

4.3 BIOLOGICAL RESOURCES

4.3.1 Introduction

The purpose of this section is to describe the effects on biological resources that may result from implementation of Beaumont Summit Station Specific Plan Project (Project). The following discussion addresses existing environmental conditions in the affected areas, identifies and analyzes environmental impacts of the Project, and recommends measures to reduce or avoid significant impacts anticipated from implementation of the Project. This includes construction and operations of the e-commerce and commercial buildings. In addition, existing laws and regulations relevant to biological resources are described. In some cases, compliance with these existing laws and regulations would serve to reduce or avoid certain impacts that might otherwise occur with the implementation of the Project.

The setting, context, and impact analysis in this section are based primarily on biological resource studies conducted by Rock Biological Consulting that are contained in **Appendix C**:

- Rock Biological Consulting (RBC). February 2022. *Beaumont Summit Station Project Biological Resources and MSCHP Consistency Report (Appendix C1)*;
- RBC. November 2021. *Beaumont Summit Station Aquatic Resources Delineation Report (ARDR) (Appendix C2)*; and
- RBC. February 2022. *Beaumont Summit Station Project DBESP Report (Appendix C3)*.

4.3.2 Environmental Setting

Project Location

The Project site is located south of Cherry Valley Boulevard, north of Brookside Avenue, and east/northeast of Interstate (I)-10, within the City of Beaumont, Riverside County, California. The Project site is bounded by undeveloped land to the north and west, rural residences with livestock pens to the east, and residential development to the south. The latitude and longitude of the approximate center of the review area is 33.965141, -117.019732. The Project site sits on Township 2 South, Range 1 West, and Section 30 within the El Casco 7.5-minute quadrangle, as mapped by the U.S. Geological Survey.

Topography

The Project site is primarily flat with elevations ranging from approximately 2,403 to 2,584 feet above mean sea level (amsl), with areas of lower topography within the drainages on the south and southwestern portions of the Project site and between rolling hills along the northwestern boundary of the Project site. Drainage patterns on-site trend east to west following a gradual decrease in elevation in the same direction.

Soils

Based on the Natural Resources Conservation Service (NRCS) soils data map seven soil map units, outlined below in **Table 4.3-1, Soil Mapped within Project Site** and **Exhibit 4.3-1, NRCS Soils Survey Data and NWI**,

occur within the Project site. For detailed descriptions of each soil map unit type, see the ARDR in **Appendix C2**.

Table 4.3-1: Soil Mapped within Project Site

Soil Map Unit	Soil Series/Unit	Geomorphic Surface	Taxonomic Class	NRCS Hydric Status
Greenfield sandy loam, 2 to 8 percent slopes, eroded	Greenfield	Alluvial fans, terraces	Coarse-loamy, mixed, active, thermic Typic Haploxerafls	No
Greenfield sandy loam, 8 to 15 percent slopes, eroded	Greenfield	Alluvial fans, terraces	Coarse-loamy, mixed, active, thermic Typic Haploxerafls	No
Ramona sandy loam, 2 to 5 percent slopes, eroded	Ramona	Alluvial fans, terraces	Fine-loamy, mixed, superactive, thermic Typic Haploxerafls	No
Ramona sandy loam, 5 to 8 percent slopes, eroded	Ramona	Alluvial fans, terraces	Fine-loamy, mixed, superactive, thermic Typic Haploxerafls	No
Ramona sandy loam, 8 to 15 percent slopes, severely eroded	Ramona	Alluvial fans, terraces	Fine-loamy, mixed, superactive, thermic Typic Haploxerafls	No
Ramona sandy loam, 15 to 25 percent slopes, severely eroded	Ramona	Alluvial fans, terraces	Fine-loamy, mixed, superactive, thermic Typic Haploxerafls	No
Terrace escarpments	N/A	Terraces	N/A	No

Source: RBC. July 2021. *Beaumont Summit Station Aquatic Resources Delineation Report*. Table 2.

Aquatic Resources

Field Visits

An initial jurisdictional assessment field visit was conducted on April 22, 2021 and an aquatic resources delineation field visit on June 3, 2021. An additional aquatic resources delineation field visit was conducted on June 7, 2021. Areas with depressions, drainage patterns, and/or wetland vegetation within the review area were evaluated, with focus on the presence of defined channels and/or wetland vegetation, soils, and hydrology. While in the field, potential aquatic resources were recorded using a hand-held Global Positioning System (GPS) unit with a level of accuracy ranging from 8 to 24 feet. Field data was further refined using aerial photographs and topographic maps with one-foot contours to ensure accuracy. For detailed information on delineation methodology, see the ARDR in **Appendix C2**. Field staff further investigated several areas with potential aquatic resource indicators, including basins, swales, erosional features, and an abandoned ditch, as described in Section 6.4 of the ARDR. These features are not anticipated to be jurisdictional under the U.S. Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), or California Department of Fish and Wildlife (CDFW) regulations, policy, and/or guidance and therefore are not discussed in this section. The aquatic resources acreages and linear feet below represent the existing conditions during the time of the field surveys.

Project Site Delineated Aquatic Resources

The results provided below include the extent of delineated aquatic resources within the Project site based on observed field indicators of potential waters of the U.S., waters of the State, and CDFW streambed and associated wetland and/or riparian habitat per the methodologies discussed in Section 3 of the ARDR (**Appendix C2**).

U.S. Army Corps of Engineers

Non-wetland water (NWW)-1, NWW-1A, NWW-2, NWW-2A, NWW-2B, NWW-2C, NWW-3, NWW-3A, NWW-3B, and NWW-3B1 displayed clear indicators of an ordinary high-water mark (OHWM), such as a break in bank slope, change in average sediment texture, and change in vegetation species and cover between the drainage and adjacent uplands. However, these features did not meet the three wetland parameters.

As such, NWW-1, NWW-1A, NWW-2, NWW-2A, NWW-2B, NWW-2C, NWW-3, NWW-3A, NWW-3B, and NWW-3B1 may be considered non-wetland waters of the U.S. given the presence of an OHWM. Approximately 0.78 acre (7,026 linear feet) of potential non-wetland waters of the U.S. associated with NWW-1, NWW-1A, NWW-2, NWW-2A, NWW-2B, NWW-2C, NWW-3, NWW-3A, NWW-3B, and NWW-3B1 occur within the Project site, as further detailed and shown in **Table 4.3-2, Aquatic Resource Summary Table: USACE** and as shown on **Exhibit 4.3-2, Corps Aquatic Resources**.

Table 4.3-2: Aquatic Resource Summary Table: U.S. Army Corps of Engineers

Aquatic Resource Name	Cowardin Code	Active Channel Width Range (Feet)	Presence of OHWM/ Wetland	Dominant Vegetation	Location (lat, long)	Acre(s) ¹	Linear Feet
NWW-1	R6	4 – 6	Yes/No	Non-native Grassland	33.965908, -117.025153	0.01	71
NWW-1A	R6	6 – 6	Yes/No	Non-native Grassland	33.966006, -117.025084	0.01	73
NWW-2	R6	3 – 4	Yes/No	Non-native Grassland	33.964929, -117.023925	0.08	905
NWW-2A	R6	1 – 2	Yes/No	Mulefat Scrub	33.964977, -117.022656	<0.01	168
NWW-2B	R6	3 – 3	Yes/No	Non-native Grassland	33.965185, -117.022994	0.01	175
NWW-2C	R6	3 – 3	Yes/No	Non-native Grassland	33.964845, -117.023224	0.01	109
NWW-3	R6	4 – 8	Yes/No	Mulefat Scrub/Non-native Riparian	33.962391, -117.021747	0.37	2,553
NWW-3A	R6	3 – 6	Yes/No	Non-native Grassland	33.962760, -117.018132	0.15	1,290
NWW-3B	R6	4 – 4	Yes/No	Mulefat Scrub	33.963540, -117.022834	0.12	1,273
NWW-3B1	R6	1 – 4	Yes/No	Non-native Grassland	33.964055, -117.021934	0.03	409
Total						0.78	7,026
Source: RBC. February 2022. <i>Beaumont Summit Station Biological Resources and MSCHP Consistency Report</i> . Table 8. ³ Acreages summed using raw numbers provided during GIS analysis (available upon request) and thus the sum of the total rounded numbers may not directly add up in this table.							

Regional Water Quality Control Board

NWW-1, NWW-1A, NWW-2, NWW-2A, NWW-2B, NWW-2C, NWW-3, NWW-3A, NWW-3B, and NWW-3B1 displayed clear indicators of an OHWM, such as a break in bank slope, change in average sediment texture,

and change in vegetation species and cover between the drainage and adjacent uplands (**Exhibit 4.3-3, RWQCB Aquatic Resources**). However, these features did not meet the three wetland parameters.

As such, NWW-1, NWW-1A, NWW-2, NWW-2A, NWW-2B, NWW-2C, NWW-3, NWW-3A, NWW-3B, and NWW-3B1 may be considered non-wetland waters of the State given the presence of an OHWM. Approximately 0.78 acre (7,026 linear feet) of potential non-wetland waters of the State associated with NWW-1, NWW-1A, NWW-2, NWW-2A, NWW-2B, NWW-2C, NWW-3, NWW-3A, NWW-3B, and NWW-3B1 occur within the Project site, as further detailed in **Table 4.3-3, Aquatic Resource Summary Table: Regional Water Quality Control Board** and as shown on **Exhibit 4.3-3**.

Table 4.3-3: Aquatic Resource Summary Table: Regional Water Quality Control Board

Aquatic Resource Name	Cowardin Code	Active Channel Width Range (Feet)	Presence of OHWM/ Wetland	Dominant Vegetation	Location (lat, long)	Acre(s) ¹	Linear Feet
NWW-1	R6	4 – 6	Yes/No	Non-native Grassland	33.965908, -117.025153	0.01	71
NWW-1A	R6	6 – 6	Yes/No	Non-native Grassland	33.966006, -117.025084	0.01	73
NWW-2	R6	3 – 4	Yes/No	Non-native Grassland	33.964929, -117.023925	0.08	905
NWW-2A	R6	1 – 1	Yes/No	Mulefat Scrub	33.964977, -117.022656	<0.01	168
NWW-2B	R6	3 – 3	Yes/No	Non-native Grassland	33.965185, -117.022994	0.01	175
NWW-2C	R6	3 – 3	Yes/No	Non-native Grassland	33.964845, -117.023224	0.01	109
NWW-3	R6	4 – 8	Yes/No	Mulefat Scrub/Non-native Riparian	33.962391, -117.021747	0.37	2,553
NWW-3A	R6	3 – 6	Yes/No	Non-native Grassland	33.962760, -117.018132	0.15	1,290
NWW-3B	R6	4 – 4	Yes/No	Mulefat Scrub	33.963540, -117.022834	0.12	1,273
NWW-3B1	R6	1 – 4	Yes/No	Non-native Grassland	33.964055, -117.021934	0.03	409
Total						0.78	7,026
Source: RBC. February 2022. <i>Beaumont Summit Station Biological Resources and MSCHP Consistency Report</i> . Table 9.							
¹ Acreages summed using raw numbers provided during GIS analysis (available upon request) and thus the sum of the total rounded numbers may not directly add up in this table.							

California Department of Fish and Wildlife

NWW-1, NWW-1A, NWW-2, NWW-2A, NWW-2B, NWW-2C, NWW-3, NWW-3A, NWW-3B, and NWW-3B1 qualify as CDFW streambed with associated riparian habitat.

Approximately 7.51 acres (7,026 linear feet) of vegetated streambed and 0.97 acre of riparian habitat occur within the Project area, as further detailed in **Table 4.3-4, Aquatic Resource Summary Table: CDFW** and as shown on **Exhibit 4.3-4, CDFW Streambed and Riparian Habitats**.

Table 4.3-4: Aquatic Resource Summary Table: California Department of Fish and Wildlife

Aquatic Resource Name	Aquatic Resource Type	Vegetation Community	Width Range ¹ (Feet)	Location (lat, long)	Acre(s)	Linear Feet ²
NWW-1	Vegetated Streambed	Non-native Grassland	10 – 22	33.965912, -117.025153	0.02	72
NWW-1A	Vegetated Streambed	Non-native Grassland	8 – 24	33.966014, -117.025085	0.03	78
NWW-2	Vegetated Streambed	Non-native Grassland	14 – 56	33.964951, -117.023674	0.63	982
		Torrey's Scrub Oak		33.964834, -117.024985	0.08	
NWW-2A	Vegetated Streambed	Mulefat Scrub	1 – 2	33.964966, -117.022542	<0.01	132
		Non-native Grassland		33.964970, -117.022752	<0.01	
	Riparian Habitat ³	Mulefat Scrub	N/A	33.964966, -117.022542	0.03	–
NWW-2B	Vegetated Streambed	Non-native Grassland	10 – 28	33.965173, -117.023011	0.08	150
NWW-2C	Vegetated Streambed	Non-native Grassland	19 – 40	33.964825, -117.023223	0.07	93
NWW-3	Vegetated Streambed	Non-native Grassland	12 – 140	33.962547, -117.021943	2.36	2,793
		Mulefat Scrub		33.963045, -117.023804	0.88	
		Eucalyptus Woodland		33.963695, -117.025272	<0.01	
		Non-native Riparian		33.962377, -117.022101	1.02	
		Blue Elderberry Stands		33.962170, -117.020330	0.11	
	Riparian Habitat ³	Mulefat Scrub	N/A	33.961528, -117.018718	0.03	–
		Non-native Riparian		33.962322, -117.022037	0.65	
		Blue Elderberry Stands		33.962269, -117.020283	0.04	
NWW-3A	Vegetated Streambed	Non-native Grassland	7 – 62	33.962783, -117.018163	0.87	1,261
		Blue Elderberry Stands		33.962425, -117.019001	0.14	
	Riparian Habitat ³	Blue Elderberry Stands	N/A	33.962362, -117.019172	0.01	–
NWW-3B	Vegetated Streambed	Non-native Grassland	20 – 60	33.963562, -117.023254	0.36	1,106
		Mulefat Scrub		33.963617, -117.022422	0.61	

Aquatic Resource Name	Aquatic Resource Type	Vegetation Community	Width Range ¹ (Feet)	Location (lat, long)	Acre(s)	Linear Feet ²
		Riversidean Sage Scrub		33.963566, -117.022903	0.07	
	Riparian Habitat ³	Mulefat Scrub	N/A	33.963610, -117.020925	0.21	—
NWW-3B1	Vegetated Streambed	Non-native Grassland	6 – 34	33.964098, -117.021923	0.18	365
Total ⁴					8.48	7,026
<p>Source: RBC. February 2022. <i>Beaumont Summit Station Biological Resources and MSCHP Consistency Report</i>. Table 10.</p> <p>¹ Corresponds with the approximate stream bank widths observed during delineation. Width range accounts for entirety of streambed delineated, not individual vegetation communities.</p> <p>² Linear feet not calculated for individual aquatic resource type and vegetation community (including riparian habitat that occurs outside of delineated streambed) to avoid redundant linear foot calculation where such areas overlap.</p> <p>³ Occurs outside of delineated streambed.</p> <p>⁴ Acreages and linear feet totals were summed using raw numbers provided during GIS analysis (available upon request) and thus the sum of the total rounded numbers may not directly add up in this table.</p>						

Biological Resources

Field Visits

On April 22 and May 12, 2021, biologists surveyed the Project site and conducted vegetation mapping, a general biological survey, and habitat assessments for special-status plant and wildlife species, including species associated with Multiple Species Habitat Conservation Plan (MSHCP) survey areas and MSHCP-designated riparian/riverine and vernal pool habitats. Additionally, protocol burrowing owl (*Athene cunicularia*) surveys were conducted during the breeding season (March 1 to August 31). Biologists conducted four surveys between May 12, 2021 and July 6, 2021. Further information on methodology, including database searches and RCA MSHCP Information Map Query, can be found in Section 3 of the *Biological Resources and MSCHP Consistency Report* (**Appendix C1**).

Vegetation Communities and Land Uses

The Project site supports ten vegetation communities and other land covers (see **Table 4.3-5** and **Exhibit 4.3-5, Biological Resources**), as classified in accordance with Preliminary Descriptions of the Terrestrial Natural Communities of California and consistent with the MSHCP vegetation mapping classification. Vegetation within the Project site is predominantly comprised of non-native grassland. For a detailed description of each vegetation community, see Section 4.2 of the *Biological Resources and MSCHP Consistency Report*.

Table 4.3-5: Summary of Vegetation within the Beaumont Summit Station Project Site

Vegetation Community/Land Use	Project Site (acres)
Upland	
Chamise Chaparral	>0.01
Developed	48.7
Disturbed	1.5
Eucalyptus Woodland	0.12
Non-native Grassland	134.54
Riversidean Sage Scrub	0.24
Torrey's Scrub Oak Stands	1.1
Riparian	
Blue Elderberry Stands	0.3
Mulefat Scrub	2.14
Non-native Riparian	2.32
Total	190.99 ¹
Source: RBC. 2022. <i>Beaumont Summit Station Project Biological Resources and MSCHP Consistency Report</i> . Table 2. ¹ = Acreages summed using raw numbers provided during GIS analysis (available upon request) and thus the sum of the total rounded numbers may not directly add up in this table.	

Plants and Wildlife

The Project area supports a low diversity of vegetation communities and plant species diversity. A total of 29 plant species (46 percent native, 54 percent non-native) were observed during Project biological surveys. A total of 43 bird species, one reptile species, two mammal species, and one invertebrate species were observed or presumed present based on track and/or scat. Twilight/nighttime surveys were not conducted, therefore crepuscular and nocturnal animals are likely under-represented in the Project species list (Appendix B of the *Biological Resources and MSCHP Consistency Report*); however, habitat assessments were performed for all special-status species to ensure that any potentially-present rare species are adequately addressed herein. For a definition of special-status species, see Section 4.3 of the *Biological Resources and MSCHP Consistency Report*.

Narrow Endemic and Federally/State Listed Plant Species

The Project site occurs within the Narrow Endemic Plant Species Survey Area (NEPSSA) for Marvin's onion (*Allium marvinii*) and many-stemmed dudleya (*Dudleya multicaulis*), which are MSCHP narrow endemic plant species. A habitat assessment and focused survey for both Marvin's onion and many-stemmed dudleya was conducted on April 22, 2021 and a second focused survey was conducted on May 12, 2021. No suitable habitat for these species was observed within the Project site and no occurrences of either species was observed. No other MSCHP narrow endemic plant species were identified within or immediately adjacent to the Project site or have the potential to occur within the Project site.

No federally or state listed threatened or endangered plants were observed during general biological surveys and none have a moderate or high potential to occur on the Project site based on the lack of suitable habitats. Additionally, there are no records of federally or state listed species occurring within or immediately adjacent to the Project site.

Non-Federally/State Listed Special-Status Plant Species

Other special-status plant species include those that are California Species of Special Concern (SSC) or are a California Rare Plant Rank (CRPR) List 1 or 2. The CRPR system was created by the California Native Plant Society (CNPS), which is a statewide resource conservation organization that has developed an inventory of California's sensitive plant species. The CRPR system is recognized by the CDFW and essentially serves as an early warning list of potential candidate species for threatened or endangered status.

No non-federally/state listed plant species have a moderate or high potential to occur on the Project site based on the lack of suitable habitats. Non-federally/state-listed special-status plants with a low potential to occur on-site include Jaeger's milkvetch (*Astragalus pachypus* var. *jaegeri*), Parry's spineflower (*Chorizanthe parryi* var. *parryi*), and San Bernardino aster (*Symphyotrichum defoliatum*). Additionally, there are no records of non-federally or state listed special status species occurring within or immediately adjacent to the Project site.

Federally/State Listed Wildlife Species

One federally and state endangered species, least bell's vireo (*Vireo bellii pusillus*), was detected during protocol-level surveys the Project site; the results of the protocol least Bell's vireo are discussed below. No other federally or state listed wildlife species were documented on or adjacent to the site during the various biological surveys or are expected to occur based on the disturbed nature of the site and limited native habitat. California Natural Diversity Database (CNDDB) and U.S. Fish and Wildlife Service (USFWS) database results do not identify federally or state listed wildlife within or immediately adjacent to the Project site. Historical occurrences of Stephens' kangaroo rat (*Dipodomys stephensi*), coastal California gnatcatcher (*Poliophtila californica californica*), southwestern willow flycatcher (*Empidonax traillii extimus*), southern rubber boa (*Charina umbratica*), and crotch bumble bee (*Bombus crotchii*) have been recorded within one to three miles of the Project site, but none of these species are expected on site due to the lack of suitable habitat. No other federally or state listed species have potential to occur on the Project site.

No USFWS designated critical habitat occurs within or immediately adjacent the Project site, or within three miles of the project site.

Least Bell's Vireo

Suitable habitat for least Bell's vireo within the Project site is primarily composed of mulefat (*Baccharis salicifolia*) scrub and non-native riparian vegetation. An individual male least Bell's vireo was observed in mulefat scrub within a drainage in the southwestern portion of the site during the first two of eight focused surveys, on April 22 and May 6, 2021. The individual was observed foraging and moving frequently along the mulefat canopy. The lack of observations following the first two least Bell's vireo surveys suggests that this bird was an early season migrant that did not establish a nesting territory within the Project area. No female vireo or active nests were detected during protocol surveys.

Least bell's vireo is covered under the MSHCP as it is also associated with MSCHP riparian/riverine habitat.

Non-Federally/State Listed Special-Status Wildlife Species

The non-federally/state listed special-status wildlife species observed on-site during biological surveys include coastal whiptail (*Aspidoscelis tigris stejnegeris*), California horned lark (*Eremophila alpestris actia*), cooper's hawk (*Accipiter cooperii*), yellow warbler (*Setophaga petechia*), and San Diego black-tailed jackrabbit (*Lepus californicus bennettii*); these species are also MSCHP-covered species. No other non-federally/state listed special-status wildlife species were observed during biological surveys.

The non-federally/state listed special-status wildlife species with moderate to high potential to occur include orange-throated whiptail (*Aspidoscelis hyperythra*), southern California legless lizard (*Anniella stebbinsi*), burrowing owl, loggerhead shrike (*Lanius ludovicianus*), white-tailed kite (*Elanus leucurus*), and yellow-breasted chat (*Icteria virens*). All of these species are covered species under the MSHCP with the exception of southern California legless lizard.

Burrowing Owl

The RCA MSHCP Information Map revealed that the Project is located within the MSHCP Burrowing Owl Survey Area. Suitable burrowing owl habitat can be found in annual and perennial grasslands, deserts, and scrublands characterized by low-growing vegetation. Suitable burrowing owl habitat may also include trees and shrubs if the canopy covers less than 30 percent of the ground surface. Burrows are the essential component of burrowing owl habitat; both natural and artificial burrows provide protection, shelter, and nests for burrowing owl. Burrowing owl typically use burrows made by rodents, such as ground squirrels or badgers, but may also use human-made structures, such as concrete culverts; concrete, asphalt, or wood debris piles; or openings beneath concrete or asphalt pavement.

Suitable habitat for burrowing owl was observed within the Project site. California ground squirrels (*Otospermophilus beecheyi*), colonial burrows and burrows of a suitable size to support burrowing owl were observed throughout the non-native grassland within the Project site. Therefore, protocol burrowing owl surveys were conducted during the breeding season (March 1 to August 31) in accordance with the MSHCP. California ground squirrels were active during all surveys, although increased activity was observed along the southern portion of the Project site. Although the Project site has moderate potential to support burrowing owl, no burrowing owl(s) or burrowing owl sign were observed on-site during the protocol surveys.

MSCHP Riparian/Riverine Areas and Vernal Pools

The Project site supports several drainages and riparian areas that meet the MSHCP definition of riparian/riverine features; the Project site does not support areas that meet the MSHCP definition of a vernal pool.

The on-site drainages and associated tributaries (NWW-1, NWW-1A, NWW-2, NWW-2A, NWW-2B, NWW-2C, NWW-3, NWW-3A, NWW-3B, and NWW-3B1), described as potentially CDFW jurisdictional resources, meet the MSHCP definition of riparian/riverine features as they contain freshwater flow during "a portion of the year," specifically after rain events. Based on the results of the jurisdictional aquatic resources delineation, all on-site drainages and associated tributaries are classified as "ephemeral," and the primary known hydrologic source is direct precipitation. NWW-3 also receives runoff from

development south of the review area that is collected and conveyed on-site through a culverted storm drain outlet.

Additionally, NWW-2A, NWW-3, NWW-3A, and NWW-3B support riparian habitat dominated by trees or shrubs which occur close to or which depend upon soil moisture from a nearby fresh water source. Specifically, NWW-2A, NWW-3, and NWW-3B support mulefat scrub; NWW-3 supports non-native riparian habitat that is dominated by the invasive tree-of-heaven (*Ailanthus altissima*); and NWW-3 and NWW-3A support blue elderberry (*Sambucus nigra ssp. caerulea*) stands. Therefore, the features which are described as CDFW jurisdictional riparian habitat meet the definition of MSHCP riparian habitat. Additionally, the mulefat scrub within and adjacent to NWW-3 and NWW-3B provide suitable habitat for least Bell's vireo, an MSHCP riparian/riverine wildlife species.

4.3.3 Regulatory Setting

Federal

Federal Endangered Species Act

The federal Endangered Species Act of 1973 (ESA; 16 U.S.C. § 1531 et seq.), as amended, provides for listing of endangered and threatened species of plants and animals and designation of critical habitat for listed species. The ESA regulates the "take" of any endangered fish or wildlife species, per Section 9. As development is proposed, the responsible agency or individual landowner is required to consult with the USFWS to assess potential impacts on listed species (including plants) or their critical habitat, pursuant to Sections 7 and 10 of the ESA. USFWS is required to make a determination as to the extent of impact a project would have on a particular species. If it is determined that potential impacts on a species would likely occur, measures to avoid or reduce such impacts must be identified. USFWS may issue an incidental take statement, following consultation and the issuance of a Biological Opinion. This allows for take of the species that is incidental to another authorized activity, provided that the action will not adversely affect the existence of the species. Section 10 of the ESA provides for issuance of incidental take permits to non-federal parties with the development of a habitat conservation plan (HCP); Section 7 provides for permitting of federal projects.

Clean Water Act

Pursuant to Section 404 of the CWA (33 U.S. Code § 1344), the USACE is authorized to regulate any activity that would result in the discharge of dredged or fill material into waters of the U.S. (including wetlands), which include those waters listed in 33 CFR 328.3 (a) (as amended at 85 Federal Register 22250, April 21, 2020; Navigable Waters Protection Rule). The USACE, with oversight from the U.S. Environmental Protection Agency (U.S. EPA), has the principal authority to issue CWA Section 404 permits. The USACE would require a Standard Individual Permit (SIP) for more than minimal impacts to waters of the U.S. as determined by the USACE. Substantial impacts on waters of the U.S. may require an Individual Permit. Projects with minimal individual and cumulative adverse effects on the environment may meet the conditions of an existing Nationwide Permit (NWP).

A water quality certification or waiver pursuant to Section 401 of the CWA (33 U.S. Code § 1341) is required for all Section 404 permitted actions. The RWQCB, a division of the State Water Resources

Control Board (SWRCB), provides oversight of the 401-certification process in California. The RWQCB is required to provide Water Quality Certification for licenses or permits that authorize an activity that may result in a discharge from a point source into a water of the U.S. Water Quality Certification authorization “is limited to assuring that a discharge from a Federally licensed or permitted activity will comply with water quality requirements” (40 CFR 121.3).

The National Pollutant Discharge Elimination System (NPDES) is the permitting program for discharge of pollutants into surface waters of the U.S. under Section 402 of the CWA (33 U.S. Code § 1342).

Navigable Waters Protection Rule

The U.S EPA and USACE published the Navigable Waters Protection Rule (Final Rule) on April 21, 2020, in order to define the scope of waters subject to federal regulation under the CWA. The Final Rule went into effect nationwide on June 22, 2020. Paragraph (a) of the Final Rule identifies four categories of waters that are “waters of the United States,” these waters are referred to as “jurisdictional”; paragraph (b) of the Final Rule identifies those waters and features that are excluded from the definition of “waters of the United States”; and paragraph (c) of the Final Rule defines applicable terms.

The term “Waters of the U.S.” means:

- 1) The territorial seas, and waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including waters which are subject to the ebb and flow of the tide;
- 2) Tributaries;
- 3) Lakes and ponds, and impoundments of jurisdictional waters; and
- 4) Adjacent wetlands.

The USACE typically regulates as waters of the U.S. any body of water displaying an OHWM. USACE jurisdiction over non-tidal waters of the U.S. extends laterally to the OHWM or beyond the OHWM to the limit of any adjacent wetlands, if present. The OHWM is defined as “that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding area.” Jurisdiction typically extends upstream to the point where the OHWM is no longer perceptible.

Permits authorized by USACE under the Act typically contain mitigation to offset unavoidable impacts on wetlands and other waters of the U.S. in a manner that achieves no net loss of wetland acres or values.

Executive Order 11990, Protection of Wetlands

This Executive Order from May 1977 establishes a national policy to avoid adverse impacts on wetlands whenever there is a practicable alternative. On projects with federal actions or approvals, impacts on wetlands must be identified in the environmental document. Alternatives that avoid wetlands must be considered. If wetland impacts cannot be avoided, then all practicable measures to minimize harm to

those wetlands must be included. This must be documented in a specific 'Wetlands Only Practicable Alternative Finding' in the final environmental document for the proposed project.

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA; 16 U.S.C. § 703 et seq.) is a federal statute that implements treaties with several countries on the conservation and protection of migratory birds. The number of bird species covered by the MBTA is extensive and listed at 50 Code of Federal Regulations (CFR) 10.13. The USFWS enforces the MBTA, which prohibits "by any means or in any manner, to pursue, hunt, take, capture, [or] kill" any migratory bird, or attempt such actions, except as permitted by regulation.

Federal Bald and Golden Eagle Protection

This act was originally passed in 1940 and provides for the protection of the bald eagle and the golden eagle (as amended in 1962) by prohibiting the take, possession, sale, purchase, barter, offer to sell, purchase or barter, transport, export or import, of any bald or golden eagle, alive or dead, including any part, nest or egg, unless allowed by permit. 'Take' includes pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb. The 1972 amendments increased civil penalties for violating provisions of the Act to a maximum fine of \$5,000- or one-year imprisonment with \$10,000 or not more than two years in prison for a second conviction. Felony convictions carry a maximum fine of \$250,000 or two years of imprisonment. The fine doubles for an organization.

State

California Environmental Quality Act

The California Environmental Quality Act (CEQA; California Public Resources Code [PRC] § 21000 et seq.) was established in 1970 as California's counterpart to the National Environmental Policy Act (NEPA). CEQA requires state and local agencies to identify significant environmental impacts of their actions and to avoid or mitigate those impacts, where feasible.

CEQA applies to certain activities of state and local public agencies. A public agency must comply with CEQA when it undertakes an activity defined by CEQA as a "project." A project is an activity undertaken by a public agency or a private activity, which must receive some discretionary approval (meaning that the agency has the authority to deny the requested permit or approval) from a government agency that may cause either a direct physical change in the environment or a reasonably foreseeable indirect change in the environment.

California Endangered Species Act and Natural Community Conservation Planning Act

The California Endangered Species Act of 1984 (CESA; California Fish and Game Code [CFGF] § 2050 et seq.), in combination with the California Native Plant Protection Act of 1977 (CFGF § 1900 et seq.), regulates the listing and take of plant and animal species designated as endangered, threatened, or rare within the state. California also lists species of special concern based on limited distribution; declining populations; diminishing habitat; or unusual scientific, recreational, or educational value. CDFW is responsible for assessing development projects for their potential to impact listed species and their

habitats. State-listed special-status species are addressed through the issuance of a 2081 permit (Memorandum of Understanding).

In 1991, the California Natural Community Conservation Planning (NCCP) Act (CFGC § 2800 et seq.) was approved and the NCCP Coastal Sage Scrub program was initiated in southern California. The NCCP program was established “to provide for regional protection and perpetuation of natural wildlife diversity while allowing compatible land use and appropriate development and growth.” The NCCP Act encourages preparation of plans that address habitat conservation and management on an ecosystem basis rather than one species or habitat at a time.

Native Plant Protection Act of 1977

The Native Plant Protection Act (NPPA)(e.g., CFGC §§ 1900-1913) directs CDFW to carry out the legislature’s intent to “preserve, protect and enhance rare and endangered plants in this State.” The NPPA gives the California Fish and Game Commission the power to designate native plants as endangered or rare, since CESA does not explicitly cover rare plants. Accordingly, the CDFW’s Wildlife and Habitat Data Analysis Branch maintains a ‘special plants’ list of approximately 2,000 native plant species, subspecies or varieties that are tracked by the CNDDDB. The NPPA prohibits the taking of listed plants from the wild and requires notification of the CDFW at least 10 days in advance of any change in land use which would adversely impact listed plants. This requirement allows CDFW to salvage plants that would otherwise be destroyed.

The CNPS publishes and maintains an Inventory of Rare and Endangered Vascular Plants of California. The inventory assigns a ranking status. Plants on the 1A, 1B and 2 lists of the CNPS Inventory consist of plants that may qualify for listing and CDFW requires that they be addressed under CEQA.

Oak Woodlands Conservation Act 1360

The Oak Woodlands Conservation Act is intended to work in concert with local planning and zoning strategies to conserve oak woodlands. Jurisdictions may prepare an Oak Woodlands Management Plan and thereby qualify for State of California financial incentives to protect the oak resources described therein. Through this Act, it is the State of California’s intent to support and encourage voluntary, long-term private stewardship and conservation of California’s oak woodlands by offering landowners financial incentives to protect and promote biologically functional oak woodlands over time and encourage local land use planning that is consistent with the preservation of oak woodlands, particularly special oak woodlands habitat elements. The Oak Woodlands Conservation Act also establishes a fund for oak woodlands conservation to which future appropriations for oak woodlands protection may be made.

California Fish and Game Code Section 1600 - 1602

Pursuant to Division 2, Chapter 6, § 1602 of the CFGC, CDFW regulates all diversions, obstructions, or changes to the natural flow or bed, channel or bank of any river, stream or lake that supports fish or wildlife. A Notification of Lake or Streambed Alteration must be submitted to CDFW for “any activity that may substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake” (CFGC § 1602). CDFW has jurisdiction over riparian habitats associated with watercourses and wetland habitats supported by a river, lake, or stream. Jurisdictional waters are

delineated by the outer edge of riparian vegetation (i.e., drip line) or at the top of the bank of streams or lakes, whichever is wider. CDFW jurisdiction does not include tidal areas or isolated resources (e.g., riparian or wetland areas not supported by a river, lake, or stream). CDFW reviews the proposed actions and, if necessary, submits (to the applicant) a proposal that includes measures to protect affected fish and wildlife resources. The final proposal that is mutually agreed upon by CDFW and the applicant is the Lake or Streambed Alteration Agreement.

California Fish and Game Code Sections 3503, 3511, 3513, 3801, 4700, 5050, and 5515

CDFW protects and manages fish, wildlife, and native plant resources within California. The California Fish and Game Commission and/or CDFW are responsible for issuing permits for the take or possession of protected species. The following sections of the CFGC address protected species: § 3511 (birds), § 4700 (mammals), § 5050 (reptiles and amphibians), and § 5515 (fish). In addition, the protection of birds of prey is provided for in §§ 3503, 3513, and 3800 of the CFGC

Unlawful Take or Destruction of Nests or Eggs (Fish and Game Code Sections 3505.5-3513)

Section 3503.5 of the CFGC specifically protects birds of prey, stating:

It is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto.

Section 3513 of the CFGC duplicates the federal protection of migratory birds, stating:

It is unlawful to take or possess any migratory nongame bird as designated in the Migratory Bird Treaty Act or any part of such migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act.

California Wetlands Conservation Policy

California wetlands policy is more restrictive than Federal wetlands policy. The goal of California Wetlands Conservation Policy (1993) is to ensure no net loss of wetlands within the State. This policy, incorporated in an executive order by then Governor Pete Wilson, also encourages a long-term net gain in the State's quantity, quality, and permanence of wetlands acreage and values. Interpretation of this order indicates that any developer wishing to fill in wetlands for construction for new development must perform mitigation in the form of constructed wetlands elsewhere at ratios ranging from 2:1 to 10:1. In addition to the USACE, State regulatory agencies claiming jurisdiction over wetlands include the CDFW and the SWRCB.

Regional Water Quality Control Board

Under Section 401 of the CWA, the RWQCB must certify that actions receiving authorization under Section 404 of the CWA also meet State water quality standards. The RWQCB also regulates waters of the State under the Porter-Cologne Act Water Quality Control Act (Porter-Cologne Act) (see below). The RWQCB requires projects to avoid impacts to wetlands if feasible and requires that projects do not result in a net loss of wetland acreage or a net loss of wetland function and values. The RWQCB typically requires

compensatory mitigation for impacts on wetlands and/or waters of the State. The RWQCB also has jurisdiction over waters deemed isolated or not subject to Section 404 jurisdiction under the *Solid Waste Agency of Northern Cook County v. Army Corps of Engineers* decision. Dredging, filling, or excavation of isolated waters constitutes a discharge of waste to waters of the State and prospective dischargers are required to obtain authorization through an Order of Waste Discharge or waiver thereof from the RWQCB and comply with other requirements of Porter-Cologne Act.

Porter-Cologne Water Quality Control Act

The Porter-Cologne Water Quality Control Act (California Water Code § 13000 et seq.) provides for statewide coordination of water quality regulations. The SWRCB was established as the statewide authority and nine separate RWQCBs were developed to oversee water quality on a day-to-day basis.

The RWQCBs have primary responsibility for protecting water quality in California. As discussed above, the RWQCBs regulate discharges to surface waters under the CWA. In addition, the RWQCBs are responsible for administering the Porter-Cologne Water Quality Control Act.

Pursuant to the Porter-Cologne Water Quality Control Act, the state is given authority to regulate waters of the State, which are defined as any surface water or groundwater, including saline waters. As such, any person proposing to discharge waste into a water body that could affect its water quality must first file a Report of Waste Discharge if a Section 404 permit is not required for the activity. “Waste” is partially defined as any waste substance associated with human habitation, including fill material discharged into water bodies.

Regional

Western Riverside County Multiple Species Habitat Conservation Plan

The Western Riverside County MSHCP is a comprehensive habitat conservation/planning program for Western Riverside County. The intent of the MSHCP is to preserve native vegetation and meet the habitat needs of multiple species, rather than focusing preservation efforts on one species at a time. The MSHCP provides coverage (including take authorization for listed species) for special-status plant and animal species, as well as mitigation for impacts to special-status species and associated native habitats.

Through agreements with the USFWS and CDFW, the MSHCP designates 146 special-status animal and plant species as Covered Species, of which the majority have no project-specific survey/conservation requirements. The MSHCP provides mitigation for project-specific impacts to these species for projects that are compliant/consistent with MSHCP requirements, such that the impacts are reduced to below a level of significance pursuant to CEQA.

The Covered Species that are not yet adequately conserved have additional requirements for these species to ultimately be considered ‘adequately conserved.’ A number of these species have survey requirements based on a project’s occurrence within a designated MSHCP survey area and/or based on the presence of suitable habitat. These include Narrow Endemic Plant Species (MSHCP Volume I, Section 6.1.3), as identified by NEPSSA; Criteria Area Plant Species (MSHCP Volume I, Section 6.3.2) identified by the Criteria Area Plant Species Survey Areas (CAPSSA); animal species (burrowing owl,

mammals, amphibians, and invertebrates) identified by survey areas (MSHCP Volume I, Section 6.3.2); and species associated with riparian/riverine areas and vernal pool habitats, including least Bell's vireo, southwestern willow flycatcher, western yellow-billed cuckoo (*Coccyzus americanus*), and three species of fairy shrimp (MSHCP Volume I, Section 6.1.2). An additional 28 species (MSHCP Volume I, Table 9.3) not yet adequately conserved have species-specific objectives for the species to become adequately conserved. However, these species do not have project-specific survey requirements.

The goal of the MSHCP is to have a total Conservation Area in excess of 500,000 acres, including approximately 347,000 acres on existing Public/Quasi-Public Lands, and approximately 153,000 acres of Additional Reserve Lands targeted within the MSHCP Criteria Area. The MSHCP is divided into 16 separate Area Plans, each with its own conservation goals and objectives. Within each Area Plan, the Criteria Area is divided into Subunits, and further divided into Criteria Cells and Cell Groups (a group of criteria cells). Each Cell Group and ungrouped, independent Cell has designated "criteria" for the purpose of targeting additional conservation lands for acquisition. Projects located within the Criteria Area are subject to the Habitat Evaluation and Acquisition Negotiation Strategy (HANS) process to determine if lands are targeted for inclusion in the MSHCP Reserve. In addition, all projects located within the Criteria Area are subject to the Joint Project Review (JPR) process, where the project is reviewed by the Regional Conservation Authority (RCA) to determine overall compliance/consistency with the biological requirements of the MSHCP.

Local

Application for Environmental Review and Processing

As part of the entitlement process, applicants are required to complete and submit an Application for Environmental Review and Processing, which is used by the City Planning Department to determine what, if any, technical studies may be required as part of the entitlement process. According to the Application for Environmental Review and Processing, a biological resource report is required for an implementing development project if: native soils and habitats such as wetlands are within, or in proximity to the project area, and/or construction activities will result in trenching, excavation of undisturbed soils.

City of Beaumont General Plan

General Plan (GP) goals and policies that may reduce potential Project impacts to biological resources include:

Land Use and Design Element

Goal 3.1: **A City structure that enhances the quality of life of residents, meets the community's vision for the future, and connects new growth areas together with established Beaumont neighborhoods.**

Policy 3.1.12 Establish buffers between open space areas and urban development by encouraging less intensive rural development within proximity to the open space areas.

Community Facilities and Infrastructure Element

Goal 7.5: **Manage and effectively treat storm water to minimize risk to downstream resources.**

Policy 7.5.3 Minimize pollutant discharges into storm drainage systems, natural drainages, and groundwater. Design the necessary stormwater detention basins, recharge basins, water quality basins, or similar water capture facilities to protect water quality by capturing and/or treating water before it enters a watercourse.

Policy 7.5.5 Require hydrologic/hydraulic studies and WQMPs to ensure that new developments are redevelopment projects will not cause hydrologic or biologic impacts to downstream receiving waters, including groundwater.

Conservation and Open Space Element

Goal 8.5: **A City that preserves and enhances its natural resources.**

Policy 8.5.1 Minimize the loss of sensitive species and critical habitat areas in areas planned for future development.

Policy 8.5.2 Require new developments adjacent to identified plant and wildlife habitat areas to maintain a protective buffer, minimize new impervious surface, minimize light pollution, and emphasize native landscaping.

Policy 8.5.3 Encourage new development to support a diversity of native species and manage invasive species.

Policy 8.5.5 Protect and enhance creeks, lakes, and adjacent wetlands by eradicating non-native vegetation and restoring native vegetation.

Policy 8.5.7 Discourage the use of plant species on the California Invasive Plant Inventory.

Policy 8.7.5 Preserve watercourses and washes necessary for regional flood control, ground water recharge areas, and drainage for open space and recreational purposes.

Policy 8.7.6 Preserve permanent open space edges or greenbelts that provide a buffer for separation between adjoining developments.

Goal 8.8: **A City where the natural and visual character of the community is preserved.**

Policy 8.8.1 Promote the maintenance of open space through the implementation of the General Plan.

Policy 8.8.2 Protect and preserve open space and natural habitat wherever possible.

Policy 8.8.3 Work with Riverside County and adjacent cities, landowners, and conservation organizations to preserve, protect, and enhance open space and natural resources consistent with the MSHCP.

Policy 8.8.4 Require the provision of open space linkages and conservation between development projects, consistent with the conservation efforts targeted in the MSHCP.

- Policy 8.8.6** Establish buffers between open space areas and urban development by encouraging less intensive rural development within proximity to the open space areas.
- Goal 8.10:** **A City that promotes the protection of biological resources through MSHCP implementation.**
- Policy 8.10.1** Work with landowners and government agencies in promoting development concepts that are sensitive to the environment and consider the preservation of natural habitats and further the conservation goals of the MSHCP.
- Policy 8.10.2** Work with landowners and government agencies in identifying areas within the City of Beaumont and its Sphere of Influence that should be preserved as open space for passive recreation, resource management, or public safety and which meet the City's preservation obligations per the MSHCP.

4.3.4 Impact Thresholds and Significance Criteria

State CEQA Guidelines Appendix G contains the Environmental Checklist Form, which includes questions concerning biological resources. The questions presented in the Environmental Checklist Form have been utilized as significance criteria in this section. Accordingly, the Project would 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 Wildlife or U.S. Fish and Wildlife Service;
- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service;
- Have a substantial adverse effect on state or federally protected wetlands (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
- Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

Methodology and Assumptions

The Project site and its associated design are evaluated against the aforementioned significance criteria as the basis for determining the level of impacts related to biological resources. This analysis considers existing regulations, laws, and standards that serve to avoid or reduce potential environmental impacts.

Feasible mitigation measures are recommended, when warranted, to avoid or lessen the Project's significant adverse impacts.

Approach to Analysis

This analysis of impacts on biological resources examines the Project's temporary (i.e., construction) and permanent (i.e., operational) effects based on application of the significance criteria/thresholds outlined above. Each criterion is discussed in the context of the Project site, and the surrounding characteristics/geography. The impact conclusions consider the potential for changes in environmental conditions, as well as compliance with the regulatory framework enacted to protect the environment.

The baseline conditions and impact analyses are based on the aforementioned biological resources studies; review of maps and drawings; analysis of aerial and ground-level photographs; and review of various data available in public records, including local planning documents. The determination that a project would or would not result in "substantial" adverse effects on biological resources considers how the potential for development and operation of the site would affect the resources.

4.3.5 Impacts and Mitigation Measures

Impact 4.3-1 *Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?*

Level of Significance: *Less than Significant Impact with Mitigation Incorporated*

Impacts on MSCHP Narrow Endemic or Federally/State Listed Plant Species

The Project would not impact federally and/or state listed or MSHCP Narrow Endemic Plant species as none are present or have moderate to high potential to occur within the Project site.

Impacts on Non-Listed Special Status Plant Species

The Project would not impact special-status plants as none are present or have a moderate to high potential to occur within the Project site.

Impacts on Federally/State Listed Wildlife Species

An individual male Least Bell's vireo was detected within the mulefat scrub in the western portion of the Project site during early protocol-level surveys (i.e., surveys one and two of eight protocol surveys). However, least Bell's vireo was not detected during the remaining protocol-level surveys. This species still has moderate to high potential to occur within the Project site due to the presence of suitable habitat. This Project would result in the removal of suitable mulefat scrub habitat (1.14 acres) which could result in significant impacts to least Bell's vireo. Additionally, suitable mulefat scrub and non-native riparian habitat occurs south of to the grading footprint. Project-specific Mitigation Measure (MM) BIO-1 details the strategy to avoid vegetation removal during the bird breeding season. With the implementation of this measure, impacts to least Bell's vireo would be less than significant.

The Project would not impact any other federally and/or state listed wildlife species as no other species are present or have potential to occur on-site.

Impacts on Non-Listed Special-Status Wildlife Species

The non-listed special status wildlife species detected on-site during all biological surveys includes coastal whiptail, California horned lark, cooper's hawk, yellow warbler, and San Diego black-tailed jackrabbit. The Project also has moderate to high potential to support orange-throated whiptail, loggerhead shrike, white-tailed kite, and yellow-breasted chat. The Project would result in habitat loss for each of these species. However, these species are considered adequately covered under the MSHCP and with payment of MSHCP Local Development Mitigation Fees to mitigate impacts on native vegetation, impacts on these species would be considered less than significant.

Southern California legless lizard is a California Species of Special concern that has moderate potential to occur within the Project due to the presence of suitable habitat and is not covered under the MSHCP. A majority of the moderately suitable habitat for southern California legless lizard within the Project site occurs within the drainage south of the grading footprint, which would be avoided during construction of the Project. However, the Project would result in removal of some suitable habitat within the smaller drainages in the northeast portion of the site, which would be adverse. Payment of MSHCP Local Development Mitigation Fees provides habitat-based mitigation within the plan area for all wildlife and plant species, including MSHCP-covered species and Species of Special Concern, impacted due to the loss of suitable habitat from covered projects. As such, loss of habitat for Species of Special Concern would be offset through this habitat-based mitigation under the MSHCP such that the loss of habitat resulting from the Project would not constitute significant impacts. These species are considered adequately covered under the MSHCP; habitat-based impacts on non-listed special-status wildlife species would be less than significant, conditional upon satisfaction of previous mitigation requirements.

Although not detected during protocol surveys, the Project site has moderate potential to support burrowing owl which is a California Species of Special Concern. To avoid impacts on burrowing owl, a pre-construction survey will be required pursuant to the MSHCP. Through compliance with the MSHCP guidelines and **MM BIO-2**, impacts on burrowing owls would be less than significant.

Impacts on Nesting Birds

The Project has the potential to impact active bird nests if vegetation is removed or ground disturbing activities are initiated during the nesting season (February 1 to August 31). All habitat and land cover within the Project site has the potential to support nesting birds. The tree and shrub communities have the potential to support a variety of sensitive and non-sensitive avian species. The non-native grassland and disturbed habitats have the potential to support ground nesting species, such as western meadowlark (*Sturnella neglecta*) and California horned lark. Even the developed portions of the Project still have the potential to support non-sensitive species such as house finch (*Haemorrhous mexicanus*). Impacts on nesting birds are prohibited by the MBTA and CFGC. Project-specific **MM BIO-3** which would avoid Project impacts on nesting birds. With the implementation of this measure, impacts on nesting birds would be less than significant.

Mitigation Measures

MM BIO-1 Project activities shall not be initiated within 100 feet of any least Bell's vireo suitable habitat area(s) during the species' breeding season (March 15-August 31) unless a negative USFWS protocol survey has been conducted within one year of construction kickoff and findings were negative.

If groundbreaking activities occur outside the least Bell's vireo nesting season (i.e., September 16-March 14), a qualified biologist shall perform a presence/absence survey within suitable habitat on-site, and shall continue these surveys on a monthly basis, especially as breeding season commences.

If least Bell's vireo nesting is discovered, either during protocol surveys, monthly presence/absence surveys, or incidentally, no Project activities shall occur within 300 feet of any least Bell's vireo nest site until it has been confirmed that the young have fledged, and the nest is no longer active. A qualified biologist shall always be present when construction crews are working within 1/8 mile surrounding an identified least Bell's vireo nest site to ensure that the birds do not react unfavorably to Project activities. If the qualified biologist observes signs of agitation stemming from Project activities, the activities shall cease and not resume until the birds' behavior normalizes. If the birds continue to exhibit signs of agitation, Project activities shall be adjusted to avoid impacts on nesting least Bell's vireo. Additionally, in the presence of least Bell's vireo nests, noise level from Project activities shall not to exceed 65 dBA at the edge of occupied habitat. If this is not possible, a noise barrier shall be constructed to keep noise at or below 65 dBA to avoid adverse impacts to any least Bell's vireo nest/s.

During the least Bell's vireo breeding season, artificial light shall not be cast into suitable habitat.

A qualified biologist shall conduct a training session for Project personnel prior to grading in conformance with MSCHP best management practices requirements. The training shall include a description of least Bell's vireo and its habitats, the general provisions of the Endangered Species Act (Act) and the MSHCP, the need to adhere to the provisions of the Act and the MSHCP, the penalties associated with violating the provisions of the Act, the general measures that are being implemented to conserve the species of concern as they relate to the Project, and the access routes to and Project site boundaries within which the Project activities must be accomplished.

MM BIO-2 A qualified biologist will conduct a pre-construction presence/absence survey for burrowing owls within 30 days prior to site disturbance. If burrowing owls are documented on-site, the owls will be relocated/excluded from the site outside of the breeding season following accepted protocols, as specified in the MSHCP.

MM BIO-3 Vegetation clearing and ground disturbing activities should be conducted outside of the nesting season (February 1 through August 31). If avoidance of the nesting season is not feasible, then a qualified biologist will conduct a nesting bird survey within three days prior to any disturbance of the site, including diskings, demolition activities, and grading. If active nests are identified, the biologist shall establish suitable buffers around the nests depending on the level of activity within the buffer and species observed, and the buffer areas shall be avoided until the nests are no longer occupied, and the juvenile birds can survive independently from the nests.

Level of Significance

Less than significant impact with mitigation incorporated.

Impact 4.3-2 *Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?*

Level of Significance: Less than Significant Impact with Mitigation Incorporated

Native Vegetation

The Project would primarily result in permanent impacts on upland vegetation communities and land uses, including 103.8 acres of non-native grassland and 48.37 acres of developed land. Additional habitats that would be directly affected by the Project include impacts on >0.01 acre of chamise chaparral, 1.5 acres of disturbed land, 0.1 acre of eucalyptus woodland, 1.14 acres of mulefat scrub, 0.23 acre of Riversidean sage scrub, and 1.09 acres of Torrey's scrub oak (*Quercus acutidens*) stands (see **Table 4.3-6**). Chamise chaparral and Riversidean sage scrub are native communities that are common, widespread, and abundant in the state. Mulefat scrub is not considered a sensitive vegetation community by CDFW; however, this habitat is part of jurisdictional resources on-site and is therefore protected. Torrey's scrub oak is not identified by state or federal agencies as a sensitive species or habitat; however, because this vegetation is mapped unusually due to its monocultural characteristics, it is being treated as scrub oak chaparral for the purposes of this impact analysis.

Eucalyptus woodland and non-native grassland are common naturalized vegetation communities. Additionally, disturbed habitat would be impacted; this land cover type provides minimal biological value. The developed habitat provides minimal-to-no biological value.

Table 4.3-6: Beaumont Summit Station Project Site Vegetation Communities/Land Use Impacts

Vegetation Community/Land Use	Project Site Impacts (acres)
Upland	
Chamise Chaparral	>0.01
Developed	48.37
Disturbed	1.5
Eucalyptus Woodland	0.1
Non-native Grassland	103.8
Riversidean Sage Scrub	0.23
Torrey's Scrub Oak Stands	1.09
Riparian	
Mulefat Scrub	1.14
Total	156.23 ¹
Source: RBC. 2022. <i>Beaumont Summit Station Project Biological Resources and MSCHP Consistency Report</i> . Table 11.	
¹ = Acreages summed using raw numbers provided during GIS analysis (available upon request) and thus the sum of the total rounded numbers may not directly add up in this table.	

Jurisdictional Aquatic Resources

As detailed in the *Biological Resources and MSHCP Consistency Report (Appendix C-1)*, the Project would permanently impact approximately 0.25 acre (3,072 linear feet) of non-wetland waters of the U.S./State that are potentially jurisdictional by the USACE and RWQCB, and 2.17 acres (3,072 linear feet) of vegetated streambed and 0.24 acre of associated riparian habitat that are potentially jurisdictional by the CDFW.

Permitting through the USACE, RWQCB, and CDFW would be required for impacts on non-wetland waters of the U.S. jurisdictional by the USACE, non-wetland waters of the State jurisdictional by the RWQCB, and vegetated streambed and associated riparian habitat jurisdictional by the CDFW. The Project applicant would be responsible for acquiring the necessary authorizations required by the regulatory agencies and associated compensatory mitigation requirements (see **MM BIO-4**).

Riparian/Riverine Areas and Vernal Pools

MSHCP riparian/riverine areas occur on the Project site. The Project's CDFW-jurisdictional vegetated streambed meets the definition of MSHCP riverine, and the CDFW-jurisdictional riparian meets the definition of MSHCP riparian habitat; impacts to CDFW-jurisdictional resources are equal to impacts to MSHCP riparian/riverine. According to the Project DBESP Report (**Appendix C3**), the Project site contains approximately 8.48 acres of MSHCP riparian/riverine areas, as defined by Section 6.1.2 of the MSHCP, of which, 2.41 acres (0.24 acre of MSHCP riparian habitat and 2.17 acres of MSCHP riverine habitat) would be directly impacted by construction; approximately 6.07 acres of MSHCP riparian/riverine areas would be avoided on site. The on-site MSHCP riparian/riverine areas coincide with CDFW-jurisdictional vegetated streambed and associated riparian habitat. To address impacts to riparian/riverine areas, **MM BIO-4** is proposed, which would mitigate direct impacts at a 2:1 ratio.

Mitigation Measures

MM BIO-4 Prior to any ground-disturbing activity near jurisdictional features, applicable permits shall be obtained through the USACE, RWQCB, and CDFW for impacts on jurisdictional features. Based on the results of the aquatic resources delineation for the proposed

Project, the proposed Project would permanently impact 0.25 acre of USACE-jurisdictional non-wetland waters of the U.S. and RWQCB-jurisdictional non-wetland waters of the State (i.e., NWW-1, NWW-1A, NWW-2, NWW-2A, NWW-2B, NWW-2C, NWW-3A, NWW-3B, and NWW-3B1). Additionally, the proposed Project would permanently impact 2.17 acres of CDFW-jurisdictional vegetated streambed (i.e., NWW-1, NWW-1A, NWW-2, NWW-2A, NWW-2B, NWW-2C, NWW-3A, NWW-3B, and NWW-3B1) and 0.24 acre of CDFW-jurisdictional riparian habitat (i.e., NWW-2A and NWW-3B). The Project applicant shall be obligated to implement/comply with the permit conditions and mitigation measures required by the resource agencies regarding impacts on their respective jurisdictions.

A minimum 1:1 mitigation ratio (0.25 acre USACE/0.25 acre RWQCB/2.41 acres CDFW) is typically required, though ratios may be higher. Compensatory mitigation to offset impacts to jurisdictional aquatic resources may be implemented through off-site, permittee-responsible mitigation, in-lieu fee program or mitigation bank credit purchase (e.g., Riverpark Mitigation Bank), or a combination of these options depending on availability. The proposed mitigation strategy is the purchase of 4.82 re-establishment and/or rehabilitation credits (2:1 mitigation ratio) from the Riverpark Mitigation Bank. The regulatory agencies will make the final determination of the final compensatory mitigation requirements during the permit evaluation process. Prior to issuance of a grading permit, the Project applicant will provide the City of Beaumont with purchase confirmation.

Level of Significance

Less than significant impact with mitigation incorporated.

Impact 4.3-3 *Would the Project have a substantial adverse effect on State or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?*

Level of Significance: No Impact

As discussed in **Section 4.3.2, Environmental Setting**, RBC conducted three separate field visits: April 22, June 3, and June 7, 2021. Field staff examined the potential for wetland waters of the U.S. and State and CDFW-jurisdictional wetlands. Data was collected at three representative Wetland Data Form Points (WDP) within the Project site, one within NWW-2, one within NWW-3, and one within Basin-4, to determine the presence or absence of jurisdictional wetlands (**Exhibits 4.3-2 – 4.3-5**). The delineated aquatic features on-site did not meet the appropriate wetland parameters to qualify as wetland waters of the U.S./State or CDFW-jurisdictional wetlands based on the data collected during the field visits. No areas within the Project site meet the MSHCP definition of a vernal pool. Because no State or federally protected wetlands were identified on the Project site, no impact would occur.

Mitigation Measures

No mitigation is necessary.

Level of Significance

No impact.

Impact 4.3-4 *Would the Project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

Level of Significance: Less than Significant Impact

The Project site is situated at the northern end of the City of Beaumont and occurs immediately north of a developed residential area. Land located north of the site, north of Cherry Valley Boulevard, has been graded in preparation for planned industrial development, and nearby areas to the west and immediately south are highly developed. The site is not identified as a wildlife corridor or criteria area under the MSHCP, and does not serve as a regional wildlife corridor. The drainages in the southwest portion of the site likely serve as minor local wildlife corridors and avian ‘stepping stone’ corridors. The largest drainage (Planning Area 3) would not be developed as part of the Project so it would continue to function as a local wildlife corridor. Significant impacts on wildlife corridors are not anticipated with Project implementation.

Mitigation Measures

No mitigation is necessary.

Level of Significance

Less than significant impact.

Impact 4.3-5 *Would the Project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?*

Level of Significance: Less than Significant Impact

Implementation of the Project would be subject to all applicable Federal, State, regional, and local policies and regulations related to the protection of biological resources as outlined above in **Section 4.3.3, Regulatory Setting**. The Project would be constructed in compliance with the requirements of the Beaumont GP and the Beaumont Municipal Code. The Beaumont GP provides goals and policies for the conservation of biological resources. Goal 8.5 calls for a City that preserves and enhances its natural resources and Policy 8.5.1 calls for the minimization of the loss of sensitive species and critical habitat areas in areas planned for future development. Policy 8.5.3 encourage new development to support a diversity of native species and manage invasive species. The Project would use drought tolerant and/or native plant materials. Native tree species considered in the landscape concept (Section 4.6.1 of the Specific Plan) include white alder (*Alnus rhombifolia*), western redbud (*Cercis occidentalis*), and various *Quercus* species.

The City does not have a tree preservation policy or ordinance. An application and approval from the City is required for any removal of front yard/street tree or trees. As described above, no street trees occur on-site and no residential structures and associated front yards occur on site. There are occasional trees near the outbuildings at the east of the site; however, these do not appear to meet the definition of street

or yard trees. As such, the Project would comply with City of Beaumont requirements and no street tree approvals would be required, as no impacts to such resources would occur with project implementation.

Based on compliance with all local policies and ordinances, impacts are considered to be less than significant, and no mitigation is required.

Mitigation Measures

No mitigation is necessary.

Level of Significance

Less than significant impact.

Impact 4.3-6 ***Would the Project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan?***

Level of Significance: Less than Significant Impact with Mitigation Incorporated

The Project site is not located within the MSHCP Criteria Area. As such, the Project site is not targeted for conservation by the MSHCP to meet Reserve Assembly goals. The Project is not subject to the HANS or JPR processes.

Protection of Riparian/Riverine Areas and Vernal Pools and Associated Species (MSHCP Section 6.1.2)

Riparian/riverine areas are defined by the MSHCP as “lands which contain habitat dominated by trees, shrubs, persistent emergents, or emergent mosses and lichens, which occur close to or which depend upon soil moisture from a nearby fresh water source; or areas with freshwater flow during all or a portion of the year.” According to the Project DBESP Report (**Appendix C3**), NWW-1, NWW-1A, NWW-2, NWW-2A, NWW-2B, NWW-2C, NWW-3, NWW-3A, NWW-3B, and NWW-3B1 meet the MSHCP definition of riparian/riverine areas as they contain freshwater flow during “a portion of the year,” specifically after rain events.

Additionally, NWW-2A, NWW-3, NWW-3A, and NWW-3B support riparian habitat dominated by trees or shrubs “which occur close to or which depend upon soil moisture from a nearby fresh water source.” Specifically, NWW-2A, NWW-3, and NWW-3B support mulefat scrub; NWW-3 supports non-native riparian habitat that is dominated by the invasive tree-of-heaven; and NWW-3 and NWW-3A support blue elderberry stands. Therefore, the features which are described as CDFW-jurisdictional riparian habitat meet the definition of MSHCP riparian habitat.

Additionally, the mulefat scrub within and adjacent to NWW-3 and NWW-3B provide suitable habitat for least Bell’s vireo, an MSHCP riparian/riverine wildlife species. An individual male least Bell’s vireo was observed during the first two of eight protocol surveys foraging and moving frequently along the mulefat canopy of NWW-3. The lack of observations following the first two least Bell’s vireo surveys suggests that this bird was an early season migrant that did not establish a nesting territory within the Project area. No female vireo or active nests were detected during protocol surveys. The riparian/riverine features within

the Project site do not, however, support suitable habitat for southwestern willow flycatcher, or western yellow-billed cuckoo; these species prefer dense native riparian woodlands and forests which are absent from the Project site. Therefore, there is very low to no potential for southwestern willow flycatcher or western yellow-billed cuckoo to occur within the Project site, and no focused surveys for these species were conducted.

The Project would result in permanent, direct impacts on NWW-1, NWW-1A, NWW-2, NWW-2A, NWW-2B, NWW-2C, NWW-3B, NWW-3B1, and a small portion of NWW-3A. The Project applicant designed the proposed Project to avoid impacts on NWW-3, the primary and highest quality riparian/riverine resource within the project boundary, as well as a majority of NWW-3A (a tributary of NWW-3).

The 2.41 acres of on-site MSHCP riparian/riverine resources within the Project impact area provide minimal aquatic resource functions due to the highly disturbed nature of the property (e.g., regularly mowed, grazed, and farmed land) and historic degradation and runoff into the on-site aquatic features from previous on-site farming operations. Furthermore, the Project was designed to avoid impacts on NWW-3, the primary and highest quality riparian/riverine resource within the project boundary.

The purchase of re-establishment and/or rehabilitation credits and preservation of 4.82 acres of high-quality sensitive resources at the Riverpark Mitigation Bank to offset impacts to 2.41 acres of highly disturbed MSHCP riparian/riverine resources meet the criteria of a biologically equivalent or superior alternative. See **MM BIO-4**.

Protection of Narrow Endemic Plants (MSHCP Section 6.1.3)

Volume I, Section 6.1.3 of the MSHCP requires that within identified NEPSSA, site-specific focused surveys for Narrow Endemic Plant Species will be required for all public and private projects where appropriate soils and habitat are present.

The Project site is located within a NEPSSA, which identifies the target species Marvin's onion and many-stemmed dudleya. The Project site does not contain appropriate soils or suitable habitat for these species, and therefore the Project would not impact Narrow Endemic Plants. There will be no unavoidable direct or indirect impacts to narrow endemic plant species resulting from the Project.

The Project would be consistent with Volume I, Section 6.1.3 of the MSHCP.

Guidelines Pertaining to the Urban/Wildland Interface (MSHCP Section 6.1.4)

The MSHCP Urban/Wildland Interface Guidelines are intended to address indirect impacts associated with locating public and private developments in proximity to an MSHCP Conservation Area. The Project is not located in proximity to an MSHCP Conservation Area, and therefore the Urban/Wildland Guidelines do not apply to the Project.

Additional Survey Needs and Procedures (MSCHP Section 6.3.2)

Volume I, Section 6.3.2 of the MSHCP requires habitat assessments and focused surveys for projects located within the Criteria Area Plant Species Survey Areas, Burrowing Owl, Mammal, Amphibian, and

Invertebrate Survey Areas. The Project site is located with the MSHCP Burrowing Owl Survey Area, and NEPSSA for Marvin's onion and many-stemmed dudleya, but not the Criteria Area Plant Species Survey Areas, Mammal, Amphibian, or Invertebrate Survey Areas. The site does not support suitable habitat for Narrow Endemic Plant Species Marvin's onion or many-stemmed dudleya, and these species were not detected during 2021 surveys. A focused burrowing owl survey was conducted in 2021 and was negative; however, suitable habitat for this species occurs on the Project site. Pre-construction burrowing owl surveys would be required to comply with MSHCP Objective 6 for burrowing owls. With the implementation of this measure (**MM BIO-2**), the Project would be consistent with Volume I, Section 6.3.2 of the MSHCP.

Furthermore, as identified in the DBESP (**Appendix C3**):

- There would be no unavoidable direct or indirect impacts to CASSA plant species resulting from the Project.
- There would be no unavoidable direct or indirect impacts to burrowing owl with the Project.
- There would be no unavoidable direct or indirect impacts to MSHCP mammal species resulting from the Project.
- There would be no unavoidable direct or indirect impacts to MSHCP amphibian species resulting from the Project.
- There would be no unavoidable direct or indirect impacts to Delhi Sands flower-loving fly resulting from the Project.

The Project is consistent with MSHCP Section 6.3.2.

Conclusion of MSHCP Consistency

The Project would be consistent with the biological requirements of Section 6.1.2 (Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools), Section 6.1.3 (Protection of Narrow Endemic Plant Species), Section 6.1.4 (Guidelines Pertaining to the Urban/Wildlands Interface), Section 6.3.2 (Additional Survey Needs and Procedures), and MSHCP Reserve assembly requirements. The Project would be consistent with the goals/objectives of the MSHCP with the implementation of the proposed mitigation and avoidance measures described in this analysis.

In addition, implementation of the Project would require payment of MSHCP Local Development Mitigation Fees. Based on the local development mitigation fee schedule for fiscal year 2022 (effective July 1, 2021 – December 31, 2021), fees would be \$11,982/acre for commercial and industrial development and \$2,935/acre for low-density residential.

Mitigation Measures

MMs BIO-2 and BIO-4.

Level of Significance

Less than significant impact.

4.3.6 Cumulative Impacts

Cumulative impacts are defined as the direct and indirect effects of a proposed project which, when considered alone, would not be deemed a substantial impact, but when considered in addition to the impacts of related projects in the area, would be considered potentially significant. 'Related projects' refers to past, present, and reasonably foreseeable probable future projects, which would have similar impacts to the Project. There is a related project located directly north (across Cherry Valley Boulevard) of the Project site that has recently been graded in preparation of the development of industrial land uses. In addition, areas to the west and south of the Project site are developed. Development of the Project site and the surrounding existing and future development precludes the area as a wildlife corridor and eliminates the potential for impacts to go beyond the Project site.

The Project site is relatively disturbed and does not support significant stands of native vegetation, with the possible exception of the riparian habitat in the southwestern portion of the site which would remain undeveloped. Further, the Project would be fully compliant with the regional MSHCP which protects biological resources regionally such that cumulative impacts within the plan area are avoided. As such, the Project would not result in significant cumulative effects.

4.3.7 Significant Unavoidable Impacts

No significant unavoidable biological resources impacts have been identified.

4.3.8 References

City of Beaumont. 2020. *Beaumont General Plan*.

https://www.beaumontca.gov/DocumentCenter/View/36923/Beaumont-GPU_Final-rev-22521.

City of Beaumont. 2020. *Draft Program Environmental Impact Report, Beaumont General Plan, SCH No. 2018031022*. <https://www.beaumontca.gov/DocumentCenter/View/36627/DEIR-090720>.

City of Beaumont. ND. *Application for Tree Removal*.

<http://beaumontca.gov/DocumentCenter/View/30576/Tree-Removal-Application>.

RBC. November 2021. *Beaumont Summit Station Aquatic Resources Delineation Report*.

RBC. February 2022. *Beaumont Summit Station Project Biological Resources and MSCHP Consistency Report*.

RBC. February 2022. *Beaumont Summit Station Project DBESP Report*.

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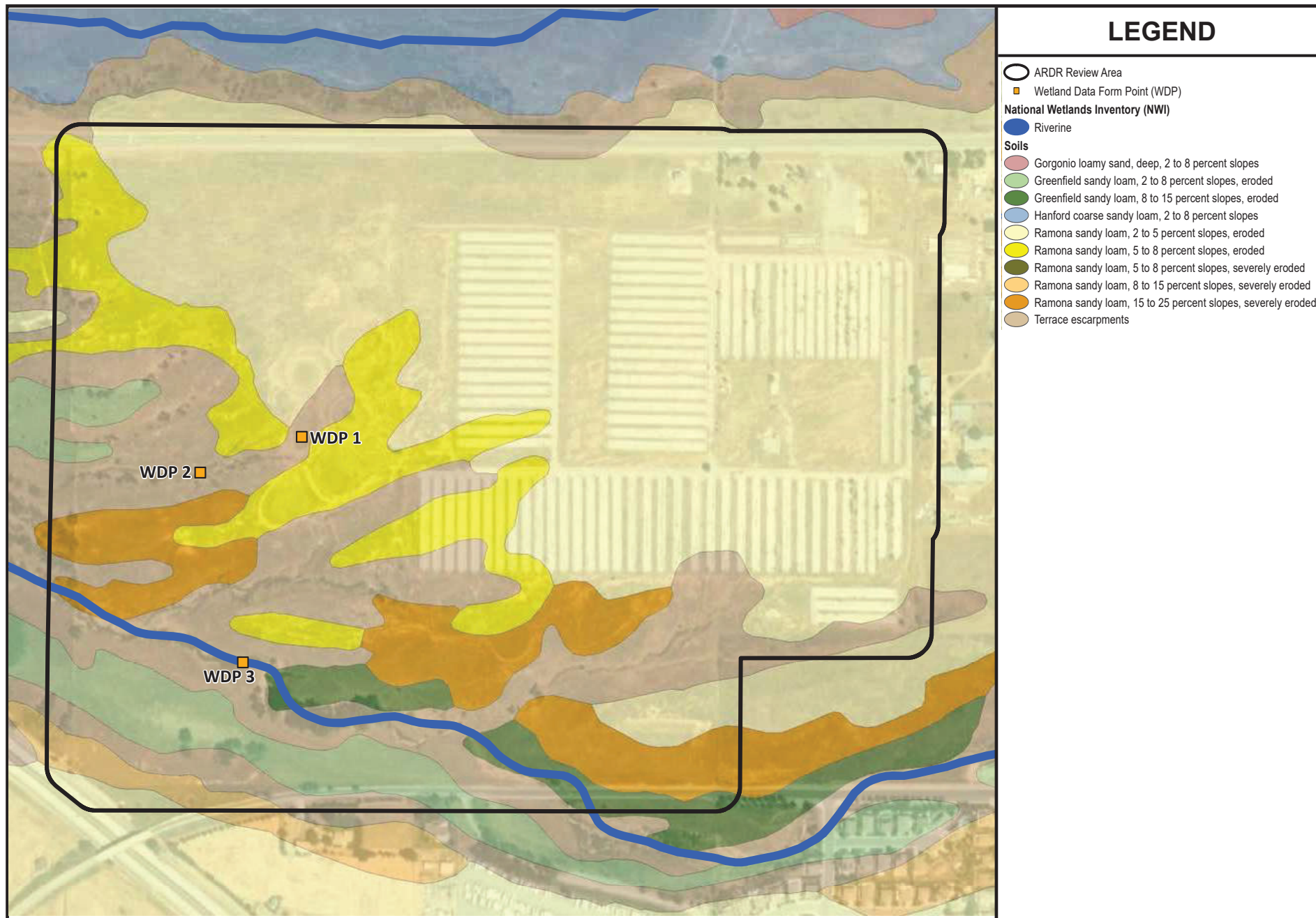


Exhibit 4.3-1: NRCS Soils Survey Data and NWI
 Beaumont Summit Station Specific Plan EIR
 City of Beaumont



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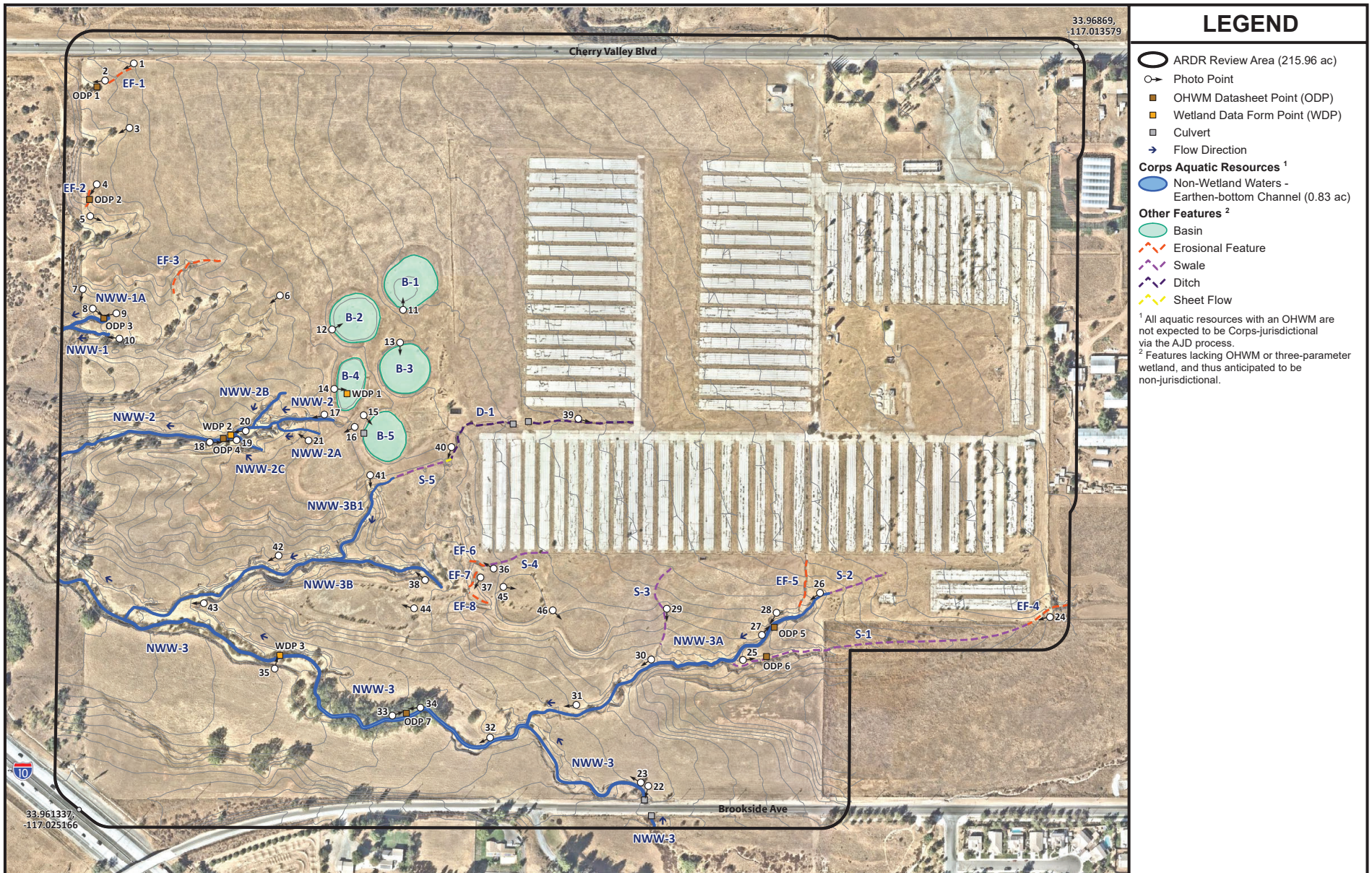


Exhibit 4.3-2: Corps Aquatic Resources
 Beaumont Summit Station Specific Plan EIR
 City of Beaumont



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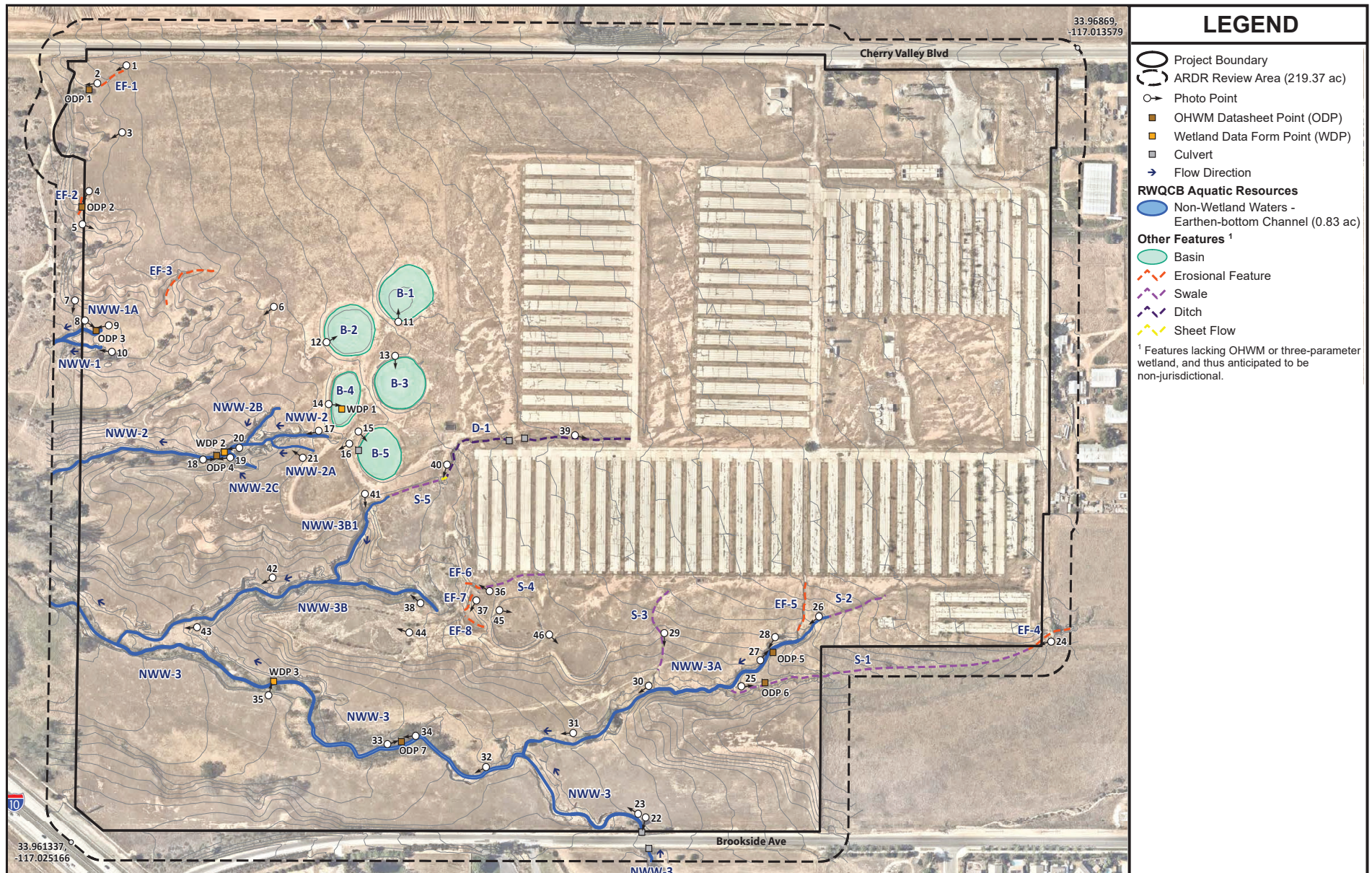


Exhibit 4.3-3: RWQCB Aquatic Resources
 Beaumont Summit Station Specific Plan EIR
 City of Beaumont



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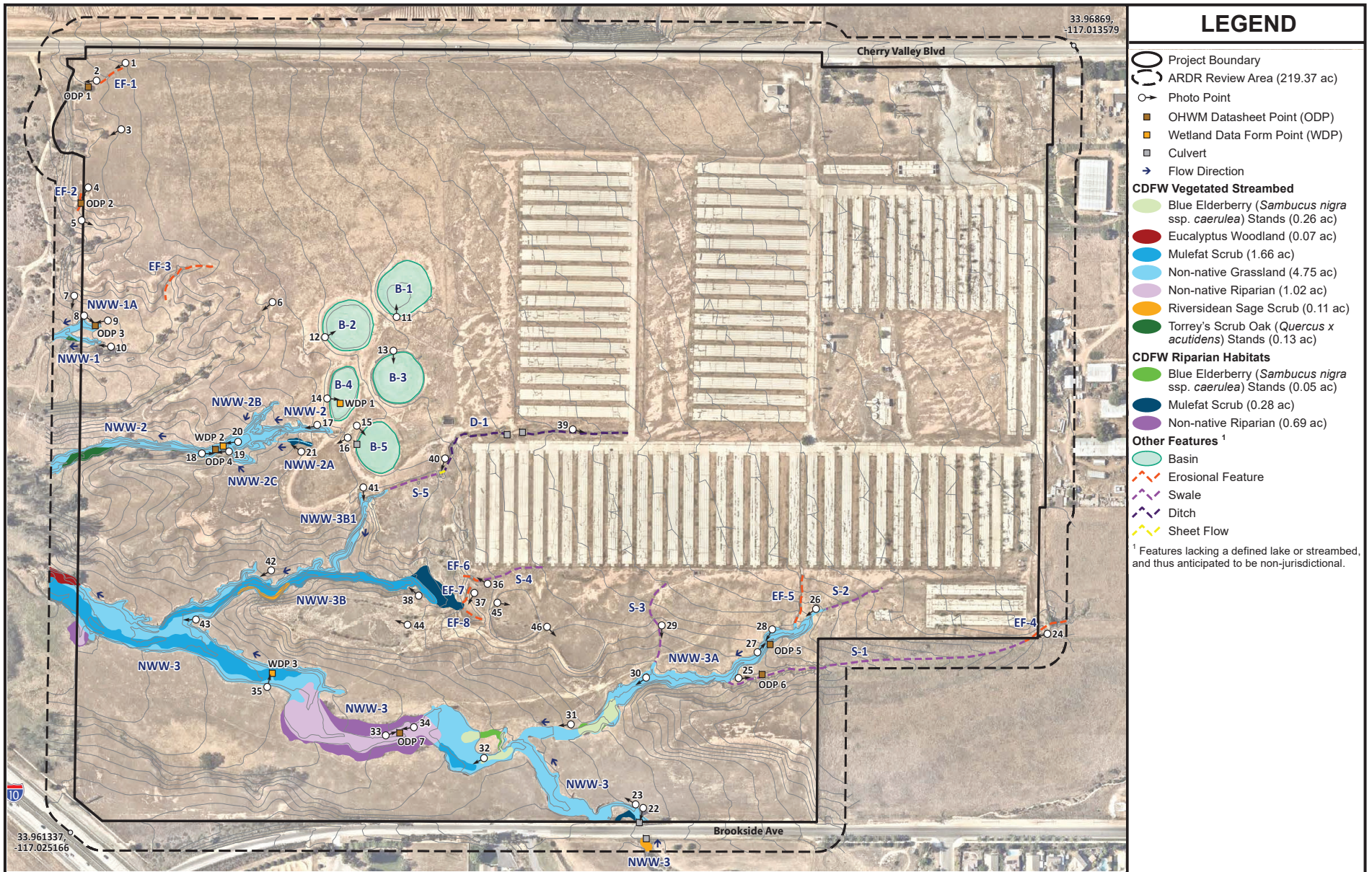


Exhibit 4.3-4: CDFW Streambed and Riparian Habitats
 Beaumont Summit Station Specific Plan EIR
 City of Beaumont



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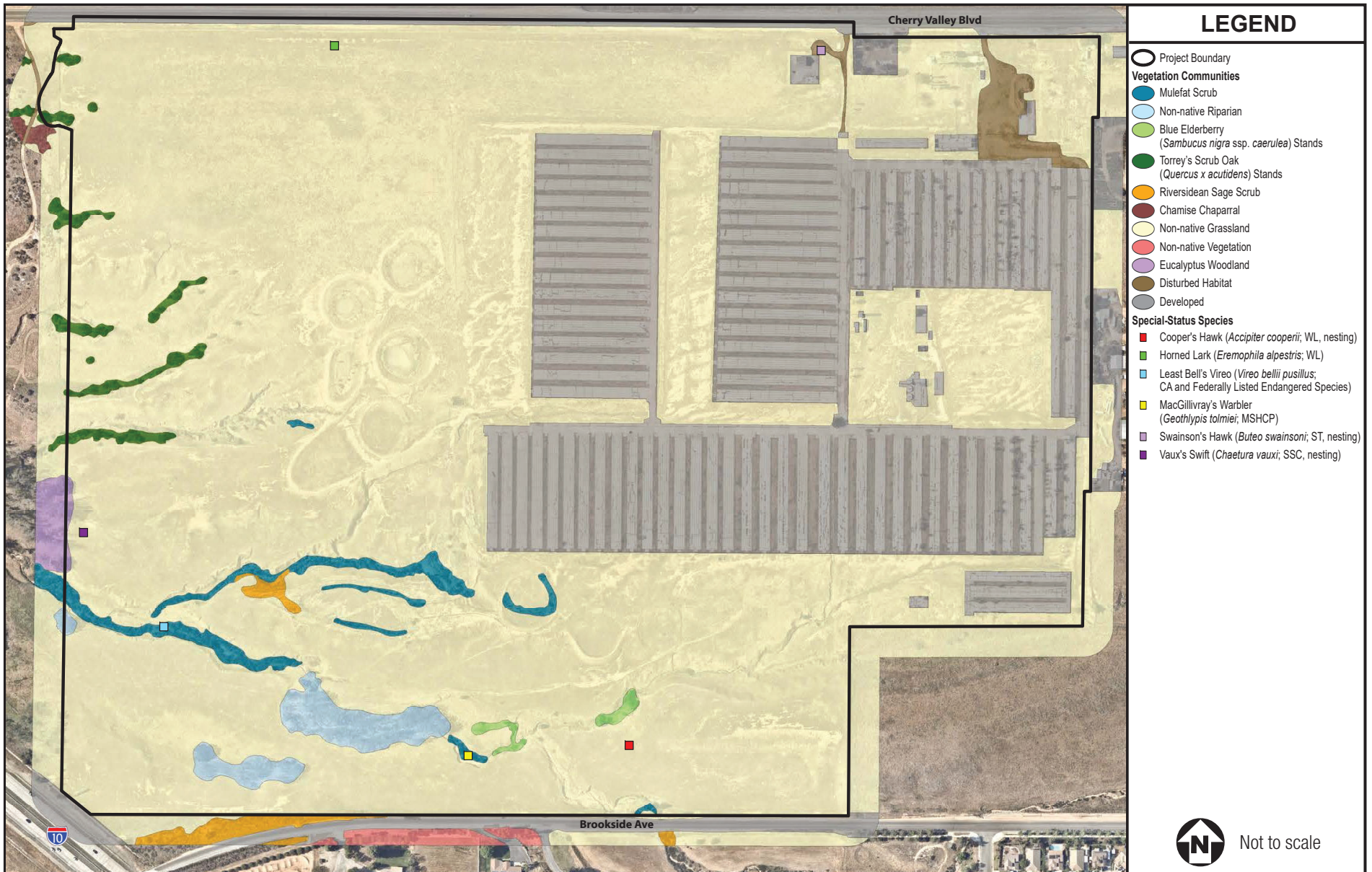


Exhibit 4.3-5: Biological Resources
 Beaumont Summit Station Specific Plan EIR
 City of Beaumont



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