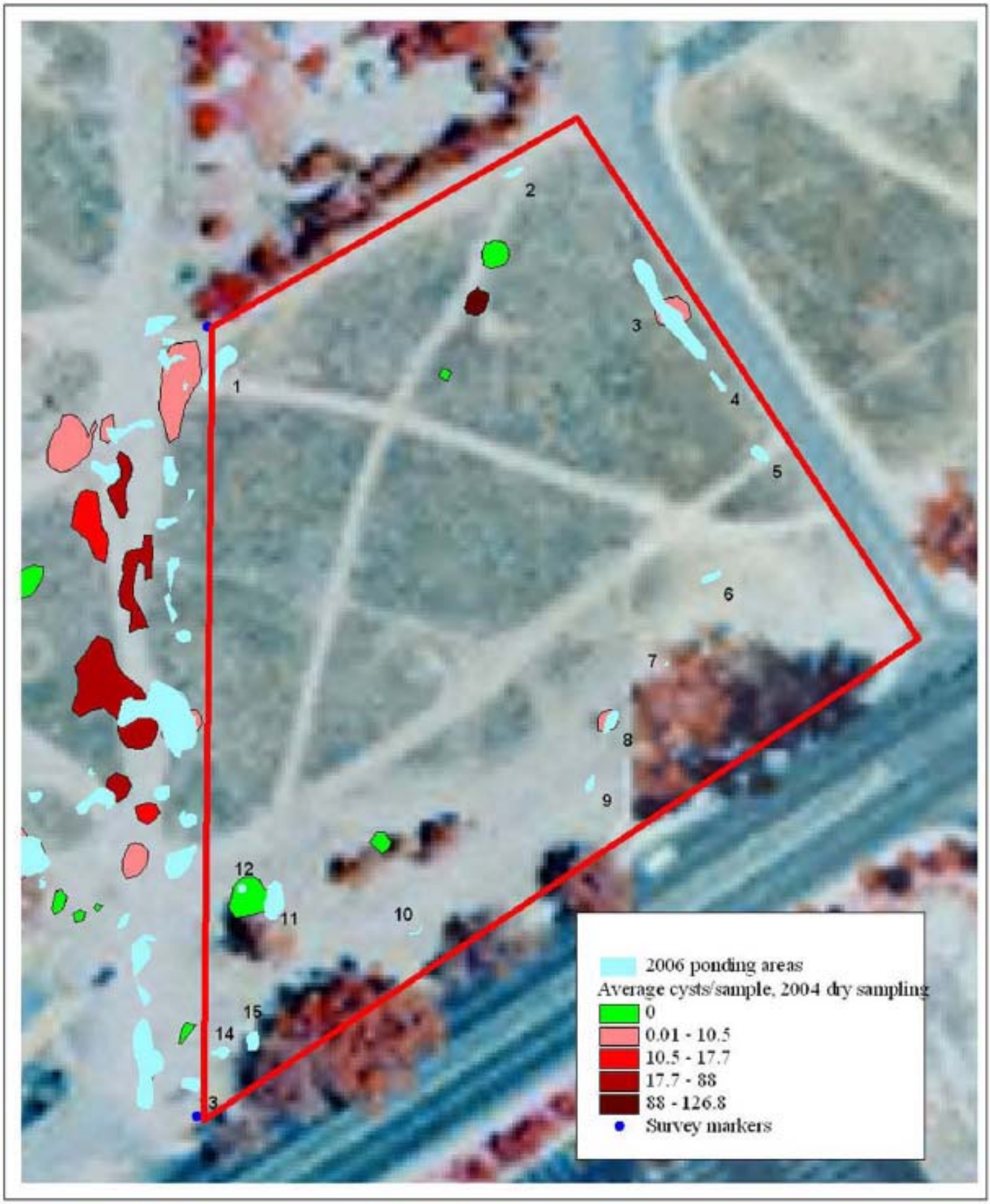

Figure 2 - Cyst densities in pools sampled in 2004, and basins monitored in the 2005-06 wet season (blude) when no hatched fairy shrimp were observed in any parcel basins.

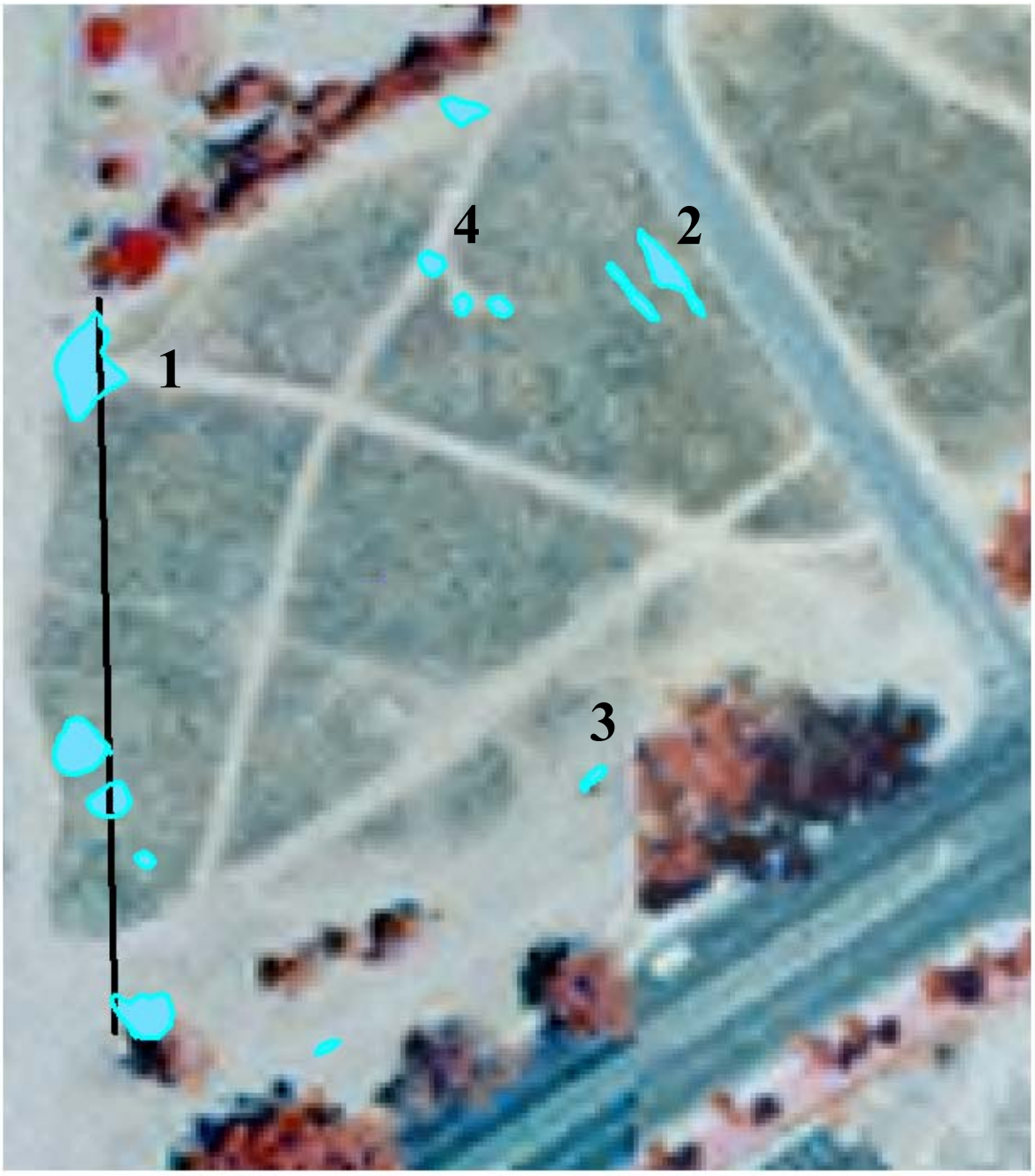

Figure 4 - Basins at maximum ponding monitored for the 2010-11 season. Hatched San Diego fairy shrimp were found in basins 1 and 2. Cysts were found in 2004 sampling in areas 1, 2, 3, and 4.

Image 1 - Basin area 1

Image 2 - Basin area 2

Image 3 - Basin area 3

Image 4 - Basin area 4

Appendix G

Incidental Take Permit for San Diego Fairy Shrimp

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, California 92008

In Reply Refer To:
FWS-15B0160-15CPA0314

AUG 26 2015

Mr. Joseph O'Keefe
Main 16 L.P.
12526 High Bluff Drive, Suite 335
San Diego, California 92130

Dear Mr. O'Keefe:

We are pleased to enclose a copy of your Endangered Species Act section 10(a)(1)(B) incidental take permit for the Main 16 L.P. Ramona project. Please carefully review the permit and enclosures. The permit takes effect August 26, 2015, and expires on August 26, 2020. Acceptance of the permit acknowledges your commitment to comply with the conditions of the permit.

Thank you for helping to conserve the federally endangered San Diego fairy shrimp (*Branchinecta sandiegonensis*). We look forward to assisting you in implementing the habitat conservation plan.

If you have any questions about this permit, please contact Doreen Stadtlander at 760-431-9440, extension 223.

Sincerely,

G. Mendel Stewart
Field Supervisor

Enclosures

DEPARTMENT OF THE INTERIOR
U.S. FISH & WILDLIFE SERVICE
Endangered Species Permit Office
2800 Cottage Way, Suite W-2606
Sacramento, CA 95825-1846
permitsR8ES@fws.gov

FEDERAL FISH AND WILDLIFE PERMIT

1. PERMITTEE

MAIN 16, LP
12526 HIGH BLUFF DRIVE, SUITE 355
SAN DIEGO, CA 92130
U.S.A.

2. AUTHORITY-STATUTES
16 USC 1539(a)

REGULATIONS
50 CFR 17.22

50 CFR 13

3. NUMBER
TE74483B-0

4. RENEWABLE	5. MAY COPY
☒ YES ☐ NO	☒ YES ☐ NO

6. EFFECTIVE	7. EXPIRES
8/26/2015	8/26/2020

8. NAME AND TITLE OF PRINCIPAL OFFICER *(If #1 is a business)*
JOSEPH O'KEEFE
VP OF IPMG, INC., GENERAL PARTNER OF MAIN 16, LP

9. TYPE OF PERMIT
NATIVE ENDANGERED SP. HABITAT CONSERVATION PLAN - E WILDLIFE

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED
A 2.5 acre property (Assessor's Parcel Number 281-171-04) located at the northwestern of State Route 67 (Main Street) and 16th Street in the Ramona area of unincorporated San Diego County, California

11. CONDITIONS AND AUTHORIZATIONS:

A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.

B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL, TRIBAL, OR OTHER FEDERAL LAW.

C. VALID FOR USE BY PERMITTEE NAMED ABOVE.

D. All sections of Title 50 Code of Federal Regulations, §§13 and 17.22 are conditions of the permit (Attachment)

E. The Permittee is authorized to take:

Death, or injury of, or harm to, all San Diego fairy shrimp cysts from grading of the four basins (0.01 acre of ponded area) within the project boundary as shown in Figure 5 of the HCP. The amount or extent of the take will be exceeded if more than the 4 basins (0.01 acres of ponded area) within the project boundary, as shown in Figure 5 of the HCP, are impacted.

☒ ADDITIONAL CONDITIONS AND AUTHORIZATIONS ALSO APPLY

12. REPORTING REQUIREMENTS

ISSUED BY	TITLE	DATE
D. Meade Stewart	FIELD OFFICE SUPERVISOR	8/26/2015

(g) If the Solicitor decides that relief should not be granted, the Solicitor shall so notify the petitioner in writing, stating in the notification the reasons for denying relief. The petitioner may then file a supplemental petition, but no supplemental petition shall be considered unless it is received within 60 days from the date of the Solicitor's notification denying the original petition.

[45 FR 17864, Mar. 19, 1980, as amended at 47 FR 56861, Dec. 21, 1982]

§ 12.42 Recovery of certain storage costs.

If any wildlife, plant, or evidentiary item is seized and forfeited under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, any person whose act or omission was the basis for the seizure may be charged a reasonable fee for expenses to the United States connected with the transfer, board, handling, or storage of such property. If any fish, wildlife or plant is seized in connection with a violation of the Lacey Act Amendments of 1981, 16 U.S.C. 3371, *et seq.*, any person convicted thereof, or assessed a civil penalty therefor, may be assessed a reasonable fee for expenses of the United States connected with the storage, care and maintenance of such property. Within a reasonable time after forfeiture, the Service shall send to such person by registered or certified mail, return receipt requested, a bill for such fee. The bill shall contain an itemized statement of the applicable costs, together with instructions on the time and manner of payment. Payment shall be made in accordance with the bill. The recipient of any assessment of costs under this section who has an objection to the reasonableness of the costs described in the bill may, within 30 days of the date on which he received the bill, file written objections with the Regional Director of the Fish and Wildlife Service for the Region in which the seizure occurred. Upon receipt of the written objections, the appropriate Regional Director will promptly review them and within 30 days mail his final decision to the party who filed objections. In all cases, the Regional Director's decision shall constitute final administrative action on the matter.

[47 FR 56861, Dec. 21, 1982]

Subpart F—Return of Property

§ 12.51 Return procedure.

If, at the conclusion of the appropriate proceedings, seized property is to be returned to the owner or consignee, the Solicitor or Service shall issue a letter or other document authorizing its return. This letter or other document shall be delivered personally or sent by registered or certified mail, return receipt requested, and shall identify the owner or consignee, the seized property, and, if appropriate, the bailee of the seized property. It shall also provide that upon presentation of the letter or other document and proper identification, and the signing of a receipt provided by the Service, the seized property is authorized to be released, provided it is properly marked in accordance with applicable State or Federal requirements.

PART 13—GENERAL PERMIT PROCEDURES

Subpart A—Introduction

Sec.

Subpart B—Application for Permits

Subpart C—Permit Administration

Subpart D—Conditions

and reviewing the forms. Direct comments regarding the burden estimate or any other aspect of these reporting requirements to the Service Information Collection Control Officer, MS–222 ARLSQ, U.S. Fish and Wildlife Service, Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project (1018–0092), Washington, DC 20603.

[63 FR 52634, Oct. 1, 1998]

Subpart B—Application for Permits

§ 13.11 Application procedures.

The Service may not issue a permit for any activity authorized by this subchapter B unless you have filed an application under the following procedures:

(a) *Forms.* Applications must be submitted in writing on a Federal Fish and Wildlife License/Permit Application (Form 3–200) or as otherwise specifically directed by the Service.

(b) *Forwarding Instructions.* Applications for permits in the following categories should be forwarded to the issuing office indicated below.

(1) You may obtain applications for migratory bird banding permits (50 CFR 21.22) by writing to: Bird Banding Laboratory, USGS Patuxent Wildlife Research Center, 12100 Beech Forest Road, Laurel, Maryland 20708–4037. Submit completed permit applications to the same address.

(2) You may obtain applications for designated port exception permits and import/export licenses (50 CFR 14) by writing to the Special Agent in Charge (SAC) of the Region in which you reside (see 50 CFR 2.2 or the Service Web site, *http://www.fws.gov*, for addresses and boundaries of the Regions). Submit completed permit applications to the same address.

(3) You may obtain applications for Wild Bird Conservation Act permits (50 CFR 15); injurious wildlife permits (50 CFR 16); captive-bred wildlife registrations (50 CFR 17); permits authorizing import, export, or foreign commerce of endangered and threatened species, and interstate commerce of non-native endangered or threatened species (50 CFR 17); marine mammal permits (50 CFR 18); and permits and certificates for import, export, and reexport of species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (50 CFR 23) from: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203–1610. Submit completed permit applications to the same address.

(4) You may obtain Endangered Species Act permit applications (50 CFR 17) for activities involving native endangered and threatened species, including incidental take, scientific purposes, enhancement of propagation or survival (*i.e.*, recovery), and enhancement of survival by writing to the Regional Director (Attention: Endangered Species Permits) of the Region where the activity is to take place (see 50 CFR 2.2 or the Service Web site, *http://www.fws.gov*, for addresses and boundaries of the Regions). Submit completed applications to the same address (the Regional office covering the area where the activity will take place). Permit applications for interstate commerce for native endangered and threatened species should be obtained by writing to the Regional Director (Attention: Endangered Species Permits) of the Region that has the lead for the particular species, rather than the Region where the activity will take place. You can obtain information on the lead Region via the Service's Endangered Species Program Web page (*http://endangered.fws.gov/wildlife.html*) by entering the common or scientific name of the listed species in the Regulatory Profile query box. Send interstate commerce permit applications for native listed species to the same Regional Office that has the lead for that species. Endangered Species Act permit applications for the import or export of native endangered and threatened species may be obtained from the Division of Management Authority in accordance with paragraph (b)(3) of this section.

(5) You may obtain applications for bald and golden eagle permits (50 CFR 22) and migratory bird permits (50 CFR 21), except for banding and marking permits, by writing to the Migratory Bird Permit Program Office in the Region in which you reside. For mailing

(ii) As noted in paragraph (d)(4) of this section.

(iii) We may waive the fee on a case-by-case basis for extraordinary extenuating circumstances provided that the issuing permit office and a Regional or Assistant Director approves the waiver.

(4) *User fees.* The following table identifies specific fees for each permit application or amendment to a current permit. If no fee is identified under the Amendment Fee column, this particular permit either cannot be amended and a new application, and application fee, would need to be submitted or no fee will be charged for amending the permit (please contact the issuing office for further information).

Type of permit	CFR citation	Fee	Amendment fee
Migratory Bird Treaty Act			
Migratory Bird Import/Export	50 CFR 21	$75	.....
Migratory Bird Banding or Marking	50 CFR 21	.....	.....
Migratory Bird Scientific Collecting	50 CFR 21	100	$50
Migratory Bird Taxidermy	50 CFR 21	100	.....
Waterfowl Sale and Disposal	50 CFR 21	75	.....
Special Canada Goose	50 CFR 21	.....	.....
Migratory Bird Special Purpose/Education	50 CFR 21	75	.....
Migratory Bird Special Purpose/Salvage	50 CFR 21	75	.....
Migratory Bird Special Purpose/Game Bird Propagation	50 CFR 21	75	.....
Migratory Bird Special Purpose/Miscellaneous	50 CFR 21	100	.....
Falconry	50 CFR 21	100	.....
Raptor Propagation	50 CFR 21	100	.....
Migratory Bird Rehabilitation	50 CFR 21	50	.....
Migratory Bird Depredation	50 CFR 21	100	50
Migratory Bird Depredation/Homeowner	50 CFR 21	50	.....
Bald and Golden Eagle Protection Act			
Eagle Scientific Collecting	50 CFR 22	100	50
Eagle Exhibition	50 CFR 22	75	.....
Eagle Falconry	50 CFR 22	100	.....
Eagle—Native American Religion	50 CFR 22	.....	.....
Eagle Depredation	50 CFR 22	100	50
Golden Eagle Nest Take	50 CFR 22	100	50
Eagle Transport—Scientific or Exhibition	50 CFR 22	75	.....
Eagle Transport—Native American Religious Purposes	50 CFR 22	(1)	(1)
Endangered Species Act/CITES/Lacey Act			
ESA Recovery	50 CFR 17	100	50
ESA Interstate Commerce	50 CFR 17	100	50
ESA Enhancement of Survival (Safe Harbor Agreement)	50 CFR 17	50	25
ESA Enhancement of Survival (Candidate Conservation Agreement with Assurances).	50 CFR 17	50	25
ESA Incidental Take (Habitat Conservation Plan)	50 CFR 17	100	50
ESA and CITES Import/Export and Foreign Commerce	50 CFR 17	100	50
ESA and CITES Museum Exchange	50 CFR 17	100	50
ESA Captive-bred Wildlife Registration	50 CFR 17	200	100
—Renewal of Captive-bred wildlife registration	50 CFR 17	100	.....
CITES Import (including trophies under ESA and MMPA)	50 CFR 17, 18, 23.	100	50
CITES Export	50 CFR 23	100	50
CITES Pre-Convention	50 CFR 23	75	40
CITES Certificate of Origin	50 CFR 23	75	40
CITES Re-Export	50 CFR 23	75	40
CITES Personal Effects and Pet Export/Re-Export	50 CFR 23	50	.....
CITES Appendix II Export (native furbearers and alligators—excluding live animals)	50 CFR 23	100	50
CITES Master File (includes files for artificial propagation, biomedical, etc. and covers import, export, and re-export documents).	50 CFR 23	200	100
—Renewal of CITES Master File	50 CFR 23	100	.....
—Single-use permits issued on Master File	50 CFR 23	[2] 5	.....
CITES Annual Program File	50 CFR 23	50	.....
—Single-use permits issued under Annual Program	50 CFR 23	[2] 5	.....
CITES replacement documents (lost, stolen, or damaged documents)	50 CFR 23	50	50
CITES Passport for Traveling Exhibitions and Pets	50 CFR 23	[3] 75	.....
CITES/ESA Passport for Traveling Exhibitions	50 CFR 23	[3] 100	.....
Import/Export License	50 CFR 14	100	50
Designated Port Exception	50 CFR 14	100	50

wildlife or plants, documentation as indicated in §14.52(c) of this subchapter B;

(5) Certification in the following language:

I hereby certify that I have read and am familiar with the regulations contained in title 50, part 13, of the Code of Federal Regulations and the other applicable parts in subchapter B of chapter I of title 50, Code of Federal Regulations, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to suspension or revocation of this permit and to the criminal penalties of 18 U.S.C. 1001.

(6) Desired effective date of permit except where issuance date is fixed by the part under which the permit is issued;

(7) Date;

(8) Signature of the applicant; and

(9) Such other information as the Director determines relevant to the processing of the application, including, but not limited to, information on the environmental effects of the activity consistent with 40 CFR 1506.5 and Departmental procedures at 516 DM 6, Appendix 1.3A.

(b) *Additional information required on permit applications.* As stated in paragraph (a)(3) of this section certain additional information is required on all applications. These additional requirements may be found by referring to the section of this subchapter B cited after the type of permit for which application is being made:

Type of permit	Section
Importation at nondesignated ports:	
Scientific	14.31
Deterioration prevention	14.32
Economic hardship	14.33
Marking of package or container:	
Symbol marking	14.83
Import/export license	14.93
Feather import quota: importation or entry	15.21
Injurious wildlife: importation or shipment	16.22
Endangered wildlife and plant permits:	
Similarity of appearance	17.52
Scientific, enhancement of propagation or survival, incidental taking for wildlife	17.22
Scientific, propagation, or survival for plants	17.62
Economic hardship for wildlife	17.23
Economic hardship for plants	17.63
Threatened wildlife and plant permits:	
Similarity of appearance	17.52
General for wildlife	17.32
American alligator-buyer or tanner	17.42(a)
General for plants	17.72
Marine mammals permits:	
Scientific research	18.31
Public display	18.31
Migratory bird permits:	
Banding or marking	21.22
Scientific collecting	21.23
Taxidermist	21.24
Waterfowl sale and disposal	21.25
Special aviculturist	21.26
Special purpose	21.27
Falconry	21.28
Raptor propagation permit	21.30
Depredation control	21.41
Eagle permits:	
Scientific or exhibition	22.21
Indian religious use	22.22
Depredation control	22.23
Falconry purposes	22.24
Take of golden eagle nests	22.25
Endangered Species Convention permits	23.15

[39 FR 1161, Jan. 4, 1974, as amended at 42 FR 10465, Feb. 22, 1977; 42 FR 32377, June 24, 1977; 44 FR 54006, Sept. 17, 1979; 44 FR 59083, Oct. 12, 1979; 45 FR 56673, Aug. 25, 1980; 45 FR 78154, Nov. 25, 1980; 46 FR 42680, Aug. 24, 1981; 48 FR 31607, July 8, 1983; 48 FR 57300, Dec. 29, 1983; 50 FR 39687, Sept. 30, 1985; 50 FR 45408, Oct. 31, 1985; 54 FR 38147, Sept. 14, 1989; 70 FR 18319, Apr. 11, 2005]

Subpart C—Permit Administration

§ 13.21 Issuance of permits.

(a) No permit may be issued prior to the receipt of a written application therefor, unless a written variation from the requirements, as authorized by § 13.4, is inserted into the official file of the Bureau. An oral or written representation of an employee or agent of the United States Government, or an action of such employee or agent, shall not be construed as a permit unless it meets the requirements of a permit as defined in 50 CFR 10.12.

(b) Upon receipt of a properly executed application for a permit, the Director shall issue the appropriate permit unless:

(1) The applicant has been assessed a civil penalty or convicted of any criminal provision of any statute or regulation relating to the activity for which the application is filed, if such assessment or conviction evidences a lack of responsibility.

(2) The applicant has failed to disclose material information required, or has made false statements as to any material fact, in connection with his application;

prior to the expiration date of the permit. Applicants must certify in the form required by §13.12(a)(5) that all statements and information in the original application remain current and correct, unless previously changed or corrected. If such information is no longer current or correct, the applicant must provide corrected information.

(b) *Renewal criteria.* The Service shall issue a renewal of a permit if the applicant meets the criteria for issuance in §13.21(b) and is not disqualified under §13.21(c).

(c) *Continuation of permitted activity.* Any person holding a valid, renewable permit, who has complied with this section, may continue the activities authorized by the expired permit until the Service has acted on such person's application for renewal.

(d) *Denial.* The issuing officer may deny renewal of a permit to any applicant who fails to meet the issuance criteria set forth in §13.21 of this part, or in the part(s) or section(s) specifically governing the activity for which the renewal is requested.

[54 FR 38148, Sept. 14, 1989]

§ 13.23 Amendment of permits.

(a) *Permittee's request.* Where circumstances have changed so that a permittee desires to have any condition of his permit modified, such permittee must submit a full written justification and supporting information in conformity with this part and the part under which the permit was issued.

(b) The Service reserves the right to amend any permit for just cause at any time during its term, upon written finding of necessity, provided that any such amendment of a permit issued under §17.22(b) through (d) or §17.32(b) through (d) of this subchapter shall be consistent with the requirements of §17.22(b)(5), (c)(5) and (d)(5) or §17.32(b)(5), (c)(5) and (d)(5) of this subchapter, respectively.

(c) *Change of name or address.* A permittee is not required to obtain a new permit if there is a change in the legal individual or business name, or in the mailing address of the permittee. A permittee is required to notify the issuing office within 10 calendar days of such change. This provision does not authorize any change in location of the conduct of the permitted activity when approval of the location is a qualifying condition of the permit.

[54 FR 38148, Sept. 14, 1989, as amended at 64 FR 32711, June 17, 1999]

§ 13.24 Right of succession by certain persons.

(a) Certain persons other than the permittee are authorized to carry on a permitted activity for the remainder of the term of a current permit, provided they comply with the provisions of paragraph (b) of this section. Such persons are the following:

(1) The surviving spouse, child, executor, administrator, or other legal representative of a deceased permittee; or

(2) A receiver or trustee in bankruptcy or a court designated assignee for the benefit of creditors.

(b) In order to qualify for the authorization provided in this section, the person or persons desiring to continue the activity shall furnish the permit to the issuing officer for endorsement within 90 days from the date the successor begins to carry on the activity.

(c) In the case of permits issued under §17.22(b) through (d) or §17.32(b) through (d) of this subchapter B, the successor's authorization under the permit is also subject to a determination by the Service that:

(1) The successor meets all of the qualifications under this part for holding a permit;

(2) The successor has provided adequate written assurances that it will provide sufficient funding for the conservation plan or Agreement and will implement the relevant terms and conditions of the permit, including any outstanding minimization and mitigation requirements; and

(3) The successor has provided such other information as the Service determines is relevant to the processing of the request.

[64 FR 32711, June 17, 1999]

§ 13.25 Transfer of permits and scope of permit authorization.

(a) Except as otherwise provided for in this section, permits issued under this part are not transferable or assignable.

days of the date of the notice of proposal, must state the reasons why the permittee objects to the proposed suspension, and may include supporting documentation.

(3) A decision on the suspension shall be made within 45 days after the end of the objection period. The issuing officer shall notify the permittee in writing of the Service's decision and the reasons therefore. The issuing officer shall also provide the applicant with the information concerning the right to request reconsideration of the decision under § 13.29 of this part and the procedures for requesting reconsideration.

[54 FR 38149, Sept. 14, 1989]

§ 13.28 Permit revocation.

(a) *Criteria for revocation.* A permit may be revoked for any of the following reasons:

(1) The permittee willfully violates any Federal or State statute or regulation, or any Indian tribal law or regulation, or any law or regulation of any foreign country, which involves a violation of the conditions of the permit or of the laws or regulations governing the permitted activity; or

(2) The permittee fails within 60 days to correct deficiencies that were the cause of a permit suspension; or

(3) The permittee becomes disqualified under § 13.21(c) of this part; or

(4) A change occurs in the statute or regulation authorizing the permit that prohibits the continuation of a permit issued by the Service; or

(5) Except for permits issued under § 17.22(b) through (d) or § 17.32(b) through (d) of this subchapter, the population(s) of the wildlife or plant that is the subject of the permit declines to the extent that continuation of the permitted activity would be detrimental to maintenance or recovery of the affected population.

(b) *Procedure for revocation.* (1) When the issuing officer believes there are valid grounds for revoking a permit, the permittee shall be notified in writing of the proposed revocation by certified or registered mail. This notice shall identify the permit to be revoked, the reason(s) for such revocation, the proposed disposition of the wildlife, if any, and inform the permittee of the right to object to the proposed revocation. The issuing officer may amend any notice of revocation at any time.

(2) Upon receipt of a notice of proposed revocation the permittee may file a written objection to the proposed action. Such objection must be in writing, must be filed within 45 calendar days of the date of the notice of proposal, must state the reasons why the permittee objects to the proposed revocation, and may include supporting documentation.

(3) A decision on the revocation shall be made within 45 days after the end of the objection period. The issuing officer shall notify the permittee in writing of the Service's decision and the reasons therefore, together with the information concerning the right to request and the procedures for requesting reconsideration.

(4) Unless a permittee files a timely request for reconsideration, any wildlife held under authority of a permit that is revoked must be disposed of in accordance with instructions of the issuing officer. If a permittee files a timely request for reconsideration of a proposed revocation, such permittee may retain possession of any wildlife held under authority of the permit until final disposition of the appeal process.

[54 FR 38149, Sept. 14, 1989, as amended at 64 FR 32711, June 17, 1999]

§ 13.29 Review procedures.

(a) *Request for reconsideration.* Any person may request reconsideration of an action under this part if that person is one of the following:

(1) An applicant for a permit who has received written notice of denial;

(2) An applicant for renewal who has received written notice that a renewal is denied;

(3) A permittee who has a permit amended, suspended, or revoked, except for those actions which are required by changes in statutes or regulations, or are emergency changes of limited applicability for which an expiration date is set within 90 days of the permit change; or

(4) A permittee who has a permit issued or renewed but has not been

matters outside the scope of strict construction.

[70 FR 18320, Apr. 11, 2005]

§ 13.43 Alteration of permits.

Permits shall not be altered, erased, or mutilated, and any permit which has been altered, erased, or mutilated shall immediately become invalid. Unless specifically permitted on the face thereof, no permit shall be copied, nor shall any copy of a permit issued pursuant to this subchapter B be displayed, offered for inspection, or otherwise used for any official purpose for which the permit was issued.

§ 13.44 Display of permit.

Any permit issued under this part shall be displayed for inspection upon request to the Director or his agent, or to any other person relying upon its existence.

§ 13.45 Filing of reports.

Permittees may be required to file reports of the activities conducted under the permit. Any such reports shall be filed not later than March 31 for the preceding calendar year ending December 31, or any portion thereof, during which a permit was in force, unless the regulations of this subchapter B or the provisions of the permit set forth other reporting requirements.

§ 13.46 Maintenance of records.

From the date of issuance of the permit, the permittee shall maintain complete and accurate records of any taking, possession, transportation, sale, purchase, barter, exportation, or importation of plants obtained from the wild (excluding seeds) or wildlife pursuant to such permit. Such records shall be kept current and shall include names and addresses of persons with whom any plant obtained from the wild (excluding seeds) or wildlife has been purchased, sold, bartered, or otherwise transferred, and the date of such transaction, and such other information as may be required or appropriate. Such records shall be legibly written or reproducible in English and shall be maintained for five years from the date of expiration of the permit.

[39 FR 1161, Jan. 4, 1974, as amended at 42 FR 32377, June 24, 1977; 54 FR 38150, Sept. 14, 1989]

§ 13.47 Inspection requirement.

Any person holding a permit under this subchapter B shall allow the Director's agent to enter his premises at any reasonable hour to inspect any wildlife or plant held or to inspect, audit, or copy any permits, books, or records required to be kept by regulations of this subchapter B.

[39 FR 1161, Jan. 4, 1974, as amended at 42 FR 32377, June 24, 1977]

§ 13.48 Compliance with conditions of permit.

Any person holding a permit under subchapter B and any person acting under authority of such permit must comply with all conditions of the permit and with all appllicable laws and regulations governing the permitted activity.

[54 FR 38150, Sept. 14, 1989]

§ 13.49 Surrender of permit.

Any person holding a permit under subchapter B shall surrender such permit to the issuing officer upon notification that the permit has been suspended or revoked by the Service, and all appeal procedures have been exhausted.

[54 FR 38150, Sept. 14, 1989]

§ 13.50 Acceptance of liability.

Except as otherwise limited in the case of permits described in § 13.25(d), any person holding a permit under this subchapter B assumes all liability and responsibility for the conduct of any activity conducted under the authority of such permit.

[64 FR 32711, June 17, 1999]

PART 14—IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

Subpart A—Introduction

Sec.

(b)(1) *Application requirements for permits for incidental taking.* A person wishing to get a permit for an activity prohibited by § 17.21(c) submits an application for activities under this paragraph. The Service provides Form 3-200 for the application to which all of the following must be attached:

(i) A complete description of the activity sought to be authorized;

(ii) The common and scientific names of the species sought to be covered by the permit, as well as the number, age, and sex of such species, if known;

(iii) A conservation plan that specifies:

(A) The impact that will likely result from such taking;

(B) What steps the applicant will take to monitor, minimize, and mitigate such impacts, the funding that will be available to implement such steps, and the procedures to be used to deal with unforeseen circumstances;

(C) What alternative actions to such taking the applicant considered and the reasons why such alternatives are not proposed to be utilized; and

(D) Such other measures that the Director may require as being necessary or appropriate for purposes of the plan;

(2) *Issuance criteria.* (i) Upon receiving an application completed in accordance with paragraph (b)(1) of this section, the Director will decide whether or not a permit should be issued. The Director shall consider the general issuance criteria in § 13.21(b) of this subchapter, except for § 13.21(b)(4), and shall issue the permit if he or she finds that:

(A) The taking will be incidental;

(B) The applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such takings;

(C) The applicant will ensure that adequate funding for the conservation plan and procedures to deal with unforeseen circumstances will be provided;

(D) The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild;

(E) The measures, if any, required under paragraph (b)(1)(iii)(D) of this section will be met; and

(F) He or she has received such other assurances as he or she may require that the plan will be implemented.

(ii) In making his or her decision, the Director shall also consider the anticipated duration and geographic scope of the applicant's planned activities, including the amount of listed species habitat that is involved and the degree to which listed species and their habitats are affected.

(3) *Permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter, every permit issued under this paragraph shall contain such terms and conditions as the Director deems necessary or appropriate to carry out the purposes of the permit and the conservation plan including, but not limited to, monitoring and reporting requirements deemed necessary for determining whether such terms and conditions are being complied with. The Director shall rely upon existing reporting requirements to the maximum extent practicable.

(4) *Duration of permits.* The duration of permits issued under this paragraph shall be sufficient to provide adequate assurances to the permittee to commit funding necessary for the activities authorized by the permit, including conservation activities and land use restrictions. In determining the duration of a permit, the Director shall consider the duration of the planned activities, as well as the possible positive and negative effects associated with permits of the proposed duration on listed species, including the extent to which the conservation plan will enhance the habitat of listed species and increase the long-term survivability of such species.

(5) *Assurances provided to permittee in case of changed or unforeseen circumstances.* The assurances in this paragraph (b)(5) apply only to incidental take permits issued in accordance with paragraph (b)(2) of this section where the conservation plan is being properly implemented, and apply only with respect to species adequately covered by the conservation plan. These assurances cannot be provided to Federal agencies. This rule does not apply to incidental take permits issued prior to March 25, 1998. The assurances provided in incidental take permits issued prior to March 25, 1998 remain in effect, and those permits will not be revised as a result of this rulemaking.

through (4) of this subchapter or unless continuation of the permitted activity would be inconsistent with the criterion set forth in 16 U.S.C. 1539(a)(2)(B)(iv) and the inconsistency has not been remedied.

(c)(1) *Application requirements for permits for the enhancement of survival through Safe Harbor Agreements.* The applicant must submit an application for a permit under this paragraph (c) to the appropriate Regional Director, U.S. Fish and Wildlife Service, for the Region where the applicant resides or where the proposed activity is to occur (for appropriate addresses, see 50 CFR 10.22), if the applicant wishes to engage in any activity prohibited by §17.21. The applicant must submit an official Service application form (3–200.54) that includes the following information:

(i) The common and scientific names of the listed species for which the applicant requests incidental take authorization;

(ii) A description of how incidental take of the listed species pursuant to the Safe Harbor Agreement is likely to occur, both as a result of management activities and as a result of the return to baseline; and

(iii) A Safe Harbor Agreement that complies with the requirements of the Safe Harbor policy available from the Service.

(2) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (c)(1) of this section, the Director will decide whether or not to issue a permit. The Director shall consider the general issuance criteria in §13.21(b) of this subchapter, except for §13.21(b)(4), and may issue the permit if he or she finds:

(i) The take will be incidental to an otherwise lawful activity and will be in accordance with the terms of the Safe Harbor Agreement;

(ii) The implementation of the terms of the Safe Harbor Agreement is reasonably expected to provide a net conservation benefit to the affected listed species by contributing to the recovery of listed species included in the permit, and the Safe Harbor Agreement otherwise complies with the Safe Harbor policy available from the Service;

(iii) The probable direct and indirect effects of any authorized take will not appreciably reduce the likelihood of survival and recovery in the wild of any listed species;

(iv) Implementation of the terms of the Safe Harbor Agreement is consistent with applicable Federal, State, and Tribal laws and regulations;

(v) Implementation of the terms of the Safe Harbor Agreement will not be in conflict with any ongoing conservation or recovery programs for listed species covered by the permit; and

(vi) The applicant has shown capability for and commitment to implementing all of the terms of the Safe Harbor Agreement.

(3) *Permit conditions.* In addition to any applicable general permit conditions set forth in part 13 of this subchapter, every permit issued under this paragraph (c) is subject to the following special conditions:

(i) A requirement for the participating property owner to notify the Service of any transfer of lands subject to a Safe Harbor Agreement;

(ii) When appropriate, a requirement for the permittee to give the Service reasonable advance notice (generally at least 30 days) of when he or she expects to incidentally take any listed species covered under the permit. Such notification will provide the Service with an opportunity to relocate affected individuals of the species, if possible and appropriate; and

(iii) Any additional requirements or conditions the Director deems necessary or appropriate to carry out the purposes of the permit and the Safe Harbor Agreement.

(4) *Permit effective date.* Permits issued under this paragraph (c) become effective the day of issuance for species covered by the Safe Harbor Agreement.

(5) *Assurances provided to permittee.* (i) The assurances in paragraph (c)(5) (ii) of this section (c)(5) apply only to Safe Harbor permits issued in accordance with paragraph (c)(2) of this section where the Safe Harbor Agreement is being properly implemented, and apply only with respect to species covered by the Agreement and permit. These assurances cannot be provided to Federal agencies. The assurances provided in this section apply only to Safe Harbor permits issued after July 19, 1999.

accordance with the terms of the Candidate Conservation Agreement;

(ii) The Candidate Conservation Agreement complies with the requirements of the Candidate Conservation Agreement with Assurances policy available from the Service;

(iii) The probable direct and indirect effects of any authorized take will not appreciably reduce the likelihood of survival and recovery in the wild of any species;

(iv) Implementation of the terms of the Candidate Conservation Agreement is consistent with applicable Federal, State, and Tribal laws and regulations;

(v) Implementation of the terms of the Candidate Conservation Agreement will not be in conflict with any ongoing conservation programs for species covered by the permit; and

(vi) The applicant has shown capability for and commitment to implementing all of the terms of the Candidate Conservation Agreement.

(3) *Permit conditions.* In addition to any applicable general permit conditions set forth in part 13 of this subchapter, every permit issued under this paragraph (d) is subject to the following special conditions:

(i) A requirement for the property owner to notify the Service of any transfer of lands subject to a Candidate Conservation Agreement;

(ii) When appropriate, a requirement for the permittee to give the Service reasonable advance notice (generally at least 30 days) of when he or she expects to incidentally take any listed species covered under the permit. Such notification will provide the Service with an opportunity to relocate affected individuals of the species, if possible and appropriate; and

(iii) Any additional requirements or conditions the Director deems necessary or appropriate to carry out the purposes of the permit and the Candidate Conservation Agreement.

(4) *Permit effective date.* Permits issued under this paragraph (d) become effective for a species covered by a Candidate Conservation Agreement on the effective date of a final rule that lists a covered species as endangered.

(5) *Assurances provided to permittee in case of changed or unforeseen circumstances.* The assurances in this paragraph (d)(5) apply only to permits issued in accordance with paragraph (d)(2) where the Candidate Conservation with Assurances Agreement is being properly implemented, and apply only with respect to species adequately covered by the Candidate Conservation with Assurances Agreement. These assurances cannot be provided to Federal agencies.

(i) *Changed circumstances provided for in the Agreement.* If the Director determines that additional conservation measures are necessary to respond to changed circumstances and these measures were set forth in the Agreement, the permittee will implement the measures specified in the Agreement.

(ii) *Changed circumstances not provided for in the Agreement.* If the Director determines that additional conservation measures not provided for in the Agreement are necessary to respond to changed circumstances, the Director will not require any conservation measures in addition to those provided for in the Agreement without the consent of the permittee, provided the Agreement is being properly implemented.

(iii) *Unforeseen circumstances.* (A) In negotiating unforeseen circumstances, the Director will not require the commitment of additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources beyond the level otherwise agreed upon for the species covered by the Agreement without the consent of the permittee.

(B) If the Director determines additional conservation measures are necessary to respond to unforeseen circumstances, the Director may require additional measures of the permittee where the Agreement is being properly implemented, but only if such measures maintain the original terms of the Agreement to the maximum extent possible. Additional conservation measures will not involve the commitment of additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources otherwise available for development or use under the original terms of the Agreement without the consent of the permittee.

the actions authorized under the permit.

(3) The Service will notify any party filing an objection and request for notice under paragraph (c)(1) of this section of the final action taken on the application, in writing. If the Service has reduced or dispensed with the notice period referred to in paragraph (c)(2) of this section, it will include its reasons therefore in such written notice.

[50 FR 39687, Sept. 30, 1985, as amended at 63 FR 8871, Feb. 23, 1998; 63 FR 52635, Oct. 1, 1998; 64 FR 32711, June 17, 1999; 64 FR 52676, Sept. 30, 1999; 69 FR 24092, May 3, 2004; 69 FR 29670, May 25, 2004; 69 FR 71731, Dec. 10, 2004]

§ 17.23 Economic hardship permits.

Upon receipt of a complete application, the Director may issue a permit authorizing any activity otherwise prohibited by §17.21, in accordance with the issuance criteria of this section in order to prevent undue economic hardship. The Director shall publish notice in the FEDERAL REGISTER of each application for a permit that is made under this section. Each notice shall invite the submission from interested parties, within 30 days after the date of the notice, of written data, views, or arguments with respect to the application. The 30-day period may be waived by the Director in an emergency situation where the life or health of an endangered animal is threatened and no reasonable alternative is available to the applicant. Notice of any such waiver shall be published in the FEDERAL REGISTER within 10 days following issuance of the permit.

(a) *Application requirements.* Applications for permits under this section must be submitted to the Director by the person allegedly suffering undue economic hardship because his desired activity is prohibited by §17.21. Each application must be submitted on an official application form (Form 3-200) provided by the Service, and must include, as an attachment, all of the information required in §17.22 plus the following additional information:

(1) The possible legal, economic or subsistence alternatives to the activity sought to be authorized by the permit;

(2) A full statement, accompanied by copies of all relevant contracts and correspondence, showing the applicant's involvement with the wildlife sought to be covered by the permit (as well as his involvement with similar wildlife), including, where applicable, that portion of applicant's income derived from the taking of such wildlife, or the subsistence use of such wildlife, during the calendar year immediately preceding either the notice in the FEDERAL REGISTER of review of the status of the species or of the proposal to list such wildlife as endangered, whichever is earliest;

(3) Where applicable, proof of a contract or other binding legal obligation which:

(i) Deals specifically with the wildlife sought to be covered by the permit;

(ii) Became binding prior to the date when the notice of a review of the status of the species or the notice of proposed rulemaking proposing to list such wildlife as endangered was published in the FEDERAL REGISTER, whichever is earlier; and

(iii) Will cause monetary loss of a given dollar amount if the permit sought under this section is not granted.

(b) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued under any of the three categories of economic hardship, as defined in section 10(b)(2) of the Act. In making his decisions, the Director shall consider, in addition to the general criteria in §13.21(b) of this subchapter, the following factors:

(1) Whether the purpose for which the permit is being requested is adequate to justify removing from the wild or otherwise changing the status of the wildlife sought to be covered by the permit;

(2) The probable direct and indirect effect which issuing the permit would have on the wild populations of the wildlife sought to be covered by the permit;

(3) The economic, legal, subsistence, or other alternatives or relief available to the applicant;

(4) The amount of evidence that the applicant was in fact party to a contract or other binding legal obligation which;