FINAL REVISED DRAFT
Habitat Conservation Plan
for the
Gavilan College San Benito Campus and
Fairview Corners Residential Development

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EXECUTIVE SUMMARY

This Habitat Conservation Plan (HCP) is submitted as part of a joint mitigation effort between Gavilan Joint Community College District and Fairview Corners, LLC, pursuant to the requirements of Section 10(a) of the Federal Endangered Species Act (ESA) for development of a college campus and a residential subdivision (maximum 220 units) on an approximately 137-acre site located southeast of the City of Hollister, in unincorporated San Benito County. The HCP provides a basis for issuance of a Section 10(a)(1)(B) incidental take permit to the project Applicants to authorize incidental take of California tiger salamander (*Ambystoma californiense*), a Federal- and state-listed threatened species, and the San Joaquin kit fox (*Vulpes macrotis mutica*), a federally listed endangered and state listed threatened species.

Due to variables in the housing market and uncertainty regarding the anticipated start date for construction of the housing units, the project Applicants are requesting a permit term of 25 years for incidental take authorization. The permit term would allow for phasing of the project so construction of the college campus may occur prior to the residential units, and vice versa.

The permit area consists of a 137-acre main project area and a 0.31-acre offsite area for infrastructure improvements that would be temporarily impacted during construction of underground utilities. The permit area includes potential upland aestivation habitat for California tiger salamander and potential migratory and foraging habitat for San Joaquin kit fox. The permit area is located within a critical habitat unit for California tiger salamander: Unit 15A, Ana Creek Unit, San Benito County, 2,722 acres. In addition to measures proposed for the protection of the covered species during construction within the permit area, the project Applicants propose to mitigate impacts to these species and the loss of critical habitat by placing a conservation easement over approximately 329-acres of the Mariposa Peak Conservation Preserve in eastern Santa Clara County, where the presence of both California tiger salamander and San Joaquin kit fox has been documented, and is adjacent to an established CTS breeding pond. The high value of the Mariposa Peak Conservation Preserve habitat for these species has been specifically acknowledged and documented in connection
with the issuance of mitigation permits by California Department of Fish and Wildlife to Pacific Gas & Electric, Co. and the California Department of Transportation. Due to the degraded nature of the project site and the proven aestivation and breeding habitat for the California tiger salamander within the Mariposa Peak Conservation Preserve, Applicants propose to mitigate all impacts offsite on the Mariposa Peak Conservation Preserve at a ratio of 2.4:1, in addition to the payment of the San Benito County Habitat Conservation Mitigation Fee per County Ordinance 541 (San Benito County Code, Chapter 19.19), for the establishment of a regional habitat conservation plan (discussed in greater detail in Section 4).
1.0 INTRODUCTION AND BACKGROUND

1.1 OVERVIEW AND BACKGROUND

The permit area consists of a 137-acre main project area and an approximately 0.31-acre off-site area for potential water and sewer improvements. The permit area is located on the northeast corner of the intersection of Airline Highway and Fairview Drive southeast of the City of Hollister, in unincorporated San Benito County. For purposes of this document, the "permit area" refers to both the 137-acre main project area and the 0.31-acre offsite construction area. Figure 1, Regional Location, shows the region where the permit area is located. The project site also is located within an "Area of Special Study" designated by the County for residential, agricultural and open-space uses. Trails, parks, and public facilities including schools and churches are also conditionally allowed. The County also allows increased residential densities within the Area of Special Study provided a Specific Plan governing higher density land uses is prepared and approved by the County. Figure 2, Permit Area Vicinity, identifies the permit area in relationship to the County's Land Use designations and zoning, the City of Hollister's jurisdictional boundaries and the surrounding road network.

In 2008, following an exhaustive site search, Gavilan Joint Community College District purchased an approximately 77-acre portion of the 137-acre main project site from Fairview Corners, LLC. Although the college project and the residential project will be developed independently, the two Applicants worked together to design an integrated development plan for the Gavilan College San Benito Campus and Fairview Corners residential project that incorporates the development of shared roadways, infrastructure, and open space.

In 2008 a joint Gavilan San Benito Campus / Fairview Corners Environmental Impact Report ("EIR", D.J. Powers and Associates, 2008) was circulated for public review. The EIR analyzed the
development of each Applicant’s portion of the 137-acre project area. Subsequently the Gavilan College District Board, as lead agency for the proposed campus project, certified the EIR for the proposed campus project on an approximately 77-acre parcel within the permit area now owned by Gavilan. San Benito County, as lead agency for the single-family residential portion of the project, directed Fairview Corners, LLC to submit a separate Specific Plan and EIR for the 60-acres of the project site owned by Fairview Corners, LLC. The *Fairview Corners Residential Specific Plan Final EIR* (EMC Planning Group Inc. 2012) was certified and the *Fairview Corners Residential Specific Plan* (EMC Planning Group Inc. 2010) was approved by the County in 2012. The County’s general plan also was amended to incorporate the development densities and allowed uses of the approved *Fairview Corners Residential Specific Plan*.

During biological surveys and analysis conducted on the permit area for the environmental documents (Appendix A, “biotic evaluation,” Live Oak Associates 2008), it was determined that the permit area contains potential habitat for two federally listed species, California tiger salamander (*Ambystoma californiense*) and San Joaquin kit fox (*Vulpes macrotis mutica*), hereinafter referred to as “covered species”. Development within the permit area of each of the approved projects may incidentally take covered species and remove habitat that may lead to harming the covered species by altering essential behaviors such as breeding, feeding, or sheltering. Subsequently the project Applicants entered into consultation with the United States Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) to identify a suitable mitigation strategy to avoid, minimize, or mitigate potential impacts to these covered species and to outline the steps required to obtain incidental take authorization. This HCP document has been prepared in support of an incidental take authorization application that would apply to both projects within the permit area. For the purposes of this HCP and the related Incidental Take Permit application, the Gavilan Joint Community College District and Fairview Corners, LLC are collectively referred to as the “Applicants”.

The primary goal of this HCP is to mitigate for the effects of the incidental take of the covered species that could potentially result from development within the permit area. Specific biological goals and objectives for offsite mitigation areas will also be included in the Federally- and state-approved management plan pertaining to the offsite mitigation area. The main goals of this HCP are:

- Minimize adverse effects from Gavilan San Benito Campus and Fairview Corners Residential Specific Plan development and residency.
- Provide for the continuing protection and existence of CTS and SJKF by preserving 329 acres of higher quality habitat at the Mariposa Peak Ranch (Mariposa Peak Conservation Preserve).
Figure 1

Regional Location

Gavilan College San Benito Campus and Fairview Corners Residential Development HCP
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Figure 2
Permit Area Vicinity

Gavilan College San Benito Campus and Fairview Corners Residential Development HCP

Source: EMC Planning Group Inc. 2010, Google Earth Pro 2009
City of Hollister General Plan 2005
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1.2 PERMIT HOLDER/PERMIT DURATION

The permit holders include the project Applicants and landowners, including heirs, assigns and successors in title, who assume ownership of all or part of the project site, at which time the heirs, assigns and successors will assume all the duties and responsibilities required by the permit and any extensions or renewals granted by USFWS over the lifetime of the project. The project Applicants, Gavilan Joint Community College District and Fairview Corners, LLC, request a term of 25 years for the incidental take permit under Section 10(a)(1)(B). This permit term was selected due to variability in the housing market and uncertainty for the anticipated start date for construction of the college campus. While Gavilan College is likely to break ground in 2019 or beyond, Fairview Corners, LLC, anticipates breaking ground in 2018 or beyond. A permit term of 25 years allows flexibility for Fairview Corners, LLC to construct the residential portion of the project within an economically viable period. Conditions of permit approval shall run with the land throughout the lifetime of the permit and any subsequent extensions and renewals.

As outlined and recommended in the *Habitat Conservation Planning and Incidental Take Permit Processing Handbook* [USFWS and National Marine Fisheries Service (NMFS) 2016], the Applicants have considered the duration of the planned covered activities, the varying length of biological impact resulting from the proposed covered activities, as well as the possible positive and negative effects on listed species associated with the proposed permit duration, including the extent to which the HCP’s conservation program will increase the long-term survivability of the covered-species and enhance its habitat. The applicants’ mitigation strategy will create a conservation easement at a USFWS- and CDFW-approved site that would be granted and conveyed by the landowner to, and held by, an approved third party, and will provide an endowment fund for monitoring and management of the easement area to protect habitat in perpetuity. As noted in the introduction, the applicants are pursuing a conservation easement that will be recorded against the Mariposa Peak Conservation Preserve. The location of the Mariposa Peak Conservation Preserve is discussed in greater detail in Section 1.3.2, Offsite Mitigation Area. The Applicants commit to recording the off-site conservation easement and funding the endowment to support the conservation program prior to construction and implementing on-site measures to minimize and mitigate for impacts (Chapter 5) prior to and during construction as appropriate.
1.3 Permit Boundary/Covered Lands

1.3.1 HCP Permit Area

As shown on Figure 2, Permit Area Vicinity, the HCP permit area is located approximately 0.25 miles to the north of Airline Highway (SR 25) and directly east of Fairview Road in unincorporated San Benito County. The permit area is located outside of the Hollister city limit and sphere of influence, but is located within Hollister’s General Plan Planning Area Boundary. The main project site is bound by rural residential uses and grassland along Old Ranch Road to the north, rural residential uses and grassland along Harbern Way to the east, a small family-owned farm to the southeast, Airline Highway to the south, and Fairview Road and the Cielo Vista single-family residential subdivision to the west. The Ridgemark Golf and Country Club, which includes a gated residential community, is located further to the south across Airline Highway. The entire permit area is within critical habitat for California tiger salamander, as designated in 2005 (70 FR 49379 49458). The permit area and adjacent lands to the north and east fall within critical habitat unit 15A, Ana Creek Unit, San Benito County, 2,722 acres.

The permit area consists of 137 acres that would be permanently developed with the approved projects and two offsite locations totaling 0.31 acres located adjacent to the project site that would be temporarily disturbed during the construction of water and wastewater infrastructure. The 137-acre project site and 0.31-acre offsite areas are described in detail in the following paragraphs.

The 137-acre main project site consists of two legal parcels: the approximately 77-acre parcel owned by Gavilan College (APNs for Gavilan College: 025-191-069 and 025-191-070) and the approximately 60-acre parcel owned by Fairview Corners LLC (APN for Fairview Corners, LLC: 025-191-068). The main project site consists currently of unimproved rangeland and agricultural fields of cultivated barley that are annually disked and periodically grazed by cattle. All sides of the main project site are fenced. There are no trails, roads or other improvements on the site. A water pump station, operated by Sunnyslope County Water District, is located in the northwestern corner of the permit area along Fairview Road. The pump is connected to an agricultural water line that currently serves the main project site. Please refer to Figure 3, Permit Area Aerial Photograph, for an aerial view of the permit area and its surroundings, and Appendix B, HCP Permit Area and Mitigation Area Photographs, showing existing conditions at the permit area and the proposed mitigation area.
Airline Highway/State Route 25
Fairvew Road
Harbern Way
Old Ranch Rd
Cielo Vista Subdivision
Fairview Corners Site

Ridgemark Golf and Country Club
Gavilan College Site

Figure 3
Permit Area Aerial Photograph
Gavilan College San Benito Campus and Fairview Corners Residential Development HCP
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Development of the main project site will require water and wastewater connections to existing offsite service mains. The approximate 0.31-acre offsite construction areas consist of a redundant water line at the east side of the project site, and an extension of a sewer main across an undeveloped parcel in the City of Hollister. The redundant water line, required by San Benito County as a condition of project approval, would be installed in an underground trench over a distance of approximately 350 feet between the project site and an existing water main in Harbern Way, through a parcel that is improved with a single-family residence and ornamental landscaping. It is assumed that construction would disturb approximately 3,500 square feet (0.08 acre) of the neighboring parcel and Harbern Way public right-of-way.

Two sanitary sewer options are being considered to serve the project site. One of the options would require excavation to allow installation of a new sewer main on a vacant parcel west of the project site, between Enterprise Road and the Cielo Vista residential subdivision. This option would require a linear trench of approximately 1,008 feet (approximately 0.23 acres of vacant land for a typical 10 foot wide utility trench). If the sewer main extension is required west of the Cielo Vista subdivision, the permit area would include the 0.23 acres to the west extending to Enterprise Road. If this sewer option is not implemented, the off-site construction area would consist only of the approximate 0.08-acre area near Harbern Way. All other utility infrastructure would be placed in existing developed roadway right-of-ways.

### 1.3.2 Offsite Mitigation Area

As part of the strategy for mitigating impacts to covered species within the permit area, the project Applicants have negotiated an agreement with the owners of the Mariposa Peak Conservation Preserve to preserve a 329-acre mitigation area of high quality CTS breeding and aestivation habitat (Preserve). The current land use within the mitigation area includes both seasonal and year-round livestock ranching. Figure 4, Mitigation Area Vicinity, identifies the location of the mitigation area with respect to the HCP permit area and critical habitat unit 15A, Ana Creek Unit. Figure 5, Mitigation Area Aerial Photograph, shows an aerial photograph of the 329-acre mitigation area. Appendix B, HCP Permit Area and Mitigation Area Photographs, show the existing conditions at the mitigation area.

A comprehensive management plan, the Draft Management Plan for the Mariposa Peak Ranch, Fairview Corners-Gavilan College Joint 329 acre Conservation Easement Area (“Management Plan,” Appendix C, Sequoia Ecological Consulting 2016), has been drafted to ensure that habitat within the 329-acre offsite mitigation area remains suitable to special status species. The Management Plan has been created to provide direction to the holder of the conservation easement, currently anticipated to be the Wildlife Heritage Foundation or similar entity. In
addition, the management plan will ensure that the mitigation area is managed, monitored, and maintained in perpetuity. The management plan establishes objectives, priorities and tasks to monitor, manage, maintain and report on the special status species and habitat on the Preserve. The management plan is a binding and enforceable instrument, implemented by the conservation easement covering the Mariposa Peak Conservation Preserve property. The Management Plan is currently undergoing review by CDFW and is expected to be approved by the end of 2017.

The plans associated with this HCP and the CDFW ITP application focus primarily on the Mariposa Peak Conservation Preserve as the intended offsite mitigation location; however, the Mariposa Peak Conservation Preserve may not be available or be financially feasible to the permittees during the initial 18-month CDFW permit term, in which case the offsite mitigation may occur at the same ratio of 2.4:1 on another CDFW/USFWS-approved mitigation site or through a conservation bank that includes a known CTS breeding pond. There are three similar planned conservation efforts for mitigation areas that the permittees may utilize as alternatives in their off-site mitigation efforts.

**French Ranch**

Located in San Benito County, just south and west of the Santa Clara and Merced County lines, the French Ranch has also been considered as a potential location for conservation easements. Previous survey work has established the presence of CTS and SJKF are known to occur in the vicinity. A draft management plan was created for the French Ranch mitigation areas, however it was never finalized. The status of approval of a conservation easement is currently unknown; however it could be utilized by the Gavilan/Fairview Corners projects if the French Ranch mitigation area is approved.

**Sparling Ranch Conservation Bank**

This proposed conservation bank is located north of the permit area in Santa Clara County, and is currently being reviewed by CDFW. According to CDFW staff, this conservation bank, once approved, also would provide suitable off-site habitat for CTS and SJKF, and would be available for the purchase of credits by the permittees. Although an approval and opening date is currently not known, it is assumed that this conservation bank option would be available and could be utilized if necessary by the permittees within the Gavilan/Fairview Corners projects’ ITP term.
Figure 4

Mitigation Area Vicinity

Gavilan College San Benito Campus and Fairview Corners Residential Development HCP
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Mitigation Area Aerial Photograph

Gavilan College San Benito Campus and Fairview Corners Residential Development HCP

Ohlone West Conservation Bank

The proposed Ohlone West Conservation Bank occurs within Southern Alameda County and is immediately adjacent to the existing Ohlone Preserve Conservation Bank. The Ohlone West Conservation Bank contains habitat that supports Alameda whipsnake, CTS, California red-legged frogs and Callippe Silverspot butterfly.

This conservation bank is owned and managed by Fletcher Conservation Lands. It is contiguous with watershed lands owned by the San Francisco Public Utilities Commission and with the wilderness preserves of the East Bay Regional Park District. The Ohlone West Conservation Bank is currently undergoing CDFW review and approval and is expected to open in 2014. Based upon conversations with CDFW staff it is assumed that this conservation bank option would be available and could be utilized if necessary by the permittees within the Gavilan/Fairview Corners projects’ CDFW ITP term. If available during the initial permit term the permittees could purchase the required mitigation credits through this approved conservation bank in full mitigation of project-related take.

1.4 Species to be Covered by Permit

The following species identified on Table 1, Covered Species, are requested to be listed on the 10(a)(1)(B) permit and for which “no surprises” assurances would be given:

<table>
<thead>
<tr>
<th>Covered Species</th>
<th>Federal Status/State Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>California tiger salamander <em>Ambystoma californiense</em></td>
<td>Threatened/Threatened</td>
</tr>
<tr>
<td>San Joaquin kit fox <em>Vulpes macrotis mutica</em></td>
<td>Endangered/Threatened</td>
</tr>
</tbody>
</table>

*Source:* EMC Planning Group Inc. 2012

The following species are discussed within the HCP, but would not be covered under an Incidental Take Permit:

- California red-legged frog *Rana draytonii*, federally listed as threatened, California species of concern;
American badger (*Taxidea taxus*), California species of concern;

Western burrowing owl (*Athene cunicularia*), California species of concern; and

Western spadefoot (*Spea hamondii*), California species of concern.

### 1.5 Regulatory Framework

#### 1.5.1 Federal Endangered Species Act

Section 9 of the Endangered Species Act (Act) and Federal regulation pursuant to section 4(d) of the Act prohibit the take of endangered and threatened species, respectively, without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harm is further defined by the U.S. Fish and Wildlife Service (USFWS) to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Harass is defined by the USFWS as intentional or negligent actions that create the likelihood of injury to listed species by annoying them to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

Pursuant to section 11(a) and (b) of the Act, any person who knowingly violates this section 9 of the Act or any permit, certificate, or regulation related to section 9, may be subject to civil or criminal penalties.

Individuals and State and local agencies proposing an action that is expected to result in the take of federally listed species are encouraged to apply for an incidental take permit under section 10(a)(1)(B) of the Act to be in compliance with the law. Such permits are issued by the USFWS when take is not the intention of and is incidental to otherwise legal activities. An application for an incidental take permit must be accompanied by a habitat conservation plan, commonly referred to as an HCP. The regulatory standard under section 10(a)(1)(B) of the Act is that the effects of authorized incidental take must be minimized and mitigated to the maximum extent practicable. Under section 10(a)(1)(B) of the Act, a proposed project also must not appreciably reduce the likelihood of the survival and recovery of the species in the wild, and adequate funding for a plan to minimize and mitigate impacts must be ensured.
Section 7 of the Act requires Federal agencies to ensure that their actions, including issuing permits, do not jeopardize the continued existence of listed species or destroy or adversely modify listed species’ critical habitat. “Jeopardize the continued existence of...” pursuant to 50 CFR 402.2, means to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species. Issuance of an incidental take permit under section 10(a)(1)(B) of the Act by the USFWS is a Federal action subject to section 7 of the Act. As a Federal agency issuing a discretionary permit, the USFWS is required to consult with itself (i.e., conduct an internal consultation).

Section 7 includes analyses of impacts on designated critical habitat, analyses of impacts on listed plant species, if any, and analyses of indirect and cumulative impacts on listed species. Cumulative effects are defined in 50 CFR 402.02 as effects of future State, tribal, local or private actions that are reasonably certain to occur in the action area. The action area is defined as “all areas to be affected directly or indirectly by the Federal action...” and is influenced by the direct and indirect impacts of covered activities. The action area may or may not be solely contained within the HCP boundary. These additional analyses are included in this HCP to meet the requirements of section 7 and to assist the USFWS with its internal consultation.

1.5.2 The Section 10(a)(1)(B) Process Habitat Conservation Plan Requirements and Guidelines

The Section 10(a)(1)B) process for obtaining an incidental take permit has three primary phases: (1) the HCP development phase; (2) the formal permit processing phase; and (3) the post-issuance phase.

During the HCP development phase, the project Applicant prepares a plan that integrates the proposed project or activity with the protection of listed species. An HCP submitted in support of an incidental take permit application must include the following information:

- Impacts likely to result from the proposed taking of the species for which permit coverage is requested;
- Measures that would be implemented to monitor, minimize, and mitigate impacts;
- Funding that would be made available to undertake such measures;
- Procedures to deal with unforeseen circumstances;
- Alternative actions considered that would not result in take; and
Additional measures USFWS may require as necessary or appropriate for purposes of the plan.

The HCP development phase concludes and the permit processing phase begins when a complete application package is submitted to the appropriate permit-issuing office. A complete application package consists of 1) an HCP, 2) an Implementing Agreement (IA) if applicable, 3) a permit application, and 4) a $100 fee from the Applicant. The USFWS must also publish a Notice of Availability of the HCP package in the Federal Register to allow for public comment. The USFWS also prepares an Intra-Service Section 7 Biological Opinion; and prepares a Set of Findings, which evaluates the Section 10(a)(1)(B) permit application as in the context of permit issuance criteria (see below). An Environmental Action Statement, Environmental Assessment, or Environmental Impact Statement, which serves as the USFWS’s record of compliance with the National Environmental Policy Act (NEPA), will be noticed for a 30-day, 60-day, or 90-day public comment period. A Section 10(a)(1)(B) incidental take permit is granted upon a determination by the USFWS that all requirements for permit issuance have been met. Statutory criteria for issuance of the permit specify that:

- the taking would be incidental;
- the impacts of incidental take would be minimized and mitigated to the maximum extent practicable;
- adequate funding for the HCP and procedures to handle unforeseen circumstances would be provided;
- the taking would not appreciably reduce the likelihood of survival and recovery of the species in the wild;
- the Applicant would provide additional measures that the USFWS requires as being necessary or appropriate; and
- the USFWS has received assurances, as may be required, that the HCP would be implemented.

During the post-issuance phase, the Permittee and other responsible entities implement the HCP, and the USFWS monitors the Permittee’s compliance with the HCP as well as the long-term progress and success of the HCP.

1.5.3 National Environmental Policy Act

The purpose of the National Environmental Policy Act (NEPA) is two-fold: to ensure that Federal agencies examine environmental effects of their actions (in this case deciding whether
to issue an incidental take permit) and to utilize public participation. NEPA serves as an analytical tool on direct, indirect, and cumulative environmental effects of project alternatives to help the USFWS decide whether to issue an incidental take permit (ITP or section 10(a)(1)(B) permit). NEPA analysis must be done by the USFWS for each HCP as part of the incidental take permit application process.

### 1.5.4 National Historic Preservation Act

All Federal agencies are required to examine the cultural impacts of their actions (e.g. issuance of a permit). This may require consultation with the State Historic Preservation Office (SHPO) and appropriate American Indian tribes. All incidental take permit Applicants are requested to submit a Request for Cultural Resources Compliance form to the USFWS. To complete compliance, the Applicants may be required to contract for cultural resource surveys and possibly mitigation.

### 1.5.5 California Endangered Species Act

Several species of plants and animals within the state of California have low populations, limited distributions, or both. Such species may be considered rare, and are vulnerable to extinction as the state’s human population grows and the habitats these species occupy are converted to urban uses. State laws have provided the CDFW with a mechanism for conserving and protecting the diversity of plant and animal species native to California. A sizable number of native plants and animals have been formally designated as threatened or endangered under state endangered species legislation. Others have been designated as candidates for such listing or as species of special concern. The California Native Plant Society (CNPS) has developed its own lists of native plants considered rare, threatened, or endangered (CNPS 2001).

Species listed as threatened or endangered under provisions of the state endangered species act, candidate species for such listing, state species of special concern, and some plants listed as endangered by CNPS are collectively referred to as special status species. Permits may be required from the CDFW if activities associated with a project would result in the “take” of a listed species or their habitat. Pursuant to the California Endangered Species Act (CESA) and Section 2081 of the Fish and Game Code, an incidental take permit from the CDFW is required for projects that could result in the take of a state-listed Threatened or Endangered species. Under CESA, “take” is defined as an activity that would directly or indirectly kill an individual of a species. CDFW reviews CEQA documents for adequacy regarding endangered species issues and to make project-specific recommendations for the conservation of special status species.
1.5.6 California Environmental Quality Act

In addition to the state and Federal endangered species acts, California Environmental Quality Act (CEQA) limits activities that may have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS. CEQA Guidelines appendix G indicates that a project, either individually or cumulatively when viewed in connection with other projects, may have a significant effect on the environment if it would:

- have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service;

- have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service;

- have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means;

- interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites;

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

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

Migratory Birds

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

Birds of prey are protected in California under provisions of the State Fish and Game Code, Section 3503.5, 1992. This section states that it is unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto. Disturbance that causes nest abandonment and/or loss of reproductive effort, such as construction during the breeding season, is considered a take by the CDFW.
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2.0

PROJECT DESCRIPTION/
ACTIVITIES COVERED BY PERMIT

2.1  PROJECT DESCRIPTION

This HCP application is submitted as part of a joint mitigation effort between Gavilan Joint Community College District and Fairview Corners, LLC for the development of a college campus and a residential subdivision with a maximum of 220 units on an approximately 137-acre project site located southeast of the City of Hollister, in unincorporated San Benito County. The Gavilan Joint Community College District owns approximately 77-acres of the southern portion of the 137-acre permit area, upon which the District plans to construct the San Benito Campus project. The residential project is located in the northern portion of the property on the remaining approximately 60 acres currently owned by Fairview Corners, LLC. The two entities have worked together to propose a cohesive development plan for the San Benito Campus project and the Fairview Corners residential project, although each project on the site may proceed independently.

During biological surveys and analysis conducted for the approved projects, it was determined that the 137-acre permit area contains potential habitat for the two covered species. Subsequently the project Applicants entered into consultation with the USFWS and CDFW to identify a suitable mitigation strategy to mitigate potential impacts to these covered species by obtaining offsite mitigation lands and preserving these lands in perpetuity through a conservation easement agreement. A comprehensive management plan has been drafted to ensure that habitat within the 329-acre offsite mitigation area remains suitable to covered
species. The management plan is included as Appendix C, Draft Management Plan for the Mariposa Peak Conservation Preserve, Fairview Corners-Gavilan College Joint 329 acre Conservation Easement Area.

2.1.1 Gavilan College San Benito Campus

The Gavilan College San Benito Campus is proposed on the southern portion of the project site, an approximately 77-acre site located adjacent to the northeast corner of Fairview Road and Airline Highway. The campus will be constructed in phases to meet student needs. At full campus build-out, the college is anticipated to serve 3,500 students. The campus would have approximately 200 full-time equivalent employees including faculty and staff when completely developed and during periods of maximum use.

As shown on Figure 6, Gavilan College San Benito Campus, the main campus buildings would be centrally located within the project site. These buildings will be one- and two-story structures consisting of classrooms, laboratories, offices, and student union/services. Outside of the main campus buildings and on the other side of one of the campus’s internal roadways will be the administration building, theatre, and library. South of the main campus buildings will be the gymnasium including locker rooms, and fitness and weight rooms. The campus project may also include on-campus housing (staff and students) and supporting uses. One-story buildings will be approximately 16-feet in height and two-story buildings will be approximately 34-feet in height. The library and gymnasium will be approximately 40-feet in height.

Athletic facilities are proposed at the southeast corner of the campus. A soccer field, softball field, baseball field, combined track and football field, and swimming pool are proposed. The combined track/football field would include spectator bleachers located on each side and stadium lighting. The stadium seating would be planned for approximately 2,000 to 3,000 seats. The baseball field would also have lighting installed for use during night games. All of the fields would be depressed (excavated) down into “bowls.” The sunken fields would minimize noise and lighting overflow to the adjacent properties. All parking lot and stadium light fixtures would be located and shielded, to minimize overflow to adjacent properties. The illumination of all outdoor recreational facilities would conform to the shielding standards of the San Benito County Dark Sky Ordinance for Zone II areas. In addition, all lighted events would not be illuminated after 11:00 p.m., except to conclude a scheduled recreational or sporting event in progress prior to 11:00 p.m.
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The campus would include fencing around the maintenance area and athletic fields for security and to prevent errant balls from reaching Airline highway and adjacent properties. Fencing around the maintenance area would be approximately eight feet high concrete block with textured face. Fencing around athletic facilities would be eight to ten feet high wire fabric with steel post columns. Trees would also be planted between the athletic fields and Airline highway. The maintenance area would be located on the east side of the campus, west of the parking lot and north of the athletic fields. Fencing around maintenance area would be approximately eight feet high concrete block with textured face.

Open space areas are proposed north of the main campus and south of the main access road though the campus. Open space areas are also located along the Airline Highway frontage of the campus site.

2.1.2 Fairview Corners Residential Project

The residential project is guided by a Specific Plan document, which is a comprehensive planning document that provides the regulatory framework within which development of the site will occur, taking into account market demand and community needs. Implementation of the residential project and related infrastructure improvements is also subject to the terms of the development agreement adopted by the San Benito County Supervisors in 2012. The approved Specific Plan provides flexibility for a range of potential densities that may be developed on the site, from one dwelling unit per acre to a gross density of 3.6 dwelling units per acre, corresponding with a minimum of 12 units or a maximum of 220 primary dwelling units that would be permitted under the Specific Plan. The maximum allowed overall density would be less than 4.0 dwelling units per acre, at approximately 3.6 units per acre. The size of the lots may vary from a minimum of 4,000 square feet up to five acres.

The approved specific plan and development agreement allows a range of housing types that vary from small lot cluster homes to single-family ranchettes; however, the approved residential project also includes policy provisions that would allow higher density duplexes, multiple dwelling unit groups and apartment uses, with a corresponding reduction in the number of lower density residential units to maintain the maximum 220 units. A conceptual example of development of the maximum number of single-family residences on the site is provided in Figure 7, Conceptual Lotting Plan.

The approved residential project includes parkland and open space to serve the project’s residents, as well as to facilitate connections with the adjacent Gavilan College San Benito Campus. According to the approved development agreement, the project would meet the County’s park and open space requirement, which mandates the provision of five acres of parkland per 1,000 new residents. Alternatively, the developer could pay the applicable in-lieu
fee — particularly given the close proximity of extensive park and open space features planned on the adjoining Gavilan College San Benito Campus site — which the County may then use to help fund park and open space facilities in other areas in the County.

The adopted specific plan for the residential project includes policies for the provision of active and passive recreational and open space opportunities. Active parks could take the form of “pocket parks” located strategically throughout the neighborhoods. Passive and/or less active open space uses could occur in certain areas of the project site that would otherwise remain undeveloped. For example, the “building exclusion zone” reserved for the geologic fault area (near the 35-foot Tres Pinos Fault).

### 2.1.3 Offsite Improvements for Campus and Residential Projects

Offsite improvements associated with the Fairview Corners Residential project and the Gavilan College San Benito Campus would be required in accordance with the respective approvals governing each project. In general, the main entry road and utility service improvements into the project site are intended to be shared by both projects, and would be phased by each project as the respective projects are constructed. Primary access to the project area would be off of Fairview Road, opposite Cielo Vista Drive, via the Cielo Vista Drive extension. Each project will be required to offer to dedicate the necessary right-of-way along the Fairview Road frontage to allow for the future widening of Fairview Road by the County, from two to four lanes, and would also construct adjacent frontage improvements on Fairview Road, concurrent with its development.

An emergency vehicle access (EVA) roadway is intended to be provided by Gavilan College off of Airline Highway to the southeast corner of the college campus. The EVA would utilize an existing unpaved driveway within the Caltrans right-of-way on Airline Highway. Construction of the EVA would be completed by Gavilan College and the roadway would be gated to only allow emergency personnel access to the college and residential areas. The EVA would include improvements to this existing driveway in the Caltrans right-of-way near the south west corner of the Gavilan San Benito Campus site, otherwise all EVA improvements would be placed entirely within the project site. If for any reason the EVA is not completed at the time the residential project begins construction, then the Fairview Corners residential project would provide emergency and/or secondary access to Fairview Drive.
Figure 7
Conceptual Lotting Plan
Gavilan College San Benito Campus and Fairview Corners Residential Development HCP

Source: Ruggeri-Jensen-Azar 2009
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Offsite improvements are needed to connect to water and sanitary sewer infrastructure, and would require temporary surface disruptions during construction. For potable water, there is an existing 12-inch water main that runs along the west side of Fairview Road, and the project site will be required to connect to this water main. Construction staging areas for this construction would be located within the project site. Per County requirements, and as noted in Section 1.2, a redundant water connection would also be provided over a distance of 350 feet between the Fairview Corners Residential parcel to an existing water main located on Harbern Way to the east of the project site, likely in later phases of this project. Construction staging areas would be located on the project site and/or Harbern Way and construction vehicle access would be provided from the project site and Harbern Way.

Two sanitary sewer options are being considered: Sewer Options 1 and 2, both of which would be gravity fed and installed in underground trenches. Sewer Option 1 is to connect to the existing sewer infrastructure in the Cielo Vista subdivision on Cielo Vista Drive west of Fairview Road. This option would require a linear trench of approximately 1,008 feet (approximately 0.23 acres of vacant land for a typical 10 foot wide utility trench) to extend the existing sewer main on Cielo Vista Drive and connect with the existing sewer main on Enterprise Road within the City of Hollister. A linear trench would be excavated within a temporary construction area of approximately 10,080 square feet for the sewer line extension between the existing mains on Cielo Vista Drive and Enterprise Road. Sewer Option 2 would connect to existing sewer mains within the right-of-ways of Airline Highway and Enterprise Road.

### 2.1.4 Offsite Mitigation Area

As part of the strategy for mitigating impacts to covered species within the permit area, the project Applicants have negotiated an agreement to preserve a 329-acre offsite mitigation area. The current land use within the mitigation area is both seasonal and year-round livestock ranching. Particular related management practices occur in order to facilitate grazing; these include invasive species management, grazing infrastructure improvement projects, provision of supplemental feed and nutrients, and water development.

The Draft Management Plan for the Mariposa Peak Ranch, Fairview Corners-Gavilan College Joint 329 acre Conservation Easement Area (Sequoia Ecological Consulting 2016, Appendix C) has been created to provide direction to the holder of the conservation easement, the Wildlife Heritage Foundation (or similar entity). In addition, the management plan would ensure that the mitigation area is managed, monitored, and maintained in perpetuity as habitat for covered species. The management plan establishes objectives, priorities and tasks to monitor, manage, maintain and report on covered species and covered habitat on the Preserve. The management plan is a binding and enforceable instrument, implemented by the conservation easement covering the Preserve property.
As discussed previously in Section 1.3, the Mariposa Peak Conservation Preserve is the intended offsite mitigation location. The applicants have committed significant resources and are in the process of establishing a conservation easement on the property. If, however, the Mariposa Peak Conservation Preserve is not available or financially feasible, offsite mitigation may be proposed at the same ratio of 2.4:1 on another CDFW/USFWS-approved mitigation site or through a conservation bank with a known CTS breeding pond.

2.2 ACTIVITIES COVERED BY PERMIT

The project Applicants request ESA coverage for the Gavilan College San Benito Campus and Fairview Corners Residential project (Covered Activities). The Applicants are requesting ESA coverage for all activities associated with the construction of the Gavilan College San Benito Campus and Fairview Corners Residential project sites (137 acres). In summary, the Applicants requests take coverage for the following activities:

- Construction of the Gavilan College San Benito Campus throughout the Permit Term of 25 years, and which would be subject to renewal, including:
  - Incidental take of Covered Species from construction activities; and,
  - Capture and relocation of Covered Species from the construction site, if necessary.

- Construction of the Fairview Corners residential project throughout the Permit Term of 25 years, and which would be subject to renewal, including:
  - Incidental take of Covered Species from construction activities; and
  - Capture and relocation of Covered Species from the construction site, if necessary.

2.2.1 Gavilan College San Benito Campus Construction

The Gavilan College San Benito Campus is proposed on the southern portion of the project site, a 77-acre site located adjacent to the northeast corner of Fairview Road and Airline Highway. The Gavilan College campus is estimated to be constructed in two major phases, with construction of each phase over an extended period of time. Phase I would occur as soon as all approvals and mitigation requirements are completed. The college is considered an Educational Center until the Gavilan College District receives state funding for construction of full campus buildout (Phase 2). The Gavilan College District is not eligible for state funding until the student enrollment reaches at least 1,000 students. Phase I would be located along the extension of
Cielo Vista Drive. The buildings would be constructed and expanded as the campus student population increases. The total building area required to support Phase 1 is estimated at 50,000 square feet.

The full campus buildout is anticipated to occur by 2035. Based on funding availability, Gavilan College District assumes the core campus buildings would be constructed increments of 50,000 gross square feet each five years. The retail and housing uses, if implemented, could proceed on a separate timeline, based on demand and economic feasibility and be constructed five to ten years after the start of Phase 2 construction. The athletic and recreational facilities could also proceed on an independent timeline, based on the availability of funding.

2.2.2 Fairview Corners Residential Project Construction

As described above, a Specific Plan approved by the County of San Benito, guides development of the 60-acre Fairview Corners residential project. The Specific Plan provides that a range of potential densities may be developed, from one dwelling unit per acre to a gross density of 3.6 dwelling units per acre (12 to 220 units). Total project build-out is anticipated to occur in phases. The approved project would be constructed in at least two major phases (Phase I and Phase II), over a period of 5 to 16 years. The two major phases would accommodate grading and infrastructure construction and may be divided into additional “sub” phases, each of which may last approximately two years, with up to four sub-phases within each primary phase (Phase I (A-D) and Phase II (A-D)).

The Specific Plan conceptually discusses the various project components; initially, the site plan and related phasing for individual development projects would be more precisely defined through the first subdivision application process. The development phases are expected to occur sequentially (Phase I, then Phase II) although the phases may occur concurrently. Development of each phase shall include all infrastructure, services, facilities, and amenities, both public and private, needed to serve the uses and structures within that phase, which would be completed in accordance with the applicable provisions of the Specific Plan, and the recorded Development Agreement between the County of San Benito and Fairview Corners LLC.

Development would occur first near Fairview Road, with successive phases progressing eastward across the site. It is anticipated that grading, drainage, and roadway backbone infrastructure would be completed on a phase-by-phase basis.
2.2.3 Sources of Potential Incidental Take as a Result of Construction and Project Use (Both Projects)

Project activities and their resulting impacts are expected to result in the incidental take of CTS and SJKF individuals. As defined by Federal law, take of individuals could occur as a result of project construction activities, including grubbing, grading, excavation, fill, road construction, installation of utilities, and trench digging (Covered Activities). Incidental take of individuals of the Covered Species in the form of mortality ("kill") may occur as a result of Covered Activities involving vehicles or construction equipment, by vegetation clearing and trenching, through collapsing of burrows, or by entrapment in trenches or within construction materials. Because the entire project footprint is within the CTS’s migratory range of 1.24 miles from either the known California tiger salamander breeding ponds immediately south of the permit area, across State Route 25, or 1.0 miles north of the permit area, take as defined by Federal law could occur throughout the project footprint.

Incidental take of CTS or SJKF may also occur as a result of the Covered Activities in the form of pursuit, catch, and capture of an individual if it is found within the project area and needs to be relocated. The project will cause the permanent loss of 137 acres of upland habitat for CTS and mitigation and foraging habitat for SJKF. Impacts of the authorized taking also include adverse impacts to CTS and SJKF related to increased habitat fragmentation, edge effects, and the project’s contribution to cumulative impacts (indirect impacts). Indirect impacts to the CTS and SJKF include: stress resulting from noise and vibrations, stress resulting from capture and relocation, increased vulnerability to predation and long-term effects due to increased vehicular traffic, increased pollution, displacement from preferred habitat, and increased competition for food and space. Additional discussion of activities that may cause incidental take is included in Section 4.1.
3.0

ENVIRONMENTAL SETTING /
BIOLOGICAL RESOURCES

3.1 ENVIRONMENTAL SETTING

A reconnaissance level field survey of the project site was completed on October 23, 2007, by Live Oak Associates. Additional surveys were conducted on February 5, 2008 to evaluate aquatic features and in April and May 2008 to conduct botanical surveys. Reconnaissance-level surveys were conducted by EMC Planning Group on April 30, 2009 and June 1, 2009 to verify site conditions. Additional site visits were conducted December 12, 2009, January 14, 2010, and February 1, 2010 to provide further documentation of site conditions during seasonal changes. A site visit with USFWS biologist Chad Mitcham and CDFW biologist Brandon Sanderson was conducted on October 21, 2011.

3.1.1 Climate

In the plan area, the summer temperature range in 2011 was from 50°F to 81°F, with an average annual high of 69.1°F. The winter temperature range is from 33.1°F to 62.5°F, with an average annual low of 44.7°F.

The average annual precipitation from 1981-2010 was 14.6 inches. Most precipitation falls as rain. The rainy season is from November to April with the majority of the rainfall occurring in January.
3.1.2 **Topography/Geology**

Topographically, the site ranges in elevation from approximately 465 ft. (142 m) National Geodetic Vertical Datum (NGVD) in the southwest corner of the site to approximately 550 ft. (168 m) NGVD in the northern half of the site. The landscape is composed of low hills. Four soil types from three soil series—Antioch, Rincon, and San Benito—were identified on the project site (NRCS 1969). The Antioch series consists of moderately well to somewhat poorly drained soils. The Rincon series consist of deep, well-drained soils that formed in alluvium from sedimentary rocks. The San Benito series consists of well-drained soils that formed in residuum weathered from shale and sandstone with strongly sloping to very steep slopes. None of these soil series are considered hydric, although hydric inclusions may occur. Antioch and Rincon soils are considered slightly acidic to moderately alkaline; therefore, the site may have, at one time, supported plant species adapted to such conditions.

3.1.3 **Hydrology/Streams, Rivers, Drainages**

There are no aquatic features occurring on the site. However, there once was a stock pond in the site’s northeast corner. The stock pond was known to support standing water in 2000 (Mori Biological Consulting Services 2000) and based on review of aerial photographs from the recent past, the stock pond may have supported aquatic vegetation and standing water in 2006 and possibly into 2007. However, during subsequent site visits and surveys conducted in 2007, 2008, 2009, and 2010, no standing water was observed anywhere on the site. The former stock pond appears to be a relict feature, as it does not appear to become inundated following major storm events, as evidenced by the absence of standing water at the time of the February 2008 survey within a week following a major storm event in the region.

Also, changes in land use visible in the historical aerial photographs of the project site and the adjacent parcel to the north may have contributed to the changes in the hydrologic characteristics of the former stock pond site; these include the conversion from cattle grazed grasslands into barley production on the project site and grasslands into vineyards on the parcel to the north. These changes are first visible in the aerial photograph from 2007, where discing is visible at the project site and property to the north. It is possible that the increased use of water for the vineyard, together with the discing for hay and possible sediment deposition, contributed to the recent changes in the hydrologic conditions on the site (Mori Biological Consulting Services 2010).

Additionally, the stock pond is hydrologically isolated from known Waters of the U.S. and their tributaries, does not replace the functions and values of historic waters, and does not meet the
Army Corps of Engineers (USACE) technical criteria for jurisdictional wetlands. Vegetation is similar to that of upland areas, with the addition of two facultative species, poison hemlock (*Conium maculatum*) and spiny cocklebur (*Xanthium spinosum*). A Waters of the U.S. analysis was completed for the site in 2008 (Live Oak Associates 2008), and the USACE determined that no waters, including the former stock pond, meet the definition of a Water of the U.S (Appendix D, USACE 2008). Therefore, no features on the site are subject to regulation by the USACE.

### 3.1.4 Existing and Surrounding Land Use

The project site currently consists of unimproved rangeland and agricultural fields of cultivated barley that are annually disked and periodically grazed by cattle. All sides of the project site are fenced. There are no trails, roads or other improvements on the site. A water pump station is located in the northwestern corner of the project site along Fairview Road. The remnant stock pond is located in the northeastern corner of the project site.

One vegetation community was identified during the surveys: agricultural land. The entire project site has been disked for agricultural production of dry farmed barley. Historically the project site was periodically left fallow, however for at least the past 10 years dry farmed barley has been grown on the site. Cultivated fields may support California ground squirrels (*Spermophilus beecheyi*) and other small mammals, which in turn could support burrowing owl, a special status species, raptors, and other species such as coyote or fox.

The site is bound by rural residential and agricultural fields to the north and east, Highway 25 to the south, and Fairview Road and neighborhood residential subdivisions to the west. Surrounding land uses include residential development, agriculture, non-native grassland to the northeast, and the Ridgemark Golf Course residential subdivision to the south.

### 3.2 Covered Wildlife Species

Data from the USFWS, CDFW, and CNPS were reviewed to determine the potential for any special-status species to occur within the project vicinity. Plant and wildlife species listed by these agencies and expected to occur in the vicinity are included in the biotic evaluation, Appendix A.

Surveys were conducted in the spring (April and May) of 2008 during the typical blooming periods of special status plant species known to occur in the project vicinity. No special status plant species were identified.
The project site is located within USFWS critical habitat for the Federally- and state-listed California tiger salamander and is within the known range of the Federally- and state-listed San Joaquin kit fox. These two species are considered the “Covered Species” for purposes of this HCP.

Habitat for the following state listed species was identified as potentially occurring within the project area: western burrowing owl, American badger, and nesting migratory birds and raptors. These species are discussed briefly below and in further detail in the biotic evaluation. In addition, although two species are not known to occur on site (California red-legged frog and Western spadefoot), these species have previously been singled out in comments from or communication with USFWS and/or CDFW staff and are also briefly addressed.

### 3.2.1 California Tiger Salamander (*Ambystoma californiense*)

#### Status and Distribution

The Central California Distinct Population Segment of the California tiger salamander was federally listed as threatened on August 4, 2004 (69 Fed. Reg. 47212–47248) and state listed as threatened on May 20, 2010. California tiger salamanders typically occur in the California Central Valley and in surrounding foothills of both the Coast Range and Sierra Nevada mountains.

Critical habitat was designated for the central population of California tiger salamander in 2005 (70 FR 49379–49458). The entire project site is within critical habitat for California tiger salamander, as depicted in Figure 8, Recorded Observations of California Tiger Salamander within 1.24 miles of the Project Site. The project site and adjacent lands to the north and east fall within Critical Habitat Unit 15A, Ana Creek Unit, San Benito County, 2,722 acres. This unit was deemed essential to the conservation of the species because it is needed to maintain the current geographic and ecological distribution of the species within the Bay Area Geographic Region. Threats to Critical Habitat Unit 15A identified in the final rule include erosion and sedimentation, pesticide application, non-native predators, development, and road construction.

#### Habitat Characteristics/Use

The California tiger salamander is a large terrestrial salamander, with adults attaining a total length of over 8 inches (203 millimeters) (Stebbins 1951). Dorsally, the background color appears to be jet black—normally with an overlaid pattern of white or yellow spots, or bars.
Figure 8

Recorded Observations of CTS within 1.24 miles of the Project Site
Gavilan College San Benito Campus and Fairview Corners Residential Development HCP
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Adult California tiger salamanders breed from late November through February, following the onset of winter rains (Storer 1925, Barry and Shaffer 1994). Both males and females travel up to 1 mile (1.6 km) or more during nocturnal breeding migrations from subterranean refuge, or aestivation, sites (i.e., small mammal burrows) to egg deposition sites in long-lasting, rain-filled vernal pools (Twitty 1941, Loredo et al. 1996, Andersen 1968, Austin and Shaffer 1992).

In a 5-year study of migratory movements of CTS, the majority of California tiger salamanders migrated at least 0.5 mile (mi) (0.8 kilometer (km)) from the breeding site. A smaller number of salamanders appeared to migrate even farther, traveling 0.75 mi (1.2 km) to almost 1.3 mi (2.2 km) to and from the breeding ponds and upland habitat on adjacent property. One possible explanation for this long migration distance is that salamanders must travel farther to locate suitable upland habitat when there is a scarcity of ground squirrel burrows and other refugia in proximity to the ponds (Orloff 2011).

Embryos of California tiger salamanders hatch in approximately 14-28 days after being laid and the resulting gilled, aquatic larvae (0.41-0.43 inches [10.5-11 mm] in length) require a minimum of about 10-12 weeks to complete development through metamorphosis (Storer 1925, Twitty 1941). Following metamorphosis (normally from early May through July), juveniles emigrate en masse at night into small mammal burrows or deep cracks in the soil, which they use as refugia during the hot summer and fall months (Shaffer et al. 1993, Loredo et al. 1996). Anecdotal evidence indicates that salamanders have a high degree of site fidelity to their breeding ponds and also to the small mammal burrows they use for refugia (Shaffer et al. 1993). Sites used for reproduction are typically natural pools that fill with rainwater and artificial stock ponds; however, salamanders have also been observed to breed in springs, wells, artificial reservoirs, quarry ponds, man-made canals, and rarely, in the slack waters of oxbows in small- to medium-sized streams. Such sites may, or may not contain dense amounts of aquatic and streamside vegetation. The highest numbers of larvae appear to occur in aquatic habitats that are largely devoid of any vegetation and contain very turbid water. Salamanders may also turn up in certain man-made structures (e.g. wet basements, wells, swimming pools, underground pipes, and septic tank drains), sometimes many years after their local breeding site has been destroyed by urbanization (Storer 1925, Pickwell 1947).

Juvenile and adult salamanders typically use the burrows of California ground squirrels and pocket gophers as underground refugia (Storer 1925, Jennings and Hayes 1994, Jennings 1996, Loredo et al. 1996) but may use a variety of burrows including cracks within the soil that may extend up to 15 feet (4.6 m) deep from the soil surface (Jennings, unpub. data). Juvenile and adult salamanders are especially common in situations where piles of concrete, rock, or other rubble are mixed with dirt and are located near breeding sites (Jennings, unpub. data).
Occurrences within the Project Site

Survey reports from 1997, 2000, and 2010 prepared by Mori Biological Consulting Services, are included as Appendix E. Survey results from 2007/2008 are presented in the biotic resources assessment, Appendix A. CTS larvae were documented on the project site in 1997 (Mori Biological Consulting Services 1997) in the former stock pond. An occurrence is also noted in a CNDDB record from 2000 (CNDDB 2013); however, it should be noted that all subsequent surveys and the biotic resources assessment prepared for the site refer back to the 1997 survey, which contains the only documented observation on the site.

The biotic resources assessment and 2010 survey note that standing water in the location of the former stock pond has not been observed on the site since 2006. Standing water present for a time period long enough to support CTS breeding activity (or additional surveys) in the former pond area has not been observed since the 2010 survey. No CTS adults or larvae have been documented on the project site since 1997, other than the CNDDB record. Further, the habitat value of the former stock pond is considered to be low due to repeated discing and ripping over the years as part of agricultural activities on the site. However, although suitable breeding habitat for CTS no longer occurs within the project site, suitable breeding habitat has been documented within 1.24 miles of the project site, the distance considered when completing a protocol-level CTS habitat assessment (USFWS 2003a).

There are six occurrences of this species documented in the California Natural Diversity Database (CDFW 2014) within 1.24 miles of the main project site, including the documented occurrence in 2000 in the onsite remnant stock pond. Anecdotal evidence has also been provided that CTS breeding activity may have also occurred in 2000 at a pond area located immediately northeast of the project site, however this area is located on private property and protocol survey work has not been conducted (Bryan Mori Biological Services 2000). Two of the remaining five occurrences located close to the project site, both occurring in 1999, include the presence of larvae in water features associated with the Ridgemark Golf Course approximately 0.1 miles and 0.25 miles, respectively, south of the site. CTS have been observed in a pond located at the terminus of Paullus Drive within the Ridgemark Golf Course development. This pond has been protected as a mitigation pond for the species and the species is presumed present. Remaining ponds within the Ridgemark Golf Course development are unlikely to support CTS due to the presence of predacious species (e.g., bass, catfish, crayfish, etc.) and chemicals used to treat the water for algae control (Live Oak Associates 2008).

The next closest observation is from 1990, when an adult CTS was unearthed by a dog in the backyard of a house along Harbern Way, east of the project site. Biologists believed that CTS has been extirpated from this area (Occurrence Number 597, CDFW 2014). Further north from the project site, the next closest recorded observation occurred in 1997 along the north side of John
Smith Road, 0.3 miles west of Fairview Road. One adult female CTS was observed. Southeast of the project site, near Airline Highway, a recorded observation from 1978 identified two ponds with CTS and spadefoot toad larvae present. It is unknown if the ponds still host CTS.

Suitable, albeit marginal, aestivation habitat in the form of rodent burrows was observed within the agricultural fields of the main project site. However, this presumes that CTS breed within some reasonable, unimpeded distance of the site. Findings from the limited research on the species suggest that the majority of a CTS population aestivates within 0.5 miles of a breeding pond and a much smaller percentage travels up to 1.3 miles of a breeding pond. Grading activities on properties to the north and east also likely hinder migration to the site. Regardless, aestivating CTS can utilize upland habitat in the absence of suitable aquatic breeding habitats for up to ten years before all cohorts from the last breeding event are expected to perish.

In summary, breeding habitat is absent from the project site and available aestivation habitat is limited. Anecdotal evidence has been provided that CTS breeding activity may have occurred in 2000 at a pond area located immediately northeast of the permit area, however this area is located on private property and protocol survey work has not been conducted (Bryan Mori Biological Services 2000). Additionally, breeding activity has occurred south of the permit area in the ponds located in the Ridgemark Country Club. Although the permit area provides marginal upland aestivation habitat, the potential for individual CTS to migrate on to the site from breeding sites in the project vicinity remains. For these reasons, and for purposes of this HCP, it is assumed that all 137 acres of the permit area are considered upland aestivation habitat.

### 3.2.2 San Joaquin Kit Fox (*Vulpes macrotis mutica*)

#### Status and Distribution

The San Joaquin kit fox is federally listed as endangered and state listed as threatened. Although considered one of the first species to receive Federal protection, at the time the USFWS listed it as an endangered species under the authority of the Federal Endangered Species Act on March 11, 1967 (FR 32 FR 4001) the San Joaquin kit fox had been extirpated from much of its historic range. In 1998, the USFWS adopted a final recovery plan for the San Joaquin kit fox. On June 27, 1971, the State of California listed the kit fox as a threatened species.

The San Joaquin kit fox, the smallest North American member of the dog family (Canidae), historically occupied the dry plains of the San Joaquin Valley, from San Joaquin County to southern Kern County (Grinnell et al. 1937). Localized surveys, research projects, and incidental sightings indicate that kit foxes currently occupy available habitat on the San Joaquin Valley floor and in the surrounding foothills.
Habitat Characteristics/Use

Kit foxes prefer habitats of open or low vegetation with loose soils. In the northern portion of their range, they occupy grazed grasslands and, to a lesser extent, valley oak woodlands. In the southern and central portion of the Central Valley, kit foxes are found in valley sink scrub, valley saltbrush scrub, upper Sonoran subshrub scrub, and annual grassland (USFWS 1998). Kit foxes may also be found in grazed grasslands, urban settings, and in areas adjacent to tilled or fallow fields (USFWS 1998).

Kit fox diets vary geographically, seasonally and annually. In most of their range, which includes lands around the study area, known prey includes mice, insects, California ground squirrels, black-tailed hares, desert cottontails, and ground-nesting birds (Jensen 1972).

The kit fox requires underground dens to raise pups, regulate body temperature, and avoid predators and other adverse environmental conditions (Golightly and Ohmart 1984). They usually occupy burrows excavated by small mammals, such as ground squirrels. Denning habitat consists of ground squirrel complexes in which some burrows have been enlarged to 4 to 10 inches in diameter for the length of a human arm (approximately 2 ft.).

Occurrences within the Project Site

Suitable onsite habitat for this species is considered marginal, at best, and this species would not reasonably be expected to breed or den on the site. However, it can be reasonably expected that an individual may migrate or forage through the project area during the permit term of 25 years. Of primary interest for this project are kit fox records from the region. According to the CNDDB (CDFG 2012), there have been a total of eight direct and indirect sightings within ten miles of the site since 1971 (Figure 9, Recorded Observations of San Joaquin kit fox within 10 miles of the Project Site). The nearest observation was documented approximately 0.5 miles north of the project site in 1971. The most recent documented occurrence of this species took place in 1992, approximately 5 miles west of the site. 1-2 juveniles were observed at 4660 San Juan-Hollister Road, approximately 2.3 miles west of Hollister. It was reported that the mother and three of the pups died. At the time of the observation, the site was used for ranching, however the site was included in a future plan for a golf course and country club. Numerous regional surveys conducted before and after the date of the 1992 occurrence have failed to detect this species.

While these occurrences suggest that it is possible that kit foxes may have traveled to the project site, the current marginal quality of the project site suggests that they would not choose this site for denning and/or breeding. The site is somewhat isolated from any extant subpopulations of kit fox. Based on the site’s location and the distribution of kit fox occurrences
Figure 9

Recorded Observations of SJKF within 10 miles of the Project Site
Gavilan College San Benito Campus and Fairview Corners Residential Development HCP
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in its vicinity, the site is not essential to the regional movement of kit fox populations. For all intents and purposes, the site would tend to function more as a dispersal sink (i.e., a habitat in which a population is expected to decline to extinction due to sub-optimal foraging and breeding conditions) than as an area that would facilitate movements or aid in successful breeding.

Most of the project site's surrounding land uses consist of farmland, rangeland, residential development, and a golf course. These are land uses that are not generally suitable for the San Joaquin kit fox; however, rangelands can provide marginal foraging habitat for this species. The site itself has been heavily managed for agricultural uses, rendering onsite habitat for this species marginal, at best. While some open space exists to the northeast of the site, the likelihood that a kit fox would travel through low-quality habitat to utilize the low-quality, managed agricultural field on the site is low. Any occurrence would be of an incidental nature.

Suitable denning habitat for kit foxes was not observed on the site during the October 2007 or February 2008 field surveys. While a number of ground squirrel burrows were observed throughout the agricultural field, none of these possessed the dimensions suitable for kit foxes. Having been modified for agricultural use, the study area provides a limited prey base and, therefore, marginal foraging habitat for kit foxes. Farming practices appear to have also limited the onsite occurrence of ground-nesting birds that sometimes constitute prey for this species. Due to the lack of suitable denning habitat observed and the presence of only a limited prey base it is therefore considered unlikely that breeding activity occurs on the project site.

### 3.3 Other Species of Concern

The following sections describe other species of concern that may occur in the project vicinity but are not included in the ITP permit application.

#### 3.3.1 Western Burrowing Owl (Athene cunicularia hypugaea)

**Status and Distribution**

Western burrowing owl is state listed as a species of concern. California supports one of the largest year-round (resident) and winter (migrant) populations of Burrowing Owls within the United States. Most Burrowing Owls occurred within the Central (24%) and Imperial Valleys
(71%), primarily in agricultural areas. Burrowing Owls have disappeared or declined in several southern California and San Francisco Bay counties and in coastal areas (USFWS 2003b).

**Habitat Characteristics/Use**

Burrowing owls live and breed in burrows in the ground, especially in abandoned ground squirrel burrows. Optimal habitat conditions include large open, dry and nearly level grasslands or prairies with short to moderate vegetation height and cover, areas of bare ground, and populations of burrowing mammals.

**Occurrences within the Project Site**

Ground squirrel burrows found on the site provide limited nesting habitat for burrowing owls. Given the current land use practices associated with dry land farming, it is highly unlikely that burrowing owls would breed onsite. If they breed or winter nearby, they could use the site for foraging, but no evidence (i.e., feathers and regurgitation pellets) was detected during any of our site visits in April, May, and October 2007 and February 2008 to indicate that they do so. Therefore, any benefit of this site for the regional population is speculative. This species was observed utilizing a burrow approximately 1 mile north of the project site in November 2000. Additionally, there appears to be a marginally suitable prey base for this species within the project site.

**3.3.2 American Badger (Taxidea taxus)**

**Status and Distribution**

American badger is state listed as a species of concern. This species is an uncommon, permanent resident found throughout most of the state, with the exception of the northern area of the North Coast.

**Habitat Characteristics/Use**

The badger is most abundant in grassland and the drier, more open successional stages of shrub, forest, and herbaceous habitats with friable soils.
Occurrences within the Project Site

The nearest observation of this species occurred at a burrow approximately 1.5 miles north of the project site in 1993. Marginally suitable habitat for this species is present on the project site.

3.3.3 Nesting Migratory Birds and Raptors

Status and Distribution

A total of 1,007 bird species are protected by the Migratory Bird Treaty Act and the CDFW (http://www.fws.gov/migratorybirds/RegulationsPolicies/mbta/mbtandx.html).

Habitat Characteristics/Use

Birds may nest in trees, shrubs, structures or on the ground.

Occurrences within the Project Site

Trees and shrubs adjacent to the project area have the potential to provide nesting habitat for raptors, such as Cooper's hawk (*Accipiter cooperii*), loggerhead shrike (*Lanius ludovicianus*), and red-tailed hawk (*Buteo jamaicensis*), which are known in the project vicinity. In addition, birds, including migratory birds, may also nest within trees near the project site and within vegetation present on the project site. Nesting activity was not observed in the project area during the site surveys, however nesting varies from year to year and may occur at a later date.

3.3.4 Western Spadefoot (*Spea hammondii*)

Status and Distribution

The western spadefoot is listed by the CDFW as a species of concern, and historically ranged from Redding to northwestern Baja California. Within California, the species was found throughout the Central Valley and in the Coast Ranges and coastal lowlands from San Francisco Bay to Mexico. It has been extirpated from many locations within this range.

Habitat Characteristics/Use

The western spadefoot typically breeds between January and May in seasonal ponds found within chaparral, short grass plains or coastal sage scrub. The spadefoot is mostly active at night and seeks refuge in small rodent burrows during the day.
Occurrences within the Project Site

This species has been documented in three locations within two miles of the project site since 1978, including one documented occurrence on the northern portion of the site in 2000. This species is known to breed within the golf course ponds of Ridgemark Golf Course immediately south of the site. Individuals occurring on nearby lands could move onto the site, which provides potential, albeit marginal, aestivating habitat for the spadefoot. As noted above, Highway 25 is an approximately 40-ft.-wide road supporting moderate to heavy vehicular traffic, and would act as a significant barrier to spadefoot coming from the known breeding ponds to the south of the site. Breeding habitat is absent from the site, as there is no evidence that the former stock pond holds water for a sufficient duration to support breeding populations. Due to the lack of ponded water on the site and barriers between the project site and known breeding locations, this species is considered absent from the project site.

3.3.5 California red-legged frog (Rana draytonii)

Status and Distribution

The California red-legged frog was federally listed as threatened on May 23, 1996 (61 FR 25813 25833) and is also listed as a species of special concern in California. California red-legged frogs were formerly widely distributed on the floor of the Central Valley. Their decline has been linked to the introduction of the bullfrog (Rana catesbiana), non-native fishes, cattle grazing, and other factors.

Suitable habitat includes permanent, slow-moving watercourses or ponds with overhanging or emergent vegetation. The project site lies within core recovery area 6 as described in the Recovery Plan for the California Red-legged Frog (Rana aurora draytonii) (USFWS 2002). Core recovery areas for red-legged frogs are defined by their potential to support viable populations and for their potential to create habitat corridors, thus increasing dispersal opportunities between populations. Preservation and enhancement of the core recovery areas are critical in maintaining and expanding the distribution of California red-legged frog populations range-wide.

California red-legged frogs were once widespread and abundant in the inner Coast ranges between the Salinas River system and the San Joaquin Valley. California red-legged frogs are found in Quien Sabe and Tres Pinos creeks, the Pajaro and San Benito rivers, and the general vicinity of Hollister (San Benito County) such as Santa Ana Creek, Tequisquita Slough, and the Hollister Hills State Vehicular Recreation Area (USFWS 2002).
Population decline is primarily due to loss of habitat, overexploitation and the introduction of exotic predators (USFWS 2002). Red-legged frogs are most likely to be found in lowland or foothill ponds and streams especially near grasses, cattails and bulrushes that provide dense riparian cover.

**Habitat Characteristics/Use**

California red-legged frog breeding habitat occurs in a variety of aquatic habitats, including streams, deep pools, backwaters within streams and creeks, ponds, marshes, sag ponds, dune ponds, and lagoons. Breeding adults are often associated with deep (greater than 0.7 meter [2 feet]) still or slow moving water and dense, shrubby riparian or emergent vegetation (Hayes and Jennings 1988). California red-legged frogs also frequently breed in artificial impoundments such as stock ponds. It is assumed, however, that these ponds must have proper management of hydroperiod, pond structure, vegetative cover, and control of non-native predators, although some stock ponds support frogs despite a lack of emergent vegetation cover and the presence of non-native predators (USFWS 2002).

During periods of wet weather, starting with the first rains of fall, some individuals may make overland excursions through upland habitats. Dispersing frogs have been documented traveling distances from 0.40 kilometer (0.25 mile) to more than 3 kilometers (2 miles) without apparent regard to topography, vegetation type, or riparian corridors (Bulger 1998).

California red-legged frogs often disperse from their breeding habitat to forage and seek summer habitat if water is not available. Preferred summer habitat could include spaces under boulders or rocks and organic debris, such as downed trees or logs, industrial debris, and agricultural features, such as drains, watering troughs, abandoned sheds, or hay-ricks. Frogs may also use large cracks in the bottom of dried ponds and small mammal burrows and moist leaf litter as refugia (Jennings and Hayes 1994).

**Occurrences within the Project Site**

The nearest documented occurrences of California red-legged frog occurred in 2005 in a detention pond and a Ridgemark Golf Course pond on the south side of Highway 25, approximately 0.1 miles south of the project site. As noted above, Highway 25 is an approximately 40-foot-wide road supporting moderate to heavy vehicular traffic, and would act as a significant barrier to California red-legged frogs coming from the known breeding ponds to the south of the site. Due to the lack of ponded water on the site and barriers between the project site and known breeding locations, this species is considered absent from the project site.
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4.0

POTENTIAL BIOLOGICAL IMPACTS /
TAKE ASSESSMENT

4.1 ANTICIPATED TAKE OF COVERED WILDLIFE OR FISH SPECIES

The Applicants are requesting incidental take authorization for all activities associated with the construction of the Gavilan College San Benito Campus and Fairview Corners Residential project on 137 acres of potential habitat for CTS and SJKF. Upon completion of construction the site will be built out. In summary, the Applicants are requesting take coverage for:

- Construction of the Gavilan College San Benito Campus, including:
  - Incidental take of CTS and SJKF from construction activities; and
  - Capture and relocation of CTS and SJKF from the construction site, if necessary.

- Construction of the Fairview Corners residential project, including:
  - Incidental take of CTS and SJKF from construction activities; and
  - Capture and relocation of CTS and SJKF from the construction site, if necessary.
4.1.1 Effects on California Tiger Salamander

Urban and rural growth in the Hollister area has occurred periodically since the late 1800s. In the last two to three decades, urban growth has encroached into areas inhabited by the CTS and has eliminated or modified a considerable area of vernal pools and ponds that provide potentially suitable breeding habitat for CTS. Typical activities that modified the hydrologic function of this habitat area included ditch excavation, road construction, land leveling, partial and complete filling, and other activities associated with rural residential development. Agricultural practices have also disturbed CTS aestivation habitat and seasonal wetland hydrologic characteristics, although some less invasive agricultural practices, such as irrigated or grazed pasture, have protected habitat from intensive development.

Historical records indicate that CTS occurred in the areas immediately surrounding the project site and within a former on-site pond. Agricultural and rural residential developments to the north, south and west of the project site have eliminated habitat or truncated migratory pathways across the site. Agricultural activities occurring north of the site may have altered the hydrology of the area and previous agricultural activities conducted at the project site may have resulted in the loss of the former stock pond on the site. As noted in Section 3.2, although CTS was present on the site in the past in 1997, and aerial photographs appear to indicate the possible presence of aquatic habitat in 2006 (Mori Biological Consulting Services 2010). No standing water was observed on the site during subsequent site visits and surveys conducted during the rainy season in 2007, 2008, 2009 and 2010 (refer to Appendix E). Standing water present for a long enough period to allow CTS breeding has not been observed on the project site since 2006.

Although the main project site does not support breeding habitat, and there are no documented occurrences of CTS on the site since 1997, the project site may provide marginal upland aestivation and dispersal habitat. Therefore, construction of the two projects will eliminate 137 acres of potential CTS aestivation and migratory habitat and further truncate migratory corridors across the site. However, migration to the east, south, and partially to the north into the surrounding lands would result in CTS moving into habitat that is not considered suitable. In particular, vehicular traffic on Airline Highway to the south, streets, parking areas, and access driveways in the residential areas to the east and agricultural land to the north could contribute to CTS mortality.

Direct Effects

Construction-Related Take. There is a low probability that CTS would be encountered in burrows on the project site or moving through the project site during the construction period. Because CTS are largely nocturnal, they probably will not move through the project site while
construction activities are occurring. However, they may be present at the start-up of daily construction activities. Construction activities during the winter may also create depressions in bare soil that could fill with water and that may attract salamanders to the project site.

If a CTS is encountered on the site during construction activities, individuals may be harassed, injured, or killed by construction vehicles or equipment. Take of individuals could occur as a result of project construction activities, including grubbing, grading, excavation, fill, road construction, installation of utilities, and trench digging. Incidental take of CTS in the form of mortality ("kill") may occur as a result of activities involving vehicles or construction equipment, by vegetation clearing and trenching, through collapsing of burrows, or by entrapment in trenches or within construction materials. Incidental take of CTS may also occur as a result of the Covered Activities in the form of pursuit, catch, and capture of an individual if it is found within the project area and needs to be relocated.

Implementation of the construction avoidance measures described in Section 5 will greatly reduce the impact to CTS and likely eliminate the potential for take.

**Removal of Marginal Upland Habitat.** Development of the approved projects will result in the loss of approximately 137 acres of agricultural land, which is considered marginal upland habitat for CTS.

**Indirect Effects**

**Road Kill on New Roads.** Due to the lack of breeding habitat on the project site, the overall chance of road kill of CTS on roads constructed as part of the projects is considered low. Development will create or improve approximately 5,000 linear feet of roads on the Gavilan College site, including an approximately 3,000-foot long emergency access road, and approximately 12,000 linear feet of roads within the Fairview Corners Residential site (depending on the final development plan).

Road development will create vehicle traffic and introduce the potential for road kill of CTS that may move across roads. Vehicle access to the emergency access route would be restricted to emergency vehicles only and as a result, the potential to impact CTS on this roadway is extremely low. Construction of the housing development, college campus and new landscaping will increase the number of new barriers to movement. Placement of the roads to the interior of the project will ensure that migrating CTS encounter the development and landscaping first. The presence of human activity should also deter CTS from proceeding toward the interior roads.
However, normal vehicular traffic on the new roads may injure or kill CTS, if any occasionally move through the project site. The risk to CTS will be greatest after dark, when their movements are most likely to occur, although vehicular traffic is expected to be lowest during this time.

**Take Analysis**

The proposed project may result in mortality to California tiger salamanders inhabiting or migrating through the 137 acres of agricultural land. The site could potentially be utilized as aestivation habitat; however, development of site would eliminate 137 acres of this potential habitat. The risk of individual mortality will be minimized through the mitigation measures described in Section 5.

### 4.1.2 Effects on San Joaquin Kit Fox

The permit area does not support suitable denning habitat; the presence of marginal migratory and foraging habitat and the recorded observations of SJKF in the project vicinity result in the low probability of encountering SJKF during construction. The approved projects would eliminate 137 acres of marginal migratory and foraging habitat.

**Direct Effects**

**Construction-Related Take.** There is a low probability that SJKF would be encountered moving through the project site or utilizing construction materials, trenches, or other structures as refuge habitat. SJKF are mostly nocturnal and are not likely to move through the site during daytime activities. However, they may be present at the start-up of daily construction activities.

If a SJKF is encountered on the site during construction activities, individuals may be harassed, injured, or killed by construction vehicles or equipment. Take of individuals could occur as a result of project construction activities, including grubbing, grading, excavation, fill, road construction, installation of utilities, and trench digging, or by capture for relocation. Incidental take of SJKF in the form of mortality ("kill") may occur as a result of activities involving vehicles or construction equipment, by vegetation clearing and trenching, or by entrapment in trenches or within construction materials.

Implementation of the construction avoidance measures described in Section 5 will greatly reduce the impact to SJKF and likely eliminate the potential for take.
**Removal of Marginal Foraging and Migratory Habitat.** Development of the approved projects will result in the loss of approximately 137 acres of agricultural land, which is considered marginal foraging and migratory habitat for SJKF.

**Indirect Effects**

**Road kill on New Roads.** As similarly discussed above regarding CTS, road development will increase vehicle traffic and increase the potential for SJKF road kill. As with CTS, the risk to SJKF will be greatest after dark, when their movements are most likely to occur, although vehicular traffic is expected to be lowest during this time.

### 4.2 Effects on Critical Habitat

The entire 137-acre project site is within critical habitat for CTS, as depicted in Figure 8, *Recorded Observations of California Tiger Salamander within 1.24 miles of the Project Site*. The project site and adjacent lands to the north and east fall within Critical Habitat Unit 15A, Ana Creek Unit, San Benito County, 2,722 acres. This unit was deemed essential to the conservation of the species because it is needed to maintain the current geographic and ecological distribution of the species within the Bay Area Geographic Region. Threats to Critical Habitat Unit 15A identified in the final rule include erosion and sedimentation, pesticide application, non-native predators, development, and road construction.

A recovery plan has not been prepared for CTS. However, when designating critical habitat for CTS, USFWS used the following five conservation principles to designate critical habitat units:

1. Maintain the current genetic structure across the species range;
2. Maintain the current geographic, elevational, and ecological distribution;
3. Protect the hydrology and water quality of breeding pools and ponds;
4. Retain or provide for connectivity between breeding locations for genetic exchange and recolonization; and
5. Protect sufficient barrier-free upland habitat around each breeding location to allow for sufficient survival and recruitment to maintain a breeding population over the long term.

The proposed projects are anticipated to remove 137 acres of upland habitat and will likely result in few CTS mortalities, if any. The proposed projects would therefore not diminish the
current genetic structure throughout the species’ range, nor would it diminish the species’ current geographic, elevational, or ecological distribution.

There is no CTS breeding habitat found on the project site and the nearest known breeding pond occurs within golf course ponds across State Route 25. The pond formerly located on the site and the ponds formerly located immediately north of the site no longer support a hydroperiod sufficient for CTS breeding, presumably due to agricultural practices on and north of the project site. The project site has historically been utilized to cultivate barley and is mostly surrounded by rural residential and golf course development. Although individuals may infrequently occur on the site during movement periods, the proposed project would not appreciably reduce upland areas surrounding breeding habitat. Furthermore, measures will be implemented as described in Chapter 5, Conservation Program / Measures to Minimize and Mitigate for Impacts, to minimize impacts and to mitigate the permanent loss of habitat through offsite preservation and management of high quality occupied habitat. Considering both the effects of the proposed project and cumulative impacts on the species, the proposed project would not preclude the survival or recovery of the central population of CTS.

4.3 **Cumulative Impacts**

The proposed projects would contribute to a cumulative loss of CTS habitat in San Benito County. The County is preparing a regional Multi-Species Habitat Conservation Plan (MSHCP), and collects development impact fees as conditions of project approval for projects located within the CTS Critical Habitat. Although the scope of the MSHCP is unknown at this time, a MSHCP effort would contribute substantially to the conservation of listed species in San Benito County. In partial mitigation of the biological impacts of development, the Fairview Corners Residential project is responsible for the payment of the county's Habitat Conservation Mitigation Fees per County Ordinance 541 (San Benito County Code, Chapter 19.19). As noted in San Benito County Code Section 19.19.001 the purpose of the ordinance is to "provide a method for financing development and implementation of a habitat conservation plan and a § 10(a) permit under the Endangered Species Act of 1973 (16 U.S.C. §§ 1531 et seq.) for the San Benito County habitat conservation plan study area." Per County Code Section 19.19.007, the county holds interim mitigation fees collected through this program in a separate trust for payment of MSHCP development costs and habitat mitigation as would be identified in the MSHCP. See also San Benito County Code of Ordinances (http://library.amlegal.com/nxt/gateway.dll/California/sanbenitocounty_ca/sanbenitocountyca/ californiacodeofordinance?f=templates$fn=default.htm$3.0$vid=amlegal: sanbenitocounty_ca).
4.3.1 Cumulative Project Scenario

The Fairview Corners Residential Specific Plan EIR compiled a comprehensive cumulative project scenario based on the Gavilan San Benito Campus / Fairview Corners EIR and the Santana Ranch Specific Plan EIR, which was certified on October 5, 2010, by the County Board of Supervisors. The cumulative project list was updated in 2014 based on input from San Benito County and the City of Hollister, to reflect projects most likely to contribute to cumulative impacts to CTS and SJKF within 1.24 miles of the Plan Area. Two projects located within Critical Habitat Unit 15A are also within 1.24 miles of the Plan Area. One of the projects consists of adding a senior housing unit to an existing residence on Fox Hill Drive, east of Harbern Way. This project is not expected to affect CTS or SJKF due to the scale of the project. The second project, the Santana Ranch Specific Plan project is discussed further in the following pages. Projects included in the updated cumulative project scenario are presented in Table 2, Projects Considered Part of the Cumulative Project Scenario. The locations of these projects are shown in Figure 10, Cumulative Projects. There are 14 pending or approved projects in northern San Benito County and the City of Hollister, within 1.24 miles of the project site. Another project, Santa Ana Road, is also located within Critical Habitat 15A approximately three miles northeast of the Plan Area. This project is also discussed in detail later in this section.

Santana Ranch Specific Plan

The recently approved Santana Ranch Specific Plan includes approximately 292 acres located west of Fairview Road, north of John Smith Road. The approved project includes 1,092 residential units, neighborhood commercial units, an elementary school and parks. According to the Santana Ranch, San Benito County, California, Biological Assessment for the California Tiger Salamander, California Red-legged Frog, and San Joaquin kit fox (HT Harvey 2008), the Santana Ranch project will result in the permanent loss of 286.5 ac of habitat that may currently serve as SJKF habitat and upland aestivation, dispersal, and foraging habitat for the CTS, including 0.4 acres of seasonal wetlands on the main part of the project site that do not pond long enough to provide breeding habitat for the CTS or California red-legged frog. The project will also result in temporary impacts to approximately 40 square feet of wetland habitat within Santa Ana Creek and 0.3 acres of upland habitat within a roadside ditch, in which this species could occur. No breeding habitat for the species will be directly affected by the project. All of the main portion of the project site, as well as the southern portion of the roadside ditch to be improved as part of this project, are within designated CTS Critical Habitat Unit 15A; therefore this project will result in a loss to Critical Habitat for CTS.
Table 2  Projects Considered Part of the Cumulative Project Scenario

<table>
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<th>#</th>
<th>Project Name</th>
<th>Size/Land Use</th>
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<td>Airline Highway at Ridgemark Country Club</td>
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<td>GPA from RR to C-2</td>
<td>26,000 SF, Neighborhood Commercial</td>
<td>West of Fairview, North of Airline Highway</td>
<td>In Process</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Residential Projects</td>
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<td></td>
</tr>
<tr>
<td>3</td>
<td>Fairview Road Minor Subdivision</td>
<td>Two Residential Lots</td>
<td>3220 Fairview Road</td>
<td>In Process</td>
</tr>
<tr>
<td>4</td>
<td>GPA from AR to AP-Residential Subdivision</td>
<td>Possible Eight Residential Lots</td>
<td>2000 Santa Ana Valley Road</td>
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</tr>
<tr>
<td>5</td>
<td>Brigantino</td>
<td>15 Single-Family Homes</td>
<td>North of Brigantino Dr., South of Santa Ana Rd.</td>
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<tr>
<td>6</td>
<td>Eden West</td>
<td>55 Single-Family Homes</td>
<td>Between Apricot Lane, Line Street, Steinbeck Drive, and Cannery Row</td>
<td>Approved</td>
</tr>
<tr>
<td>7</td>
<td>Vista Meadows Senior Apartments</td>
<td>72 Senior Apartments</td>
<td>North of East Park Street and East of Sherwood Dr.</td>
<td>Approved</td>
</tr>
<tr>
<td>8</td>
<td>Walnut Park 13</td>
<td>27 Single-Family Homes</td>
<td>Along Calistoga Dr., between Monte Vista and Vallejo Dr.</td>
<td>Approved</td>
</tr>
<tr>
<td>9</td>
<td>Gateway Palms</td>
<td>32 Apartments</td>
<td>4th Street and Westside Blvd.</td>
<td>Approved</td>
</tr>
<tr>
<td>10</td>
<td>Santana Ranch Specific Plan</td>
<td>1,092 Residential Units, Neighborhood Commercial, Elementary School and Parks</td>
<td>West of Fairview Road, North of John Smith Road</td>
<td>Approved</td>
</tr>
<tr>
<td>11</td>
<td>Roberts Ranch¹</td>
<td>Zone Change and TASM for 206 Residential Lots</td>
<td>State Route 25 and Fairview Lane</td>
<td>In Process</td>
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### Project List

<table>
<thead>
<tr>
<th>#</th>
<th>Project Name</th>
<th>Size/Land Use</th>
<th>Location</th>
<th>Status</th>
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<tr>
<td>12</td>
<td>Fischer</td>
<td>Senior Living Unit</td>
<td>929 Foxhill Circle</td>
<td>In Process</td>
</tr>
<tr>
<td>13</td>
<td>Nardi</td>
<td>Removal and Reconstruction of Residence</td>
<td>120 Crestview Drive</td>
<td>In Process</td>
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<tr>
<td>14</td>
<td>James De La Pena</td>
<td>Senior Secondary Unit</td>
<td>180 Georges Drive</td>
<td>In Process</td>
</tr>
</tbody>
</table>

**Source:** EMC Planning Group 2014, County of San Benito Planning Department 2014, City of Hollister Planning Department 2014, PMC 2008

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**2000 Santa Ana Valley Road**

The proposed project would occur on 40 acres, approximately 3 miles north east of the Plan Area. Although located outside of the 1.24-mile radius of the cumulative scenario, this project includes a General Plan Amendment from Agricultural Rangeland to Agricultural Productive to increase the allowable number of residential units from 1:40 acres to 1:5 acres. The entire project is located within designated CTS Critical Habitat Unit 15A; therefore this project will result in a loss to Critical Habitat for CTS.

Development projects proposed or under consideration in the Hollister/San Benito County region will also contribute to cumulative effects on CTS and SJKF, including effects to CTS Critical Habitat. In addition to the two projects identified above, impacts to the covered species may occur as a result of smaller subdivision projects expected to occur along Fairview Road, in the eastern Hollister area or by El Rancho San Benito, a large development project proposed in northwestern San Benito County, west of Highway 25 and south of the Pajaro River that will likely result in impacts to CTS and SJKF. However, most or all of these projects are expected to mitigate these impacts through the CEQA process or through separate take authorization agreements with USFWS and CDFW.

The proposed projects, in combination with other approved or pending projects would contribute to the cumulative loss of habitat within 1.24 miles of the Plan Area, including lands within CTS Critical Habitat Unit 15A. Issuance of a USFWS ITP is necessary to allow construction of the two projects to proceed, which would contribute to the cumulative loss of critical habitat in the Santa Ana Unit 15A. However, approval of this proposed HCP would ensure implementation of compensatory mitigation to covered species that are affected directly and indirectly for all covered activities within the Plan Area, and for the proposed action’s contribution to the cumulative loss of critical habitat within the unit. This is achieved through the Applicants’ proposed conservation strategy. The applicants’ conservation strategy will create a conservation easement at a USFWS- and CDFW-approved site that would be granted and conveyed by the landowner to, and held by, an approved third party. The Applicants also
will provide an endowment fund for monitoring and management of the easement area to protect the habitat in perpetuity. As noted in the introduction, the applicants are pursuing a 329-acre conservation easement that will be recorded against the Mariposa Peak Conservation Preserve as shown in figure 4 and figure 5. As noted in Sections 5-7 of this HCP, measures are included that would perpetuate the continued existence of the covered species; thereby, minimizing impacts to and mitigating the authorized take of the covered species. Therefore, the proposed projects would not result in a significant adverse cumulative environmental effect to the covered species or their habitat.

4.4 **Anticipated Impacts of the Taking**

Because CTS spend most of their lives underground, they are rarely encountered even as adults and it is not possible to determine the exact number of CTS that could be taken as a result of development of the site. Similarly, it is difficult to determine the likelihood SJKF may forage or migrate through the site. Therefore, the incidental take permit application requests authorization of take of CTS and SJKF due to earthwork, construction and operation of facilities within the permit area.

With a USFWS-approved biologist on-site during key parts of the construction phases, and other protective measures that have been incorporated into the project (see Section 5.0) the level of take is expected to have negligible effects on the species' overall survival. This is due to the actual number of animals incidentally taken will be low, the percentage of the species habitat relative to the species entire geographic range is small, and the actual construction footprint's relative importance to the species, both regionally and throughout its range, is considered minor. For these reasons, the amount of take of CTS and SJKF due to the approved projects is considered negligible.

The proposed projects are anticipated to cause a maximum level of take for each covered species as follows:

1. All CTS could be subject to take (killed, injured, harmed or harassed, including if captured for relocation) within the boundaries of the 137-acre project site during any grading and construction operations including, but not limited to, use of equipment, vegetation removal, trampling of vegetation, compaction of soils, ground disturbance, grading, or creation of dust; and,

2. All SJKF could be subject to take (killed, injured, harmed or harassed) within the boundaries of the 137-acre project site during any construction activities, including, but not limited to, use of equipment, vegetation removal, construction material storage, or building construction.
Figure 10
Cumulative Projects
Gavilan College San Benito Campus and Fairview Corners Residential Development HCP
Note: The ITP will only authorize take of covered species in the proposed plan area. Any take that occurs beyond the proposed boundaries would not be covered by the permit. If project activities result in impacts outside of the proposed project area, coordination of adaptive management procedures with the USFWS will be undertaken immediately.

The proposed projects would result in the loss of 137 acres of potential CTS upland habitat and potential SJKF foraging and migration habitat. Full implementation of all mitigation measures, as described in Section 5.0, would ensure avoidance or minimization of take should CTS and/or SJKF individuals be encountered within the project boundary. It is assumed that the approved ITP would not cover areas/activities outside the scope of the covered activities, take of covered species outside of the Plan Area, take of species resulting from violation of the ITP or intentional take of covered species except for capture and relocation of covered species as authorized by the approved ITP.

If the permittees determine that construction of routes for travel or other activities are necessary outside of the Plan Area, the USFWS shall be contacted for written approval prior to carrying out such an activity. An amendment to the ITP would be necessary if additional take of covered species would occur as a result of project modification.
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5.0

CONSERVATION PROGRAM/MEASURES TO
MINIMIZE AND MITIGATE FOR IMPACTS

5.1 BIOLOGICAL GOALS AND OBJECTIVES

To establish an effective program to minimize and mitigate impacts to the covered species, objectives and performance standards are presented in the following sections. The biological goals of this HCP are as follows:

1. Avoid or minimize potential adverse impacts to CTS during construction of the approved projects within the permit area.

2. Avoid or minimize potential adverse impacts to SJKF during construction of the approved projects within the permit area.

3. Assure that offsite preservation occurs in proportion to effects on CTS and SJKF, including habitat loss. Prior to initiating any construction activities, the Applicants will establish a 329-acre conservation easement on the proposed Mariposa Peak Conservation Preserve or an equivalent habitat preserve with an established CTS breeding population, subject to USFWS and CDFW approval; this easement would mitigated for impacts at a 2.4:1 ratio. The Applicants' mitigation strategy will create a conservation easement at a USFWS- and CDFW-approved site that would be granted and conveyed by the landowner to, and held by, an approved third party, and will provide an endowment fund for monitoring and management of the easement area to protect habitat in perpetuity. As noted in the introduction, the Applicants currently are pursuing a conservation easement that will be recorded against the Mariposa Peak Conservation Preserve as shown on Figure 4 and figure 5.
5.2 AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES

5.2.1 USFWS–Approved Biologist

The fall prior to initiation of any construction activities on the site the Applicants shall select a USFWS-approved biologist to ensure that measures outlined in this HCP are adequately fulfilled. The biologist will be experienced in handling CTS, knowledgeable about denning and migratory habits of SJKF and qualified to perform monitoring and relocation activities. Prior to the initiation of any work on the project, the qualifications of the biologist shall be submitted to and approved by the USFWS and CDFW.

5.2.2 California Tiger Salamander

Exclusion Fencing

Because construction of the approved projects will take place in what is considered to be potentially occupied upland CTS habitat, passive salvage operations will be undertaken starting in the fall prior to construction to exclude CTS from the site and work area. Exclusion fencing (or another barrier acceptable to the USFWS) will be installed along the boundaries of the project site. Regular monitoring during the rainy season shall occur to move any CTS trapped within the exclusion area, particularly on mornings after rain events.

The location, layout and materials used to construct the fencing will be approved by the USFWS. At minimum, fencing will consist of material sunk into a trench and backfilled to form a solid barrier. Fencing requirements as outlined in the Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander (USFWS 2003a) will be followed.

The installed fencing will remain in place into the spring following construction and will be monitored daily to verify fence integrity and to ensure no wildlife species are trapped on the fence. Daily monitoring can be conducted by the USFWS-approved biologist or any other approved monitor (including designated members of the construction or monitoring crews that have received appropriate training by the USFWS-approved biologist).
Mowing

Mow all grassland vegetation within the project footprint prior to any grading to expose potential burrows that may be in use by CTS. This will allow the USFWS-approved biologist visual access when monitoring for CTS activity during ground disturbance/grading.

5.2.3 San Joaquin Kit Fox

Avoidance and minimization measures include the following measures identified in the U. S. Fish and Wildlife Service Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance (USFWS 1999).

Installation of Ramps

To prevent inadvertent entrapment of kit foxes or other animals during the construction phase of a project, all excavated, steep-walled holes or trenches more than 2-feet deep should be covered at the close of each working day by plywood or similar materials. If the trenches cannot be closed, one or more escape ramps constructed of earthen-fill or wooden planks shall be installed. Before such holes or trenches are filled, they should be thoroughly inspected for trapped animals.

Construction Material Storage

All construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored at a construction site for one or more overnight periods should be thoroughly inspected for kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a kit fox is discovered inside a pipe, that section of pipe should not be moved until the USFWS has been consulted.

5.2.4 Worker Awareness Training and Construction Monitoring

A USFWS- and CDFW-approved biologist will be on site while earthwork is in progress and will be available for the entire period during which construction will occur. If construction occurs during the rainy season, the USFWS-approved biologist will survey the project site and check for animals under any equipment such as vehicles and stored pipes the morning after a storm event prior to the start of construction. The USFWS-approved biologist will perform worker
awareness training and be available regarding potential species sightings. The USFWS-approved biologist will inform the USFWS and CDFW if any CTS or SJKF are encountered and coordinate a suitable location for release, if necessary.

**Worker Awareness Training**

Prior to start of construction of the project, all workers will attend a training session given by the USFWS-approved biologist before work is started on the project. After initial training, all new personnel will be given the training as well. The training session will provide pictures of CTS and SJKF, information on their biology, measures required to protect the species, relevant Federal and state regulations, penalties to harming or harassing protected species, and what to do if CTS or SJKF are found.

**Construction Monitoring**

If CTS or SJKF is observed on the site by a worker, the worker will immediately inform the USFWS-approved biologist. All work will halt and machinery turned off within 100 feet of the animal until the animal moves away on its own accord or the USFWS-approved biologist can capture and remove the animal from the work area.

USFWS-approved biologists are the only persons allowed to handle CTS or SJKF. CTS found in the work area will be relocated to pre-approved locations within one hour of capture. The USFWS-approved biologist has the authority to halt work activities at any time to prevent harming special status species or when any of these protective measures have been violated. Work will only commence when authorized by the USFWS-approved biologist.

In addition to species-specific monitoring, the USFWS-approved biologist will also be responsible for ensuring the following measures are adhered to:

- Staging and work areas for on-site improvements will be limited to the project site only.
- Night-time construction activities are prohibited.
- Speed limits on the main access road will be restricted to less than 15 miles per hour during the CTS migration season, when CTS may be crossing the road to and from breeding habitats. This is especially important if vehicles are traveling on-site during the early morning or evening hours, as this is when CTS are most active.
- No firearms shall be allowed on the project site.
- No pets, such as dogs or cats, should be permitted on the project site to prevent harassment, mortality of kit foxes, or destruction of dens.
During construction activities, all food-related trash items will be enclosed in sealed containers and regularly removed from the project site to avoid attracting wildlife to the project site, and pets will not be allowed on the construction site. The proper location of the trash containers will be subject to the review and approval of San Benito County.

### 5.2.5 Offsite Construction Areas

There are two offsite construction areas associated with construction of the project site: a redundant water line at the east side of the project site that would temporarily disturb approximately 0.08 acres of ornamental landscaping associated with a single-family residence, and an extension of a sewer main across an undeveloped parcel in the City of Hollister that would temporarily disturb 0.31 acres of agricultural land between the Rancho Cielo subdivision and Enterprise Road.

The proposed water line is located immediately adjacent to the main project site and is within the critical habitat designated for CTS, however the area has been frequently disturbed to support ornamental vegetation. Prior to construction, the USFWS-approved biologist will inspect the proposed construction area for burrows or other signs of CTS or SJKF and will conduct monitoring during construction (as described above).

The proposed sewer main is located in an area actively managed for row crop agriculture outside of critical habitat designated for CTS and is unlikely to support CTS or SJKF. The USFWS-approved biologist will conduct monitoring (as described above) during construction of the 0.31-acre sewer line.

### 5.2.6 Protection of Adjacent Habitats

A Storm Water Pollution Prevention Plan (SWPPP) will be developed for the projects to prevent project construction impacts on adjacent habitat and waters draining off the project site and outside the work area. A Storm Water Quality Management Plan designed to treat post-construction storm water runoff according to the standards regulated by the Regional Water Quality Control Board (RWQCB) will be submitted to the RWQCB and San Benito County for approval. In addition, the proposed projects are required to comply with their respective approved Mitigation and Monitoring Reporting Programs (MMRP) as conditions of project approval. Each MMRP includes measures to minimize project-related effects to storm water runoff, dust generation, and to prevent erosion.

Erosion control will be accomplished using conventional techniques suitable for local conditions (soil type, slope, etc.). Applicable protection measures, such as barrier and/or silt
fencing and regular onsite monitoring, will be used to protect against inadvertent impacts to areas outside the project impact area during construction. Any barriers or silt fencing will be constructed of fine mesh or solid materials that will not entrap CTS.

The Applicants will carry out a dust control program during all active on site grading operations. The program is intended to minimize the amount of dust leaving construction areas that could be deposited on nearby residences or sensitive habitat. It will consist of continuous use of water trucks during active grading operations. Equipment will be allocated based on weather and wind conditions, and the soil conditions encountered during construction operations.

### 5.2.7 Measures to Mitigate Unavoidable Impacts

The project Applicants have negotiated an agreement to acquire a permanent open space easement to set aside a 329-acre portion of the Mariposa Peak Conservation Preserve containing high-quality CTS habitat, adjacent to an occupied CTS breeding pond already preserved under a conservation easement. The project Applicants will compensate for unavoidable impacts resulting from the loss of CTS critical habitat and SJKF migratory habitat through the acquisition of this easement from the agency-approved Mariposa Peak Conservation Preserve property, or another suitable agency-approved property or mitigation/conservation bank, should mitigation at the Mariposa Peak Conservation Preserve property become infeasible.

#### Mitigation Ratio

A mitigation ratio of 2.4:1 was selected after considering the following:

- CTS breeding habitat is absent. The former stock pond found in the main project area has not been documented as containing enough standing water for a long enough period to allow CTS breeding since at least the year 2000, the year of the undocumented CNDDDB observation of CTS larvae on the site.

- CTS aestivation habitat is marginal. Current land use of the 137-acre main project area consists of unimproved rangeland and agricultural fields of cultivated barley that are subject to routine disturbance from agricultural activities; annual disking and period cattle grazing.
CTS migration into the site is limited. Fairview Road and residential subdivisions to the west, and active grading occurring to the north and east are barriers between known breeding habitat and the project site.

Habitat within the offsite mitigation area will be of substantially better quality. The proposed easement area will preserve upland habitat adjacent to a documented CTS breeding pond already protected under a conservation easement and foraging and migratory habitat for SJKF. Further, the proposed habitat mitigation area will not be subject to agricultural activities that would routinely disturb CTS habitat.

5.3 MONITORING

5.3.1 Construction Monitoring

As discussed in Section 5.2, monitoring prior to and during construction will be conducted by a USFWS- and CDFW-approved biologist. Exclusion fencing will be constructed prior to construction and will be monitored daily during the rainy season and throughout construction. The approved biologist will be on site while earthwork is in progress and will be available for the entire period during which construction will occur. If construction occurs during the rainy season, the approved biologist will survey the permit area and check for animals under any equipment such as vehicles and stored pipes every morning prior to the start of construction. Reporting will occur as described in Section 5.4.

5.3.2 Long-Term Monitoring

Due to the complete removal of habitat within the project area, no long-term monitoring is proposed within the permit area.

The Applicants propose to mitigate offsite at a ratio of 2.4:1 at the Mariposa Peak Conservation Preserve, or at an approved alternate site, through the creation of a permanent conservation easement on a habitat preserve adjacent to an established CTS breeding population currently preserved under a conservation easement with a long-term monitoring and management plan. As part of the strategy for mitigating impacts to covered species within the permit area, the project Applicants have negotiated an agreement with the owners of the Mariposa Peak Conservation Preserve to manage and preserve a 329-acre mitigation area of high quality breeding and aestivation land. The current land use within the mitigation area includes both seasonal and year-round livestock ranching.
The goal of the Draft Management Plan for the Mariposa Peak Ranch, Fairview Corners-Gavilan College Joint 329 acre Conservation Easement Area (Sequoia Ecological Consulting 2016, Appendix C) is to foster the long-term viability of the preserve, covered species and associated habitat. Routine monitoring and maintenance tasks are intended to assure the viability of the preserve in perpetuity and are funded through the per-acre contribution to funding of the long-term monitoring and management plan. Particular related management practices occur in order to facilitate grazing; these include invasive species management, grazing infrastructure improvement projects, provision of supplemental feed and nutrients, and water development.

The Draft Management Plan for the Mariposa Peak Ranch, Fairview Corners-Gavilan College Joint 329 acre Conservation Easement Area (Sequoia Ecological Consulting 2016) has been created to provide direction to the holder of the conservation easement, the Wildlife Heritage Foundation or similar entity. The conservation easement will be recorded against the Mariposa Peak Conservation Preserve property in order to create a binding and enforced perpetual easement. The easement will be conveyed by the property owner to an agency-approved third party for preservation in perpetuity, and the associated management plan ensures that the mitigation area is managed, monitored, and maintained as a preserve. In addition, the management plan establishes objectives, priorities and tasks that the agency-approved third party would undertake to monitor, manage, maintain and report on covered species and covered habitat on the conservation easement. The conservation easement is intended to be a binding and enforceable instrument covering the 329-acre mitigation area on the Mariposa Peak Conservation Preserve property.

5.4 REPORTING

5.4.1 Reporting

An annual construction compliance report prepared by the monitoring biologist shall be forwarded to the Ventura Office of the USFWS in January of each year and within 60 days after the completion of construction. The reports shall provide the following information:

1. Brief summary or list of project construction activities accomplished during the reporting year.
2. Project impacts (e.g., number of acres graded, number of buildings constructed, etc.).
3. Description of any take that occurred for each covered species (includes cause of take, form of take, take amount, location of take and time of day, and deposition of dead or injured individuals).
4. Monitoring results (compliance, effects and effectiveness monitoring).

5. Description of any circumstances that made adaptive management necessary and how it was implemented. A table will be included with the cumulative totals, by reporting period, of all adaptive management changes to the HCP, including a brief summary of the actions.

6. Description of any changed or unforeseen circumstances that occurred and how they were dealt with.

7. Funding expenditures, balance, and accrual.

8. Description of any minor or major amendments to the HCP.
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6.0

PLAN IMPLEMENTATION

6.1 PLAN IMPLEMENTATION

As described above, the Gavilan College project and the Fairview Residential project will each proceed independently, in phases, potentially over a period of 25 years. Prior to the commencement of the first phase of construction on the 137-acre project site, and subject to the approval of the USFWS and CDFW, the project Applicants will secure the entire 329-acre conservation easement area.

6.2 CHANGED CIRCUMSTANCES

Section 10 regulations [50 CFR 17.22 (b)(2)(iii)] require that an HCP, in this case, the Gavilan College San Benito Campus and Fairview Corners Residential Development HCP, specify the procedures to be used for dealing with unforeseen circumstances that may arise during the implementation of the HCP under the terms of the ITP. In addition, the Habitat Conservation Plan Assurances ("No Surprises") Rule [50 CFR 17.22 (b)(5)-(6) and 17.32(b)(5)-(6); 63 F.R. 8859] defines "unforeseen circumstances" and "changed circumstances" and describes the obligations of the permittees and the USFWS.

The purpose of the No Surprises Rule is to provide assurances to USFWS and nonfederal landowners participating in the HCP under the ESA that no additional land restrictions or financial compensation will be required for species adequately covered by a properly implemented HCP, in light of unforeseen circumstances, without the consent of the permittee (50 CFR 17.22(b)(5)(ii); 17.32(b)(5)(ii)).
Changed circumstances are defined in the No Surprises rule as "changes in circumstances affecting a species or geographic area covered by [an HCP] that can reasonably be anticipated by [plan] developers and the Services and that can be planned for (e.g., the listing of new species, or a fire or other natural catastrophic event in areas prone to such events).” 50 CFR 17.3 (https://www.fws.gov/cno/docs/hcptemplate.doc). If the USFWS determines that the unforeseen circumstance will affect the outcome of the HCP, additional conservation and mitigation measures may be necessary (50 CFR 17.22(b)(5)(i); 17.32(b)(5)(i)). Where the HCP is being properly implemented and an unforeseen circumstance has occurred, the additional measures required of the permittee must be as close as possible to the terms of the original HCP and must be limited to modifications within any conserved habitat area or to adjustments within lands or waters that are already set aside in the HCP’s operating conservation program. Additional conservation and mitigation measures shall not involve the commitment of additional land or financial compensation or restrictions on the use of land or other natural resources otherwise available for development or use under the original terms of the HCP without the consent of the permittee.

### 6.2.1 Newly listed species

If a new species that is not covered by the HCP, but that may be affected by activities covered by the HCP, is listed under the Federal ESA during the term of the section 10 permit, the section 10 permit will be reevaluated by the USFWS and the HCP covered activities may be modified, as necessary and in accordance with the Federal "No Surprises Rule", to ensure that the activities covered under the HCP are not likely to jeopardize or result in the take of the newly listed species or adverse modification of any newly designated critical habitat. The Applicants shall implement the modifications to the HCP covered activities identified by the USFWS, as necessary, to avoid the likelihood of jeopardy to or take of the newly listed species or adverse modification of newly designated critical habitat. The Applicants shall continue to implement such modifications until such time as the Permittee has applied for and the USFWS has approved an amendment of the Section 10 permit, in accordance with applicable statutory and regulatory requirements, to cover the newly listed species or until the USFWS notifies the Applicants in writing that the modifications to the HCP covered activities are no longer required to avoid the likelihood of jeopardy of the newly listed species or adverse modification of newly designated critical habitat.

### 6.2.2 Changes in Land Ownership

Changes in land ownership may occur over the lifetime of the project. Changes in land ownership are most likely to occur as part of the development and operations of the residential
development as homes are constructed, purchased, remodeled and/or resold, However, a transfer of land title could also occur on the Gavilan College District project site.

To ensure that permit conditions are implemented by future landowners, conditions of permit approval will run with the land and be binding on all permit holders (landowners or heirs, assigns, and successors in title) over the life of the permit and any extensions and/or renewals granted by the USFWS and CDFW.

### 6.2.3 Climate Change

Climate change is the observed change in climate over time, whether due to natural variability or as a result of human activity (Intergovernmental Panel on Climate Change 2007). Climate change is also predicted to include secondary effects such as sea-level rise and changing climatic patterns that may affect the frequency of disturbance events such as flooding and fire. Climate change may play a role in shifting the range and distribution of species and natural communities (Chornesky et. al. 2015). Range is the area over which a species occurs or potentially occurs, whereas distribution refers to where a species is located within its range. This is of particular concern for narrowly distributed species that already have restricted ranges due to urban growth.

Although climate change is reasonably foreseeable over the permit term, it is not within the scope of this HCP to respond directly to temperature increases or other parameters (e.g., rainfall, soil moisture, and runoff). Additionally, it is not possible to determine within the 25-year permit term whether changes in the plan area e.g., temperature and rainfall, are the result of climate change or other non-climate stressors. Upon construction of the proposed project, the Plan Area will no longer provide habitat for the covered species. The offsite mitigation area, however, may be susceptible to impacts due to climate change. Because of the high level of uncertainty of how natural communities and species will respond to climate change, remedial actions at the offsite mitigation area would be implemented through the Long Term Management Plan, limited to the long-term funding allocated in this HCP for implementation and adaptive management.

### 6.2.4 Natural Communities Lost to Fire

Historically, fire is a natural component of many ecosystem types, including grassland and oak woodlands. Fire frequency and intensity influence the regeneration, composition, and extent of ecosystems. The California Department of Forestry and Fire Protection (CDF) rated the Plan Area as a moderate fire hazard and the offsite mitigation area as a high fire hazard area. For the
purposes of describing changed and unforeseen circumstances, it is assumed that fire frequency will increase in the Plan Area and at the offsite mitigation area due to climate change.

Unforeseen circumstances with regards to fire include a single wildfire exceeding the 329-acre mitigation area and/or more than one fire within less than 3 years within the mitigation area. In the event of a fire, the landowners and/or easement holders will work closely with local fire-response crews to ensure that impacts on sensitive communities and covered species are minimized within safety limits. In the event of habitat loss, land management and habitat-restoration measures will be implemented within affected areas to encourage the reestablishment of native vegetation through the adaptive management process as described in the Long Term Management Plan.

### 6.2.5 Drought

San Benito County has a Mediterranean climate with roughly 95% of the total annual rainfall occurring from October through April. Drought is a natural part of a Mediterranean climate system to which many species and natural communities have successfully adapted. Construction of the proposed projects would remove habitat for the covered species from the Plan Area. However, a prolonged drought could cause serious damage to management actions in the offsite mitigation area. Implementation of measures and the adaptive management program outlined in the Long Term Management Plan will address potential impacts to the mitigation area as a result of drought.

### 6.2.3 Unforeseen Circumstances

Unforeseen circumstances are changes in circumstances affecting a species or geographic area covered by this HCP that could not reasonably be anticipated by the project applicants or the USFWS at the time of the plan’s negotiation, drafting, and approval, and that result in a substantial and adverse change in the status of the covered species. Federal regulations [50 CFR part 17.22 (b)(5)(iii)] and 17.32(b)(5)(iii) require that an HCP specify the procedures to be used for dealing with unforeseen circumstances that may arise during the implementation of the HCP.

In addition, the Habitat Conservation Plan Assurances ("No Surprises") Rule [69 FR 71,723, December 10, 2004, 50 CFR part 17.3 and 50 CFR part 17.22(b)(5)], provides assurances to non-Federal landowners participating in habitat conservation planning under the ESA that no additional land restrictions or financial compensation will be required for species covered by a properly implemented HCP, in light of unforeseen circumstances, without the consent of the permittee. None of the following procedures will supersede or augment the requirements on the USFWS as outlined in the regulations (50 CFR part 17.22 and part 17.32)
The USFWS has the burden of making a finding that unforeseen circumstances exist with regard to species covered by this HCP using the best scientific and commercial information available. Any such findings must be in writing (with written notice to the project Applicants), clearly and fully documented and based on reliable technical information regarding the unforeseen circumstance, as well as the new status and habitat requirements of the affected species. The USFWS shall consider, but is not limited to, the following factors in making an unforeseen circumstances finding:

- The size of the current range of the affected species;
- The percentage of the range of the affected species;
- The percentage of the range of the affected species that has been conserved by the HCP;
- The ecological significance of that portion of the range of the affected species conserved by the HCP;
- The level of knowledge about the affected species and the degree of specificity of the species’ conservation program under the HCP; and
- Whether failure to adopt additional conservation measures would appreciably reduce the likelihood of survival and recovery of the affected species in the wild.

Except where there is a threat of imminent, substantial adverse effects to a species covered by this HCP, the USFWS shall provide the Applicants notice, along with a draft of the proposed finding, prior to making a final finding of unforeseen circumstances to provide those parties with an opportunity to evaluate and, if appropriate, contest the proposed finding.

Upon the USFWS's final written finding of unforeseen circumstances and a determination that additional conservation and mitigation measures are necessary to respond to such unforeseen circumstances, the USFWS may seek to impose additional conservation and mitigation measures, but shall limit such additional conservation and mitigation measures to modification of activities within the site’s designated conservation areas and to the HCP's approved conservation program for the covered species. The USFWS shall use its best efforts to maintain the original terms of the HCP to the maximum extent possible. Any additional conservation and mitigation measures specified by the USFWS under this section shall not require the commitment of additional land, water, or financial compensation or additional restrictions on the use of land, water or other natural resources without the consent of the Applicants and/or permittee.

If the USFWS makes a final written finding of unforeseen circumstances, the Applicants and/or permittee will avoid actions that appreciably reduce the likelihood of the survival and recovery
of the affected species in the wild. The USFWS shall notify the Applicants and/or permittee which specific activities, and the location of such activities, that are subject to the interim restrictions of this paragraph. The USFWS shall use the Applicants’ and/or permittee good faith efforts to minimize the restrictions on the activities covered by this HCP and shall use its best efforts to end the interim period restrictions. The USFWS agrees to determine whether resumption of the restricted activities will likely jeopardize the continued existence of the affected species and make that finding after its final written finding of unforeseen circumstances. The interim period restrictions will terminate after the USFWS’s final written finding of unforeseen circumstances.

The Applicants and/or permittee will fully cooperate with the USFWS in the implementation of conservation and mitigation measures to address unforeseen circumstances.

6.3 Amendments

At this time there is no reason to expect that an amendment to the take permit will be needed to complete the development of the approved projects. However, during the specified permit period an amendment of the Section 10(a) permit for the project would be required for any major amendments, such as:

1. Significant revision of the permit area boundary;
2. The listing of a new species under the ESA not currently addressed in the HCP that may be taken by project activities;
3. Modification of any important project action or mitigation component under the HCP, including funding, that may significantly affect authorized take levels, effects of the project, or the nature or scope of the mitigation programs; and
4. Any other modification of the project likely to result in significant adverse effects to CTS or SJKF not addressed in the original HCP and permit application.

Amendment of the Section 10(a) permit would be treated in the same manner as an original permit application. For permit amendments, the Service will evaluate whether additional public notice, Section 7 review, and environmental analysis for the purposes of NEPA compliance is necessary. The specific documentation needed in support of a permit amendment may vary, depending on the nature of the amendment.

This HCP may, under certain circumstances, be amended without amending the associated permit, provided that such amendments are of a minor or technical nature and that the effect(s)
the amendment(s) would have on the species involved and the levels of take do not differ significantly from those described in the original HCP. Examples of minor amendments to the HCP that would not require permit amendment include, but are not limited to:

1. Minor revisions to the HCP’s plan area or boundaries;
2. Minor changes to conservation bank planting site(s) and site preparation; and
3. Minor changes to survey, monitoring, or reporting protocols.

To amend the HCP without amending the permit, the Applicants must submit to the USFWS a description, in writing, of:

1. The proposed amendment;
2. An explanation of why the amendment is necessary or desirable; and
3. An explanation of why the Applicants believe the effects of the proposed amendment would not be significantly different from those described in the original HCP.

If the USFWS concurs with Applicants’ proposal, it shall authorize the HCP amendment in writing and the amendment shall be considered effective upon the date of the USFWS’s written authorization.

### 6.4 Suspension/Revocation

The USFWS may suspend or revoke their respective permits if the Applicant and/or permittee fails to implement the HCP in accordance with the terms and conditions of the permits or if suspension or revocation is otherwise required by law. Suspension or revocation of the Section 10(a)(1)(B) permit, in whole or in part, by the USFWS shall be in accordance with 50 CFR 13.27-29, 17.22(b)(8), 17.32 (b)(8).

### 6.5 Permit Renewal

Although not currently anticipated, upon expiration, the Section 10(a)(1)(B) permit may be renewed without the issuance of a new permit, provided that biological circumstances and other pertinent factors affecting covered species are not significantly different than those described in the original HCP. To renew the permit, the Applicants and/or permittee shall follow the application requirements in 50 CFR 13.22(a) and submit to the USFWS, in writing:
• a request to renew the permit; reference to the original permit number;

• certification that all statements and information provided in the original HCP and permit application, together with any approved HCP amendments, are still true and correct, and inclusion of a list of changes;

• a description of any take that has occurred under the existing permit; and

• a description of any portions of the project still to be completed, if applicable, or what activities under the original permit the renewal is intended to cover.

If the USFWS concurs with the information provided in the request, it shall renew the permit consistent with permit renewal procedures required by Federal regulation (50 CFR 13.22). If the Applicants file a renewal request and the request is on file with the issuing USFWS office at least 30 days prior to the permit’s expiration and the applicants otherwise comply with 50 CFR 13.22(c), the applicants may continue the activities authorized under the permit while the renewal is being processed. However, the Applicants may not take listed species beyond the quantity authorized by the original permit. If Applicants and/or permittee fail to file a renewal request within 30 days prior to permit expiration, the permit shall become invalid upon expiration. The Applicants and/or permittee and the mitigation bank operator must have complied with all annual reporting requirements to qualify for a permit renewal.

6.6 PERMIT TRANSFER

If any portion of the property should change hands during the life of the permit, all offsite mitigation required by the USFWS must be in place prior to this sale. In the event of a sale or transfer of ownership of any portion of the project site prior to the completion of the approved projects, the following will be submitted to the USFWS by the new owner(s): a new permit application, permit fee, and written documentation providing assurances pursuant to 50 CFR 13.25 (b)(2) that the new owner will provide sufficient funding for the HCP and will implement the relevant terms and conditions of the permit, including any outstanding minimization and mitigation. The new owner(s) will commit to all requirements regarding the take authorization and mitigation obligations of this HCP unless otherwise specified in writing and agreed to in advance by the USFWS.
7.0 FUNDING

7.1 COSTS OF HCP IMPLEMENTATION

In order to ensure success of this HCP, adequate funding must be provided. Funding must be available for implementation as well as ongoing monitoring and maintenance of the offsite mitigation site. Table 3, Estimated Costs for Implementation of the HCP, provides a breakdown of expected costs for mitigation measures related to construction and offsite habitat conservation. Once a project is approved to move forward with construction, each project Applicant will be responsible for its on-site costs associated with the implementation of the HCP for the entire permit term. In addition, Fairview Corners, LLC and Gavilan Joint Community College District will be responsible for the creation of a conservation easement at a USFWS- and CDFW-approved site that would be granted and conveyed by the landowner to, and held by, an approved third party. The applicants commit to providing an endowment fund for monitoring and management of the easement area to protect habitat in perpetuity. As noted previously throughout this document, the Applicants are pursuing a conservation easement that will be recorded against the Mariposa Peak Conservation Preserve, as shown on Figure 4 and Figure 5. The Applicants commit to recording the off-site conservation easement and funding the endowment to support the conservation actions program prior to construction and implementing on-site measures to minimize and mitigate for impacts (see Chapter 5) prior to and during construction as appropriate.

The cost estimates reported in Table 3 are based upon the Management Plan for the Mariposa Peak Ranch, Fairview Corners-Gavilan College Joint 329-acre Conservation Easement Area, and may be modified during the approval process for the Mariposa Peak Conservation Preserve, or if another agency-approved off-site mitigation area is utilized by the Permittees.
### Table 3  Estimated Costs for Implementation of the HCP

<table>
<thead>
<tr>
<th>Item/Activity</th>
<th># Units</th>
<th>Cost/Unit</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Construction Monitoring – CTS</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fencing Plan</td>
<td>12 hours</td>
<td>$95/hour</td>
<td>$1,140</td>
</tr>
<tr>
<td>Agency Coordination</td>
<td>6 hours</td>
<td>$95/hour</td>
<td>$570</td>
</tr>
<tr>
<td>Fencing Materials</td>
<td>8,000 linear feet, with stakes to secure fencing</td>
<td>$3/foot</td>
<td>$24,000</td>
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<tr>
<td>Fencing Installation</td>
<td>16 hours</td>
<td>$30/hour</td>
<td>$480</td>
</tr>
<tr>
<td>Monitoring prior to Construction</td>
<td>16 hours</td>
<td>$95/hour</td>
<td>$1,520</td>
</tr>
<tr>
<td>Mowing</td>
<td>4 hours</td>
<td>$30/hour</td>
<td>$120</td>
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<tr>
<td>Preconstruction Survey</td>
<td>8 hours</td>
<td>$95/hour</td>
<td>$760</td>
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<tr>
<td><strong>Worker Awareness Training</strong></td>
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<tr>
<td>Material Preparation</td>
<td>2 hours</td>
<td>$95/hour</td>
<td>$190</td>
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<tr>
<td>Conduct Meetings</td>
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<td><strong>Construction Monitoring</strong></td>
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<tr>
<td>Daily Monitoring (during earthmoving activities)</td>
<td>120 hours</td>
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<td>Daily Monitoring (after storm events)</td>
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<tr>
<td><strong>Subtotal</strong></td>
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<td><strong>Offsite Mitigation</strong></td>
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<tr>
<td>Funding of Management Plan * – Gavilan College (77 acres)</td>
<td>211.5 acres (56% of 329-acre offsite mitigation area)</td>
<td>$3,500/acre*</td>
<td>$740,250</td>
</tr>
<tr>
<td>Item/Activity</td>
<td># Units</td>
<td>Cost/Unit</td>
<td>Total</td>
</tr>
<tr>
<td>-------------------------------------------------</td>
<td>---------</td>
<td>-----------</td>
<td>-----------</td>
</tr>
<tr>
<td>Funding of Management Plan * – Fairview Corners (60 acres)</td>
<td>165.5 acres (44% of 329-acre offsite mitigation area)</td>
<td>$3,500/acre**</td>
<td>$579,250</td>
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<table>
<thead>
<tr>
<th>Subtotal</th>
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<tr>
<td>Total</td>
<td></td>
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<td>$1,408,060</td>
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</table>

**Source:** EMC Planning Group 2017, Sequoia Ecological Consulting 2017

**Notes:**
* Conservation Easement over proportionate offsite mitigation land will be recorded prior to commencement of construction.
** This estimate is based on the 2017 version of the Management Plan and is subject to change.

### 7.2 Funding Source(s)

Gavilan College is the project Applicant and lead agency responsible for overseeing, monitoring, and funding its mitigation measures for the San Benito Campus project. Those mitigation measures are included in the Mitigation and Monitoring Reporting Program adopted by the Gavilan Joint Community College District Board of Trustees in connection with the approval of the San Benito Campus Master Plan and certification of the Final Environmental Impact Report for the Gavilan San Benito Campus project. The mitigation measures include both on- and off-site obligations. The College is responsible for funding its on-site mitigation measures related to habitat conservation, and has guaranteed funding in place for that purpose (from the previously mentioned voter-approved bond measure).

Funding responsibility for Gavilan College’s off-site mitigation measures is shared between Gavilan College and Fairview Corners pursuant to existing agreements between the parties. The conservation easement at Mariposa Peak Conservation Preserve will be recorded on the entire 329-acre mitigation area and the endowment fully funded prior to issuance of a grading permit to either party.

Gavilan’s proportionate share of funds necessary for long-term management of the off-site mitigation area would be determined in the Property Analysis Record (PAR) contained in the approved management plan. According to the draft management plan (Appendix C), the CDFW would hold the endowment principal and interest monies as required by law.

As to the Fairview Corners Project, Fairview Corners is the project Applicant and San Benito County is lead agency. Fairview Corners’ mitigation measures are included in the Mitigation and
Monitoring Reporting Program adopted by the County of San Benito in connection with the approval of the Specific Plan and certification of the Specific Plan Final Environmental Impact Report.

Prior to the issuance of grading permits for the residential project, Fairview Corners will post an improvement bond with the County of San Benito ensuring compliance with the on-site mitigation measures set forth in the Fairview Corners Residential Mitigation and Monitoring Reporting Plan. Proof of posting shall be submitted to the agencies prior to the commencement of any site disturbing activities associated with the permit for the residential aspect of the project.

The funding of endowment costs necessary for long-term maintenance of a conservation easement within the Fairview Corners off-site mitigation area will be determined in accordance with the Management Plan, approved by USFWS and CDFW. Consistent with conditions of approval for Fairview Corners’ incidental take permit, such funding shall be secured prior to commencement of construction.

Fairview Corners’ proportionate share of funds necessary for long-term management of the off-site mitigation area would be determined by the approved management plan. According to the draft management plan (Appendix C), the CDFW would hold the endowment principal and interest monies as required by law.

### 7.3 Funding Mechanism and Management

Prior to the issuance of a grading permit for either project, the project Applicants will (a) grant and record a conservation easement on the 329-acre offsite mitigation land and (b) fund the endowment.

Prior to the issuance of grading permits for either project in the permit area, the Applicants shall either submit proof of secured funding for both on and off-site mitigation in accordance with the provisions of Section 7.2 of this HCP, or, as an alternative to the provision of funding for purchase, provide a copy of the recorded conservation easement to the USFWS and CDFW demonstrating consistency with the requirements of the incidental take permit.

The proportionate share of funds necessary for long-term management of the off-site mitigation area would be set forth in the approved long term management plan. According to the draft management plan (Appendix C) the CDFW would hold the endowment principal and interest monies as required by law in a Special Deposit Fund, or a subsequent state authorized trustee
fund, which consists of monies that are paid into it in trust pursuant to law, and are appropriated to fulfill the purposes for which payments into it are made.

The Applicants' endowment funds would be in place prior to the onset of either construction project, either by direct payment to the endowment fund or by a CD, bond, or other financial mechanism approved by the agencies.
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8.0

ALTERNATIVES

8.1 PROJECT ALTERNATIVES CONSIDERED

Section 10(a)(2)(A)(iii) of the Endangered Species Act of 1973, as amended, [and 50 CFR 17.22(b)(1)(iii) and 17.32(b)(1)(iii)] requires that alternatives to the taking of species be considered and reasons why such alternatives are not implemented be discussed. The following alternatives were considered:

- Alternative 1: No Action/No Development Alternative;
- Alternative 2: Reduced Scale Alternative; and
- Alternative 3: Alternative Location: Residential located northeast of San Benito Street/Union Road, and/or College Campus located on McClosky Road.

8.1.1 No Action Alternative

The No Action Alternative assumes that if a HCP and incidental take permit is not issued, no development of the project site would occur. This alternative would result in the continued use of all areas of the project site as described in Section 3.0, which consists of the agricultural cultivation of barley and the periodic grazing of cattle. Since no development would occur, this alternative also assumes that other key features of the projects, such as the collaborative potential infrastructure sharing with the adjoining Gavilan College San Benito Campus; implementation of numerous sustainable design, siting and building features; and the development of parks and recreational facilities, as well as roadway trails, landscaped parkways, naturally designed retention basins, and a pedestrian and bicycle roadway network that connects the residential project with the open space facilities of the adjoining college campus, would not occur.
Analysis

Although potential impacts to CTS and SJKF at the site would not occur as a result of the projects in this alternative, current agricultural activities are expected to continue, and are not considered beneficial to CTS. Grading, ripping, and harvesting barley crops likely compound negative effects on CTS moving into the project area. In addition, no offsite mitigation easements designed to protect higher quality habitat would be purchased. The No Action Alternative is inconsistent with the current project approvals for the Gavilan College Campus project and the Fairview Corners residential project. The two projects are intended to serve the identified needs of County residents, and these needs cannot be met without development of one or both of the projects. Additionally, this alternative would not meet San Benito County development objectives for the Area of Special Study.

For these reasons, the No Action Alternative has been rejected.

8.1.2 Reduced Development Scale Alternative

This alternative assumes the Fairview Residential project site would be developed with estate homes on minimum five-acre lots, and the Gavilan College project site Phase 1 improvements would be developed (educational center and parking lot near the northwestern corner of the college parcel), as described in Section 2.0 of this HCP. For the 60-acre residential project site, the maximum total land area available for residential development would be 53 acres and the corresponding gross density would be about 3.4 dwelling units per acre, slightly less than the maximum proposed by the Specific Plan, which is 3.6 units per acre. The project would be served with potable water from the Sunnyslope County Water District (Sunnyslope); the project’s wastewater would be collected and treated by the City’s DWTP; sustainable design, siting and building features would be included; and parks and recreational facilities, roadside trails, landscaped parkways, naturally designed retention basins, bicycle facilities and sidewalks within landscaped corridors along the collector streets and Cielo Vista Drive extension would still be constructed, although to a lesser extent. This alternative also includes provisions for secondary emergency access either by utilizing the Gavilan College Airline Highway (State Route 25) EVA or an alternative on-site EVA, similar to the approved project.

Analysis

An HCP and incidental take permit as well as offsite mitigation would still be required. Similar to the approved project, this alternative would result in the grading and development of the project site, and therefore would result in impacts to biological resources, including impacts to
special-status species including CTS and SJKF. Impacts to these species would be similar to those that would occur under the project. Development would still be subject to regulatory take permit requirements. However, this alternative could include the preservation of a defined habitat area for CTS on the site in and around the area of the former stock pond, whereas the approved projects propose offsite mitigation of project impacts to the species by providing dedicated habitat preserved in perpetuity and contiguous with other habitat areas.

This alternative provides an opportunity for habitat restoration and preservation on the site in the vicinity of the former stock pond, which may reduce the magnitude of the impact of the approved project but does not eliminate the impacts to CTS that would result from habitat loss on the remainder of the site. In addition, protection of the pond may increase the likelihood of the area to function as a population sink, where the opportunities for genetic exchange with other populations are extremely limited due to the lack of suitable habitat connectivity.

Therefore, the biological resource impacts under this alternative would be similar to or potentially more significant than those identified for the approved project and this alternative has been rejected.

8.1.3 Alternative Location

The Alternative Location alternative examines placing the proposed residential development in an alternative location northeast of San Benito Street/Union Road and the proposed college campus on McCloskey Road. These alternative locations are illustrated in Figure 11, Alternative Project Locations.

Alternative Location for the Residential Development

The 51.5-acre alternative site for the proposed residential project is located immediately south of the Hollister city limits, within the city’s Planning Area and partially within the city’s sphere-of-influence. Lands south of Airline Highway were also reviewed as suitable alternative locations, however these sites are designated as Prime Farmland, are also within critical habitat areas, are further from existing water and wastewater infrastructure, and would not eliminate significant impacts of the approved project. The northeast of San Benito Street/Union Road location was chosen because of its proximity to existing services and infrastructure and location outside the critical habitat for CTS.

The alternative residential development site is relatively flat and is currently used as agricultural (orchard and row crop), and is designated as Prime Agricultural land in the City of Hollister General Plan. The site is bound by Union Road to the south, San Benito Street to the
west, vacant land and residential uses to the north and east. The Ladd Lane Elementary School is located to the east, and a church and children's center are present to the west across San Benito Street. The alternative site is actively managed for agricultural purposes, not located within designated critical habitat for CTS and there are no recorded observations of special status species on the site or within the immediate vicinity. The site is not located on a government-identified hazardous material site or within a FEMA 100-year flood zone and there are no known earthquake faults on the site.

The county's General Plan land use designation for this alternative site is "Rural Residential," which allows 2 dwelling units per acre; it is not designated as an Area of Special Study. Therefore, if developed, the current zoning of this site would allow a maximum of 103 dwelling units. The City's General Plan land use designation for this site is Low Density Residential, allowing 8 dwelling units per net acre, which would be sufficient to accommodate 220 residential units. Under this alternative, development can be assumed to result in some impacts to biological resources. The site may provide nesting habitat for migratory birds and raptors, and its development may affect these species, similar to the approved project. Under this alternative, the impacts associated with habitat loss for special-status species would be reduced. Therefore, the impacts to biological resources, in particular the potential loss of CTS critical habitat, would be reduced compared to those of the approved project.

**Alternative Location for the College Campus**

The Gavilan College District has been engaged in a search for property in the City of Hollister and San Benito County area since 2004, when the need for a San Benito campus was first identified as part of the voter-approved facilities improvement bond approved under provisions of Proposition 39. Twelve of the sites initially considered were evaluated and deemed unsuitable due to land cost, access and/or site configuration, airport issues, agricultural easements, topography, lack of utilities, proximity to the Gilroy campus, and other environmental factors. One of the sites warranting more in-depth consideration was Alternative Site #10, the 130-acre Citation Site, located on McCloskey Road, just under one mile east of San Felipe Road (Hwy 156) and shown on Figure 11, Alternative Project Locations. Alternative Site #10 has a San Benito County General Plan designation of Rural Residential that allows one-half acre minimum lot size. This alternative site is located outside of the Hollister city limits, but inside of the City of Hollister's Planning Area. According to the City of Hollister General Plan, the Citation site has a designation of Residential Estate, same as the approved project.

No known threatened or endangered plant or animal species are known to be present on Alternative Site #10, however the site is likely considered migratory and foraging habitat for
Figure 11
Alternative Project Locations
Gavilan College San Benito Campus and Fairview Corners Residential Development HCP

Source: Google Earth 2012
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SJKF. In addition, Santa Ana creek crosses the northeastern edge of Alternative Site #10 and potentially suitable habitat for California tiger salamander and California red legged frog is present on the site. This site would have greater land use compatibly impacts and greater loss of agricultural land impacts compared to the approved project site. Santa Ana Creek is a riparian corridor that would require suitable setbacks within any land use plan. Any impacts to the corridor or species present would require consultation with one or more of the following agencies: CDFW, USFWS, as well as the U.S. ACOE and the RWQCB, if jurisdictional wetlands or waters of the State were to be affected by site development.

**Analysis**

Impacts resulting from the alternative residential project location would be similar in most environmental categories associated with the approved project since the overall unit count remains the same. However, impacts to biological resources, given the assumed lack of special status wildlife species on the alternative site and specifically, avoidance of the loss of CTS critical habitat make the impacts associated with this alternative less significant than the approved project. However, impacts to agricultural resources would be significantly greater given that development of this alternative would occur on prime agricultural land, which would result in the conversion of prime farmland to non-agricultural uses. Traffic-related impacts to area roadways may be more severe than those associated with the approved project, and the alternative would not eliminate significant and unavoidable impacts that were identified in the certified Final EIR.

Alternative Site #10 encompasses a portion of Santa Ana Creek and may contain suitable habitat for a number of special status species, including California red-legged frog, CTS and SJKF. Development of this site would likely result in biological impacts more severe than the approved project.

Finally, key project objectives would not be achieved with implementation of this alternative given the separation of the residential development from the Gavilan College San Benito Campus. Specifically, this alternative would not create a mutually supportive relationship between the residential community and the adjacent community college campus that integrates connections and facilitates shared infrastructure. In addition, under this alternative, there would be no ability to provide convenient pedestrian connections and recreational opportunities through the provision of pocket parks, open space areas, corridors and connections with the adjacent future Gavilan College San Benito Campus site. For these reasons, the Alternative Location alternative has been rejected.
8.1.4 Partial Development Alternative

It is possible that only one of the approved projects would be developed. It is unlikely that the college campus would not be implemented because a Bond initiative measure has been passed that earmarks development funds for a Gavilan College District campus on the 77-acre project site. Therefore, this alternative assumes the 77-acre campus development would be implemented and the remaining 60 acres would not be developed with the residential project. This alternative assumes that an HCP and incidental take permit as well as offsite mitigation would still be required.

Analysis

In the near term, this alternative would result in fewer impacts related to traffic, noise, air quality, energy, geology and soils, hydrology and water quality, and cultural resources impacts due to development of a smaller area of the site. Offsite temporary construction impacts related to infrastructure improvements would be similar to those necessary for implementation of the combined projects.

The reduced site area also would reduce the scope of mitigation required for the loss of habitat on the site. However, in the long term, this alternative would not avoid reasonably foreseeable future development of the adjoining 60 acres consistent with the approved Fairview Corners Residential Specific Plan, now a component of the San Benito County General Plan. This alternative would not meet the County’s development objectives for the Area of Special Study or those of the residential project, specifically, this alternative would not ensure the creation of mutually supportive relationships between the residential community and the adjacent community college campus that integrates connections and facilitates shared infrastructure. This alternative also would not ensure the protection of offsite mitigation land designed to protect higher quality habitat to the extent that the combined projects would provide, which is proposed as part of this application. For these reasons, this alternative has been rejected.


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APPENDIX A

GAVILAN COLLEGE / FAIRVIEW CORNERS ADEIR / DEIR
BIOTIC EVALUATION, CITY OF HOLLISTER, CALIFORNIA
GAVILAN COLLEGE/FAIRVIEW CORNERS ADEIR/DEIR
BIOTIC EVALUATION
CITY OF HOLLISTER, CALIFORNIA

Prepared by

LIVE OAK ASSOCIATES, INC.
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August 19, 2008
EXECUTIVE SUMMARY

Live Oak Associates, Inc., completed an investigation of the biological resources of an approximately 137-acre parcel in the City of Hollister, California, and evaluated likely impacts to such resources resulting from the development of the site into single-family residential units and a community college campus.

The entire site consists of an agricultural field of cultivated barley (*Triticum aestivum*) that is annually disced and periodically grazed by cattle, but which also supports other grassland species. LOA determined that special status plant species are absent from the site. Therefore, impacts from site development to special status plant species are less-than-significant.

Although no special status animal species were observed on the site during the 2007 or 2008 surveys, several special status animal species may occur within the project boundaries. A number of special status animal species may regularly pass through or over the site during migration or may infrequently forage or roost on or adjacent to the site. For these species, the project would result in a less-than-significant impact on foraging or roosting habitat, as similar habitat is regionally abundant.

Development on the site would result in the loss of aestivation habitat for the California tiger salamander and could result in the loss of individuals, which would be considered a significant impact. Mitigation for impacts to this species would include preservation and creation of habitat onsite or at a suitable offsite location.

The burrowing owl and American badger could occur anywhere on the site where suitable burrows exist, as the project site features suitable, albeit extremely marginal, habitat for these species. Impacts to the burrowing owl and American badger may occur as a result of project buildout. Impacts to habitat for the burrowing owl and American badger would be less-than-significant; however, impacts to individuals of these species may occur as a result of project build-out. Preconstruction surveys would be required for these species.

Impacts to tree- and ground-nesting raptors may occur as a result of future ground disturbance activities. While the site itself does not contain suitable nesting habitat for tree-nesting birds, the site’s proximity to suitable habitat occurring on adjacent properties as well as the occurrence of suitable ground-nesting habitat may require that an appropriate construction-free buffer be maintained during the breeding season (February 1 to August 31). Pre-construction surveys would be required for special status bird species that occur on or within 250 feet of the project boundary. Implementation of proposed mitigation measures to ensure that future ground disturbance does not result in harm or injury to any of these species would reduce impacts to a less-than-significant level.

Jurisdictional waters are absent from the project site.

Impacts to habitat for native wildlife and degradation of water quality in seasonal creeks, reservoirs, and downstream waters would be considered less-than-significant.
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1.0 INTRODUCTION

Live Oak Associates, Inc. (LOA), has prepared the following report, which describes the biotic resources of a 137-acre property in the City of Hollister, California, and evaluates likely impacts to these resources resulting from the development of a community college campus and a low-density residential neighborhood. The project site is located in the northern portion of San Benito County, within the City of Hollister (Figure 1) in the Tres Pinos 7.5” U.S. Geological Survey (USGS) quadrangle in the west half of section 7, township 13 south, range 6 east.

Development projects can damage or modify biotic habitats used by sensitive plant and wildlife species. In such cases, site development may be regulated by state or federal agencies, subject to provisions of the California Environmental Quality Act (CEQA), and/or covered by policies and ordinances of the City of Hollister. This report addresses issues related to: 1) sensitive biotic resources occurring on the study area; 2) the federal, state, and local laws regulating such resources, and 3) mitigation measures that may be required to reduce the magnitude of anticipated impacts. As such, the objectives of this report are to:

- Summarize all site-specific information related to existing biological resources;
- Make reasonable inferences about the biological resources that could occur onsite based on habitat suitability and the proximity of the site to a species’ known range;
- Summarize all state and federal natural resource protection laws that may be relevant to possible future site development;
- Identify and discuss project impacts to biological resources likely to occur on the site within the context of CEQA or any state or federal laws; and
- Identify avoidance and mitigation measures that would reduce impacts to a less-than-significant level as identified by CEQA and that are generally consistent with recommendations of the resource agencies for affected biological resources.
The analysis of impacts, as discussed in Section 3.0 of this report, is based on the known and potential biotic resources of the site, discussed in Section 2.0. Sources of information used in the preparation of this analysis included: 1) the California Natural Diversity Data Base (CDFG 2008), 2) the Inventory of Rare and Endangered Vascular Plants of California (CNPS 2001), and 3) manuals and references related to plants and animals of the region. A reconnaissance-level field survey of the study area was conducted on October 23, 2007, by LOA ecologists Davinna Ohlson and Nathan Hale, at which time the principal biotic habitats and land uses of the site were identified, and the constituent plants and animals of each were noted. An additional site visit was conducted by Ms. Ohlson and Mr. Hale on February 5, 2008, to delineate aquatic features on and adjacent to the site. Rick Hopkins, Melissa Denena, and Ms. Ohlson conducted additional site surveys in April and May 2007.

The proposed project is the construction of 226 single-family residential units on approximately 53 acres of the site and a community college campus on approximately 72 acres of the site. Approximately 12 acres of the site will be dedicated for open space and parks.
2.0 EXISTING CONDITIONS

The site is bounded by rural residential and agricultural fields to the north and east, Highway 25 to the south, and Fairview Road to the west. Topographically, the site ranges in elevation from approximately 465 ft. (142 m) National Geodetic Vertical Datum (NGVD) in the southwest corner of the site to approximately 550 ft. (168 m) NGVD in the northern half of the site. Surrounding land uses include residential development, agriculture, non-native grassland to the northeast, and Ridgemark Golf Course. The site itself consists of a grazed hay field.

Four soil types from three soil series—Antioch, Rincon, and San Benito—were identified on the project site (NRCS 2007) (Figure 2). The Antioch series consists of moderately well to somewhat poorly drained soils. The Rincon series consist of deep, well-drained soils that formed in alluvium from sedimentary rocks. The San Benito series consists of well-drained soils that formed in residuum weathered from shale and sandstone with strongly sloping to very steep slopes. None of these soil series are considered hydric, although hydric inclusions may occur. Antioch and Rincon soils are considered slightly acidic to moderately alkaline; therefore, the site may have, at one time, supported plant species adapted to such conditions.

San Benito County has a Mediterranean climate with warm to hot dry summers and cool winters. Annual precipitation in the general vicinity of the site averages 13.5 inches, most of which falls between November and April. Nearly all precipitation falls in the form of rain. Stormwater runoff readily infiltrates the site’s soils; when field capacity has been reached, gravitational water flows off the site into roadside ditches along Fairview Road and Highway 25.

Surrounding land uses include open space, agricultural, and low-density, rural residences to the north and east; a golf course to the south; and residential development to the west. The site itself is regularly farmed and grazed and, thus, retains little of its natural character.
2.1 Biotic Habitats

Only one biotic habitat occurs onsite. For the purposes of this report, this habitat has been identified as “agricultural field” (Figure 3). No naturally occurring biotic habitats are present on the site. A list of the vascular plant species observed within the study area during the October 2007 and February 2008 field surveys and the terrestrial vertebrates using, or potentially using, the site are provided in Appendices A and B, respectively.

2.1.1 Agricultural Field

The entire site consists of a field of cultivated barley (*Triticum aestivum*) that is annually disced and periodically grazed by cattle. Within the northeast corner of this agricultural field, traces of a former stock pond persist. While this remnant depressional feature is still visible, it lacks the hydrological and biological elements of an actual stock pond.

Common grasses and forbs observed throughout the field include, but are not limited to, soft chess (*Bromus hordeaceus*), Mediterranean barley (*Hordeum marinum* ssp. *gussoneanum*), yellow star thistle (*Centaurea solstitialis*), vinegarweed (*Trichostema lanceolatum*), and field bindweed (*Convolvulus arvensis*). The remnant stock pond is a relict feature that is known to have held water as of 2000; the most recent occurrence of ponding is unknown. Under current land management practices (i.e., regular discing), this feature does not appear to pond. It was dry at the time of the October 2007 survey and was only slightly moist (i.e., the soils were damp) at the time of February 2008 survey within a week following a storm event in the region; however, surface water was not present. The vegetation that exists within the remains of this stock pond is comprised of the same species that occur on the rest of the site; however, it also features poison hemlock (*Conium maculatum*) and spiny cocklebur (*Xanthium spinosum*).

Compared to more natural habitats, managed agricultural lands provide relatively low habitat value for wildlife due to the lack of understory vegetation that would typically provide food and cover for these species. Annual management practices for agricultural lands would eliminate breeding and foraging habitat for many small birds and mammals native to the region.
The absence of rock piles and woody debris suggests that the site is relatively poor habitat for reptiles and amphibians. The western toad (*Bufo boreas*), western fence lizards (*Sceloporus occidentalis*), and gopher snake (*Pituophis catenifer*) may occasionally occur within the project boundaries; however, the occurrence of these species would be limited. While unlikely, the fossorial mammal burrows occurring on the project site may provide suitable cover and aestivation habitat for amphibians.

Several avian species were observed perching on power lines that cross the southern half of the site in an east-west orientation. These include the American kestrel (*Falco sparverius*), rock pigeon (*Columba livia*), and Brewer’s blackbird (*Euphagus cyanocephalus*). Additionally, red-tailed hawks (*Buteo jamaicensis*), a Say’s phoebe (*Sayornis saya*), a northern mockingbird (*Mimus polyglottos*), western meadowlarks (*Sturnella neglecta*), and lesser goldfinches (*Carduelis psaltria*) were observed flying over or near the site. While the site itself was devoid of trees and shrubs, blue-gum eucalyptus (*Eucalyptus globulus*) and coyote brush (*Baccharis pilularis*) were observed along the margins of the neighboring parcels to the east and south. Several species of birds were observed utilizing these structures for perching before flying onto or over the project site. These include the golden eagle (*Aquila chrysaetos*) and the white-crowned sparrow (*Zonotrichia leucophrys*). Other avian species that are expected to occur on the site include the turkey vultures (*Cathartes aura*), common snipe (*Gallinago gallinago*), mourning dove (*Zenaida macroura*), loggerhead shrike (*Lanius ludovicianus*), and western scrub-jay (*Aphelocoma californica*).

Numerous ground squirrels (*Spermophilus beecheyi*) and their burrows were observed throughout the site. Botta’s pocket gopher (*Thomomys bottae*) burrows were also present on and adjacent to the site. While site management has reduced or eliminated the occurrence of most mammal species, some small mammals continue to occur on the site. Other mammal species that could also occur include the cottontail (*Sylvilagus audubonii*), ornate shrew (*Sorex ornatus*), western harvest mouse (*Reithrodontomys megalotis*), and California meadow vole (*Microtus californicus*). Small mammals often attract predators, including reptiles and birds previously discussed. The occurrence of small mammals may also attract larger mammalian predators.
known to occur in the region, including coyotes (*Canis latrans*), domestic dogs (*Canis familiaris*), and feral cats (*Felis catus*).

2.2 MOVEMENT CORRIDORS

Many terrestrial animals need more than one biotic habitat in order to perform all of their biological activities. With increasing encroachment of humans on wildlife habitats, it has become important to establish and maintain linkages, or movement corridors, for animals to be able to access locations containing different biotic resources that are essential to maintaining their life cycles. Terrestrial animals use ridges, canyons, riparian areas, and open spaces to travel between their required habitats.

The importance of an area as a movement corridor depends on the species in question and its consistent use patterns. Animal movements generally can be divided into three major behavioral categories:

- Movements within a home range or territory;
- Movements during migration; and
- Movements during dispersal.

While no detailed study of animal movements has been conducted for the study area, knowledge of the site, its habitats, and the ecology of the species potentially occurring onsite permits sufficient predictions about the types of movements occurring in the region and whether or not proposed development would constitute a significant impact to animal movements.

As noted in Section 2.1, the intense agricultural use of this land limits the number of amphibians, reptiles, birds, and mammals that use the site. The more common species that occur have largely utilized the site as part of their home range and to disperse from and across the site. These animals would move through all portions of the site, as they would also do on surrounding agricultural lands and open spaces. Due to the low habitat value of the project site, it is likely only used in a limited way and does not provide a regionally unique corridor of movement.
Furthermore, the project site is expected to facilitate regional movements of only some wildlife species, as animals would have to travel through large areas of marginal to poor habitat (i.e., disturbed, developed, and agricultural lands) before reaching the site.

2.3 SPECIAL STATUS PLANTS AND ANIMALS

Several species of plants and animals within the state of California have low populations and/or limited distributions. Such species may be considered “rare” and are vulnerable to extirpation as the state’s human population grows and the habitats these species occupy are converted to agricultural and urban uses. As described more fully in Section 3.2, state and federal laws have provided the California Department of Fish and Game (CDFG) and the U.S. Fish and Wildlife Service (USFWS) with a mechanism for conserving and protecting the diversity of plant and animal species native to the state. A sizable number of native plants and animals have been formally designated as “threatened” or “endangered” under state and federal endangered species legislation. Others have been designated as candidates for such listing. Still others have been designated as “species of special concern” by the CDFG. The California Native Plant Society (CNPS) has developed its own set of lists of native plants considered rare, threatened, or endangered (CNPS 2001). Collectively, these plants and animals are referred to as “special status species.”

A number of special status plants and animals occur in the site’s vicinity. These species and their potential to occur in the study area are listed in Table 1 on the following pages. Sources of information for this table included California’s Wildlife, Volumes I, II, and III (Zeiner et. al 1988), California Natural Diversity Data Base (CDFG 2008), Endangered and Threatened Wildlife and Plants (USFWS 2007), State and Federally Listed Endangered and Threatened Animals of California (CDFG 2007), and The California Native Plant Society’s Inventory of Rare and Endangered Vascular Plants of California (CNPS 2001). This information was used to evaluate the potential for special status plant and animal species that occur on the site. Figures 4 and 5 depict the location of special status species found by the California Natural Diversity Data Base (CNDDB). It is important to note that the CNDDDB is a volunteer database; therefore, it may not contain all known or gray literature records.
A search of published accounts for all relevant special status plant and animal species was conducted for the Tres Pinos USGS 7.5” quadrangle in which the project site occurs and for the eight surrounding quadrangles (Cherry Peak, Hollister, Mariposa Peak, Mt. Harlan, Paicines, Quien Sabe Valley, San Felipe, and Three Sisters) using the California Natural Diversity Data Base Rarefind (CDFG 2008). All species listed as occurring in these quadrangles on CNPS Lists 1A, 1B, 2, or 4 were also reviewed.

No federal or state threatened or endangered plant species appeared in a search of published biological data for these quadrangles.

Other plant species occur in habitats not present on the site (e.g., serpentine habitats, wetlands, marshes and swamps, coniferous forest, chaparral, coastal scrub, etc.) or at elevations well above or below those of the site; therefore, these species are also considered absent from the site. These species include the Gabilan Mountains manzanita (*Arctostaphylos gabilanensis*), Pajaro manzanita (*Arctostaphylos pajaroensis*), chaparral harebell (*Campanula exigua*), San Benito spineflower (*Chorizanthe bilboa var. immemora*), Pinnacles buckwheat (*Eriogonum nortonii*), Hoover’s button-celery (*Eryngium aristulatum var. hooveri*), Indian Valley bush mallow (*Malacothamnus aboriginum*), and San Antonio Hills monardella (*Monardella antonina ssp. antonina*).

Similarly, one animal species not expected to occur on the site because habitat requirements are not met is the ringtail (*Bassariscus astutus*).

Species more likely to occur on the project site itself or in the surrounding vicinity are discussed further below.
### TABLE 1. LIST OF SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY

**PLANTS (adapted from CDFG 2008 and CNPS 2001)**

**Special status plants listed by CNPS**

<table>
<thead>
<tr>
<th>Species</th>
<th>Status</th>
<th>Habitat</th>
<th>*Occurrence in the Study Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alkali milk-vetch <em>(Astragalus tener var. tener)</em></td>
<td>CNPS 1B</td>
<td>Alkaline soils of playas, adobe clay valley and foothill grasslands, and alkali vernal pools at elevations of up to 60 meters. Blooms March-May.</td>
<td><strong>Absent.</strong> The project site has been heavily managed for agricultural purposes. While moderately alkaline soils may persist on the site, any suitable habitat that may have once been present has been eliminated from the site.</td>
</tr>
<tr>
<td>San Joaquin spearscale <em>(Atriplex joaquiniana)</em></td>
<td>CNPS 1B</td>
<td>Chenopod scrub, meadows and seeps, playas, and valley and foothill grasslands on alkaline soils at elevations of up to 835 meters. Blooms April-October.</td>
<td><strong>Unlikely.</strong> The project site has been heavily managed for agricultural purposes. While moderately alkaline soils may persist, any suitable habitat that may have once been present has likely been eliminated from the site. However, this species was documented in 1995 approximately 5 miles southeast of the site.</td>
</tr>
<tr>
<td>Round-leaved filaree <em>(California macrophyllum)</em></td>
<td>CNPS 1B</td>
<td>Clays of cismontane woodlands and valley and foothill grasslands at elevations between 15 and 1200 meters. Blooms March-May.</td>
<td><strong>Absent.</strong> The project site has been heavily managed for agricultural purposes. Any suitable habitat that may have once been present has been eliminated from the site.</td>
</tr>
<tr>
<td>Vernal barley <em>(Hordeum intecedens)</em></td>
<td>CNPS 3</td>
<td>Coastal dunes, coastal scrub, saline flats and depressions of valley and foothill grasslands, and vernal pools at elevations of between 5 and 1000 meters. Blooms March-June.</td>
<td><strong>Unlikely.</strong> The project site has been heavily managed for agricultural purposes. Any suitable habitat that may have once been present has likely been eliminated from the site.</td>
</tr>
<tr>
<td>Woolly-headed lessingia <em>(Lessingia hololeuca)</em></td>
<td>CNPS 3</td>
<td>Broadleafed upland forest, coastal scrub, lower montane coniferous forest, and valley and foothill grassland on clay or serpentine at elevations between 15 and 305 meters. Blooms June-October.</td>
<td><strong>Absent.</strong> The project site has been heavily managed for agricultural purposes. Any suitable habitat that may have once been present has likely been eliminated from the site. Additionally, serpentine soils are absent from the site.</td>
</tr>
<tr>
<td>Marsh microseris <em>(Microseris paludosa)</em></td>
<td>CNPS 1B</td>
<td>Closed-cone coniferous forest, cismontane woodland, coastal scrub, and valley and foothill grassland at elevations of between 5 and 300 meters. Blooms April-June and rarely in July.</td>
<td><strong>Absent.</strong> The project site has been heavily managed for agricultural purposes. Any suitable habitat that may have once been present has been eliminated from the site.</td>
</tr>
<tr>
<td>Shining navarretia <em>(Navarretia nigelliformis ssp. radians)</em></td>
<td>CNPS 1B</td>
<td>Cismontane woodland, valley and foothill grassland, and vernal pools at elevations of between 76 and 1000 meters. Blooms May-July.</td>
<td><strong>Absent.</strong> The project site has been heavily managed for agricultural purposes. Any suitable habitat that may have once been present has likely been eliminated from the site.</td>
</tr>
</tbody>
</table>
### TABLE 1. LIST OF SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY

**PLANTS – cont’d.**

*Special status plants listed by CNPS*

<table>
<thead>
<tr>
<th>Species</th>
<th>Status</th>
<th>Habitat</th>
<th>Occurrence in the Study Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prostrate navarretia (<em>Navarretia prostrata</em>)</td>
<td>CNPS 1B</td>
<td>Mesic soils of coastal scrub, meadows and seeps, alkaline valley and foothill grassland, and vernal pools at elevations of between 15 and 700 meters. Blooms April-July.</td>
<td>Absent. The project site has been heavily managed for agricultural purposes. While moderately alkaline soils may persist on the site, any suitable habitat that may have once been present has been eliminated from the site.</td>
</tr>
<tr>
<td>Hairless popcorn-flower (<em>Plagiobothrys glaber</em>)</td>
<td>CNPS 1A</td>
<td>Alkaline meadows and seeps and in salty marshes and swamps at elevations of between 15 to 180 meters. Blooms March-May.</td>
<td>Absent. The project site has been heavily managed for agricultural purposes. While moderately alkaline soils may persist on the site, any suitable habitat that may have once been present has been eliminated from the site.</td>
</tr>
<tr>
<td>Caper-fruited tropidocarpum (<em>Trifolium depauperatum var. hydrophilum</em>)</td>
<td>CNPS 1B</td>
<td>Marshes and swamps, vernal pools, and mesic, alkaline soils of valley and foothill grasslands at elevations up to 300 meters. Blooms April - June.</td>
<td>Unlikely. The project site has been heavily managed for agricultural purposes. Any suitable habitat that may have once been present has likely been eliminated. The nearest, documented occurrence of this species occurred in 1998, more than 9 miles from the site.</td>
</tr>
</tbody>
</table>

**ANIMALS (adapted from CDFG 2008 and USFWS 2008)**

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

<table>
<thead>
<tr>
<th>Species</th>
<th>Status</th>
<th>Habitat</th>
<th>Occurrence in the Study Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Peregrine falcon (<em>Falco peregrinus anatum</em>)</td>
<td>CE</td>
<td>Individuals breed on cliffs in the Sierra or in coastal habitats; occurs in many habitats of the state during migration and winter.</td>
<td>Unlikely. Peregrine falcons may occur incidentally on the site during migration or foraging. Suitable nesting habitat is absent from the site.</td>
</tr>
<tr>
<td>California tiger salamander (<em>Ambystoma californiense</em>)</td>
<td>FT, CSC</td>
<td>Breeds in vernal pools and stock ponds of central California; adults aestivate in grassland habitats adjacent to the breeding sites.</td>
<td>Possible. This species was documented on the site in 2000 as occurring in the stock pond, when it used to hold water. Additionally, this species has been documented in at least four locations within two miles of the project site since 1999. Two of these offsite occurrences, occurring in 1999, include the presence of larvae in water features associated with the Ridgemark Golf Course approximately 0.25 miles south of the site, on the other side of Highway 25. Breeding habitat is currently absent from the project site and has been absent for several years due to the site having been regularly farmed and disced. The remains of the stock pond feature were dry during all site visits conducted by LOA in 2007 and 2008. The site provides potential aestivation habitat in the form of ground squirrel burrows and other ground surface crevices.</td>
</tr>
</tbody>
</table>
### TABLE 1. LIST OF SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY

**ANIMALS – cont'd.**

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

<table>
<thead>
<tr>
<th>Species</th>
<th>Status</th>
<th>Habitat</th>
<th>*Occurrence in the Study Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>California red-legged frog (<em>Rana aurora draytonii</em>)</td>
<td>FT, CSC</td>
<td>Rivers, creeks and stock ponds of the Sierra foothills and coast range, preferring pools with overhanging vegetation. May also be found in a variety of upland habitats.</td>
<td>Absent. Suitable breeding habitat for this species is absent from the project site. This species was observed in 2005 in a detention pond and a Ridgemark Golf Course pond on the south side of Highway 25, approximately 0.1 miles south of the project site.</td>
</tr>
<tr>
<td>Western yellow-billed cuckoo (<em>Coccyzus americanus occidentalis</em>)</td>
<td>FC, CE</td>
<td>Nests in dense riparian forests. Inhabits broad, lower flood bottoms of larger river systems</td>
<td>Absent. This species has not been observed within San Benito county since 1899 in the vicinity of Paicines. Furthermore, suitable habitat for this species is absent from the project site.</td>
</tr>
<tr>
<td>San Joaquin kit fox (<em>Vulpes macrotis mutica</em>)</td>
<td>FE, CT</td>
<td>Frequent annual grasslands or grassy open stages with scattered shrubby vegetation. Needs loose-textured sandy soils for burrowing and suitable prey base. Utilizes enlarged (4 to 10 inches in diameter) ground squirrel burrows as denning habitat. May forage in adjacent agricultural habitats.</td>
<td>Unlikely. At best, marginally suitable onsite breeding and foraging habitat for this species occurs onsite. However, the nearest observation of this species was documented approximately 0.5 miles north of the project site in 1971. Since that sighting, only one occurrence, which took place in 1992, approximately 5 miles from the site, has been documented in the region. Numerous regional surveys, conducted before and since the date of the 1992 occurrence, have failed to detect this species. In total eight occurrences of this species have been recorded within ten miles of the project site over the past 37 years. In the off-chance that a migrating kit fox is found in the region, the marginal quality of the project site suggests that they would not choose this site for denning or breeding. The likelihood of this species occurring on the project site is extremely low.</td>
</tr>
</tbody>
</table>

*California Species of Special Concern and Protected Species*

<table>
<thead>
<tr>
<th>Species</th>
<th>Status</th>
<th>Habitat</th>
<th>*Occurrence in the Study Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coast Range newt (<em>Taricha torosa torosa</em>)</td>
<td>CSC</td>
<td>Breeds in ponds, reservoirs and slow moving water. May also occur in large streams and rivers.</td>
<td>Absent. Suitable habitat for this species is absent from the project site. The remnant stock pond feature no longer appears to hold water and is therefore unsuitable for this species. One regional occurrence of this species appears to have taken place approximately 5 miles to the west of the site in 1998, beyond many roadways and some urban development.</td>
</tr>
</tbody>
</table>
## TABLE 1. LIST OF SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY

**ANIMALS – cont'd.**

*California Species of Special Concern and Protected Species*

<table>
<thead>
<tr>
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<th>Status</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Western spadefoot (<em>Spea hammondii</em>)</td>
<td>CSC</td>
<td>Primarily occurs in grasslands, but also occurs in valley and foothill hardwood woodlands. Requires vernal pools or other temporary wetlands for breeding.</td>
<td><strong>Unlikely.</strong> This species has been documented in three locations within two miles of the project site since 1978, including one documented occurrence on the northern portion of the site in 2000. This species is known to breed within the golf course ponds of Ridgemark Golf Course immediately south of the site. Individuals occurring on nearby lands could move onto the site, which provides potential, albeit marginal, aestivating habitat for the spadefoot. Breeding habitat is absent from the site, as the stock pond does not appear to hold water for a sufficient duration to support breeding populations.</td>
</tr>
<tr>
<td>Foothill yellow-legged frog (<em>Rana boylii</em>)</td>
<td>CSC</td>
<td>Found primarily in swiftly flowing creeks.</td>
<td><strong>Absent.</strong> Suitable habitat for this species is absent from the project site.</td>
</tr>
<tr>
<td>Western pond turtle (<em>Actinemys marmorata</em>)</td>
<td>CSC</td>
<td>Open slow-moving water of rivers and creeks of central California with rocks and logs for basking.</td>
<td><strong>Absent.</strong> Suitable habitat for this species is absent from the project site.</td>
</tr>
<tr>
<td>San Joaquin coachwhip (<em>Masticophis flagellum ruddocki</em>)</td>
<td>CSC</td>
<td>Frequent chaparral habitats, specifically scrublands, rocky hillside, gullies, canyons, and stream courses of the foothills.</td>
<td><strong>Unlikely.</strong> Suitable habitat for this species is marginal to absent from the project site. While this species has been known to utilize farmland habitats, this site is heavily managed, which would preclude it from supporting a suitable prey base to attract or support this species.</td>
</tr>
<tr>
<td>Golden eagle (<em>Aquila chrysaetos</em>)</td>
<td>CSC</td>
<td>Typically frequents rolling foothills, mountain areas, woodland areas, sage-juniper flats, and desert habitats.</td>
<td><strong>Likely.</strong> The trees on adjacent properties provide suitable perching and possible breeding habitat for this species. This species was observed perching in eucalyptus trees immediately east of the project site during the October 2007 survey. The site itself lacks suitable breeding habitat and provides a marginally suitable prey base for this species.</td>
</tr>
<tr>
<td>White-tailed kite (<em>Elanus leucurus</em>)</td>
<td>CP</td>
<td>Open grasslands and agricultural areas throughout central California.</td>
<td><strong>Possible.</strong> Breeding habitat is absent from the site. This species would be expected to forage on and near the project site.</td>
</tr>
<tr>
<td>Northern harrier (<em>Circus cyaneus</em>)</td>
<td>CSC</td>
<td>Frequent meadows, grasslands, open rangelands, freshwater emergent wetlands; uncommon in wooded habitats.</td>
<td><strong>Unlikely.</strong> Because it is so heavily managed through discing and grazing, breeding and foraging habitat is marginal to poor for this species. This species may occasionally pass through the site.</td>
</tr>
<tr>
<td>Merlin (<em>Falco columbarius</em>)</td>
<td>CSC</td>
<td>Breeds in Canada but winters in a variety of California habitats, including grasslands, savannas, and wetlands.</td>
<td><strong>Unlikely.</strong> Breeding habitat is absent from the site, and foraging habitat is marginal to absent. This species may occur as an occasional winter migrant.</td>
</tr>
</tbody>
</table>
### TABLE 1. LIST OF SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY

**California Species of Special Concern and Protected Species**

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</tr>
</thead>
<tbody>
<tr>
<td><strong>Burrowing owl</strong> <em>(Athene cunicularia)</em></td>
<td>CSC</td>
<td>Open, dry grasslands, deserts and ruderal areas. Requires suitable burrows. This species is often associated with California ground squirrels.</td>
<td>Unlikely. LOA did not observe direct or indirect evidence of burrowing owls during site visits to this property conducted during the breeding and non-breeding seasons in April, May, and October 2007 and February 2008. While ground squirrel burrows found on the site provide marginally suitable nesting habitat and there appears to be marginally suitable foraging habitat onsite, the present site management regime results in the site being functionally poor habitat for this species. This species was observed utilizing a burrow approximately 1 mile north of the project site in November 2000.</td>
</tr>
<tr>
<td><strong>Black swift</strong> <em>(Cypseloides niger)</em></td>
<td>CSC</td>
<td>Migrants and transients found throughout many habitats of state. Breeds on steep cliffs or ocean bluffs, or in cracks and crevasses of inland deep canyons.</td>
<td>Unlikely. Suitable breeding habitat and foraging habitats are absent from the site. However, this species may occasionally pass through the site.</td>
</tr>
<tr>
<td><strong>Vaux’s swift</strong> <em>(Chaetura vauxi)</em></td>
<td>CSC</td>
<td>Migrants and transients move through the foothills of the western Sierra in spring and late summer. Breeds in coniferous forests.</td>
<td>Unlikely. Suitable breeding habitat and foraging habitats are absent from the site. However, this species may occasionally pass through the site.</td>
</tr>
<tr>
<td><strong>Loggerhead shrike</strong> <em>(Lanius ludovicianus)</em></td>
<td>CSC</td>
<td>Frequent open habitats with sparse shrubs and trees, other suitable perches, bare ground, and low herbaceous cover. Often found in cropland.</td>
<td>Possible. Suitable breeding habitat is absent from the project site. Foraging habitat is marginal; however, this species could reasonably be expected to occasionally pass through the site.</td>
</tr>
<tr>
<td><strong>Yellow-breasted chat</strong> <em>(Icteria virens)</em></td>
<td>CSC</td>
<td>Breeds in brushy tangles, briers, and stream thickets. May occur in overgrown pastures and upland thickets.</td>
<td>Unlikely. Suitable breeding habitat is absent from the site, and foraging habitat is marginal to absent. However, this species may occasionally pass through the site.</td>
</tr>
<tr>
<td><strong>Tricolored blackbird</strong> <em>(Agelaius tricolor)</em></td>
<td>CSC</td>
<td>Breeds near fresh water, primarily emergent wetlands, with tall thickets. Forages in nearby grassland and cropland habitats.</td>
<td>Unlikely. Suitable breeding habitat is absent from the site, and foraging habitat is marginal. However, this species may occasionally pass through the site.</td>
</tr>
<tr>
<td><strong>Townsend’s big-eared bat</strong> <em>(Plecotus townsendii townsendii)</em></td>
<td>CSC</td>
<td>Primarily a cave-dwelling bat that may also roost in buildings. Occurs in a variety of habitats of the state.</td>
<td>Unlikely. While suitable roosting and breeding habitat is absent for this species, foraging habitat is marginal to absent. This species may occasionally pass through the site.</td>
</tr>
<tr>
<td><strong>Hoary bat</strong> <em>(Lasiurus cinereus)</em></td>
<td>CSC</td>
<td>Forages over many habitats. Roosts mainly in coniferous and deciduous trees.</td>
<td>Unlikely. While suitable roosting and breeding habitat is absent for this species, foraging habitat is marginal to absent. This species may occasionally pass through the site.</td>
</tr>
</tbody>
</table>
### TABLE 1. LIST OF SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY

**ANIMALS – cont'd.**

*California Species of Special Concern and Protected Species*

<table>
<thead>
<tr>
<th>Species</th>
<th>Status</th>
<th>Habitat</th>
<th><em>Occurrence in the Study Area</em></th>
</tr>
</thead>
<tbody>
<tr>
<td>Pallid bat</td>
<td>CSC</td>
<td>Grasslands, chaparral, woodlands, and forests of California; most common in dry rocky open areas that provide roosting opportunities.</td>
<td>Unlikely. While suitable roosting and breeding habitat is absent for this species, foraging habitat is marginal to absent. This species may occasionally pass through the site.</td>
</tr>
<tr>
<td>(Antrozous pallidus)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>American badger</td>
<td>CSC</td>
<td>Found in drier open stages of most shrub, forest and herbaceous habitats with friable soils.</td>
<td>Unlikely. Marginally suitable habitat is present on the project site for this species. This species was observed utilizing a burrow approximately 1.5 miles north of the project site in June 1993.</td>
</tr>
<tr>
<td>(Taxidea taxus)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Explanation of Occurrence Designations and Status Codes*

Present: Species observed on the sites at time of field surveys or during recent past.
Likely: Species not observed on the site, but it may reasonably be expected to occur there on a regular basis.
Possible: Species not observed on the sites, but it could occur there from time to time.
Unlikely: Species not observed on the sites, and would not be expected to occur there except, perhaps, as a transient.
Absent: Species not observed on the sites, and precluded from occurring there because habitat requirements not met.

**STATUS CODES**

<table>
<thead>
<tr>
<th>FE</th>
<th>Federally Endangered</th>
<th>CE</th>
<th>California Endangered</th>
</tr>
</thead>
<tbody>
<tr>
<td>FT</td>
<td>Federally Threatened</td>
<td>CT</td>
<td>California Threatened</td>
</tr>
<tr>
<td>FPE</td>
<td>Federally Endangered (Proposed)</td>
<td>CP</td>
<td>California Protected</td>
</tr>
<tr>
<td>FC</td>
<td>Federal Candidate</td>
<td>CSC</td>
<td>California Species of Special Concern</td>
</tr>
</tbody>
</table>

| CNPS | California Native Plant Society Listing | 3 | Plants about which more information is needed – a review list |
| 1A  | Plants Presumed Extinct in California   |   |                                         |
| 1B  | Plants Rare, Threatened, or Endangered in California and elsewhere | 4 | Plants of limited distribution – a watch list |
| 2   | Plants Rare, Threatened, or Endangered in California, but more common elsewhere |   |                                     |
2.4 ENDANGERED, THREATENED, OR SPECIAL STATUS PLANT AND ANIMAL SPECIES MERITING FURTHER DISCUSSION

Most of the special status animal species that have been documented in the region may occur rarely or occasionally on the site (Table 2). For these species, sufficient information exists to evaluate the potential imposed impacts future development may have on them. A few of the state- or federally-listed species require additional in-depth analysis. Below are detailed discussions that include an analysis of their legal status, ecology, and the suitability of the site to support them.

2.4.1 California Tiger Salamander (*Ambystoma californiense*). Federal Listing Status: Threatened; State Listing Status: Threatened.

The USFWS listed the California tiger salamander as threatened on August 4, 2004 (69 Fed. Reg. 47212-47248). The California Department of Fish and Game has designated this species as a Species of Special Concern.

*Life history and ecology.* The California tiger salamander is a large terrestrial salamander, with adults attaining a total length of over 8 inches (203 millimeters) [Stebbins 1951]. Dorsally, the background color appears to be jet black--normally with an overlain pattern of white or yellow spots, or bars (Stebbins 1985; Petranka 1998). Adult California tiger salamanders breed from late November through February, following the onset of winter rains (Storer 1925; Barry and Shaffer 1994). Both males and females travel up to 1 mile (1.6 km) or more during nocturnal breeding migrations from subterranean refuge, or aestivation, sites (i.e., small mammal burrows) to egg deposition sites in long-lasting, rain-filled vernal pools (Twitty 1941; Loredo et al. 1961; Andersen 1968; Austin and Shaffer 1992;).

Embryos of California tiger salamanders hatch in approximately 14-28 days after being laid and the resulting gilled, aquatic larvae [0.41-0.43 inches (10.5-11 mm) in length] require a minimum of about 10-12 weeks to complete development through metamorphosis (Storer 1925; Twitty 1941). Following metamorphosis (normally from early May through July), juveniles emigrate en masse at night into small mammal burrows or deep cracks in the soil, which they use as refugia during the hot summer and fall months (Shaffer et al. 1993; Loredo et al. 1996).
Anecdotal evidence indicates that salamanders have a high degree of site fidelity to their breeding ponds and also to the small mammal burrows they use for refugia (Shaffer et al. 1993). Sites used for reproduction are typically natural pools that fill with rainwater and artificial stock ponds; however, salamanders have also been observed to breed in springs, wells, artificial reservoirs, quarry ponds, man-made canals, and rarely, in the slack waters of oxbows in small- to medium-sized streams. Such sites may, or may not contain dense amounts of aquatic and streamside vegetation. The highest numbers of larvae appear to occur in aquatic habitats that are largely devoid of any vegetation and contain very turbid water. Salamanders may also turn up in certain man-made structures (e.g. wet basements, wells, swimming pools, underground pipes, and septic tank drains), sometimes many years after their local breeding site has been destroyed by urbanization (Storer 1925; Pickwell 1947).

Juvenile and adult salamanders typically use the burrows of California ground squirrels and pocket gophers as underground refugia (Storer 1925; Jennings and Hayes 1994; Jennings 1996; Loredo et al. 1996) but may use a variety of burrows including cracks within the soil that may extend up to 15 feet (4.6 m) deep from the soil surface (Jennings, unpub. data). Juvenile and adult salamanders are especially common in situations where piles of concrete, rock, or other rubble are mixed with dirt and are located near breeding sites (Jennings, unpub. data).

*Potential to occur on the site.* The site does not provide suitable breeding habitat for CTS. As indicated previously, the site has a remnant stock pond feature that appears to remain dry throughout the year. In 2000 the stock pond served as breeding habitat for this species (CDFG 2008); however, site management or some other factor has altered this feature significantly making the stock pond unsuitable for use as breeding habitat for CTS. During both the October 2007 and the February 2008 surveys this feature was dry. Considering that this time period experienced moderately high precipitation relative to the region, this provides substantial evidence that the stock pond no longer provides suitable breeding habitat for the CTS.

There are eleven documented occurrences of this species within three miles of the site. This includes four locations within two miles of the project site since 1999. As mentioned above, one documented occurrence was from 2000 in the remnant stock pond of the site. Two of the
remaining occurrences, occurring in 1999, include the presence of larvae in water features associated with the Ridgemark Golf Course approximately 0.1 miles and 0.25 miles, respectively, south of the site. For all intents and purposes, there is no evidence that suggests that these features do not presently function as breeding habitat for this species. Suitable, albeit marginal, aestivation habitat in the form of rodent burrows was observed within the site’s agricultural field. However, this presumes that CTS breed within some reasonable, unimpeded distance of the site. Findings from the limited research on the species suggest that 95% of the CTS population aestivates within 2,000 feet of a breeding pond and that 99% of the breeding population aestivates within 0.7 miles of a breeding pond. Highway 25, an approximately 40-ft.-wide road supporting moderate to heavy vehicular traffic, would act as a significant barrier to aestivating CTS coming from the known breeding ponds to the south of the site. Regardless, aestivating CTS can utilize upland habitat in the absence of suitable aquatic breeding habitats for up to ten years before all cohorts from the last breeding event are expected to perish.

In summary, breeding habitat is absent from the agricultural field of the site and limited aestivation habitat occurs on the site, as this habitat is heavily managed for dry land farming.

2.4.2 Western Burrowing Owl (*Athene cunicularia*). Federal Listing Status: None; State Listing Status: Species of Special Concern.

The burrowing owl is a California species of special concern but is not currently protected under the state or federal Endangered Species Acts. This owl is a small, terrestrial owl of open prairie and grassland habitats. These owls inhabit relatively flat, dry, open grasslands where tree and shrub canopies provide less than 30% cover.

*Life history and ecology.* The burrowing owl is the only owl that routinely lives and nests underground. In the western United States burrowing owls do not dig their own burrows, but take over burrows dug by animals such as ground squirrels (*Spermophilus* spp.), prairie dogs (*Cynomys* spp.), and badgers (*Taxidea taxus*). In California, this species is found in close association with California ground squirrels, using their abandoned burrows for shelter, roosting, and nesting. Burrowing owls are colonially nesting raptors, and colony size is indicative of habitat quality. Owl populations have declined sharply in some portions of California during the
past two decades (i.e. the San Francisco Bay Area, Sacramento County, San Joaquin County, etc.),
but they have increased greatly in some agricultural counties (particularly Imperial).

*Potential to occur on the site.* Ground squirrel burrows found on the site provide limited
nesting habitat for burrowing owls. Given the current land use practices associated with dry land
farming, it is highly unlikely that burrowing owls would breed onsite. If they breed or winter
nearby, they could use the site for foraging, but no evidence (i.e., feathers and regurgitation
pellets) was detected during any of our site visits in April, May, and October 2007 and February
2008 to indicate that they do so. Therefore, any benefit of this site for the regional population is
speculative. This species was observed utilizing a burrow approximately 1 mile north of the
project site in November 2000. Additionally, there appears to be a marginally suitable prey base
for this species within the project site.

### 2.4.3 San Joaquin Kit Fox (*Vulpes macrotus mutica*).

**Federal Listing Status:** Endangered; **State Listing Status:** Threatened.

By the time the U.S. Fish and Wildlife Service listed it as an endangered species under the
authority of the Federal Endangered Species Act on March 11, 1967, the San Joaquin kit fox had
been extirpated from much of its historic range. In 1998, the USFWS adopted a final recovery
plan for the San Joaquin kit fox. On June 27, 1971, the State of California listed the kit fox as a
threatened species.

*Life history and ecology.* The San Joaquin kit fox, the smallest North American member of the
dog family (Canidae), historically occupied the dry plains of the San Joaquin Valley, from San
Joaquin County to southern Kern County (Grinnell et al. 1937). Critical habitat has yet to be
established for the San Joaquin kit fox. Local surveys, research projects, and incidental sightings
indicate that kit foxes currently occupy available habitat on the San Joaquin Valley floor and in
the surrounding foothills.

Kit foxes prefer habitats of open or low vegetation with loose soils. In the northern portion of
their range, they occupy grazed grasslands and, to a lesser extent, valley oak woodlands. In the
southern and central portion of the Central Valley, kit foxes are found in valley sink scrub, valley
saltbush scrub, upper Sonoran subshrub scrub, and annual grassland (USFWS 1998). Kit foxes may also be found in grazed grasslands, urban settings, and in areas adjacent to tilled or fallow fields (USFWS 1998).

Kit fox diets vary geographically, seasonally, and annually. In most of their range, which includes lands around the study area, known prey includes mice, insects, California ground squirrels, black-tailed hares, desert cottontails, and ground-nesting birds (Archon 1992; Jensen 1972).

The kit fox requires underground dens to raise pups, regulate body temperature, and avoid predators and other adverse environmental conditions (Golightly and Ohmart 1984). They usually occupy burrows excavated by small mammals, such as ground squirrels. Denning habitat consists of ground squirrel complexes in which some burrows have been enlarged to 4 to 10 inches in diameter for the length of a human arm (approximately 2 ft.).

Potential to occur onsite. While suitable onsite breeding and foraging habitat for this species is marginal, at best, this species would not reasonably be expected to occur on the site. Of primary interest for this project are kit fox records from the region. According to the CNDDB (CDFG 2008), there have been a total of eight direct and indirect sightings within ten miles of the site since 1971 (Figure 5). The nearest observation was documented approximately 0.5 miles north of the project site in 1971. The most recent documented occurrence of this species took place in 1992, approximately 5 miles west of the site. Numerous regional surveys conducted before and since the date of the 1992 occurrence have failed to detect this species.

While these occurrences suggest that it is possible that kit foxes may have traveled to the project site, the current marginal quality of the project site suggests that they would not choose this site for denning and/or breeding. The site is somewhat isolated from any extant subpopulations of kit fox. Based on the site’s location and the distribution of kit fox occurrences in its vicinity, the site is not essential to the regional movement of kit fox populations. For all intents and purposes, the site would tend to function more as a dispersal sink (i.e., a habitat in which a population is
expected to decline to extinction due to sub-optimal foraging and breeding conditions) than as an area that would facilitate movements or aid in successful breeding.

Most of the project site’s surrounding land uses consist of farmland, rangeland, residential development, and a golf course. These are land uses that are not generally suitable for the San Joaquin kit fox; however, rangelands can provide marginal foraging habitat for this species. The site itself has been heavily managed for agricultural uses rendering onsite habitat for this species marginal, at best. While some open space exists to the northeast of the site, the likelihood that a kit fox would travel through low-quality habitat to utilize the low-quality, managed agricultural field of the site is low. Any occurrence would be of an incidental nature.

Suitable denning habitat for kit foxes was not observed on the site during the October 2007 or February 2008 field surveys. While a number of ground squirrel burrows were observed throughout the agricultural field, none of these possessed the dimensions suitable for kit foxes. Having been modified for agricultural use, the study area provides a limited prey base and, therefore, marginal foraging habitat for kit foxes. Farming practices appear to have also limited the onsite occurrence of ground-nesting birds that sometimes constitute prey for this species.

In summary, kit foxes appear to no longer inhabit the region, the site has been heavily disturbed and modified for agricultural use, and lands surrounding the site include residential development and other unsuitable areas that present significant barriers to movement. Based on this evidence, the kit fox is considered absent from the site.

2.5 JURISDICTIONAL WATERS

Jurisdictional waters include rivers, creeks, and drainages that have a defined bed and bank and which, at the very least, carry ephemeral flows. Jurisdictional waters also include lakes, ponds, reservoirs, and wetlands. Such waters may be subject to the regulatory authority of the U.S. Army Corps of Engineers (USACE), the California Department of Fish and Game (CDFG), and the California Regional Water Quality Control Board (RWQCB). See Section 3.2.4 of this report for additional information.
The only aquatic feature occurring on the site is the stock pond remnant in the site’s northeast corner. However, this appears to be a relict feature, as it does not appear to become inundated following major storm events. Additionally, the stock pond is hydrologically isolated from known Waters of the U.S. and their tributaries, does not replace the functions and values of historic waters, and does not meet the USACE’s technical criteria for jurisdictional wetlands. A Waters of the U.S. analysis was completed for the site, and the USACE determined that no waters, including the remnant stock pond, meet the definition of a Water of the U.S (LOA 2008; USACE 2008). Therefore, no features on the site are subject to regulation by the USACE.

The CDFG and RWQCB would also be unlikely to regulate the remnant stock pond. Although jurisdictional waters are presumed to be absent, these agencies are the final arbiters and could claim jurisdiction over any aquatic resources they determine as present on the site.
3.0 IMPACTS AND MITIGATIONS

3.1 SIGNIFICANCE CRITERIA

Approval of general plans, area plans, and specific projects is subject to the provisions of the California Environmental Quality Act (CEQA). The purpose of CEQA is to assess the impacts of proposed projects on the environment before they are carried out. CEQA is concerned with the significance of a proposed project’s impacts. For example, a proposed development project may require the removal of some or all of a site’s existing vegetation. Animals associated with this vegetation could be destroyed or displaced. Animals adapted to humans, roads, buildings, pets, etc., may replace those species formerly occurring on the site. Plants and animals that are state and/or federally listed as threatened or endangered may be destroyed or displaced. Sensitive habitats such as wetlands and riparian woodlands may be altered or destroyed.

Whenever possible, public agencies are required to avoid or minimize environmental impacts by implementing practical alternatives or mitigation measures. According to Section 15382 of the CEQA Guidelines, a significant effect on the environment means a “substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic interest.”

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

- Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service;

- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service;

- Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means;
• Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites;

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

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

Furthermore, CEQA Guidelines Section 15065(a) states that a project may trigger the requirement to make a “mandatory findings of significance” if the project has the potential to

Substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of an endangered, rare or threatened species, or eliminate important examples of the major periods of California history or prehistory.

3.2 RELEVANT GOALS, POLICIES, AND LAWS

3.2.1 Threatened and Endangered Species

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

3.2.2 Migratory Birds

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

3.2.3 Birds of Prey

Birds of prey are also protected in California under provisions of the State Fish and Game Code, Section 3503.5, which states that it is “unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto.” Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered “taking” by the CDFG.

3.2.4 Wetlands and Other Jurisdictional Waters

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

- All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- All interstate waters including interstate wetlands:
- All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa
lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce;
- All impoundments of waters otherwise defined as waters of the United States under the definition;
- Tributaries of waters identified in paragraphs (a)(1)-(4) (i.e. the bulleted items above).

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

The USACE regulates the filling or grading of such waters under the authority of Section 404 of the Clean Water Act. The extent of jurisdiction within drainage channels is defined by “ordinary high water marks” on opposing channel banks. Wetlands are habitats with soils that are intermittently or permanently saturated, or inundated. The resulting anaerobic conditions select for plant species known as hydrophytes that show a high degree of fidelity to such soils. Wetlands are identified by the presence of hydrophytic vegetation, hydric soils (soils saturated intermittently or permanently saturated by water), and wetland hydrology according to methodologies outlined in the 1987 Corps of Engineers Wetlands Delineation Manual (USACE 1987).

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

The California Department of Fish and Game has jurisdiction over the bed and bank of natural drainages according to provisions of Section 1601 and 1602 of the California Fish and Game Code (2003). Activities that would disturb these drainages are regulated by the CDFG via a Streambed Alteration Agreement. Such an agreement typically stipulates that certain measures will be implemented which protect the habitat values of the drainage in question.

### 3.2.5 Local Ordinances

No habitat conservation plans (HCP) or natural community conservation plans (NCCP) are in effect for this project. While a draft HCP had been underway in this region for some time, this effort is no longer moving forward. However, San Benito County adopted Ordinance 541 in 1988 to set and collect fees for financing the HCP and for San Joaquin kit fox protection measures. These fees are to be paid by the applicant as a condition of the issuance of a building permit. Monies paid through this ordinance do not provide take authorization under the federal or state Endangered Species Acts.

### 3.3 IMPACTS AND MITIGATIONS SPECIFIC TO THE PROJECT SITE

The proposed project is the construction of 226 single-family, one-and-two story residential units on approximately 56 acres of the northern portion of the site, as well as the construction of a community college campus on the remaining approximately 80 acres. These features will be accessed by both Fairview Road and Highway 25. The campus development has associated infrastructure, including parking spaces, athletic fields, open space, on-campus housing, campus facilities, and future campus expansion areas.
For the purposes of this analysis, it is assumed that any future proposal by the applicant will be consistent with the general locations of the construction sites as currently represented in the tentative site plan provided by EMC Planning Group Inc. (2008). Any appreciable difference in either scope or general location of the proposed project would require an additional impact assessment to ensure that unanticipated impacts to biotic resources are not likely to occur.

3.3.1 Loss of Habitat for Special Status Plants

Potential Impacts. Ten special status vascular plant species are known to occur in the general project vicinity (Table 1). Site development would have no effect on regional populations of these species since the site provides no habitat for special status plants. Therefore, state and federal laws protecting special status plants would not be relevant to development of the site.

Mitigation. Mitigation measures are not warranted.

3.3.2 Loss of Habitat for Special Status Animals

Potential Impacts. Twenty-eight special status animal species occur, or once occurred, regionally (Table 1). Of those, twenty would be absent or unlikely to occur on the site due to unsuitable habitat conditions. These include the coast range newt, California red-legged frog, foothill yellow-legged frog, western spadefoot, western pond turtle, San Joaquin coachwhip, peregrine falcon, burrowing owl, black swift, Vaux’s swift, western yellow-billed cuckoo, tricolored blackbird, yellow-breasted chat, Townsend’s big-eared bat, hoary bat, pallid bat, ringtail, American badger, and San Joaquin kit fox. Eventual project build-out would have no effect on these species because there is little or no likelihood that they are present.

Species that might rarely or occasionally occur on the site as transients, occasional foragers, or winter migrants include golden eagles, white-tailed kites, northern harriers, merlins, and loggerhead shrikes. The site does not provide regionally important foraging habitat for these species. Considerable habitat suitable for migratory movements will continue to be available regionally for these species following development. Migrant and transient species pass through
or over many types of habitats en route to breeding or wintering habitat. For a majority of these species, there is no suitable nesting or roosting habitat on the project site. Therefore, the loss of habitat for these six species would be considered less-than-significant.

The remaining special status animal species, the California tiger salamander, is considered potentially present onsite (section 2.4.1). Potential impacts to and mitigations for those impacts to this species is dealt with specifically below (section 3.3.3).

**Mitigation.** Mitigation measures are not warranted.

### 3.3.3 Impacts to Individual California Tiger Salamanders and Their Habitat

**Potential Impacts.** California tiger salamanders do not presently breed onsite. The closest breeding pond is approximately 0.1 miles south of the site and is separated from the site by development associated with the golf course and the major regional thoroughfare, Highway 25. A few adult CTS associated with onsite breeding events which took place during the early 2000s may continue to inhabit some of the rodent burrows and other ground surface crevices of the site. While this is somewhat unlikely given the intensive farming practices that are currently used to manage the site, it would not be possible to conclude absence without implementing extensive survey methods such as drift fences or scoping each burrow and crevice of the site.

The applicant could implement more extensive survey methodologies that are satisfactory to the resource agencies. If these surveys prove negative, then the project would result in a less-than-significant impact to CTS individuals and their habitats. In the absence of these surveys, the proposed project would be presumed to impact 137 acres of aestivation habitat.

Should California tiger salamanders occur on the site, future site development could result in the loss of individuals, which would likely be considered a take under the state and federal Endangered Species Acts and would require consultation with the USFWS.
We should note that the applicant should complete surveys in conformance to protocols acceptable to the USFWS that would establish the onsite status of the California tiger salamander. If such surveys are completed and California tiger salamanders are determined to be absent from the site, then the project would have no impact on them, and mitigation measures would not be warranted. If, however, the surveys establish that California tiger salamanders are on the site, or if the applicant chooses to forego conducting surveys and, instead, presume that this species is present, then the applicant would need to comply with provisions of the federal and state Endangered Species Acts and would need to seek take authorization from the USFWS and CDFG for project-related losses as required by law. To obtain a take permit, consultation with the U.S. Fish and Wildlife Service would need to be initiated either through a federal nexus (i.e., Section 7 consultation, usually through the USACE or the Bureau of Land Management) or through the HCP process (i.e., Section 10 consultation). Because a federal nexus has not been identified to date, it is likely that the applicant would engage in the Section 10 consultation process.

**Mitigation.** The following mitigations are designed to reduce project impacts to a less-than-significant level under CEQA. These mitigations are designed to avoid and minimize impacts where possible and then compensate for any residual impacts.

**Mitigation Alternative 1: Avoidance.** Impacts to California tiger salamanders and their habitat should be avoided to the maximum extent practicable. However, because the entire site constitutes suitable aestivation habitat for this species, complete avoidance would not be feasible.

**Mitigation Alternative 2: Minimization.** Implementation of the following measures should be taken during site development to avoid take of individual California tiger salamanders.

- A qualified onsite monitor should be present during the initial site grading. The monitor would only need to monitor the site during the rough grading activities. Monitoring could cease once the build-out site has been completely denuded of habitats.
- Exclusion fencing (e.g., silt fencing) should be erected around construction zones to minimize the potential of a CTS dispersing onto the site during construction and should remain in place for the duration of construction. Any CTS detected during these procedures will be moved to suitable habitat by a biologist possessing USFWS authorization to handle CTS.
Mitigation Alternative 3: Compensation. To offset impacts during the CEQA process, as well as to obtain federal and state take authorization for impacts to this species, compensation would be required. Because the entire site is being proposed for project build-out, onsite compensation would not be feasible. Therefore, compensation should occur at a suitable offsite location via the purchase of credits from a nearby conservation bank or by placing suitable habitat under a conservation easement. Because the existing conditions represent a non-sustaining situation, the loss of aestivation habitat should be compensated for at a replacement-to-removal ratio at a minimum of 1:1 (one acre of habitat created or preserved for each acre disturbed). The project applicant is considering potential mitigation options on ranchlands in the hills on the east side of San Benito County that have identified CTS source populations, including both breeding and aestivation habitat. A management plan for these lands would need to be developed in accordance with USFWS guidelines and should include a mechanism for managing these lands in perpetuity.

3.3.4 Impacts to Burrowing Owls

Potential Impacts. Marginally suitable nesting habitat for burrowing owls was present throughout the site in the form of California ground squirrel burrows. Given the current land use practices associated with dry land farming, it is highly unlikely that burrowing owls would breed onsite. Additionally, the site does not appear to be used as foraging habitat, as no evidence of foraging (i.e., feathers and regurgitation pellets) was detected during site visits conducted by LOA during the breeding and non-breeding seasons in 2007 and 2008. Therefore, impacts to burrowing owl habitat are considered less than significant.

While unlikely, the possibility of the burrowing owl’s occurrence on the project site warrants prudent protection measures, should any individuals move onto the site prior to or at the time of site development and associated construction activities. If a burrowing owl were to occupy burrows on or near the project site prior to project-related development activities, these activities could result in the abandonment of active burrows or direct mortality to owls. Construction activities that adversely affect the nesting success of raptors or result in mortality of individual
owls constitute a violation of state and federal laws (see Section 3.2.3) and would be considered a significant impact under CEQA.

**Mitigation.** Site development could potentially result in the mortality of burrowing owls. Mitigation measures that protect burrowing owls from possible direct mortality or nest failure would be warranted. Therefore, the project applicant should implement the following measures to ensure that adverse impacts to burrowing owls as a result of project construction are avoided.

- **Mitigation Measure 3.3.4a:** A pre-construction survey should be conducted by a qualified biologist for burrowing owls within 30 days of the onset of construction. This survey should be conducted according to methods described in the *Staff Report on Burrowing Owl Mitigation* (CDFG 1995). All suitable habitats of the project site should be covered during this survey.

- **Mitigation Measure 3.3.4b:** If pre-construction surveys undertaken during the breeding season (February 1 through August 31) locate active nest burrows within or near construction zones, then these nests should not be disturbed, and a construction-free buffer of 250 feet (or as determined by a qualified biologist) should be established around all active owl burrows. The buffer area(s) should be enclosed with temporary fencing, and construction equipment and workers should not enter the enclosed setback areas. Buffers should remain in place for the duration of the breeding season or until it has been determined by a qualified biologist that chicks have fledged and are independent of their parents.

- **Mitigation Measure 3.3.4c:** During the non-breeding season (September 1 through January 31), resident owls may be relocated to alternative habitat. The relocation of resident owls must be according to a relocation plan prepared by a qualified biologist. Passive relocation would be the preferred method of relocation. The relocation plan must provide for the owl’s relocation to nearby lands possessing available nesting and foraging habitat.

- **Mitigation Measure 3.3.4d:** If burrowing owls are determined to either be breeding or over-wintering on the project site, compensation measures for the loss of habitat will be required in conjunction with CDFG standards (typically 6.5 acres per owl pair or unpaired resident owl).

Full implementation of the measures identified above would mitigate impacts to burrowing owls potentially occurring on the site.
3.3.5 Disturbance to Nesting Raptors

Potential Impacts. Although no tree nests or ground nests were observed on or adjacent to the site during the October 2007 and February 2008 surveys, large trees immediately to the east and south of the site provide potential nesting habitat for tree-nesting raptors. If a raptor, regardless of its federal or state status, were to nest on or adjacent to the site prior to construction, construction activities could result in the abandonment of active nests or direct mortality to these birds. Construction activities that adversely affect the nesting success of raptors or other special status birds or result in mortality of individual birds constitute a violation of state and federal laws (see Section 3.2.3) and would be considered a significant impact under CEQA.

Mitigation. A qualified biologist should conduct a pre-construction survey for tree- and ground-nesting raptors throughout the site and in all trees within 250 feet of the site no more than 30 days prior to the onset of ground disturbance, if such disturbance will occur during the breeding season (February 1 through August 31). Pre-construction surveys should be used to determine the presence or absence of nesting raptors. If nesting raptors are detected during the survey within 250 feet of proposed project-related development activities, a suitable construction-free buffer should be established around all active nests. The precise dimension of the buffer (up to 250 ft.) would be determined at that time and may vary depending on location and species. Buffers should remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents. Pre-construction surveys during the non-breeding season are not necessary for most nesting raptors, including all tree-nesting raptors, as they are expected to abandon their roosts during construction.

Implementation of the above measures would mitigate impacts to tree- and ground-nesting raptors to a less-than-significant level.

3.3.6 Impacts to American Badgers

Potential Impacts. Impacts to the American badger would be similar to those for the burrowing owl. Conversion of the project site’s open agricultural land to housing and a college campus
would result in a less-than-significant loss of habitat for the American badger but may result in harm or injury to individuals of this species, which would constitute a significant adverse impact.

**Mitigation.** Pre-construction surveys conducted for raptors and specifically for burrowing owls should also be used to determine the presence or absence of badgers on individual project sites. In the unlikely event that an active badger den is identified during pre-construction surveys within or immediately adjacent to the construction envelope, a construction-free buffer of up to 300 ft. or a suitable distance specified by the resource agencies (i.e., CDFG) should be established around the den. Because badgers are known to use multiple burrows in a breeding burrow complex, a biological monitor should be present onsite during construction activities to ensure the buffer is adequate to avoid direct impact to individuals or nest abandonment. The onsite monitor would be necessary until it is determined that young are of an independent age and construction activities would not harm individual badgers. Once it has been determined that badgers have vacated the site, the burrows could be collapsed or excavated, and ground disturbance could proceed.

### 3.3.7 Impacts to San Joaquin Kit Foxes

**Potential Impacts.** The entire project site consists of agricultural habitat, and no ground squirrel burrows possessing the dimensions suitable for the San Joaquin kit fox were observed on the site during the October 2007 and February 2008 surveys, although protocol-level surveys including 100% visual coverage of the site were not conducted for this species.

As discussed in Section 3.3.2, project development would result in a less-than-significant loss of habitat for the San Joaquin kit fox. However, it is possible, though highly unlikely, that an individual kit fox could move onto the site incidentally prior to construction. Construction-related activities may result in harm or injury to individual kit foxes, should they occur on the site. This would be considered a significant adverse impact.

**Mitigation.** While unlikely, the possibility of the San Joaquin kit fox’s occurrence on the project site warrants prudent protection measures, should any individuals wander onto the site at
the time of site development and associated construction activities. As such, the project proponent should implement the protection measures outlined in the “U.S. Fish and Wildlife Service standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance,” provided in Appendix C and summarized below. While these recommendations were developed by the USFWS Sacramento office, they would be applicable to this project site as well.

- Pre-construction surveys shall be conducted no less than 14 days and no more than 30 days prior to the beginning of ground disturbance, construction activities, and/or any project activity likely to impact the San Joaquin kit fox. The primary objective is to identify kit fox habitat features (e.g., potential dens and refugia) on the project site and evaluate their use by kit foxes. If an active kit fox den is detected within or immediately adjacent to the area of work, the USFWS shall be contacted immediately to determine the best course of action. If no kit fox activity is detected, a written report shall be submitted to the USFWS within five days after completion of the surveys.

- Permanent and temporary construction activities and other types of project-related activities should be carried out in a manner that minimizes disturbance to kit foxes, should their presence be detected on the site during pre-construction surveys. Minimization measures include, but are not limited to: restriction of project-related vehicle traffic to established roads, construction areas, and other designated areas; inspection and covering of structures (e.g., pipes), as well as installation of escape structures, to prevent the inadvertent entrapment of kit foxes; restriction of rodenticide and herbicide use; and proper disposal of food items and trash.

- The Ventura field office of the USFWS and the Fresno field office of the CDFG will be notified in writing within three working days in case of the accidental death or injury to a San Joaquin kit fox during project-related activities. Notification must include the date, time, location of the incident or of the finding of a dead or injured animal, and any other pertinent information.

Implementation of these measures would minimize the risk that construction activities during site development would result in mortality to individual kit foxes.

3.3.8 Loss of Habitat for Native Wildlife

Potential Impacts. The entire site is regularly managed for agricultural uses resulting in an open space that provides only low-quality habitat for species that occur regionally. Only disturbed habitats occur on the site. Due to the low-quality habitat that would be impacted by
project development, the loss of habitat for native wildlife resulting from the proposed project would constitute a less-than-significant impact.

**Mitigation.** Mitigation measures are not warranted.

### 3.3.9 Interference with the Movement of Native Wildlife

**Potential Impacts.** The project site itself provides minimal dispersal habitat for native wildlife and does not function as a significant movement corridor for native wildlife because it is not unique to the region and is bordered to the west and south by human development. Site development is not expected to have a significant effect on home range and dispersal movements of native wildlife that may occur in the region. Therefore, the project would result in a less-than-significant impact on the movements of native wildlife.

**Mitigation.** Mitigation measures are not warranted.

### 3.3.10 Disturbance to Waters of the United States or Riparian Habitats

**Potential Impacts.** Pending a site verification by the USACE, no wetlands or other jurisdictional waters presumably occur on the project site. Therefore, state and federal regulations protecting jurisdictional waters would not be relevant to development of the site. The project would also have no effect on riparian habitats or other sensitive natural communities, as none of these occur on the project site.

**Mitigation.** Mitigation measures are not warranted.

### 3.3.11 Degradation of Water Quality in Seasonal Drainages, Stock Ponds, and Downstream Waters

**Potential Impacts.** Extensive grading often leaves the soils of construction zones barren of vegetation and, therefore, vulnerable to erosion. Eroded soil can be carried as sediment in seasonal creeks to be deposited in creek beds and adjacent wetlands. The site itself and the surrounding areas are comprised of fairly level terrain. Therefore, the potential for erosion and the degradation of water quality in local creeks is negligible.
Furthermore, the applicant is expected to comply with the provisions of a City or County grading permit, including standard erosion control measures that employ best management practices (BMPs). Compliance with the above permit(s) should result in no impact to water quality in seasonal creeks, reservoirs, and downstream waters from the proposed project and should not result in the deposition of pollutants and sediments in sensitive riparian and wetland habitats.

**Mitigation.** Mitigation measures are not warranted.

### 3.3.12 Local Ordinances or Habitat Conservation Plans

**Potential Impacts.** No local ordinances, HCPs, or NCCPs are in effect for this project. While a draft HCP had been underway in this region for some time, this effort is no longer moving forward and, as such, the project will not conflict with an HCP/NCCP. Therefore, the proposed project would not be impacted by any local policies related to biological resources.

**Mitigation.** Mitigation measures are not warranted.
LITERATURE CITED


APPENDIX A: VASCULAR PLANTS OF THE STUDY AREA

The plants species listed below were observed on the Gavilan College/Fairview Corners site during the field survey conducted by Live Oak Associates in 2007 and 2008. The U.S. Fish and Wildlife Service wetland indicator status of each plant has been shown following its common name.

<table>
<thead>
<tr>
<th>APIACEAE – Carrot Family</th>
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<tbody>
<tr>
<td><em>Conium maculatum</em></td>
<td>Poison hemlock</td>
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<tr>
<th>ASTERACEAE - Sunflower Family</th>
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<tbody>
<tr>
<td><em>Baccharis pilularis</em></td>
<td>Coyote brush</td>
</tr>
<tr>
<td><em>Centaurea solstitialis</em></td>
<td>Yellow star thistle</td>
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<tr>
<td><em>Cirsium vulgare</em></td>
<td>Bull thistle</td>
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<tr>
<td><em>Heterotheca grandiflora</em></td>
<td>Telegraph weed</td>
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<tr>
<td><em>Xanthium spinosum</em></td>
<td>Spiny cocklebur</td>
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<tr>
<th>BORAGINACEAE – Borage Family</th>
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<tbody>
<tr>
<td><em>Amsinckia menziesii</em></td>
<td>Small-flowered fiddleneck</td>
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<tr>
<th>BRASSICACEAE – Mustard Family</th>
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<tbody>
<tr>
<td><em>Hirschfeldia incana</em></td>
<td>Summer mustard</td>
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<tr>
<th>CONVOLVULACEAE – Morning-Glory Family</th>
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<tbody>
<tr>
<td><em>Convolvulus arvensis</em></td>
<td>Field bindweed</td>
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<tr>
<th>EUPHORBIACEAE – Spurge Family</th>
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<tbody>
<tr>
<td><em>Eremocarpus setigerus</em></td>
<td>Turkey mullein</td>
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<tr>
<th>FABACEAE – Legume Family</th>
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<tbody>
<tr>
<td><em>Medicago polymorpha</em></td>
<td>Burclover</td>
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<tr>
<th>GERANIACEAE – Geranium Family</th>
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<tbody>
<tr>
<td><em>Erodium botrys</em></td>
<td>Broadleaf filaree</td>
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<tr>
<td><em>Geranium dissectum</em></td>
<td>Wild geranium</td>
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<tr>
<th>LAMIACEAE – Mint Family</th>
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<tr>
<td><em>Trichostema lanceolatum</em></td>
<td>Vinegarweed</td>
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<tr>
<th>MALVACEAE – Mallow Family</th>
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<tbody>
<tr>
<td><em>Malva sp.</em></td>
<td>Mallow</td>
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<tr>
<th>ONAGRACEAE – Evening Primrose Family</th>
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<tbody>
<tr>
<td><em>Epilobium</em> sp.</td>
<td>Willowherb</td>
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<tr>
<th>PAPAVERACEAE – Poppy Family</th>
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<tbody>
<tr>
<td><em>Eschscholzia californica</em></td>
<td>California poppy</td>
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<tr>
<th>PLANTAGINACEAE – Plantain Family</th>
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<tbody>
<tr>
<td><em>Plantago lanceolata</em></td>
<td>English plantain</td>
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</table>
POACEAE - Grass Family

- *Avena sp.* - Wild oat
- *Bromus diandrus* - Ripgut brome
- *Bromus hordeaceus* - Soft chess
- *Hordeum marinum ssp. gussoneanum* - Mediterranean barley
- *Phalaris californica* - Canary grass
- *Triticum aestivum* - Common wheat

POLYGONACEAE – Buckwheat Family

- *Rumex crispus* - Curly dock

* Introduced non-native species
APPENDIX B: TERRESTRIAL VERTEBRATE SPECIES THAT POTENTIALLY OCCUR ON THE STUDY AREA

The species listed below are those that may reasonably be expected to use the habitats of the study area routinely from time to time. The list was not intended to include birds that are vagrants or occasional transients. Terrestrial vertebrate species observed in or adjacent to the study area in October 2007 and/or February 2008 have been noted with an asterisk.

CLASS AMPHIBIA (Amphibians)
ORDER CAUDATA (Salamanders)
FAMILY: AMBYSTOMATIDAE (Mole Salamanders and Relatives)
  California tiger salamander  *Ambystoma californiense*
ORDER ANURA (Frogs and Toads)
FAMILY: PELOBATIDAE (Spadefoot Toads)
  Western spadefoot  *Spea hammondii*
FAMILY: BUFONIDAE (True Toads)
  Western toad  *Bufo boreas*
FAMILY: HYLIDAE (Treefrogs and Relatives)
  Pacific treefrog  *Pseudacris regilla*
FAMILY: RANIDAE
  Bullfrog  *Rana catesbeiana*
  California red-legged frog  *Rana aurora*

CLASS REPTILIA (Reptiles)
ORDER SQUAMATA (Lizards and Snakes)
SUBORDER SAURIA (Lizards)
FAMILY: PHRYNOSOMATIDAE
  Western fence lizard  *Sceloporus occidentalis*

CLASS AVES (Birds)
ORDER CICONIIFORMES (Herons, Storks, Ibises and Relatives)
FAMILY: CATHARTIDAE (New World Vultures)
  Turkey vulture  *Cathartes aura*
ORDER FALCONIFORMES (Vultures, Hawks and Falcons)
FAMILY: ACCIPITRIDAE (Hawks, Old World Vultures and Harriers)
  Red-shouldered hawk  *Buteo lineatus*
  *Golden eagle  *Aquila chrysaetos*
  Rough-legged hawk  *Buteo lagopus*
  Ferruginous hawk  *Buteo regalis*
  *Red-tailed hawk  *Buteo jamaicensis*
  White-tailed kite  *Elanus leucurus*
  Sharp-shinned hawk  *Accipiter striatus*
  Northern harrier  *Circus cyaneus*

FAMILY: FALCONIDAE (Caracaras and Falcons)
Prairie falcon  
Merlin  
**FAMILY: FALCONIDAE (Caracaras and Falcons)**
*American kestrel  
**ORDER GALLIFORMES (Maganpodes, Curassows, Pheasants and Relatives)**
**FAMILY: ODONTOPHORIDAE (New World Quail)**
California quail  
**ORDER COLUMBIFORMES (Pigeons and Doves)**
**FAMILY: COLUMBIDAE (Pigeons and Doves)**
*Rock dove  
Band-tailed pigeon  
*Mourning dove  
**ORDER STRIGIFORMES (Owls)**
**FAMILY: STRIGIDAE (Typical Owls)**
Western screech owl  
Great horned owl  
**ORDER APODIFORMES (Swifts and Hummingbirds)**
**FAMILY: TROCHILIDAE (Hummingbirds)**
Anna’s hummingbird  
Allen’s hummingbird  
**ORDER PICIFORMES (Woodpeckers and Relatives)**
**FAMILY: PICIDAE (Woodpeckers and Wrynecks)**
Downy woodpecker  
**ORDER PASSERIFORMES (Perching Birds)**
**FAMILY: TYRANNIDAE (Tyrant Flycatchers)**
*Say’s phoebe  
Black phoebe  
**FAMILY: CORVIDAE (Jays, Magpies and Crows)**
Steller’s jay  
Western scrub-jay  
American crow  
Common raven  
**FAMILY: TROGLODYTIDAE (Wrens)**
House wren  
**FAMILY: TURDIDAE (Thrushes)**
American robin  
**FAMILY: MIMIDAE (Mockingbirds and Thrashers)**
*Northern mockingbird  
**FAMILY: STURNIDAE (Starlings and Allies)**
European starling  
**FAMILY: ICTERIDAE (Blackbirds, Orioles and Allies)**
Brown-headed cowbird  
Red-winged blackbird  
*Western meadowlark  
*Brewer’s blackbird  
**FAMILY: FRINGILLIDAE (Finches)**
Purple finch  \textit{Carpodacus purpureus}
House finch  \textit{Carpodacus mexicanus}
American goldfinch  \textit{Carduelis tristis}
*Lesser goldfinch  \textit{Carduelis psaltria}
\textbf{FAMILY: PASSERIDAE (Old World Sparrows)}
House sparrow  \textit{Passer domesticus}

\textbf{CLASS MAMMALIA (Mammals)}

\textbf{ORDER DIDELPHIMORPHIA (Marsupials)}
\textbf{FAMILY: DIDELPHIDAE (Opossums)}
Virginia opossum  \textit{Didelphis virginiana}

\textbf{ORDER RODENTIA (Rodents)}
\textbf{FAMILY: SCIURIDAE (Squirrels, Chipmunks, and Marmots)}
*California ground squirrel  \textit{Spermophilus beecheyi}
\textbf{FAMILY: GEOMYIDAE (Pocket Gophers)}
*Botta's pocket gopher  \textit{Thomomys bottae}

\textbf{FAMILY: MURIDAE (Mice, Rats and Voles)}
Norway rat  \textit{Rattus norvegicus}
House mouse  \textit{Mus musculus}

\textbf{ORDER CARNIVORA (Carnivores)}
\textbf{FAMILY: CANIDAE (Foxes, Wolves and Relatives)}
Domestic dog  \textit{Canis familiaris}
Coyote  \textit{Canis latrans}
Red Fox  \textit{Vulpes vulpes}
Gray Fox  \textit{Urocyon cinereoargenteus}

\textbf{FAMILY: PROCYONIDAE (Raccoons and Relatives)}
Raccoon  \textit{Procyon lotor}

\textbf{FAMILY: MUSTELIDAE (Weasels and Relatives)}
Western Spotted Skunk  \textit{Spilogale gracilis}
Striped Skunk  \textit{Mephitis mephitis}

\textbf{FAMILY: FELIDAE (Cats)}
Feral cat  \textit{Felis catus}
APPENDIX C: U.S. FISH AND WILDLIFE SERVICE STANDARDIZED RECOMMENDATIONS FOR PROTECTION OF THE SAN JOAQUIN KIT FOX PRIOR TO OR DURING GROUND DISTURBANCE

Prepared by the Sacramento Fish and Wildlife Office, June 1999

Contact information updated by LOA, April 2008
INTRODUCTION

The following document includes many of the San Joaquin kit fox (Vulpes macrotis mutica) protection measures typically recommended by the U. S. Fish and Wildlife Service (Service), prior to and during ground disturbance activities. However, incorporating relevant sections of these guidelines into the proposed project is not the only action required under the Endangered Species Act of 1973, as amended (Act). Project applicants should contact the Service in Ventura to determine the full range of requirements that apply to your project; the address and telephone number are given at the end of this document. Formal authorization for the project may be required under either section 7 or section 10 of the Act. Implementation of the measures presented in this document may be necessary to avoid violating the provisions of the Act, including the prohibition against "take" (defined as killing, harming, or harassing a listed species, including actions that damage or destroy its habitat). Such protection measures may also be required under the terms of a biological opinion pursuant to section 7 of the Act resulting in incidental take authorization (authorization), or an incidental take permit (permit) pursuant to section 10 of the Act. The specific measures implemented to protect kit fox for any given project shall be determined by the Service based upon the applicant's consultation with the Service.

The purpose of this document is to make information on kit fox protection strategies readily available and to help standardize the methods and definitions currently employed to achieve kit fox protection. The measures outlined in this document are subject to modification or revision at the discretion of the Service.

All surveys, den destructions, and monitoring described in this document must be conducted by a qualified biologist. A qualified biologist (biologist) means any person who has completed at least four years of university training in wildlife biology or a related science and/or has demonstrated field experience in the identification and life history of the San Joaquin kit fox. In addition, biologist(s) must be able to identify coyote, red fox, gray fox, and kit fox tracks, and to have seen a kit fox in the wild, at a zoo, or as a museum mount.

SMALL PROJECTS

Small projects are considered to be those projects with small foot prints such as an individual infill oil well, communication tower, or bridge repair. These projects must stand alone and not be part of, or in any way connected to larger projects (i.e., bridge repair or improvement to serve a
future urban development). The Service recommends that on these small projects, the biologist survey the proposed project boundary and a 200-foot area outside of the project footprint to identify habitat features, and make recommendations on situating the project to minimize or avoid impacts. If habitat features cannot be completely avoided, then preconstruction surveys should be conducted.

Preconstruction/preactivity surveys shall be conducted no less than 14 days and no more than 30 days prior to the beginning of ground disturbance and/or construction activities or any project activity likely to impact the San Joaquin kit fox. Surveys should identify kit fox habitat features on the project site and evaluate use by kit fox and, if possible, and assess the potential impacts to the kit fox by the proposed activity. The status of all dens should be determined and mapped (see Survey Protocol).

Written results of preconstruction/preactivity surveys must be received by the Service within five days after survey completion and prior to the start of ground disturbance and/or construction activities. If a natal/pupping den is discovered within the project area or within 200-feet of the project boundary, the Service shall be immediately notified. If the preconstruction/preactivity survey reveals an active natal pupping or new information, the project applicant should contact the Service immediately to obtain the necessary take authorization/permit.

If take authorization/permit has already been issued, then the biologist may proceed with den destruction within the project boundary, except natal/pupping dens (active or inactive). Protective exclusion zones can be placed around all known and potential dens which occur outside the project footprint (conversely, the project boundary can be demarcated, see den destruction section).

OTHER PROJECTS

It is likely that all other projects occurring within kit fox habitat will require a take authorization/permit from the Service. This determination would be made by the Service during the early evaluation process (see Survey Protocol). These other projects would include, but are not limited to: linear projects; projects with large footprints such as urban development; and projects which in themselves may be small but have far reaching impacts (i.e., water storage or conveyance facilities that promote urban growth or agriculture, etc.).

The take authorization/permit issued by the Service may incorporate some or all of the protection measures presented in this document. The take authorization/permit may include measures specific to the needs of the project, and those requirements supersede any requirements found in this document.
EXCLUSION ZONES

The configuration of exclusion zones around the kit fox dens should have a radius measured outward from the entrance or cluster of entrances. The following radii are minimums, and if they cannot be followed the Service must be contacted:

- Potential den 50 feet
- Known den 100 feet
- Natal/pupping den Service must be contacted (occupied and unoccupied)
- Atypical den 50 feet

**Known den:** To ensure protection, the exclusion zone should be demarcated by fencing that encircles each den at the appropriate distance and does not prevent access to the den by kit foxes. Exclusion zone fencing should be maintained until all construction related or operational disturbances have been terminated. At that time, all fencing shall be removed to avoid attracting subsequent attention to the dens.

**Potential and Atypical dens:** Placement of 4-5 flagged stakes 50 feet from the den entrance(s) will suffice to identify the den location; fencing will not be required, but the exclusion zone must be observed.

Construction and other project activities should be prohibited or greatly restricted within these exclusion zones. Only essential vehicle operation on existing roads and foot traffic should be permitted. Otherwise, all construction, vehicle operation, material storage, or any other type of surface-disturbing activity should be prohibited within the exclusion zones.

DESTRUCTION OF DENS

Disturbance to all San Joaquin kit fox dens should be avoided to the maximum extent possible. Protection provided by kit fox dens for use as shelter, escape, cover, and reproduction is vital to the survival of the species. Limited destruction of kit fox dens may be allowed, if avoidance is not a reasonable alternative, provided the following procedures are observed. The value to kit foxes of potential, known, and natal/pupping dens differ and therefore, each den type needs a different level of protection. **Destruction of any known or natal/pupping kit fox den requires take authorization/permit from the Service.**
STANDARD RECOMMENDATIONS

**Natal/pupping dens:** Natal or pupping dens which are occupied will not be destroyed until the pups and adults have vacated and then only after consultation with the Service. Therefore, project activities at some den sites may have to be postponed.

**Known Dens:** Known dens occurring within the footprint of the activity must be monitored for three days with tracking medium or an infra-red beam camera to determine the current use. If no kit fox activity is observed during this period, the den should be destroyed immediately to preclude subsequent use. If kit fox activity is observed at the den during this period, the den should be monitored for at least five consecutive days from the time of the observation to allow any resident animal to move to another den during its normal activity. Use of the den can be discouraged during this period by partially plugging its entrances(s) with soil in such a manner that any resident animal can escape easily. Only when the den is determined to be unoccupied may the den be excavated under the direction of the biologist. If the animal is still present after five or more consecutive days of plugging and monitoring, the den may have to be excavated when, in the judgment of a biologist, it is temporarily vacant, for example during the animal's normal foraging activities. The Service encourages hand excavation, but realizes that soil conditions may necessitate the use of excavating equipment. However, extreme caution must be exercised.

Destruction of the den should be accomplished by careful excavation until it is certain that no kit foxes are inside. The den should be fully excavated, filled with dirt and compacted to ensure that kit foxes cannot reenter or use the den during the construction period. If at any point during excavation a kit fox is discovered inside the den, the excavation activity shall cease immediately and monitoring of the den as described above should be resumed. Destruction of the den may be completed when in the judgement of the biologist, the animal has escaped from the partially destroyed den.

**Potential Dens:** If a take authorization/permit has been obtained from the Service, den destruction may proceed without monitoring, unless other restrictions were issued with the take authorization/permit. If no take authorization/permit has been issued, then potential dens should be monitored as if they were known dens. If any den was considered to be a potential den, but is later determined during monitoring or destruction to be currently, or previously used by kit fox (e.g., if kit fox sign is found inside), then destruction shall cease and the Service shall be notified immediately.

**CONSTRUCTION AND OPERATIONAL REQUIREMENTS**

Habitat subject to permanent and temporary construction disturbances and other types of project-related disturbance should be minimized. Project designs should limit or cluster permanent project features to the smallest area possible while still permitting project goals to be achieved. To minimize temporary disturbances, all project-related vehicle traffic should be restricted to established roads, construction areas, and other designated areas. These areas should also be
included in preconstruction surveys and, to the extent possible, should be established in locations disturbed by previous activities to prevent further impacts.

1. Project-related vehicles should observe a 20-mph speed limit in all project areas, except on county roads and State and Federal highways; this is particularly important at night when kit foxes are most active. To the extent possible, night-time construction should be minimized. Off-road traffic outside of designated project areas should be prohibited.

2. To prevent inadvertent entrapment of kit foxes or other animals during the construction phase of a project, all excavated, steep-walled holes or trenches more than 2 feet deep should be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Before such holes or trenches are filled, they should be thoroughly inspected for trapped animals. If at any time a trapped or injured kit fox is discovered, the procedures under number 13 of this section must be followed.

3. Kit foxes are attracted to den-like structures such as pipes and may enter stored pipe becoming trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored at a construction site for one or more overnight periods should be thoroughly inspected for kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a kit fox is discovered inside a pipe, that section of pipe should not be moved until the Service has been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be moved once to remove it from the path of construction activity, until the fox has escaped.

4. All food-related trash items such as wrappers, cans, bottles, and food scraps should be disposed of in closed containers and removed at least once a week from a construction or project site.

5. No firearms shall be allowed on the project site.

6. To prevent harassment, mortality of kit foxes or destruction of dens by dogs or cats, no pets should be permitted on project sites.

7. Use of rodenticides and herbicides in project areas should be restricted. This is necessary to prevent primary or secondary poisoning of kit foxes and the depletion of prey populations on which they depend. All uses of such compounds should observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, and other State and Federal legislation, as well as additional project-related restrictions deemed necessary by the Service. If rodent control
must be conducted, zinc phosphide should be used because of proven lower risk to kit fox.

8. A representative shall be appointed by the project proponent who will be the contact source for any employee or contractor who might inadvertently kill or injure a kit fox or who finds a dead, injured or entrapped individual. The representative will be identified during the employee education program. The representative's name and telephone number shall be provided to the Service.

9. An employee education program should be conducted for any project that has expected impacts to kit fox or other endangered species. The program should consist of a brief presentation by persons knowledgeable in kit fox biology and legislative protection to explain endangered species concerns to contractors, their employees, and military and agency personnel involved in the project. The program should include the following: a description of the San Joaquin kit fox and its habitat needs; a report of the occurrence of kit fox in the project area; an explanation of the status of the species and its protection under the Endangered Species Act; and a list of measures being taken to reduce impacts to the species during project construction and implementation. A fact sheet conveying this information should be prepared for distribution to the above-mentioned people and anyone else who may enter the project site.

10. Upon completion of the project, all areas subject to temporary ground disturbances, including storage and staging areas, temporary roads, pipeline corridors, etc. should be re-contoured if necessary, and revegetated to promote restoration of the area to pre-project conditions. An area subject to "temporary" disturbance means any area that is disturbed during the project, but that after project completion will not be subject to further disturbance and has the potential to be revegetated. Appropriate methods and plant species used to revegetate such areas should be determined on a site-specific basis in consultation with the Service, California Department of Fish and Game (CDFG), and revegetation experts.

11. In the case of trapped animals, escape ramps or structures should be installed immediately to allow the animal(s) to escape, or the Service should be contacted for advice.

12. Any contractor, employee, or military or agency personnel who inadvertently kills or injures a San Joaquin kit fox shall immediately report the incident to their representative. This representative shall contact the CDFG immediately in the case of a dead, injured or entrapped kit fox. The CDFG contact for immediate assistance is State Dispatch at (916) 445-0045. They will contact the local warden or biologist.

13. The Ventura Fish and Wildlife Office and CDFG will be notified in writing within three working days of the accidental death or injury to a San Joaquin kit fox during
project related activities. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal and any other pertinent information. The Service contact is the Chief of the Division of Endangered Species, at the addresses and telephone numbers given below. The CDFG contact is Mr. Ron Schlorff at 1416 9th Street, Sacramento, California 95814, (916) 654-4262.

Any project-related information required by the Service or questions concerning the above conditions or their implementation may be directed in writing to the U.S. Fish and Wildlife Service at:

2493 Portola Road, Suite B
Ventura, CA 93003
(805) 644-1766
"Take" - Section 9 of the Endangered Species Act of 1973, as amended (Act) prohibits the "take" of any federally listed endangered species by any person (an individual, corporation, partnership, trust, association, etc.) subject to the jurisdiction of the United States. As defined in the Act, take means "... to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." Thus, not only is a listed animal protected from activities such as hunting, but also from actions that damage or destroy its habitat.

"Dens" - San Joaquin kit fox dens may be located in areas of low, moderate, or steep topography. Den characteristics are listed below, however, the specific characteristics of individual dens may vary and occupied dens may lack some or all of these features. Therefore, caution must be exercised in determining the status of any den. Typical dens may include the following: (1) one or more entrances that are approximately 5 to 8 inches in diameter; (2) dirt berms adjacent to the entrances; (3) kit fox tracks, scat, or prey remains in the vicinity of the den; (4) matted vegetation adjacent to the den entrances; and (5) manmade features such as culverts, pipes, and canal banks.

"Known den" - Any existing natural den or manmade structure that is used or has been used at any time in the past by a San Joaquin kit fox. Evidence of use may include historical records, past or current radiotelemetry or spotlighting data, kit fox sign such as tracks, scat, and/or prey remains, or other reasonable proof that a given den is being or has been used by a kit fox. The Service discourages use of the terms "active" and "inactive" when referring to any kit fox den because a great percentage of occupied dens show no evidence of use, and because kit foxes change dens often, with the result that the status of a given den may change frequently and abruptly.

"Potential Den" - Any subterranean hole within the species’ range that has entrances of appropriate dimensions for which available evidence is insufficient to conclude that it is being used or has been used by a kit fox. Potential dens shall include the following: (1) any suitable subterranean hole; or (2) any den or burrow of another species (e.g., coyote, badger, red fox, or ground squirrel) that otherwise has appropriate characteristics for kit fox use.

"Natal or Pupping Den" - Any den used by kit foxes to whelp and/or rear their pups. Natal/pupping dens may be larger with more numerous entrances than dens occupied exclusively by adults. These dens typically have more kit fox tracks, scat, and prey remains in the vicinity of the den, and may have a broader apron of matted dirt and/or vegetation at one or more entrances. A natal den, defined as a den in which kit fox pups are actually whelped but not necessarily reared, is a more restrictive version of the pupping den. In practice, however, it is difficult to distinguish between the two, therefore, for purposes of this definition either term applies.

"Atypical Den" - Any manmade structure which has been or is being occupied by a San Joaquin kit fox. Atypical dens may include pipes, culverts, and diggings beneath concrete slabs and buildings.
APPENDIX B

HCP PERMIT AREA AND MITIGATION AREA PHOTOGRAPHS
Figure B-1
Permit Area Photographs
Gavilan College San Benito Campus and Fairview Corners Residential Development HCP - Appendix B
Figure B-2
Easement Area Photographs
Gavilan College San Benito Campus and Fairview Corners Residential Development HCP - Appendix B
Placeholder for Draft Management Plan for the Mariposa Peak Ranch, Fairview Corners-Gavilan College Joint 329 Acre Conservation Easement Area
APPENDIX D

USACE Waters of the U.S Jurisdictional Determination Letter
Dick Oliver

From: Davinna Ohlson [dohlson@loainc.com]
Sent: Friday, July 11, 2008 3:33 PM
To: 'Verne Freeman'; 'Dick Oliver'
Subject: Gavilan College/Fairview Corners site visit

Verne and Dick:

Yesterday, I had a verification visit of the Gavilan College/Fairview Corners site with U.S. Army Corps of Engineers. In our Waters of the U.S. analysis of the site, we concluded that neither the relict stock pond nor the two roadside ditches were Waters of the U.S. We based our conclusions on the basis that the relict stock pond no longer functions as an aquatic feature (i.e., does not hold water in the wet season) and, if it did, is an isolated feature and that the roadside ditches were constructed in and drain upland habitats.

In summary, the Corps concurs with our conclusions. Until they issue a verification letter, this is only a preliminary determination and may change (although they are unlikely to change their mind). They are likely to disclaim the roadside ditches entirely (i.e., make the determination that the ditches do not qualify as Waters of the U.S.). They may also disclaim the stock pond or may say that the pond is a Water of the U.S. but is not under their jurisdiction due to the SWANCC decision. If they SWANCC the pond, it may take several months to receive a verification letter. If they disclaim everything, you should receive your verification letter sooner, but they could not tell me that that timeline might be.

Please feel free to contact me if you have any questions regarding their findings.

Kind regards,
Davinna

Davinna Ohlson
Senior Project Manager
Staff Ecologist

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Live Oak Associates
6840 Via del Oro, Suite 220
San Jose, CA 95119
Ph: (408) 281-5886 | Cell: (408) 528-5141
Fax: (408) 224-1411
dohlson@loainc.com
www.loainc.com

Please consider our environment before printing this e-mail.

7/11/2008
Regulatory Division

JUL 23 2008

SUBJECT: File Number 2008-00215

Gavilan College
Attn: Mr. Steve Kinsella
5055 Santa Teresa Boulevard
Gilroy, California 95020

Dear Mr. Kinsella:

This letter is written in regard to your request dated March 24, 2008, concerning a Department of the Army jurisdiction at the project site located on the northeast corner of Airline Highway and Fairview Road, in the City of Hollister, San Benito County, California (APN numbers 025-19-0-046-0 and 025-19-0-049-0).

We have determined that development of your parcel will not involve the discharge of fill materials into regulated waters of the United States. There are no waters on the proposed project site that meet the definition of a Water of the U.S. as defined by 33 C.F.R. Parts 320 through 330 or that meet the requirements to qualify as a wetland in accordance with the 1987 Corps of Engineers Wetlands Delineation Manual. There are; therefore, no waters subject to regulation by the Corps of Engineers under Section 404 of the Clean Water Act.

This determination is based upon an on-site inspection of the project by our staff on July 10, 2008 and our review of documents submitted on May 21, 2008. A change in those conditions may also change the extent of our jurisdiction. This determination will expire in five years from the date of this letter unless new information warrants revision of the determination before the expiration date. Also, a change to your project could also change this determination.

This determination does not obviate the need to obtain other Federal, State or local approvals required by law, including compliance with the Federal Endangered Species Act (ESA) (16 U.S.C. Section 1531 et seq.). Even though this activity is not prohibited by, or otherwise subject to regulation under Section 404, the take of a threatened or endangered species as defined under the ESA is not authorized. In the absence of a separate authorization from the U.S. Fish and Wildlife Service, both lethal and non-lethal takes of protected species are a violation of the ESA. Similarly, the appropriate State of California, Regional Water Quality Control Board may still regulate your proposed activity because of impacts to a "water of the State". Therefore, you should also contact appropriate Federal, State, and local regulatory authorities to determine whether your activity may require other authorizations or permits.
You are advised that the Corps has established an Administrative Appeal Process, as described in 33 C.F.R. Part 331 (65 Fed. Reg. 16,486; March 28, 2000), and outlined in the enclosed flowchart and "Notification of Administrative Appeal Options, Process, and Request for Appeal" form (NAO-RFA). If you do not intend to accept the approved jurisdictional determination, you may elect to provide new information to the District Engineer for reconsideration or submit a completed NAO-RFA form to the Division Engineer to initiate the appeal process. You will relinquish all rights to appeal, unless the Corps receives new information or a completed NAO-RFA form within sixty (60) days of the date of the NAO-RFA.

If you have any questions regarding this matter, please call Paula C. Gill of our Regulatory Division at 415-503-6776. Please address all correspondence to the Regulatory Division and refer to the File Number at the head of this letter.

Sincerely,

Mark D'Avignon
Chief, South Section Regulatory Division

Copy Furnished (with enclosures):

Dividend Homes, Attn: Mr. Dick Oliver, 385 Woodview Avenue, Suite 100, Morgan Hill, California 95037

Live Oak Associates, Attn: Ms. Davinna Ohlson, 6840 Via del Oro, Suite 220, San Jose, California 95119

CA RWQCB, Oakland, CA
Gavilan College Project Site,
Hollister, San Benito County, California
APNs 025-19-0-046-0 & 025-19-0-049-0

No U.S. Army Corps of Engineers
Jurisdictional Wetlands
or Waters of the United States

File No: 2008-002153
Date: July 22, 2009
NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Gavilan College, Mr. Steve Kinsella  
File Number: 2008-00215S  
Date: 7/17/09

Attached is:  
INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)  
FINAL PROFFERED PERMIT (Standard Permit or Letter of permission)  
PERMIT DENIAL  
X APPROVED JURISDICTIONAL DETERMINATION  
PRELIMINARY JURISDICTIONAL DETERMINATION  
See Section below

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://usace.army.mil/inet/functions/cw/cecw/1reg or Corps Regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the District Engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.

- OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the District Engineer. Your objections must be received by the District Engineer within 60 days of the date of this Notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the District Engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the District Engineer will send you a final proffered permit for your reconsideration, as indicated in Section B below.

B: FINAL PROFFERED PERMIT: You may accept or decline/appeal the permit.

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the District Engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.

- APPEAL: If you choose to appeal the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the Division Engineer. This form must be received by the Division Engineer within 60 days of the date of this Notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the Division Engineer. This form must be received by the Division Engineer within 60 days of the date of this Notice.

D: APPROVED JURISDICTIONAL DETERMINATION (JD): You may accept or appeal the approved JD or provide new information.

- ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this Notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.

- APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the Division Engineer. This form must be received by the Division Engineer within 60 days of the date of this Notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION (JD): You do not need to respond to the Corps regarding the preliminary JD. The preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps District for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.
<table>
<thead>
<tr>
<th><strong>SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT, FINAL PROFFERED PERMIT, PERMIT DENIAL, or JURISDICTIONAL DETERMINATION</strong></th>
</tr>
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<tr>
<td><strong>REASONS FOR APPEAL OR OBJECTIONS:</strong> (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)</td>
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| **ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record; the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the Review Officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record. |

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<th><strong>POINT OF CONTACT FOR QUESTIONS OR INFORMATION:</strong></th>
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<td>If you have questions regarding this decision and/or the appeal process you may contact: Jane Hicks, Regulatory Division Chief U.S. Army Corps of Engineers, San Francisco District 1455 Market Street, San Francisco, CA 94103-1398 Tel.: (415) 503-6771 Fax: (415) 503-6690</td>
</tr>
<tr>
<td>If you only have questions regarding the appeal process you may also contact: Thomas Cavanaugh, Appeal Review Officer U.S. Army Corps of Engineers, South Pacific Division 1455 Market Street, San Francisco, CA 94103-1399 Tel.: (415) 503-6574 Fax: (415) 503-6647</td>
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<th><strong>RIGHT OF ENTRY:</strong> Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.</th>
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<td><strong>Signature of Appellant or Agent</strong></td>
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<td><strong>Date:</strong></td>
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<td><strong>Telephone Number:</strong></td>
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Administrative Appeal Process for Approved Jurisdictional Determinations

District issues approved Jurisdictional Determination (JD) to applicant/landowner with NAP.

- Approved JD valid for 5 years.
- District makes new approved JD.

Does applicant/landowner accept approved JD?

- Yes
  - Applicant/landowner provides new information?
    - Yes
      - Applicant decides to appeal approved JD. Applicant submits RFA to division engineer within 60 days of date of NAP.
    - No
      - Corps reviews RFA and notifies appellant within 30 days of receipt.

- No
  - Is RFA acceptable?
    - Yes
      - Optional JD Appeals Meeting and/or site investigation.
    - No
      - Division engineer or designee renders decision on the merits of the appeal within 90 days of receipt of an acceptable RFA.

Does the appeal have merit?

- Yes
  - District's decision is upheld; appeal process completed.
- No
  - District issues new JD.

Max. 60 days

Max. 30 days

Max. 90 days

Appendix C
SPECIAL STATUS SPECIES ASSESSMENT
INCLUDING SURVEYS FOR SAN JOAQUIN KIT FOX AND BURROWING OWL

FAIRVIEW CORNERS SPECIFIC PLAN
SAN BENITO COUNTY

Prepared for

Coats Consulting
10 Harris Court, Suite C3
Monterey, CA 93940

Contact: Kim Cary

Prepared by

Bryan Mori Biological Consulting Services
1016 Brewington Avenue, Watsonville, CA 95076; Tel/FAX (408) 728-1043

Bryan Mori, Wildlife Biologist/Project Manager
Randall Morgan, Botanist

June 30, 1997

File No. 078-01
FAIRVIEW CORNERS SPECIFIC PLAN  
SPECIAL STATUS SPECIES ASSESSMENT

INTRODUCTION

The project applicant is proposing a Specific Plan on a 136 acres site just southeast of Hollister, San Benito County. As part of the planning process, Bryan Mori Biological Consulting Services (BMBCS) was contracted to conduct a biological assessment of the site to determine the occurrence of special status species and other significant biological resources. Focused studies included larval surveys for amphibians of concern, and surveys for burrowing owl (Speotyto cunicularia) and San Joaquin kit fox (Vulpes macrotis mutica). In 1988, a kit fox survey was conducted on the General Plan Amendment site, which included the current Fairview Corners project site (BioSystems Analysis, Inc. (BSA) 1988). The BSA study concluded that the project site did not support denning habitat for kit fox, due to poor habitat conditions, but that kit fox may occasionally forage on site (BSA 1988).

ENVIRONMENTAL SETTING

The Fairview Corners project site is located along the southeastern limits of the City of Hollister, San Benito County, California (Figure 1). The principal land uses in the region include agriculture, cattle grazing, urban and rural residential housing, and a golf course (Ridgemark Golf and Country Club). The project site is bounded by Fairview Road to the east and Hwy 25 to the south, and is characterized by hills of low to moderate topographic relief, with elevations ranging from around 450 feet at the southwest corner to 550 feet on the eastern ridgeline (Figure 2). The principal habitat on the site is non-native annual grassland, with small pockets of seasonal wetlands and a stock pond. Presently, the project site supports hay production and cattle grazing. Limited rural residential housing and expanses of undeveloped grasslands border the northern and eastern perimeters of the site.

METHODS

Rare Plant Survey

The project site was surveyed for the presence of threatened, endangered or other special status plant species, based on the information gathered from literature review and accessing the California Natural Diversity Data Base (CNDDB) Tres Pinos Quad. The California Plant Society's (CNPS) Inventory of Rare and Endangered Vascular Plants of California (1994) was researched for plants of concern that have the potential for occurring on the site, but which were not recorded in the CNDDB.

The plant survey was conducted on May 18, 1997, within the flowering period for most plant species. The project site was traversed by walking transects of varying width, depending on site conditions, while using a 1 inch = 120 feet scale topographic site map and an aerial photograph as guides. Plant species observed were recorded and are listed in Appendix A. The principal plant communities were delineated on the topographic map and are presented on Figure 3.
San Joaquin Kit Fox Survey

The San Joaquin kit fox survey was conducted following the California Department of Fish and Game (CDFG) protocol outlined in Region 4 Methodologies for Sensitive Species, May 1990. The details of the survey methodology are described below.

Diurnal Transect Survey. A line transect survey was conducted to search for fox dens and sign. Two biologists conducted the ground search on May 29, 1997, walking along parallel transects spaced 50-100 feet apart. A den was considered a potential kit fox den if the entrance measured a minimum of 4 inches in diameter (Reese 1992; O'Farrel 1983). Den site definitions developed by the FWS were used to classify observed dens.

Scent Station Monitoring. Five scent stations (S1 - S5) were established on the project site (Figure 4). The stations were monitored over six nights from May 29 - June 4, 1997, for a total of 30 scent station-nights. A three-foot diameter circle of smoothed gypsum was used as the tracking medium at all stations. All track stations were baited at the center of the gypsum circle with canned cat food. The track stations were set in the early evening before sunset and checked for tracks the following morning shortly after sunrise. Tracks of predator species detected, as well as other wildlife species, were recorded on data sheets.

Camera Monitoring. The survey protocol for the northern range of the kit fox recommends the use of camera monitoring (USFWS April 1993). One camera station (C1) was established on the Beresini project site, which meets the minimum requirement of four stations per square mile or equivalent ratio (Figure 4). The station consisted of a remote-firing camera system triggered by an infrared beam (TRAIL MASTER Model TM 1500), and was baited with canned cat food. Gypsum tracking medium was also used to obtain additional information, in the event of camera failure. The camera station was operated over six nights from May 29 - June 4, 1997. The camera system was moved from station C1 to S5 on June 1 to obtain photographs of red fox (Vulpes fulva), but was returned to the original station because of interference with cattle. The camera system was operated from 19:30 to 07:00 hours and checked each morning. Photos were reviewed to determine animals detected.

Spotlighting. Spotlighting was performed from May 29 - June 3, 1997 by two biologists, using one spotlight rated at 400,000 candlepower and another rated at 800,000 candlepower. The spotlighting survey route included the project site and areas within two miles of the project site in areas of suitable habitat which could be viewed from public roads. The roads surveyed in this study included Fairview Road, Best Road, John Smith Road and Southside Road (Figure 5). The spotlight route starting point was alternated over the six nights. The spotlighting surveys were started as early as 20:45 and continued for approximately 2 hours. Miles driven during spotlighting totaled 111. The vehicle was driven at speeds between 5 to 10 mph and stopped when eyeshine or animal movement was detected. Predators, kit fox prey and other wildlife observed, were identified and recorded on data sheets. The locations of canids observed were mapped and are presented on Figure 5.

Burrowing Owl Survey

The burrowing owl survey was performed following the guidelines in Burrowing Owl Survey Protocol and Mitigation Guidelines (The Burrowing Owl Consortium 1993). The burrowing owl survey protocol includes four Phases: (1) a habitat assessment; (2) a transect survey for potential burrows; (3) a census...
of burrowing owls, if potential burrows are observed; and (4) a final report of the findings. There is considerable overlap in survey methodologies for the kit fox and burrowing owl. The information required for Phases 1 and 2 were obtained during the course of conducting the kit fox survey. During the ground search for potential kit fox dens, ground squirrel dens observed were searched for burrowing owl sign (e.g., excrement, feathers, pellets, etc.). Burrowing owl censuses were conducted at dusk from 18:00 until 20:45.

Amphibian Larval Survey

An amphibian larval survey was performed at the stock pond to determine the presence of special status species such as California tiger salamander (Ambystoma californiense), California red-legged frog (Rana aurora draytoni) and western spadefoot toad (Scaphiopus hammondii).

The stock pond was sampled with a "D"-shaped dipnet and an 1/8 inch mesh, 50 feet x 40 feet seine on May 29 and June 14, 1997. The stock pond was photo-documented, and qualitative data on size of aquatic habitat, vegetation, water depth, surface water temperature and turbidity were recorded. Amphibians detected were identified to species in the field and recorded. Aquatic invertebrates observed also were noted. In addition to the larval surveys, the perimeter of the pond was searched at night for adults and juveniles on June 1, 2 and 3, during kit fox spotlight surveys of the project site. The vehicle was driven slowly around the stock pond to locate eyeshine and movement. Binoculars were used to aid in distant observations.

EXISTING CONDITIONS

Vegetation

The principal plant communities on the project site were non-native annual grassland and seasonal wetlands. A total of 18 native species and 50 introduced species were observed on the project site. Thirteen of the 18 native species were associated with the seasonal wetlands; the other 5 species are common species and were sparsely scattered throughout the upland portions of the site. The project site was lightly-disced prior to the May 18 survey (K. Carey, pers. comm.). However, neither the disking nor the relatively dry conditions significantly hampered the survey, as all plant species present on the site were in identifiable condition, with the possible exception of a few ephemeral winter annuals. Qualitative descriptions of the plant communities are presented below.

Non-native Annual Grassland. Non-native grassland is the primary plant community on the project site. The dominant plants over most of the site were all non-natives. Representative species included annual ryegrass (Lolium multiflorum), farmer's foxtail (Hordeum leporinum), soft chess (Bromus hordeaceus), redstem filaree (Erodium cicutarium), yellow star thistle (Centaurea solstitialis), mayweed (Anthemis cotula) and summer mustard (Hirschfeldia incana).

Seasonal Wetlands. Three seasonal wetlands, including a stock pond, were identified on the project site during the May 18 survey (Figure 3). The three wetlands differed from each other in their species composition and hydrology. Many of the plant species observed at these sites are wetland indicators, as reported in California Wetlands Plant List - Region Q (Reed 1988).
Site A: Site A is a low-lying area located along Fairview Road on the southwest portion of the project site (Figure 3). The raised roadbed may contribute to the hydrology of this wetlands by blocking surface run-off flowing westward. This wetlands was estimated to be 240 feet by 30 feet. This site was dry during the May 18 survey. The vegetation was mostly present around the periphery of the wetland and included marsh cudweed (Gnaphalium palustre), wooly-heads (Psilocarps arengum), Boisduvalia (Boisduvalia glabella), speedwell (Veronica peregrina xalapensis), doveweed (Fremuncus setigerus), umbrella sedge (Cyperus eragrostis), toad rush (Juncus bufonius), loosestrife (Lythrum hyssopifolia), knotweed (Polygonum arenastrum), mediterranean barley (Hordeum hystric), Crypsis (Crypsis schoenoides), barnyard grass (Echinochloa crusgalli) and curly dock (Rumex crispus).

Site B: Site B is located in the central portion of the project site (Figure 3). This wetlands was estimated to be 100 feet by 30 feet, and was dry during the May 18 survey. Similar to Site A, the central portion of this site was bare, with vegetation mostly around the periphery. Typical plant species included alkali mallow (Sida hederacea), Downingia (Downingia pulchella), turpentine weed (Trichostema lanceolata), mediterranean barley, rabbitsfoot grass (Polypogon monspeliensis) and loosestrife.

Site C: Site C is a stock pond located at the northwest corner of the project site (Figure 2). The stock pond was full as of the May 18 survey, despite the lack of rains since late January. No discernable burn was observed at the head of the pond, suggesting the site is a natural depression. Vegetation around the margins of the pond was sparse and consisted of alkali mallow, doveweed, marsh cudweed, annual vervain (Verbena bracteata), milkweed (Asclepias fascicularis), mediterranean barley and knotweed. A small patch of spikeweed (Eleocharis sp.) and dried cocklebur (Xanthium strumarium) stems were present in the pond.

Under Section 404 of the Clean Water Act, the U.S. Department of the Army Corps of Engineers (COE) is required to issue permits for discharge of dredge or placement of fill into waters of the U.S., including adjacent wetlands. In San Benito County, the National Resources Conservation Service (NRCS) oversees jurisdictional wetland issues. Wetlands, as defined in the Act, are "those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions." The 1987 version of the COE's Federal Manual for Identifying and Delimiting Jurisdictional Wetlands requires three parameters to be met for an area to be determined as a jurisdictional wetland: hydric soils, inundation for at least 5% of the growing-season, and the presence of hydrophytic plant species (plants that require wet soils). The three seasonal wetlands on the project site may qualify as jurisdictional wetlands.

Wildlife

The project site provides habitat for a variety of wildlife species, including several special status species (refer to Special Status Species section). The primary features contributing to the site's habitat values are the rural setting of the project region, the site's continuity with relatively undeveloped grasslands to the east, and the presence of water on the site. Together, these factors promote biodiversity on the project site. However, the habitat values of the site are moderated by ongoing hay production and grazing practices and the eastward expansion of urbanization.
The habitat values of the project site are qualitatively described below, focusing on the occurrence of representative species. A list of observed wildlife species on the project site has been prepared as Appendix B.

Non-Native Annual Grassland. The grasslands provide habitat for a wide variety of wildlife species; although, discing practices undoubtedly limit their distribution and abundance by reducing cover and forage, and incidental mortalities. Black-tailed hare (Lepus californicus) and California ground squirrels (Spermophilus beecheyi) appeared to be locally distributed, but fairly common; while sign of Botta's pocket gopher (Thomomys bottae) and other small rodents were scarce. Large flocks of foraging Brewer's blackbirds (Euphagus cyanocephalus) and red-winged blackbirds (Agelaius phoeniceus) were regularly observed on the site in the late afternoon period. Cliff swallows (Hirundo pyrrhonota) were abundant, especially around the stock pond, where the birds were observed collecting mud, drinking and foraging. Killdeer (Charadrius vociferus) and horned larks (Eremophila alpestris actia) were also common around the stock pond. Western meadowlarks (Sturnella neglecta) and grasshopper sparrows (Ammodramus savannarum) appeared to be uncommon perhaps due to marginal conditions resulting from grazing and discing. Other representative birds observed on the site included northern harrier (Circus cyanus), red-tailed hawk (Buteo jamaicensis), American kestrel (Falco sparverius), loggerhead shrike (Lanius ludovicianus) and western kingbird (Tyrannus verticalis). Large predators observed on the site included red fox and coyote (Canis latrans) (Figure 4). Reptiles were notably lacking on the site, presumably because of discing; only one western fence lizard (Sceloporus occidentalis) was observed in the undisced strip of grassland along east-west fence line separating the northern and southern parcels of the site.

Seasonal Wetlands. Surface water is required by many species for drinking, bathing, reproduction and cover. Therefore, the seasonal wetlands and stock pond are probably focal points of wildlife activity when they hold water. The stock pond is especially critical for species that require surface water for reproduction, given the arid environment of the project region. During normal rainfall years, the stock pond is expected to hold surface water from winter through mid-summer. The pond was estimated to be 220 feet by 175 feet, with a maximum depth of 2.0 feet during this study. The water was highly turbid. Wetlands-associated species observed at the pond included California tiger salamander (larvae), adult western toads (Bufo boreas), great blue heron (Ardea herodias), mallard (Anas platyrhynchos) and raccoon (Procyon lotor). Other species that may occur at the stock pond include western spadefoot toad (Scaphiopus hammondii), Pacific treefrog (Hyla regilla), common snipe (Gallinago gallinago) and greater yellowlegs (Tringa melanoleuca). Due to its inherent high value to wildlife, the stock pond is considered to be a significant wildlife resource. The habitat values of seasonal wetland Sites A and B are perhaps limited due to their highly ephemeral nature. These sites may not support breeding amphibians, but may receive some use by migrant and wintering shorebirds and waterbirds, such as mallard and common snipes.

SPECIAL STATUS SPECIES

Plants

Based on the literature review, six plant species were identified as potentially occurring on the project site: Hoover's button celery (Eryngium aristulatum var. hooveri), showy madiia (Madia radiata), hairless popcorn flower (Plagiobothrys glaber), Lobib's aquatic buttercup (Ranunculus lobii) and alkali clover
(Trifolium hydrophilum). The status, habitat associations and flowering periods of these species are summarized on Table 1.

Wildlife

Eight wildlife species of special status were considered potential "significant users" of the project site and immediate vicinity, based on literature review, accessing the CNDDB, consultation with other biologists, and field observations. Special status species are species with state and federal endangered or threatened status, federal proposed or candidate species for listing, or California species of special concern, which are protected under CEQA Section 15380(d). "Significant users" are defined herein as those species that may breed on the site, or those species whose non-breeding populations may depend on the resources on the project site and whose non-breeding populations are considered sensitive. These include California tiger salamander, California red-legged frog (Rana aurora draytoni), western spadefoot toad, burrowing owl, horned lark, loggerhead shrike, badger and San Joaquin kit fox. A discussion of the protected status, natural history, habitat requirements and patterns of occurrence of these species is presented, below, and summarized on Table 2.

Other special status species evaluated for this project included western pond turtle (Clemmys marmorata), San Joaquin coachwhip (Masticophis flagellum rudockii), white-tailed kite, northern harrier, ferruginous hawk (Buteo regalis), golden eagle, merlin (Falco columbarius), tricolored blackbird and paliid bat. These species were not considered further in this report, due to one or both of the following reasons: (1) lack of suitable habitat (e.g., western pond turtle, coachwhip); and/or (2) the species' occurrence on the project site is expected to be as an aerial transient or occasional as a non-breeder (e.g., ferruginous hawk, white-tailed kite, northern harrier, golden eagle, merlin, tricolored blackbird and pallid bat).

California Tiger Salamander

The California tiger salamander is a state species of special concern (CDFG 1994). The tiger salamander is distributed in the Central Valley from Yolo County south to Tulare County, and in the Coast Range valleys and lower foothills from Sonoma County south to Santa Barbara County (Shaffer 1993). Tiger salamanders primarily occur in valley floor and foothill grasslands, and in the grassy understory of open oak savannas and woodlands. Adults utilize rodent burrows for refuge during the non-breeding season and migrate to aquatic breeding sites during the rainy season from November to February (Shaffer 1993), but may not reproduce during years of low rainfall (Jennings and Hayes 1994). Adult tiger salamanders are known to move overland over 1000 meters to reproduce in quiet waters of seasonal ponds, reservoirs, lakes and occasionally stream pools (Jennings and Hayes 1993). Migration is highly unidirectional and indicates use of a site over many years (Jennings and Hayes 1994). The adults remain at the breeding site until the young are large enough to disperse on their own. When ponds dry out, tiger salamanders may disperse up to 1.5 kilometers from the breeding site during the first fall rains (Jennings and Hayes 1994). Tiger salamanders attain sexual maturity in two years (Jennings and Hayes 1994). Terrestrial and aquatic life forms have osmoregulatory adaptations that allow for existence in concentrated environments (Kirschner et al. 1971; Romspert and McClanahan 1981). The reasons for this species' decline in California include loss of habitat, the introduction of predatory non-native fishes, and use of larval forms as fishing bait (Jennings and Hayes 1994; Semlitch 1988; Stebbins 1985).
**Local Occurrence:** Local tiger salamander breeding sites include: a seasonal wetland off of Santa Ana Road, just west of Fairview Road (B. Mori, pers. obs.); a stock pond on the Fairview Road Specific Plan site, east of Fairview Road (BMBCS 1993a); and a detention basin on the Ridgemark Golf and Country Club site (BMBCS 1993b). Locations of adult sightings include: Hwy 25 between Ridgemark Golf and Country Club and the project site (M. Allaback, reporting on sightings by M. Westphal); east of Fairview Road and north of John Smith Road on January 24, 1995 (T. Tartarian, ESA, pers. comm.); and on John Smith Road, 2000 feet east of Fairview Road on the rainy-night of June 3, 1997, during the kit fox spotlight survey for this study.

**California Red-legged Frog**

The California red-legged frog is a federally threatened species (USFWS 1996) and a state species of special concern (CDFG 1994). The historical range of this species extended southward from Marin County, coastal, and Shasta County, inland, to Baja California (Jennings and Hayes 1994). The red-legged frog has been extirpated from 70% of its former range (USFWS 1996). Presently, red-legged frogs are found primarily in central coastal California in natural and artificial ponds, quiet pools along streams and in coastal marshes (USFWS 1996). Red-legged frogs favor pools greater than 2 feet deep for breeding (Hayes and Jennings 1988), with a minimum of 1 foot of water during the summer months (S. Christopher, pers. comm.). Optimal aquatic habitat is characterized by dense emergent or shoreline vegetation for cover. Seasonal ponds in arid grassland settings may also be used for breeding where water levels permit successful breeding (pers. obs.). Breeding takes place from late November to April, after heavy rainfall (USFWS 1997). Females deposit 2000 to 6000 eggs on submerged vegetation at or near the water’s surface (Hayes and Miyamoto 1984). The eggs hatch in 6 to 14 days, and the larvae spend winter under a variety of substrates (e.g., conifer needles), and metamorphs may live up to 6 years (Jennings and Hayes 1994). Juveniles are active diurnally and nocturnally, whereas adults are mostly active at night (Jennings and Hayes 1994). Although all life history stages are expected to occur in the vicinity of the breeding site, red-legged frogs have been documented to move up to a mile from aquatic sites during the rainy season, occupying a wide variety of upland habitats (USFWS 1997). Red-legged frogs of riparian corridors seek higher terrain in response to high stream flows (S. Christopher, pers. comm.) Much of this species’ habitat has undergone significant alteration by agricultural and urban development, and water projects, leading to the extirpation of many populations (USFWS 1996). Other factors contributing to the decline of red-legged frogs include its historical exploitation as food and predation by bullfrogs (Rana catesbeiana) and introduced predatory fishes (Lawer et al. undated; Hayes and Jennings 1988; Jennings and Hayes 1985), and salinization (salinity at 6 parts per thousand results in the mortality of embryos (Jennings and Hayes 1990).

**Local Occurrence:** Red-legged frog larvae were observed in a detention basin on the Ridgemark Golf and Country Club site in 1993 and again in 1995 (BMBCS 1993b; B. Mori, pers. obs.). Frogs were also observed on Hwy 25, between the project site and the Ridgemark site (M. Allaback, reporting on sightings by M. Westphal).

**Western Spadefoot Toad**

The western spadefoot toad is a state species of special concern (CDFG 1994). This species’ distribution extends throughout the Central Valley and along the inner Coast Ranges from Alameda County to San Luis Obispo County, and along the outer Coast Ranges from Santa Barbara County to Baja California
Valley and foothill grasslands which support vernal pools, ephemeral stream courses, and other seasonal wetlands provide primary habitat for spadefoot toads (CDFG 1988; Jennings and Hayes 1994). Spadefoot toads are largely terrestrial and take refuge in self-created burrows at least 1 meter deep, and occasionally, in rodent burrows, during the non-breeding season (Jennings and Hayes 1994; Stebbins 1985). Spadefoot toads emerge at night following relatively warm rainfall in late winter/early spring to breed in temporary rain pools (Jennings and Hayes 1994). Pools must support water for a minimum of 3 weeks for successful reproduction (Jennings and Hayes 1994). Females deposit eggs from February to late May, depending on rainfall and temperature regime (Jennings and Hayes 1994). Eggs are deposited on submerged vegetation, detritus and rocks and hatch in 1 - 6 days (Jennings and Hayes 1994; CDFG 1988). Metamorphosis is completed in 3 - 11 weeks, depending on temperature, surface water duration and food resources (Jennings and Hayes 1994). Juveniles probably seek cover around the breeding site in cracks and under objects (CDFG 1988). Factors attributed to this species’ decline in California include loss of habitat from development, and non-native predators, such as crayfish, bullfrogs and predatory fishes (Jennings and Hayes 1994).

**Local Occurrence:** Spadefoot toad larvae were observed in a detention basin on the Ridgemark Golf and Country Club site in 1995 (B. Mori, pers. obs.). Spadefoot toads were also observed on Hwy 25, between the project site and the Ridgemark site (M. Allaback, reporting on sightings by M. Westphal).

**Burrowing Owl**

The burrowing owl is a state species of special concern (CDFG 1994). Burrowing owls require arid, treeless, valley grasslands with short vegetation height and populations of burrowing mammals (Haug, et al 1993). In California, nesting habitat is typically characterized by low topographic relief (Grinnell and Miller 1944), primarily below 200 feet elevation (Burrowing Owl Consortium III Minutes of Meeting, Wednesday, October 30, 1991). During winter, a variety of open habitats over a wider range of elevations are used (pers. obs.). This species depends on burrows of small mammals, most notably ground squirrels, for nest and roost sites (Haug et al 1993); although artificial structures also may be utilized (Collins 1977). Raised areas near burrows serve as vantage points (Haug et al 1993). Burrowing owls are crepuscular in habit, but are also active at night, and found perched outside of active burrows during the day (Haug et al 1993; CDFG 1990). Burrowing owls are opportunistic feeders, preying primarily on arthropods, small mammals and small birds (Haug et al 1993). The California population consists of both permanent residents and winter migrants (CDFG 1990). Burrowing owls display strong site fidelity to nesting sites (Haug et al 1993). This species has experienced a serious decline throughout the state as a result of habitat loss from agriculture and urbanization, and probably from the secondary effects of ground squirrel poisoning programs (Remsen 1978). DeSante (1992) indicated that the central California burrowing owl breeding population may be as low as 925 pairs, and that the breeding population of burrowing owls in central California has declined by 65% over the decade spanning 1981-91.

**Local Occurrence:** The burrowing owl is a rare summer resident in northern San Benito County (Van Vuren and Gerow 1987). Wintering or migrant burrowing owls have been observed in the Hollister area (The Habitat Restoration Group 1993; Biosisystems 1988; M. Schauss, CDFG, pers. comm.). Migrant or wintering owls are expected to occur in the project region from September through March.

**Loggerhead Shrike**
The loggerhead shrike is a state species of special concern (CDFG 1994). Loggerhead shrikes inhabit valley and foothill grasslands, wetlands and agricultural areas supporting scattered trees and shrubs (CDFG 1990; Ehrlich et al. 1988; Grinnell and Miller 1944). The shrike is found throughout California except for the most of the northwest and along the Cascade-Sierran ranges (CDFG 1990). Shrikes feed on insects, reptiles, small mammals and birds (CDFG 1990; Grinnell and Miller 1944). Large prey are impaled on thorns or barbed wire to facilitate prey consumption or to establish a cache for future use (Ehrlich et al. 1988). Nests are usually built in densely foliaged trees and shrubs (CDFG 1990); however, structures such as telephone poles, and abandoned buildings and machinery are also used (pers. obs.). The breeding season spans March - August (CDFG 1990). This species has been experiencing a significant decline throughout its range in the U.S. and Canada (Peterjohn and Sauer 1993; Ehrlich et al. 1992; Tate 1986). Habitat loss and pesticide contamination have been identified as factors contributing to this species' decline (Peterjohn and Sauer 1995; Ehrlich et al. 1988).

**Local Occurrence:** The loggerhead shrike is a fairly common resident in the study region (Van Vuren and Gerow 1987). Local nesting locations include Northeast Fairview Road Specific Plan site and Ridgemark Golf and Country Club (BMBCS 1993a; BMBCS 1993b). The local population may be supplemented by the influx of migrants in winter.

**Horned Lark**

The California horned lark is a state species of special concern (CDFG 1994). This subspecies is distributed along coastal California from Sonoma County south to San Diego County, and inland throughout the San Joaquin Valley (Grinnell and Miller 1944). Horned larks show a preference for low, sparse ground vegetation (CDFG 1990) and nest in grasslands of level to moderate relief, mountain meadows, open coastal plains, alkali flats, active and fallow hayfields and bare fields (Grinnell and Miller 1944). Nests are built on the ground in natural depressions (Ehrlich et al. 1988). The breeding season spans April through July (CDFG 1990). During the non-breeding season, the resident California population is supplemented by migrants and winter visitors (CDFG 1990). Agricultural operations are believed to destroy many nests (Ehrlich et al. 1988).

**Local Occurrence:** Horned larks are fairly common, localized breeders in San Benito County (Van Vuren and Gerow 1987; pers. obs.). Local nesting locations include Ridgemark Golf and Country Club, Northeast Fairview Road Specific Plan site and Smokey Knolls Minor Subdivision site (BMBCS 1993a; BMBCS 1993b; BMBCS 1995b).

**Badger**

The badger is a state sensitive species (CDFG 1994). Badgers range throughout California, except for northwestern California (Williams 1986). In California, badgers primarily occur in grassland and savannah habitats, however, a variety of other habitats are utilized including open scrub and woodlands (Williams 1986). Site specific requirements include friable soils and an abundant supply of prey species, especially fossorial mammals (Williams 1986). Badgers excavate burrows for denning sites, and dig for ground squirrels, gophers, and other prey species. Mating takes place in summer and early fall, with 2-3 young born in March and April (CDFG 1990). Females attain sexual maturity in one year, whereas males require two years (CDFG 1990). Home ranges for badgers vary widely depending on sex and geographic region; estimates range from 338 acres to 2091 acres (CDFG 1990; Williams 1986). This
species has declined or disappeared over large areas of the state, due to agriculture and urban development, rodent poisoning and trapping for fur (Williams 1986).

Local Occurrence: Locations of badger observations in the region include the Northeast Fairview Specific Plan site, Palcines Ranch and Ridgemark (BMBCS 1993a; BMBCS 1993b; BMBCS 1996; Schauss 1990).

San Joaquin Kit Fox

The San Joaquin kit fox is a federal endangered and state threatened species, typically associated with arid valley alkaline scrub, and valley and foothill grasslands of low to moderate relief (O'Farrel 1983). Its present range extends from the southern end of the San Joaquin Valley, north to Tulare County, and along the interior Coast Range valleys and foothills to central Contra Costa County (O'Farrel 1983); however, the kit fox population in the northern portion of its range appears to be very sparse (Orloff 1986).

Kit foxes are considered poor diggers and largely dependent on rodent burrows, which they enlarge as denning sites (Morrel 1972). Studies of kit fox in the northern part of their range indicate this species is primarily dependent on California ground squirrels for the creation of denning sites and as prey (Orloff 1986). Den entrances are 4 - 11 inches in diameter (O'Farrel 1983; Reese et al. 1993; Speigel 1996). In the course of a year, over 20 dens may be used for cover and reproduction. Natal and pupping dens have from 2 - 18 entrances and are usually larger than dens not used for rearing pups (O'Farrel 1983). Active dens in the northern range generally do not exhibit the dirt ramps typical of earthen den sites in the southern portion of this species' range (Orloff 1986). Manmade features, such as culverts in roadbeds and pipes are frequently used in developed landscapes in the southern range of the kit fox (Speigel 1996).

Mating occurs in winter (December - January), with pups born in late February to early March (O'Farrel 1983). Pups emerge above ground when they are approximately one month old (O'Farrel 1983). Both parents provide food until the pups are 4 - 5 months old, after which the pups begin to forage independently (O'Farrel 1983). Juveniles disperse as far as 19 kilometers away from natal dens (Briden et al. 1987); however, most movements are less than 2 kilometers (O'Farrel 1983). In one study (Briden et al. 1987) denning ranges averaged 473 hectares.

San Joaquin kit fox prey include insects (primarily grasshoppers), birds, kangaroo rats (Dipodomys sp.), deer mice (Peromyscus spp.), black-tailed hare (Lepus californicus) and desert cottontail (Sylvilagus audubonii) (Briden et al. 1987; O'Farrel 1983). Although, the kit fox is mostly nocturnal, they are known to exploit diurnal prey, such as ground squirrels, in parts of their range (Orloff 1986).

The red fox is considered a potential significant competitor with the kit fox in the northern portion of its range (Orloff 1986). Depredation by coyotes has been identified as a factor in the decline of kit fox in the south (e.g., Scribner and Harris 1986).

Local Occurrence: Several sightings of San Joaquin kit fox have been documented in northern San Benito County from the mid-1970s to the present, based on review of Summary of Survey Results from San Joaquin Kit Fox Bibliography (Thomas Reid and Associates, in prep.), the CNDDB Tres Pinos Quadrangle, literature research of studies on file with the San Benito County Planning Commission, and communications with CDFG. These include: (1) a 1991 record of a road-killed kit fox near Shore Road
and Fraizer Lake Road, identified by Bruce Elliott, CDFG; (2) observations of kit fox from Tres Pinos in 1987 (Harvey and Stanley Associates 1988); (3) observations of kit fox between Hollister and Tres Pinos in 1975; (4) a kit fox den near the Hwy 25/Panoche Road junction in 1975; and (5) observation of a kit fox near the junction of Hwy 152 and 156. Recent kit fox surveys conducted in northern San Benito County from 1991 - 1996 have not resulted in observations of kit fox or their sign (Biosystems 1992; BMBCS 1996, 1995a, 1995b, 1993a and 1993c; H.T. Harvey and Associates 1992a and 1992b; The Habitat Restoration Group 1992; Schauss 1991).

SURVEY RESULTS

Rare Plants

No state- or federally-listed rare, threatened or endangered plants, or plants considered to be sensitive by the CNPS and CDFG were observed on the project site during the May 18 survey. The project site was considered marginal for rare plants due to the preponderance of non-native invasive species, resulting from hay production and grazing practices.

Aquatic Larval Survey

California Tiger Salamander. California tiger salamander larvae were observed in the stock pond on 29 May 1997. The larvae population was estimated to be in the high 100s to low 1000s. Of a subsample consisting of 30 larvae, most were between 1.25 and 1.75 inches snout-vent length, and ranged from 1.0 to 2.75 inches. All larvae possessed limbs and were pale-colored. None of the larvae exhibited pre-metamorphic characteristics, such as reduced gills, extended eyes and dorsal markings. The other seasonal wetlands appear marginal for breeding due to their shallow structure and highly ephemeral nature.

California Red-legged Frog. No red-legged frog larvae were observed in the stock pond during the June 14 survey. No red-legged frog adults or juveniles were observed around the margins of the pond during spotlight searches conducted on June 1, 2 and 3 1997. The other seasonal wetlands appear marginal for breeding due to their shallow structure and highly ephemeral nature.

Western Spadefoot Toad. No spadefoot toad larvae were observed in the stock pond during the June 14 survey. Although absent from the pond during the survey, the negative results do not confirm their absence from the site, due to the timing of the survey. Spadefoot toad larvae could have transformed earlier in April or May. If present on the site, terrestrial habitat may be present throughout the grasslands on the site.

No other amphibian larvae were observed in the stock pond during the larval survey. However, western toad adults were observed around the pond margins during kit fox spotlight surveys.
Burrowing Owl

Nesting burrowing owls or their sign were not observed on the project site during this study, despite the presence of ground squirrel colonies. Ground squirrels were locally fairly common, but especially abundant along the east-west fence line separating the two parcels which make up the project site (Figure 4). Although apparently suitable as nesting habitat superficially, discing practices may create unsuitable conditions for nesting. The site may function as foraging or denning habitat for migrants and winter residents.

Loggerhead Shrike

One to two shrike family-groups were observed in several localities on the project site during this study. The project site does not provide nest sites for shrikes, because of the absence of trees and shrubs. However, potential nest sites are present in landscape trees and shrubs immediately adjacent to the project site. Loggerhead shrikes are likely permanent residents in the project area.

Horned Lark

About 20 horned larks were observed on the project site, mostly on the northern parcel of the site. Nesting evidence included singing males, territorial displays, and a nest with three eggs observed on May 29, 1997. The entire project site appears to provide suitable nesting habitat. Grazing and discing have probably created suitable habitat conditions, although discing may be detrimental to early nesters, depending on the timing of discing. Based on the observation of another horned lark nest in the project vicinity on June 7, 1993 (BMBCS 1993b), the local population may not begin nesting until May, after spring discing practices (pers. obs.).

American Badger

No badgers or their signs were observed on the project site. Discing practices apparently create unsuitable habitat conditions for badgers on the project site. Otherwise, the project site does provide ideal habitat for badgers due to the presence of friable soils and ground squirrel colonies. Despite negative findings, badgers may forage on the site on occasion or den on the site on a temporary basis in the future.

San Joaquin Kit Fox

Den Survey. Three potential dens (D1 - D3) were observed on the project site (Figure 4). All of the potential dens were associated with ground squirrel colonies and showed signs of use by ground squirrels. Old coyote scat was observed at potential den D2.

Scent and Camera Station Monitoring. Evidence of kit fox was not observed on the site during scent and camera station monitoring. Table 3 summarizes the results at the track stations. Species detected during the study included black-tailed hare, domestic cat, red fox and coyote. Red fox was recorded on each night of the study, and at each of the five scent stations (S1 - S5) during the course of the study; whereas coyote was detected only on one night at one station. Domestic cat also was detected each night of the study, but only at stations S1, S2 and camera station C1. No canids were detected at a camera station. Cattle interfered with the camera system on two of the monitoring nights.
Spotlight Survey. No San Joaquin kit fox were observed on- or off-site during the course of the spotlight survey. A total of 15 canids were observed over the six survey nights: 11 coyote, 3 red fox and one gray fox (Figure 5). All of the canid observations were off-site, except for one red fox sighting on the project site (Figure 4). Some of the other species observed during spotlighting included barn owl (Tyto alba), killdeer, black-tailed hare, raccoon, striped skunk (Mephitis mephitis), domestic cat, domestic dog, and black-tailed deer (Odocoileus hemionus columbarius). Cats were the most frequently observed species, averaging 8 observations per night for a total of 48 observations. Two unidentified species also were observed during the course of spotlighting.

DISCUSSION AND RECOMMENDATIONS

Impacts to vegetation and wildlife are considered significant if buildout of the Specific Plan would potentially result in: (1) reductions in populations of rare, threatened or endangered species or species that may be considered "rare" under CEQA Section 15380(d), including CDFG species of concern and federal Candidate species; or (2) the reduction or degradation of habitats or resources of high value. Measures that are intended to reduce the level of significant impacts to a less-than-significant level are listed following each impact statement. Where more than one mitigation option is presented for a specific impact, the measures are listed in the hierarchy established in the California Environmental Quality Act (CEQA): avoidance, minimization and compensation (on- or off-site).

Rare Plants

Impact. The project site does not support habitat for rare plants, due to grazing and hay production activities; therefore, development on the site would not result in significant impacts to special status plants. No mitigation is required.

Wetlands

Impact. The eventual buildout of the Specific Plan could result in the fill of the seasonal wetlands on the project site. In the event the wetlands are determined to be jurisdictional wetlands, their conversion may violate of the Clean Water Act, unless permits or authorization is obtained from the NRCS prior to filling or dredging. Therefore, the proposed project could result in significant impacts to wetlands.

Recommendation No. 1

Prior to project approval, a qualified wetlands specialist or the NRCS should conduct a wetlands delineation of the seasonal wetlands on the site to determine their status. Based on the findings of the delineation, mitigation and monitoring plans should be developed by the wetlands specialist, as needed. Mitigation measures may include redesign of the Specific Plan to avoid or minimize impacts to wetlands, or off-site compensation for on-site losses of wetland acreage. The off-site compensation would involve the creation of "in kind" wetlands at a minimum 1:1 ratio (i.e., for each acre lost one acres would be created). Often times, a 3:1 ratio is recommended by the agencies to compensate for failure. In the event that an Individual 404 permit is required, mitigation measures must address avoidance as an alternative in order for the permit application to be processed.
California Tiger Salamander

Impact. Buildout of the proposed project could remove both upland and breeding habitat for tiger salamanders. Due to the status of tiger salamanders as state species of concern, this impact would be considered significant.

Recommendation No. 2

Consult with CDFG regarding the appropriate mitigation measures for impacts to the tiger salamander. These could include the following:

2a. The standard mitigation recommended by CDFG is to avoid new development of suitable upland habitat within 1/4 to 1/2 mile of an existing tiger salamander breeding site. If this is not feasible, implement Recommendation No. 2b, below.

2b. Conduct a winter survey to determine the migration routes utilized by adult tiger salamanders to the pond and upland habitat. The study should involve establishing pitfall traplines in upland habitat and around the margins of the pond, and monitoring the traplines for a minimum of 10 nights during the rainy-season from late October through March. In addition, rainy-night surveys for adults should be conducted concurrently to search for migrating salamanders and those in burrows. Based on the findings of the winter study, the project should be redesigned to avoid or minimize the take of upland habitat areas being used by salamanders and obstruction of migratory pathways, including those leading to off-site upland use areas. Additional mitigation measures should be developed in coordination with appropriate resource agencies. These could include: (1) the incorporation of a state-of-the-art oil/water separator to treat urban run-off prior to entering into the stock pond; (2) measures to maintain water levels in the stock pond to insure reproductive success; and (3) fencing and appropriate signage of the pond and upland habitat to discourage the collection of specimens. If this mitigation is not feasible, then implement Recommendation No. 2c, below.

2c. Create a permanent tiger salamander conservation easement around an existing off-site tiger salamander breeding site. In addition, a new mitigation pond should be constructed in the vicinity of the known breeding pond to compensate for the loss of breeding habitat on the site. This measure should involve: (1) identifying a salamander breeding site and pond re-creation site; (2) establishing a 1/4 mile radius buffer zone around the breeding pond and mitigation pond, within which no new development would occur (e.g., agricultural, residential, recreational, etc.); (3) enhancing the existing pond by increasing its size (as needed), maintaining suitable water levels during the breeding season, and periodic vegetation removal in the event that the pond becomes densely vegetated with emergent plants; and (4) annual monitoring of the population by a qualified wildlife biologist through studies on winter migratory movements and upland habitat use, as well as spring surveys to document breeding success. The monitoring results would provide CDFG with information on when specific management and enhancement measures should be implemented.
In lieu of creating a quarter mile buffer zone, conduct a winter study of the off-site tiger salamander breeding pond to determine the migratory pathways and upland habitat use areas, then delineate the buffer zone boundary based on these findings and further consultation with appropriate resource agencies.

The conservation easement should be written into the deed of the parcel on which the tiger salamander breeding site is located.

Recommendation No. 3

This mitigation should be implemented if off-site mitigation for the tiger salamander is pursued.

A qualified wildlife biologist should excavate all ground squirrel burrows within 1/4 mile of the stock pond to salvage salamanders. The salamanders should be photographed and placed in newly constructed burrows on the conservation easement. This mitigation should be conducted in coordination with appropriate resource agencies.

California Red-legged Frog

Impact. The red-legged frog is a federally listed threatened species. Based on the negative results of the amphibian larval survey and nighttime searches around the pond, this species does not appear to use the stock pond as a breeding site. However, red-legged frogs are known to occur on the Ridgemark Golf and Country Club site south of the project site, and individuals have been observed on Hwy 25 between the project site and Ridgemark, suggesting that frogs may occur on the site. To what extent the project will negatively impact this species (if at all) is unclear at this time. Because of the red-legged frog’s status, the following measure is recommended.

Recommendation No. 4

Initiate informal consultation with the FWS to determine how the red-legged frog should be addressed. The FWS may request that additional surveys be conducted to determine the status of the frog on the project site, or conclude that the project will not result in take.

Western Spadefoot Toad

Impact. Loss of the stock pond and the uplands immediately around the pond could result in the loss of a breeding population. Although the results of the amphibian larval survey were negative, the findings were inconclusive, due to the late timing of the survey. Because of the status of the spadefoot toad as a state species of concern, loss of the pond and adjacent uplands could be considered significant.

Recommendation No. 5

Implementation of Recommendations Nos. 2a or 2b would mitigate impacts to this species.
Burrowing Owl

**Impact.** Breeding burrowing owls are not expected to occur on the site, based on the survey results, their patterns of occurrence in the project region, and the marginal quality of the site due to discing. However, burrowing owls may occur on the site, despite their absence during spring/summer 1997, in migration and winter. Therefore, the development of the Specific Plan could result in the mortality of burrowing owls. This would be considered significant due to the status of this species as a CDFG species of special concern.

**Recommendation No. 6**

Thirty days prior to the start of development, a pre-construction survey for burrowing owls should be performed by a qualified wildlife biologist. If burrowing owls are present, passively relocate the owls away from the impact area. If nesting owls are present, the owls should be relocated only after a wildlife biologist has determined that the young have fledged. Passive relocation involves installing one-way doors in burrow entrances. Original burrows should be filled to prevent reuse. The relocation should be monitored for one week to confirm use of burrows away from the impact area.

Horned Lark and Loggerhead Shrike

**Impact.** Construction activities would result in habitat loss, and the possibly the loss of young or eggs of horned lark and loggerhead shrike, depending on the timing of the project. Habitat loss alone may not be considered significant, given the prevalence of potential habitat in the project region and their patterns of occurrence. However, mortalities would be considered significant given their status as state species of special concern.

**Recommendation No. 7**

Schedule the start of grading activities outside of the breeding season (March 15 - July 31). Grading activities scheduled in this manner are expected to discourage use of the site by horned larks and loggerhead shrikes. If grading activities are scheduled to start during the breeding season, then a qualified wildlife biologist should conduct a pre-construction survey to determine when grading can proceed. If nesting is observed on site, grading should proceed only after the young have fledged.

San Joaquin Kit Fox

**Impact.** Direct evidence of San Joaquin kit fox was not observed on the project site during the course of the survey, and field observations indicate the project site may be only marginally suitable as habitat for kit fox for the following reasons: (1) the project site's location in an urbanizing area, and the limited occurrence of suitable habitat west of Fairview Road; (2) the occurrence of red fox on the project site; and (3) regular discing and mowing for hay production probably discourages use by denning kit fox.

However, the results of the survey do not conclusively determine their absence from the site, since: (1) the species is wide-ranging and can occupy the site in the future (although the chances of this appears to be low given the site location and current land uses); (2) observations of kit fox in areas of low density,
such as the project region, are extremely rare; (3) there are records of kit fox sightings in the project region from the mid-1970s to 1991; (4) the site supports a prey base and source of potential denning sites (i.e., ground squirrels and their dens); and (5) the project site is contiguous with extensive areas of potentially suitable habitat to the east.

Pre-construction surveys for active kit fox dens are required by CDFG and FWS for projects, despite negative findings. Therefore, Recommendation No. 5 should be implemented. Additionally, the project proponent is required to remit an impact assessment fee to the County due to the site's location within the interim Habitat Conservation Area.

Recommendation No. 8

Pre-construction surveys for kit fox dens should be required for all development projects of the Specific Plan. Pre-construction surveys should be conducted by a qualified wildlife biologist 60 days prior to the start of the project to locate active kit fox den sites that may have been established in the interim since the findings of this study. In the event that an active kit fox den is found, then the standard mitigation actions outlined in: Standardized Recommendations for the Protection of the San Joaquin Kit Fox September 1995 (FWS 1995) are recommended to avoid possible take of kit fox during future construction activities. A copy of these recommendations is included in this report as Appendix C. These actions are general in nature; therefore, site specific strategies for the project site should involve consultation with CDFG and USFWS.

Badger

Impact. Construction activities could result in the loss of foraging habitat and mortality of badgers that may occur on the site in the future. Loss of foraging habitat in itself is probably not significant, given the prevalence of potential foraging habitat in the project region. However, the badger is considered sensitive by CDFG; therefore, the mortality of badgers would be considered significant.

Recommendation No. 9

If active badger dens are observed on the site during the course of conducting the preconstruction surveys for burrowing owl or kit fox, badgers should be trapped and relocated into adjacent off-site habitat. The trapping and relocation should be performed by a qualified wildlife biologist in coordination with CDFG.
Table 1. Plant Species of Concern of Potential Occurrence on the Fairview Corners Site.

<table>
<thead>
<tr>
<th>SPECIES</th>
<th>STATUS</th>
<th>HABITAT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hoover's Button Celery</td>
<td>CNPS List 4; 1-1-3</td>
<td>Vernal pools</td>
</tr>
<tr>
<td>(<em>Eryngium aristulatum</em> var. <em>hooveri</em>)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hall's Tarplant</td>
<td>CNPS List 1B; 3-3-3</td>
<td>Valley and foothill grasslands/clay soils</td>
</tr>
<tr>
<td>(<em>Hemizonia halliana</em>)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Showy Madias</td>
<td>CNPS List 1B; 2-3-3</td>
<td>Valley and foothill grasslands</td>
</tr>
<tr>
<td>(<em>Madias radiata</em>)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hairless Popcorn Flower</td>
<td>CNPS List 1A; ?-?</td>
<td>Alkaline meadows, salt marshes</td>
</tr>
<tr>
<td>(<em>Plagiobothrys glaber</em>)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lobb's Aquatic Buttercup</td>
<td>CNPS List 4; 1-2-3</td>
<td>Vernal pools, seasonal wetlands</td>
</tr>
<tr>
<td>(<em>Ranunculus lobii</em>)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alkali Clover</td>
<td>CNPS List 1A; ?-?</td>
<td>Alkaline meadows, salt marshes</td>
</tr>
<tr>
<td>(<em>Trifolium amoenum</em>)</td>
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<td></td>
</tr>
</tbody>
</table>

**STATUS CODES:** CNPS List 1A = presumed extinct in California; List 1B = rare, threatened or endangered in California; List 4 = limited distribution. CNPS R-E-D (Rarity-Endangerment-Distribution) code: Rarity 1 = rare, but found in sufficient numbers and distributed widely enough that the potential for extinction is low at this time; Rarity 2 = distributed in a limited number of occurrences, occasionally more; Rarity 3 = distributed in one to several highly restricted occurrences; Endangerment 1 = not endangered, Endangerment 2 = endangered in a portion of its range; Distribution 3 = endangered throughout its range; Distribution 1 = more or less widespread outside of California; Distribution 2 = rare outside of California; Distribution 3 = endemic to California.
Table 2. Observed and Potential Special Status Wildlife Species on the Fairview Corners Specific Plan Site.

<table>
<thead>
<tr>
<th>SPECIES</th>
<th>STATUS</th>
<th>OCCURRENCE</th>
<th>HABITAT</th>
</tr>
</thead>
<tbody>
<tr>
<td>California Tiger Salamander</td>
<td>CSC</td>
<td>O</td>
<td>Terrestrial habitat in grasslands; breeding habitat in seasonal ponds</td>
</tr>
<tr>
<td>California Red-legged Frog</td>
<td>FT</td>
<td>P</td>
<td>Variety of upland terrestrial habitat adjacent to breeding ponds</td>
</tr>
<tr>
<td>Western Spadefoot Toad</td>
<td>CSC</td>
<td>P</td>
<td>Terrestrial habitat in grasslands; breeding habitat in seasonal ponds</td>
</tr>
<tr>
<td>Burrowing Owl</td>
<td>CSC</td>
<td>P</td>
<td>Grasslands with sparse cover and suitable rodent burrows for nesting and/or roosting</td>
</tr>
<tr>
<td>Loggerhead Shrike</td>
<td>CSC</td>
<td>O</td>
<td>Grasslands for foraging; nests in trees adjacent to foraging habitat</td>
</tr>
<tr>
<td>Horned Lark</td>
<td>CSC</td>
<td>O</td>
<td>Grasslands with sparse cover and bare ground for nesting and foraging</td>
</tr>
<tr>
<td>American Badger</td>
<td>*</td>
<td>P</td>
<td>Grasslands for foraging and denning</td>
</tr>
<tr>
<td>San Joaquin Kit Fox</td>
<td>FE, ST</td>
<td>P</td>
<td>Grasslands with ground squirrel colonies; dependent on ground squirrels as prey and for den sites</td>
</tr>
</tbody>
</table>

CODES: FE = federally endangered; FT = federally threatened; ST = state threatened; CSC = California species of special concern * = protected under CEQA Section 15380(d); O = observed; P = potential.
SCENIC SOUTHSIDE ESTATES
WINTER 2000 CALIFORNIA TIGER SALAMANDER ASSESSMENT
SAN BENITO COUNTY, CALIFORNIA

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March 16, 2000
SCENIC SOUTHSIDE ESTATES
WINTER 2000 CALIFORNIA TIGER SALAMANDER ASSESSMENT

INTRODUCTION

Bryan Mori Biological Consulting Services was contracted to perform a California tiger salamander (Ambystoma californiense; CTS) site assessment on the proposed Scenic Southside Estates' project site in northern San Benito County (Figure 1). The project site does not support potential CTS breeding habitat; however, the site does support potential upland habitat, and a known CTS breeding site is located on the adjacent Ridgemark Golf and Country Club (RG&CC) (Bryan Mori Biological Consulting 1993). Additionally, two golf course ponds, which provide potential breeding habitat, are located adjacent to the project site, on the RG&CC. Therefore, the goals of the CTS site assessment were to: (1) evaluate the suitability of the project site as CTS upland habitat; and (2) determine if adult CTS inhabit the project site.

The survey followed the guidelines in Survey Protocol for California Tiger Salamander (Ambystoma californiense), California Department of Fish and Game Informational Leaflet No. 44 (CDFG 1997). The protocol is intended as a full-year sampling study, for study sites supporting both aquatic and upland habitats, in order to provide definitive results. Following the protocol, in order to conclude absence, sampling of aquatic habitats is to be performed for two consecutive springs, and an additional winter upland surveys conducted in the intervening period, all with negative results. A study design for sites that support only potential CTS upland habitat, such as the project site, is not provided in the current in the protocol. Therefore, prior to performing the CTS study for the project, the California Department of Fish and Game (CDFG) was consulted for direction. CDFG indicated that for project sites with only upland habitat, a winter survey would be sufficient; however, due to the late start of this study, negative findings may not be accepted by CDFG (M. Schaus, CDFG, pers. comm.). Under the direction of the Client, the CTS study was initiated in hopes that, if present, early detection would provide timely guidance in the environmental review process.

California Tiger Salamander

The California tiger salamander is a state species of special concern and federal candidate for listing (CDFG 1998). The tiger salamander is distributed in the Central Valley from Yolo County south to Tulare County, and in the Coast Range valleys and lower foothills from Sonoma County south to Santa Barbara County (Shaffer 1991). Tiger salamanders primarily occur in valley floor and foothill grasslands, and in the grassy understory of open oak savannahs and woodlands. Adults utilize primarily ground squirrel burrows in uplands for refuge during the non-breeding season (Loredo and others 1995). From November to March during the rainy season, adults migrate at night to aquatic breeding sites (Stebbins 1985; pers. obs.), which include quiet waters of seasonal ponds, reservoirs, lakes and occasionally stream pools (Stebbins 1985). The adults remain at the breeding pond from one day to several weeks, then return to upland refugia (Loredo and Van Vuren 1996). Males migrate to breeding sites before females and tend to stay at breeding sites longer (Loredo and Van Vuren 1996; Shaffer 1993). Eggs are laid singly or in small groups of up to four on stags of submerged vegetation, and hatch in approximately three weeks (Storer 1925). The larvae metamorphose in three to four months from late spring to summer when ponds begin to dry. Metamorphs emerge from ponds and seek shelter in the immediate vicinity in burrows or under debris, then during the rainy-season, disperse randomly to seek refuge in upland areas up to 1.5 km away from the breeding pond (Jennings and Hayes 1994). Both adults and larvae tiger salamanders have osmoregulatory adaptations that allow for existence in.
concentrated aquatic environments (Kirschner et al. 1971; Romspert and McClanahan 1981). The reasons for this species’ decline in California include loss of habitat, the introduction of predatory non-native fishes, and use of larval forms as fishing bait (Semlitsch 1988; Stebbins 1985). This species has disappeared from 55% of its historic range (Jennings and Hayes 1994).

METHODOLOGY

Habitat Assessment

Prior to conducting the winter nocturnal surveys for migrating adults and juveniles, a site reconnaissance was conducted on 16 February 2000 to assess the habitat quality of the project site. The site was traversed on foot to identify and map areas of high ground squirrel burrow concentrations (Figure 1). General habitat characteristics and plant species observed during the reconnaissance were recorded in a field notebook.

The California Natural Diversity Data Base (CNDDB) and previous reports from the project area, including Biological Site Assessment Scenic Southside Estates, San Benito County (Ibis Environmental Services 1997) and Surveys for Wildlife Species of Concern Ridemark Subdivision San Benito County (BMBCS 1993) were reviewed for relevant supplemental information on the biological resources of the study area.

Winter Surveys

Five nocturnal surveys were conducted during or immediately following rain storms on the following dates: 16, 20 and 24 February, and 2 and 5 March 2000. Transects spaced approximately 50 feet apart through the study site were traversed, with emphasis on the areas closest to the adjacent golf course ponds and areas supporting high burrow concentrations. Surveys were conducted soon after dark with the aid of a headlamp. Survey start times ranged from 18:05 to 18:30, while survey end times ranged from 21:15 to 22:00. Person hours spent surveying totaled 16 hours and 11 minutes. All small mammal burrows observed were checked for CTS. Observations of all amphibians for each survey night were recorded in a field notebook. Rainfall data for the City of Hollister, during the winter study period, was obtained from the National Weather Service Internet site.

For the purposes of data comparison, other biologists conducting winter nocturnal surveys were consulted for information on CTS movement during the winter period.

Spring Larval Sampling

Since potential CTS breeding habitat is absent on the project site, larval sampling was not performed.

EXISTING CONDITIONS

The project site is located off of Southside Road, just southeast of Hollister (Figure 1). The project site encompasses two terraces (Areas A and B) and an intervening, steep slope; however, for the purposes of this CTS study, the study site was limited to Area A, the upper terrace (Figure 1). The CTS study site is characterized by low topographic relief, with elevations ranging from approximately 515 feet at the site’s southeast corner to approximately 463 feet at the northwest corner (Figure 1). The principal upland habitat is ruderal/agricultural. The primary land use of the study site is hay cultivation (Ibis Environmental Services 1997).
Uplands

The upland vegetation was dominated by non-native species, and is consistent with the current land use of the site (i.e., hay cultivation), and with habitat conditions identified by Ibis Environmental, during the biological assessment performed for the project (Ibis Environmental Services 1997). Prominent species included hoary cress (Cardania sp.), wild oats (Avena sp.), annual fescue (Vulpia sp.), fiddleneck (Aminckia sp.), cranesbill (Erodium sp.), smooth crab’s ear (Hypochoeris glabra), mustard (Brassica sp.) and clover (Medicago sp.), with a few scattered coyote brush (Baccharis pilulans).

Initially, during the study period, much of the site was characterized by a sparse to moderate cover of low vegetation, typically under 4 inches tall, which was optimal for conducting nocturnal visual surveys. These conditions were likely the result of disking sometime in the recent past. However, by the end of the study, some patches supported dense, tall vegetation, which hindered visual observations.

Ground squirrel colonies were largely absent from the project site, except for along the fence line, which borders the norther perimeter of the site, and a small group of burrows near the maintenance yard (Figure 1). Gopher and other small mammal burrows were scattered throughout the site, but many burrows were collapsed or occluded due to discing.

RESULTS

No tiger salamanders were observed on the study site during the winter nocturnal surveys. Other amphibian species observed on-site included Pacific treefrog (Pseudacris regilla) and western toad (Anaxyrus boreas). Table 1 summarizes the observations of each survey.

Precipitation data for the City of Hollister were collected for the dates of nocturnal surveys. Rainfall totals for a given day represent data collected for a 24-hour period beginning at 04:00. Rainfall totals during the survey period were: 0.23” on 16 February; 0.04” on 20 February; 0.13” on 24 February; 0.05” on 2 March; and 0.24” on 3 March (National Weather Service Internet Site).

Other Regional CTS Studies. In Gilroy (location confidential), CTS were observed on 11 and 24 January, and 13 February during nocturnal surveys (pers. obs.). In another study, near Casa de Fruta, one CTS was collected on 17 January (pers. obs.).

Local Tiger Salamander Records

Local tiger salamander breeding sites within 1-mile of the project site include: (1) a seasonal pond and golf course pond approximately 1,900 feet away on the adjacent RG&CC (BMBCS 1993); (2) a seasonal pond just north of Highway 25 (BMBCS 1997); and (3) a seasonal wetland along Best Road, near Highway 25 (CNDDB 1996). Additionally, sightings of quad-killed adults have been observed on Highway 25, adjacent to RG&CC (M. Westphal, pers. comm.).

DISCUSSION

Although no tiger salamanders were observed during this study, the presence or absence of tiger salamanders on the study site could not be conclusively determined, since the CTS survey protocol is intended as a one year study, for sites providing both aquatic and terrestrial habitats, and the results of this study spanned only one winter. However, there are reasons to suspect that
the project site may not be critical for the maintenance of the RG&CC CTS population, including on-site habitat conditions, project site orientation, and quality of upland habitat between the project site and RG&CC breeding sites.

While the project site does provide potential upland habitat for the RG&CC CTS population, as reported by Ibis Environmental Services (1997), the quality of the habitat appears marginal, due to hay cultivation practices and the general lack of ground squirrel burrows, which provide essential microhabitat for adult and juvenile CTS inhabiting uplands (Loredo and others 1996). And while other small mammal burrows may also provide upland habitat, many such burrows observed on the project site were collapsed or occluded due to discing in the recent past, significantly reducing the site’s habitat value.

Also, the orientation of the project site relative to the known CTS breeding sites is not conducive for dispersal of CTS onto the project site. While the distance of 1,900 feet between the project site and the CTS breeding ponds is within the dispersal range of CTS, the positioning of the country club, townhouses and fairways, preclude straight-line movement from the breeding ponds to the project site, reducing the likelihood of salamanders reaching the project site. Studies of other amphibians have shown that long distance movements occur in fairly short lines (Ruth 1989; Bulger 1999).

Finally, the uplands between the CTS breeding ponds and the project site appear to be largely uninhabitable by CTS, due to the presence of the townhouses, the country club, and the managed fairways; un-managed uplands supporting ground squirrel and other small mammal burrows between the two sites are lacking. A study by Loredo and others (1996) demonstrated that the majority of adult and juvenile CTS moved less than 80 meters (264 feet) per night. This information suggests that stopover or temporary habitats are important for long distance migration and dispersal. The seeming lack of such habitats between the project site and the breeding ponds probably diminishes the importance of the project site as upland habitat for the RG&CC CTS population.

Other areas closely associated with the RG&CC CTS breeding sites are probably more likely to provide suitable upland habitat for CTS; these include the un-managed buffer zone around one of the breeding ponds, and the uplands of the drainage corridor approximately 350 feet to the north the breeding ponds, along the northern perimeter of RG&CC. Additionally, records of CTS observations in the project area, specifically, road-kill CTS on Highway 25 adjacent to RG&CC, indicate CTS movement between RG&CC and the undeveloped uplands just north of Highway 23, where a known population of CTS is present (BMBCS 1997). It is likely that the RG&CC population was established from individuals dispersing onto the RG&CC from off-site populations, since all of the ponds on RG&CC are artificial, based on review of USGS topographic maps of the study area, prior to the development of the RG&CC. The RG&CC CTS population may be sustained by recruitment from off-site individuals.

However, despite the above arguments supporting the conclusion that the likelihood the uplands of the project site may not support CTS, a conclusive determination on their absence could not be made from the winter surveys, due to the limitations of the present protocol, and because two golf course ponds of unknown CTS status are located immediately adjacent to the project site.

RECOMMENDATIONS

Additional spring larval surveys of the ponds immediately adjacent to the project site may provide evidence of their presence/absence on the project site, because if CTS from the known RG&CC
breeding sites are capable of dispersing onto the project site, the ponds immediately adjacent to the project should support breeding, unless they are managed in a manner that would preclude reproduction by CTS. Spring surveys of the adjacent ponds should be accompanied by surveys of the RG&CC breeding sites and, perhaps, the breeding site immediately north of Highway 25, which would serve as control sites. If the control sites are found to support CTS larvae, and no larvae are collected in the ponds adjacent to the project site, the weather factor could be ruled out, and these results would favor the argument that CTS are not using the project site. Conversely, if CTS are observed in the adjacent ponds, it is likely that the uplands on the project site support CTS. However, if negative results are obtained at the control sites and the ponds adjacent to the project site, their absence from the latter cannot be conclusively determined, as local weather patterns may not have been conducive to breeding during the 1999-2000 season.

In any event, CDFG should be consulted for their evaluation of the CTS question, based on review of this report.

Table 1. Summary of observations during winter 2000 CTS nocturnal surveys at the Scenic Southside Estates site, San Benito County.

<table>
<thead>
<tr>
<th>Species</th>
<th>2/16</th>
<th>2/20</th>
<th>2/24</th>
<th>3/2</th>
<th>3/5</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pacific Treefrog</td>
<td>1</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>Treefrogs heard chortling from adj. ponds during all surveys; 3 of the 4 treefrogs seen were observed along the fence line, near burrows.</td>
</tr>
<tr>
<td>Western Toad</td>
<td>1</td>
<td>4</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>4 of the toads were observed near the fence line, with 1 entering a burrow.</td>
</tr>
</tbody>
</table>
REFERENCES/PERSONS CONTACTED


Personal Communications:

Martha Schauss, Regional Wildlife Biologist, California Department of Fish and Game.

Mike Westphal, Consulting Biologist.
June 15, 2010

Mary Beth ("Molly") Long
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385 Woodview Avenue, Suite 100
Morgan Hill, CA  95037

RE: FAIRVIEW CORNERS HCP CALIFORNIA TIGER SALAMANDER
BREEDING POND STATUS

Dear Molly:

This letter provides a preliminary assessment of the status of the California tiger salamander (Ambystoma californiense) (CTS) breeding pond on the Fairview Corners project site, San Benito County (Figure 1).

In summary, the site of the CTS breeding pond no longer appears to provide suitable breeding habitat for CTS or other amphibians, due to the absence of water. The changes in land uses in recent years on the project site and the adjacent parcel to the north may have contributed to changes in the hydrology of the former stock pond. Whereas the former stock pond does not appear to support CTS breeding, the status of CTS in upland habitat, remains uncertain.

Methods

The site of the known CTS breeding pond was assessed on 25 March 2010 to evaluate the current condition of the habitat. The stock pond and the immediate surrounding area were accessed on foot and the site photographed for documentation (Attachment A: Photos). General habitat characteristics were recorded in a field notebook. Aerial photos (Google Earth) were reviewed to look at land use patterns in the recent past.

Results

No standing water was observed at the stock pond site during the 25 March visit. The ground was cracked and supported dense ruderal (weedy) vegetation (Photos 1 and 2). There was no indication the site supported standing water in the recent past. The surrounding uplands were planted in barley for hay, except for the slopes to the west, where fiddleneck (Amsinckia sp.) and other weedy species were dominant. No amphibians were observed at the former stock pond site.
Discussion

Based on the site visit, no suitable CTS breeding habitat was present on the Fairview Corners site in 2010. Despite heavy rainfall during the 2009-10 winter rainy season, the former stock pond site was completely devoid of standing water, with the dry and cracked ground conditions indicating that standing water was not present earlier in the season, as well.

The absence of water at the former stock pond was unexpected, given that the site was documented to support CTS breeding in 1997 and again in 2000 (CNDDB 2010; pers. obs.). Based on review of aerial photos from the recent past, the stock pond appeared to still support standing water in 2006 (Figure 2) and possibly into 2007 (Figure 3). However, changes in land use on the project site and adjacent parcel to the north may have contributed to the changes in the hydrologic characteristics of the former stock pond site; these include the conversion from cattle grazed grasslands into hay production on the project site and grasslands into vineyards on the parcel to the north. Both changes seemed to start simultaneously in 2007, as indicated by the aerial photo in Figure 3, which shows the furrow lines of discing on the project site and some grading activities on the parcel to the north. By 2009 (Figure 4) the conversion was well defined. Perhaps the increased use of water for the vineyard, together with the discing for hay and possible sediment deposition, contributed to the recent changes in the hydrologic conditions on the site and the loss of CTS breeding habitat.

As CTS are long-lived and breeding adults taking refuge offsite could continue to try and access the former pond to breed, the status of CTS upland use of the Fairview site cannot be determined without further studies (i.e., survey for burrows and pitfall trapping).

Please contact me if you have any comments or questions regarding this letter-report.

Respectfully,

Bryan Mori
Consulting Wildlife Biologist

Attachments: Figures 1-4; Photos.
Figure 3. CTS Breeding Pond July 2007. Bryan Mori Biological Consulting Services
Figure 4. Former CTS Breeding Pond Site May 2009. Bryan Mori Biological Consulting Services
Attachment A – Photos

Photo 1. Former CTS breeding pond site looking southeast. March 2010
Photo 2. Former CTS breeding pond site looking north. March 2010
APPENDIX F

IMPLEMENTING AGREEMENT
PLACEHOLDER FOR IMPLEMENTING AGREEMENT