

**ATTACHMENT B – ENVIRONMENTAL
FINDINGS AND
DOCUMENTATION**



County of San Diego

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March 2024

Environmental Review Update Checklist Form For Projects with Previously Approved Environmental Documents

FOR PURPOSES OF CONSIDERATION OF OTAY MAJESTIC PROJECT

PDS2022-SPA-22-001, PDS2023-VTM-5651, PDS2023-STP-23-00.7PDS2022-ER-98-19-013I

The California Environmental Quality Act (CEQA) Guidelines Sections 15162 through 15164 set forth the criteria for determining what additional environmental documentation, if any, must be completed when a previously certified environmental impact report (EIR) covers the project for which a subsequent discretionary action (or actions) is required. This Environmental Review Update Checklist Form has been prepared in accordance with CEQA Guidelines Section 15164(e) to explain the rationale for determining whether any additional environmental documentation is needed for the subject discretionary action(s).

1. Background on previously certified EIR, Supplemental EIRs, and Addenda pertaining to the Project:

EAST OTAY MESA BUSINESS PARK SPECIFIC PLAN EIR (1994 EIR)

A Final EIR for the East Otay Mesa Business Park Specific Plan (EOMBPSP) (SP 93-004, Log. No. 93-19-06) having State Clearinghouse No. 92101099 was certified by the San Diego County Board of Supervisors on July 17, 1994 ("1994 EIR"). As originally approved, the East Otay Mesa Business Park Specific Plan, which was evaluated by the 1994 EIR, is a mixed-use project including industrial, commercial, fire/police services, transit, and residential uses on a 3,300-acre area of southern San Diego county. The certified Final 1994 EIR evaluated the East Otay Mesa Business Park Specific Plan that proposed 2,359 acres of industrial uses, 154 acres of commercial uses, fire/police services, road right-of-way, a transit station totaling approximately 32 acres, and 753 acres of hillside residential uses.

The 1994 EIR found effects to Land Use, Landform Alteration/Visual Quality, Cultural Resources, Geology and Soils, Hydrology and Water Quality, Transportation and Circulation, Air Quality, Health and Safety, Public Services and Utilities, and Population/Housing/ Employment would be significant without mitigation. Mitigation measures were identified to reduce these effects to a level below significance. Additionally, the 1994 EIR found significant and unmitigable impacts to Biological Resources and Noise. A Statement of Overriding Considerations was made in approving the East Otay Mesa Business Park Specific Plan.

In the years since the certification of the original 1994 EIR, two addenda and two Supplemental EIRs have been processed and approved by the County for projects located within the East Otay Mesa Business Park Specific Plan area, including the 253.1 acres that make up the Project site area.

The term “Project” refers to the area subject to the requested entitlements. The Project includes an Amendment to the East Otay Mesa Business Park Specific Plan, Vesting Tentative Map, and Site Plan to allow the development of up to 2,850,000 s.f. of Class A industrial buildings within 12 structures on an approximately 253.1-acre site. A detailed description of the proposed Project is included in the response to question 5 below. It should be noted that as part of this Project, the project evaluated in the 2018 SEIR would be withdrawn and the current Project returns to the previously-approved industrial uses contemplated in all of the CEQA documents prepared before the 2018 SEIR.

Table 1, *Prior Environmental Documents Prepared for the EOMBSP and Project Site*, provides a list of the various environmental documents that have specific application to the Project evaluated herein as they pertain to the Project site and/or the evaluation of environmental impacts associated with the Project, and are described below.

EAST OTAY MESA SPECIFIC PLAN SUNROAD CENTRUM SUPPLEMENTAL EIR (2000 SEIR)

A Supplemental EIR (SEIR) for the Sunroad Otay Industrial Subdivision (TM 5139-RPL6, Log No. 9101099) having State Clearinghouse No. 92101099 was certified by the San Diego County Planning Commission on December 15, 2000. The project evaluated therein covered proposed implementing development on approximately 250.5 acres in the northwest quadrant of the East Otay Mesa Business Park Specific Plan area. The project included 96 industrial lots with a minimum lot area of one- acre, 22 commercial lots on 34.4 acres, and a 51.7-acre biological open space area north of the future Lone Star Road. The associated traffic study assumed that industrial uses would generate 100 trips per acre and commercial uses would generate 500 trips per acre, for a total of 26,780 average daily trips (ADT). Water was to be provided by the Otay Water District and sewer from the East Otay Mesa (EOM) Sewer Maintenance District. Fire protection and emergency services to 210.5 acres of the total area were to be provided by the Rural Fire Protection District. The remaining 40 acres were conditioned to provide evidence of adequate fire protection and emergency medical services. Off-site improvements to Otay Mesa Road in the City of San Diego were required as traffic mitigation. The project included a Minor Amendment to the San Diego County Multiple Species Conservation Program and proposed conservation of sensitive vernal pool and coastal sage scrub/native grassland habitats north of

Lone Star Road and an isolated wetland/vernal pool on one of the industrial lots south of Lone Star Road. The certified 2000 SEIR found that the project would cause significant impacts to Land Use, Biological Resources, Cultural Resources, Transportation/Circulation, and Air Quality. Impacts to Biological Resources and Cultural Resources were lowered to a level below significance following the implementation of mitigation measures, while impacts to Transportation/Circulation and Air Quality required a Statement of Overriding Considerations for significant and unmitigable impacts.

REVISED TENTATIVE MAP TM5319-RPL6R EIR ADDENDUM (2003 ADDENDUM)

On April 11, 2003, an Addendum to the previously certified 1994 EIR and certified 2000 SEIR was approved by the Planning Commission for the Revised Sunroad Otay Project (TM5139-RPL6R, Log No. ER 98-19-013A). The project included a revised subdivision map covering 253.1 acres that reduced the number of industrial lots from 96 to 56 by increasing the size of each lot over the same development footprint previously analyzed. The primary map change involved the incorporation of a revised street network, which was approved as part of the project's East Otay Mesa Business Park Specific Plan Amendment (SPA 00-005; GPA 02-CE1, ER 93-19-006). Grading quantities increased from 1,350,000 to 1,450,000 cubic yards but were expected to balance on the site as previously evaluated. In addition, the project included a subdivision map (Tentative Map; TM5139-RPL6R) that divided the property into six units as opposed to the five units defined in the previously approved version of the project. Minor changes in the proposed elevation of Lone Star Road improved the adequacy of the open space easement required to protect one vernal pool located north of the road and one isolated pool south of the road, with the open space easement south of Lone Star Road increasing in size. The deletion of certain road improvement requirements as part of the project resulted in an increased development potential and increased projected traffic volume. No new significant effects were identified; however, a Minor Amendment to the Multiple Species Conservation Program was processed and approved and biological mitigation measures were modified. All other aspects of the project remained the same. After the approval of the revised Tentative Map, the open space lot was recorded (Map 14733) and dedicated as open space.

SUNROAD OTAY TECH CENTRE (2012 ADDENDUM)

On March 9, 2012, an Addendum to the previously certified 1994 EIR and 2000 SEIR was approved by the Planning Commission for the Sunroad Otay Tech Centre Project, which consisted of a revised subdivision map (Tentative Map; TM5538) covering approximately 253.1 acres. The revised map reduced the number of lots from 56 to 52 lots, with one lot dedicated to stormwater detention, one lot dedicated for a sewer pump station, and one open space lot. The open space lot was 51.3 acres and an additional 0.41-acre open space easement crossed another lot. The industrial lots were assumed to be developed with technology business park uses, which allows for logistics and e-commerce uses, with 28 acres having a commercial overlay subject to the regulations defined in the Specific Plan. Additionally, the revised Tentative Map divided the site into five units as opposed to the six units previously approved in 2003. The road network for the project was changed to conform with the then-current version of the County's General Plan Circulation Element and the East Otay Mesa Business Park Specific Plan. Grading quantities increased to 1,700,000 cubic yards from 1,450,000 cubic yards but earthwork was expected to

balance on the site as was previously evaluated. The associated traffic report assumed that technology park uses would generate 120 trips per acre and commercial uses would generate 700 trips per acre. The project's expected traffic volume was thus calculated to increase to 30,566 ADT from 26,780 ADT. All other aspects of the project remained the same. No new significant environmental effects were identified.

OTAY 250 SUNROAD EAST OTAY MESA BUSINESS PARK GENERAL PLAN AMENDMENT AND SPECIFIC PLAN AMENDMENT (2018 SEIR)

On July 25, 2018, a Supplemental EIR for the Otay 250 Sunroad East Otay Mesa Business Park Specific Plan Amendment (SPA-15-001, Log No. PDS2015-ER-15-98-190-13G) having State Clearinghouse No. 2016031028 was certified by the County Board of Supervisors. The 2018 SEIR evaluated proposed changes to the previously approved Specific Plan, which included the establishment of a new Mixed-Use Village Core area within the Specific Plan area that allowed for the construction of a mix of employment, retail, and residential uses. The project covered the same 253.1 acres previously analyzed in the documents identified above with the addition of an off-site and adjacent sewer line connection improvement. The project included maximum entitlement for 3,158 residential dwelling units, 78,000 square feet (s.f.) of general commercial uses, 765,000 s.f. of employment uses, and 51.3 acres of permanent biological open space conservation. The associated traffic study assumed that residential units would generate 8 trips per unit, that technology park uses would generate 120 trips per acre, that specialty retail would generate 120 trips per acre, and that neighborhood commercial would generate 960 trips per acre, for a total of 34,124 ADT. The certified 2018 SEIR found that the project would cause significant impacts related to Air Quality, Biological Resources, Cultural Resources, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Noise, Paleontological Resources, and Traffic/Transportation. Impacts to Air Quality required a Statement of Overriding Considerations for significant and unmitigable impacts, while all other impacts were found to be less than significant following mitigation. It should be noted that on March 24, 2023, a Tentative Map Time Extension (PDS2022-TM-5607RTE) was approved for the Tentative Map associated with the 2018 SEIR project.

The aforementioned documents are on file at the offices of the County Department of Planning & Development Services (PDS).

Table 1 Summary of Prior Environmental Documents Prepared for the EOMBSPS and Project Site

Environmental Document	Date Certified/ Approved	Description	Comments
East Otay Mesa Business Park Specific Plan EIR (SP 93-004)	July 27, 1994	The project covered 3,300 acres and entailed 2,359 acres of industrial uses, 154 acres of commercial uses, fire/police services, road right-of-way, a transit station totaling approximately 32 acres, and 753 acres of hillside residential uses.	Includes analysis and mitigation measures applicable to the Project. The mitigation measures were superseded in 2000 and 2018 by

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		<p>The certified EIR found significant and mitigated effects to Land Use, Landform Alteration/Visual Quality, Cultural Resources, Geology and Soils, Hydrology and Water Quality, Transportation and Circulation, Air Quality, Health and Safety, Public Services and Utilities, and Population/Housing/Employment. These effects were determined to be mitigated or avoided to a level below significance. Additionally, the certified EIR found significant and unmitigable impacts to Biological Resources and Noise, requiring a Statement of Overriding Considerations.</p>	Supplemental EIRs, as well as current policies and standards.
Supplemental EIR for Sunroad Otay Industrial Subdivision (TM 5139RPL)	December 15, 2000	<p>The implementing project covering 250 acres of the Specific Plan area entailed 96 one-acre minimum industrial lots and a 51.7-acre biological open space lot.</p> <p>The 2000 SEIR found that the project would cause significant effects to Land Use, Biological Resources, Cultural Resources, Transportation/Circulation, and Air Quality. Impacts to Traffic and Air Quality required a Statement of Overriding Considerations for significant and unmitigable impacts. Off-site improvements to Otay Mesa Road in the City of San Diego were required as traffic mitigation. The other effects were avoided or mitigated to a level below significance.</p>	Includes analysis and mitigation measures applicable to the revised Project.
Addendum to the 1994 EIR and 2000 SEIR for the Sunroad Otay Industrial Subdivision (TM 5139RPL6R)	April 11, 2003	<p>The revised project covering 253.1 acres reduced the number of industrial lots from 96 to 56 lots by increasing the size of each lot over the same development footprint previously approved. The revised project also included a revised street network, revised grading quantities, revised biological mitigation measures, and revised subdivision map.</p> <p>No new significant effects were identified; however, a Minor Amendment to the Multiple Species</p>	Includes analysis and revised biological mitigation measures applicable to the revised Project.

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		Conservation Program was processed and approved.	
Addendum to the 1994 EIR and 2000 SEIR for the Sunroad Otay Tech Centre Project (TM5538).	March 9, 2012	<p>The revised project covering 253.1 acres reduced the number of industrial lots from 56 to 52 lots, with one lot dedicated to stormwater detention, one lot dedicated for a sewer pump station, and one open space lot. Open space was defined in a 51.3-acre open space lot and 0.41-acre open space easement. The revised project also revised the road network, revised grading quantities, and revised the expected traffic volume to 30,566 ADT from 26,780 ADT.</p> <p>No new significant environmental effects were identified.</p>	No new impacts or mitigation measures were identified.
Supplemental EIR for the Otay 250 Sunroad East Otay Mesa Business Park Specific Plan Amendment (SPA-15-001)	July 25, 2018	<p>The revised project covering 251.3 acres amended the East Otay Mesa Business Park Specific Plan to include a new Mixed-Use Village Core area allowing 3,158 residential dwelling units, 78,000 s.f. of general commercial uses, 765,000 s.f. of employment uses, and 51.3 acres of permanent biological open space conservation.</p> <p>The 2018 SEIR found that the project would cause significant impacts to Air Quality, Biological Resources, Cultural Resources, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Noise, Paleontological Resources, and Traffic/Transportation. Impacts to Air Quality required a Statement of Overriding Considerations for significant and unmitigable impacts, while all other impacts were found to be less than significant following mitigation.</p>	Includes analysis and mitigation measures applicable to the revised Project.

APPLICABILITY OF PREVIOUS DOCUMENTS IN THIS EIR ADDENDUM

This EIR Addendum relies on the analysis from the above-listed 1994 EIR, 2000 SEIR, 2003 and 2012 EIR Addenda, and 2018 SEIR. The Project entails a proposal to implement light industrial land uses on the portions of the site designated for development and consistent with the light industrial land use designation previously approved for the site in the East Otay Mesa Business Park Specific Plan and evaluated in the 1994 EIR, 2000 SEIR, 2003 EIR Addendum, and 2012 EIR Addendum. Thus, for the discussion and comparative analysis of environmental impacts related to the topics of land use and operation of the land uses, this Addendum primarily tiers from the original 1994 EIR, 2000 SEIR, 2003 Addendum, and 2012 Addendum. The most recent evaluations of on-site physical conditions and impacts occurred as part of the 2018 SEIR which evaluated the site for development of mixed-use development within the same (and greater) physical impact footprint as the Project. Thus, it is appropriate for the discussion and analysis in this EIR Addendum to primarily tier from the 2018 SEIR for the evaluation of physical ground-disturbing impacts (the Project would physically disturb approximately 8.0 fewer on-site acres than the approved project analyzed in the 2018 SEIR and add an off-site sewer connection, resulting in a net reduction in physical disturbance area.) Each environmental topic evaluated in this Addendum discloses the appropriate previous CEQA compliance document(s) for comparative analysis and provides a summary of the conclusions in the previously approved CEQA document(s) as appropriate. A summary of the mitigation measures from the previously approved CEQA documents that are applicable to the Project is included as Attachment E. The 1994 EIR, 2000 SEIR, 2003 and 2012 EIR Addenda and 2018 SEIR are incorporated by reference to this document.

2. Lead Agency Name and Address

County of San Diego, Planning and Development Services
5510 Overland Avenue
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- a. Contact: Greg Mattson, AICP, Project Manager (Contract Planner)
- b. Phone Number: (619) 895-7177
- c. E-mail: Gregory.Mattson@sdcounty.ca.gov

3. Project Applicant's name and address

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8620 Spectrum Center Blvd., Suite 1100
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- a. Contact: Tom Simmons
- b. Phone Number: (562) 948-4347
- c. E-Mail: tsimmons@majesticrealty.com

4. Summary of the activities authorized by present permit/entitlement applications

The most recent entitlement for the Project site, approved in 2018, established a mixed-use land use designation for the approximately 253.1-acre Project site within the larger East Otay Mesa Business Park Specific Plan Area. The most recent entitlement designates seven planning areas: four mixed-use planning areas, two technology business park planning areas, and one open space planning area. The mixed-use designation permits civic and commercial uses, including light industrial uses, as well as residential uses. This most recent entitlement allows for up to 3,158 residential dwelling units, 78,000 s.f. of commercial space, and 765,000 s.f. of employment uses.

Prior to 2018, the previously approved entitlement for the site, approved in 2012 (TM5538), allowed for development of the Project site with 52 industrial lots with 27.3 acres of those lots having a commercial overlay, with one lot dedicated to stormwater detention, one lot dedicated for a sewer pump station, and one open space lot consisting of 51.3 acres north of the future Lone Star Road.

5. Does the Project for which a subsequent discretionary action is now proposed differ in any way from the previously approved project?

The Project entails a proposed Amendment to the East Otay Mesa Business Park Specific Plan to remove the most recent, previously-approved “Mixed-Use-Residential Emphasis” land use designation on the Project site and replace it with a “Light Industrial” land use designation.

As shown in Attachment A, Regional Location Map, the Project site consists of approximately 253.1 gross acres in the East Otay Mesa area of San Diego county and is currently undeveloped. The Project site was designated for light industrial development and open space conservation from 1994 to 2018 and redesignated for mixed use development with a residential emphasis and open space conservation from 2018 to present day. Approval of the Project would retain the approved 51.3-acre open space conservation area but change the mixed-use land use designation for the developable portion of the site back to light industrial, as it was designated from 1994 to 2018.

Approval of the Project would allow for up to 2,850,000 s.f. of Class A industrial buildings (Parcels 1 to 12) and roads spread out over five phases. The Project would include approximately 51.3 acres of permanently conserved biological open space at the northeastern corner of the site (Parcel D) northeast of Lone Star Road, and a combination of permanently conserved open space and manufactured slope on 13.1 acres (Parcels A, B, and C) southwest of the future intersection of Lone Star Road and Zinser Road. Compared to the prior 2018 entitlement, natural open space conservation on the site would increase by approximately 8.0 acres. The Project’s internal street pattern would match the existing grid pattern of the surrounding area. The Project would require the extension of utility lines including water, sewer, electric, and gas. Water would be provided by Otay Water District, sewer by San Diego County Sanitation District, and gas and electric service would be provided by San Diego Gas & Electric. Police protection services would be provided by the County of San Diego Sheriff’s Department and fire protection services would be provided by the San Diego County Fire Protection District which works in collaboration with the California Department of Forestry and Fire Protection (CalFire).

The Project would require land use and zoning changes to the approved East Otay Mesa Business Park Specific Plan, as shown in Attachment B, Project Specific Plan Amendment. The Project's Specific Plan Amendment (SPA) would designate the majority of the site for "Light Industrial" land uses, which would replace the current land use designation of "Mixed Use – Residential Emphasis." The "Conservation/Limited Use" designation for open space conservation purposes would not change. Additionally, the SPA proposes a grid-oriented street pattern that differs from the curvilinear street pattern approved as part of the previous 2018 entitlements.

The Project also includes site-specific development applications to allow for the development of buildings and associated improvements on the portions of the site designated for light industrial development, in addition to an off-site sewer connection. Thus, the Project includes a Vesting Tentative Map (No. 5156), shown in Attachment C, Project Vesting Tentative Map, to subdivide the site into 12 numbered parcels and four lettered parcels (16 total parcels) and a Site Plan, shown in Attachment D, Project Site Plan, for the proposed development of 12 buildings ranging in size from approximately 145,607 s.f. to 291,020 s.f. Based on the design characteristics of the buildings, they are reasonably expected to be occupied by general warehousing and high-cube transload and short-term warehouse uses, consistent with the Specific Plan's light industrial land use designation, to be used in part, as part of international goods movement given the site's close proximity to the U.S./Mexico border.

6. SUBJECT AREAS DETERMINED TO HAVE NEW OR SUBSTANTIALLY MORE SEVERE SIGNIFICANT ENVIRONMENTAL EFFECTS COMPARED TO THOSE IDENTIFIED IN THE PREVIOUS ND OR EIR.

The subject areas checked below were determined to be new significant environmental effects or to be previously identified effects that have a substantial increase in severity either due to a change in project, change in circumstances or new information of substantial importance, as indicated by the checklist and discussion on the following pages.

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> NONE | | |
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture and Forest Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Energy |
| <input type="checkbox"/> Geology and Soils | <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards and Hazardous Materials |
| <input type="checkbox"/> Hydrology and Water Quality | <input type="checkbox"/> Land Use and Planning | <input type="checkbox"/> Mineral Resources |
| <input type="checkbox"/> Noise | <input type="checkbox"/> Population/Housing | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation | <input type="checkbox"/> Tribal Cultural Resources |
| <input type="checkbox"/> Utilities and Service Systems | <input type="checkbox"/> Wildfire | <input type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION:

On the basis of this analysis, Planning & Development Services has determined that:

- ☒ No substantial changes are proposed in the project and there are no substantial changes in the circumstances under which the project will be undertaken that will require major

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- revisions to the previous EIR or MND due to the involvement of significant new environmental effects or a substantial increase in the severity of previously identified significant effects. Also, there is no "new information of substantial importance" as that term is used in CEQA Guidelines Section 15162(a)(3). Therefore, the previously certified EIR is adequate upon completion of an ADDENDUM.
- ☐ No substantial changes are proposed in the project and there are no substantial changes in the circumstances under which the project will be undertaken that will require major revisions to the previous EIR or ND due to the involvement of significant new environmental effects or a substantial increase in the severity of previously identified significant effects. Also, there is no "new information of substantial importance" as that term is used in CEQA Guidelines Section 15162(a)(3). Therefore, because the project is a residential project in conformance with, and pursuant to, a Specific Plan with an EIR completed after January 1, 1980, the project is exempt pursuant to CEQA Guidelines Section 15182.
- ☐ Substantial changes are proposed in the project or there are substantial changes in the circumstances under which the project will be undertaken that will require major revisions to the previous ND due to the involvement of significant new environmental effects or a substantial increase in the severity of previously identified significant effects. Or, there is "new information of substantial importance," as that term is used in CEQA Guidelines Section 15162(a)(3). However, all new significant environmental effects or a substantial increase in severity of previously identified significant effects are clearly avoidable through the incorporation of mitigation measures agreed to by the project applicant. Therefore, a SUBSEQUENT ND is required.
- ☐ Substantial changes are proposed in the project or there are substantial changes in the circumstances under which the project will be undertaken that will require major revisions to the previous ND or EIR due to the involvement of significant new environmental effects or a substantial increase in the severity of previously identified significant effects. Or, there is "new information of substantial importance," as that term is used in CEQA Guidelines Section 15162(a)(3). Therefore, a SUBSEQUENT or SUPPLEMENTAL EIR is required.



Signature

Greg Mattson

Printed Name

March 5, 2024

Date

Project Manager

Title

INTRODUCTION

CEQA Guidelines Sections 15162 through 15164 set forth the criteria for determining the appropriate additional environmental documentation, if any, to be completed when there is a previously adopted ND or a previously certified EIR for the project.

CEQA Guidelines, Section 15162(a) and 15163 state that when an EIR has been certified or a ND has been adopted for a project, no Subsequent or Supplemental EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous EIR or Negative Declaration;
 - b. Significant effects previously examined will be substantially more severe than shown in the previously certified EIR;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

CEQA Guidelines, Section 15164(a) states that the lead agency or responsible agency shall prepare an Addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a Subsequent EIR have occurred. If the factors listed in CEQA Guidelines Sections 15162, 15163, or 15164 have not occurred or are not met, no changes to the previously certified EIR or previously adopted ND are necessary.

The following responses detail any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that may cause one or more effects to environmental resources. The responses support the "Determination," above, as to the type of environmental documentation required, if any.

ENVIRONMENTAL REVIEW CHECKLIST UPDATE

- I. **AESTHETICS** – Since the previous EIR was certified, are there any changes in the project, changes in circumstances under which the project is undertaken, and/or “new information of substantial importance” that cause one or more effects to aesthetic resources including: scenic vistas; scenic resources including, but not limited to, trees, rock outcroppings, or historic buildings within a state scenic highway; existing visual character or quality of the site and its surroundings; or day or nighttime views in the area?

YES NO

☐☒

The 1994 EIR includes an analysis of landform alteration impacts as they relate to visual quality. In addressing landform alteration and visual quality impacts, the 1994 EIR relied on County policies in effect at that time for determining significance, including the Hillside Review Policy (I-73) and the Resource Protection Ordinance. Additionally, the 1994 EIR referenced the County’s Resources Conservation Area (RCA) program for developing policies to preserve resources in the East Otay Mesa area, and the County Scenic Highway Element for scenic highway designation.

Based on the 1994 EIR, buildout of the Specific Plan area would result in developing the flatter portions of the Specific Plan area to accommodate construction of the planned industrial and commercial uses, as well as two major highways and a network of surface streets. The 1994 EIR identified a number of potential impacts to landform alteration/visual quality for projects located within the Specific Plan Area as a whole and concluded that, for the most part, no significant landform alteration impacts would occur for areas of the Specific Plan where industrial uses are planned. However, where industrial development is planned in the vicinity of Johnson Canyon that could involve placing fill within the canyon, significant landform alteration impacts were identified to occur. Additionally, the 1994 EIR concluded significant landform alteration impacts associated with residential development in the Hillside Residential areas of the Specific Plan. The 1994 EIR included aesthetics mitigation measures that applied to residential development.

Relative to visual resources, the 1994 EIR identified sensitive visual receptors for development areas within the Specific Plan area as existing residents, future residents, and travelers on proposed scenic routes (i.e., SR-125 and SR-905). The 1994 EIR concluded that impacts to residents would be considered less than significant, because the Otay Mesa area is already developing with industrial and institutional uses in the area, and the East Otay Mesa Business Park Specific Plan, which allowed building heights of up to 150 feet, would be consistent with on-going development. For the major scenic resources of the area – the Otay River Valley and the San Ysidro Mountains – the 1994 EIR evaluated the potential for development within the Specific Plan area to affect views but determined that planned development within the East Otay Mesa Business Park Specific Plan area would not detract from the aesthetic qualities and dominance that the San Ysidro Mountains provide for the area. Relative to scenic highways, no officially designated State scenic highways were located in the area at the time the 1994 EIR was certified, and no State scenic highway is currently designated in the area. The 1994 EIR determined that routes in the area could be designated in the future and that sufficient measures were provided

in the Specific Plan's requirements to ensure that impacts to scenic highways would not be anticipated.

The environmental initial study prepared for the certified 2000 SEIR, which evaluated the Sunroad Otay Industrial Subdivision project, as well as the associated 2003 and 2012 Addenda, found that impacts to aesthetics resulting from implementing industrial development and the conservation of 51.3 acres of open space on the 253.1-acre Project site would be less than significant, which is the same conclusion reached by the 1994 EIR. The 2000 SEIR and its associated 2003 and 2012 Addenda did not note any changes to the existing on-site conditions, impacts, or mitigation measures different from those evaluated in the 1994 EIR.

Similarly, the 2018 SEIR concluded that although the 2018 entitlements introduced a residential use type to the Specific Plan area, site planning standards relative to intensity and bulk regulations would remain consistent with what was previously approved, including maximum building heights allowed for uses within the mixed-use village core up to 75 feet tall. The 2018 SEIR found that the previously approved project to be consistent with the less-than-significant finding disclosed in the 1994 EIR.

Similar to the previously approved 1994, 2000, 2003, and 2012 entitlements for the Project site, the Project site is proposed to be designated for light industrial and open space conservation land uses. The Project's physical impact footprint is approximately 8.0 acres less than analyzed for the previously approved projects for the site and the Project would not result in any significant and adverse impacts to scenic landforms or visual resources. Additionally, developing 12 buildings on the Project site ranging from approximately 145,607 s.f. to 291,020 s.f. would not result in any new or greater impacts to aesthetics than previously analyzed. The proposed grading concept and building heights are substantially the same as previously assumed and evaluated in the 1994 EIR, 2000 SEIR, 2002 and 2012 Addenda, and 2018 SEIR other than a reduction in impact footprint of approximately 8.0 acres. Also, the 1994 EIR, 2000 SEIR, and 2002 and 2012 Addenda concluded that industrial uses would be consistent with surrounding development. No substantial changes in the immediately surrounding area have occurred since that time in terms of existing or planned land uses. Consistent with the land uses allowed by the EOMBSP, light industrial development is under construction west of the Project site, west of Harvest Road and east of the Project site on Vann Centre Boulevard.

The Project would not cause any new significant environmental effects or a substantial increase in the severity of previously identified significant effects to aesthetics. There are no changes in circumstances under which the Project is being undertaken and/or "new information of substantial importance" that cause would one or more significant effects to aesthetics.

- II. **AGRICULTURAL RESOURCES** –Since the previous EIR was certified are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to agriculture or forestry resources including: conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to a non-agricultural use, conflicts with existing zoning for agricultural use or Williamson Act contract, conflict with existing zoning for, or cause rezoning of, of forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public

Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g)), result in the loss of forest land or conversion of forest land to non-forest use, or involve other changes in the existing environment which could result in the conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?

YES NO

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The 1994 EIR found that the loss of important farmland (Prime Farmland, Farmland of Statewide Importance, and Farmland of Local Importance) to be less than significant, as there was limited area with these classifications and agricultural use could continue in the Specific Plan area as an interim use prior to project build-out. Additionally, active agricultural activities were not substantially present at the time of certification of the 1994 EIR.

The 2018 SEIR disclosed that the Project site is designated as Farmland of Local Importance and contains soil types classified as Prime Agricultural Soils. However, the Project site was not under a Williamson Act contract at the time of certification of the 2018 SEIR. The 2018 SEIR found that the Project site had not been used for agricultural purposes since 1996, and there were no active agricultural operations in the Project site's vicinity at the time of the 2018 SEIR's certification. As stated in the 2018 SEIR, the Project site is within the East Otay Mesa Business Park Specific Plan and had been approved for urban development and grading under the Specific Plan and previously approved Tentative Maps for the site, respectively, since 1994. Additionally, the 2018 SEIR stated that the Project site does not contain forest lands or timberland; thus, the project was found to not conflict with existing zoning for or cause rezoning of forest land, timberland, or timberland production zones. No impact regarding agricultural resources was found to occur.

Similar to the analysis conclusions that were made for the previously approved 1994, 2000, 2003, 2012 and 2018 entitlements for the Project site, although the Project site contains land designated as Farmland of Local Importance, the Project site is not currently under a Williamson Act contract and there are no active agricultural operations on the Project site or in the Project site's immediate vicinity. The Project site also does not contain forest lands or timberland and is not zoned for timberland production. The Project site is approved for urban development and open space conservation under the East Otay Mesa Business Park Specific Plan.

The Project would not cause any new significant environmental effects or a substantial increase in the severity of previously identified significant effects to agricultural resources. There are no changes in circumstances under which the Project is being undertaken and/or "new information of substantial importance" that would cause one or more effects to agricultural resources.

III. **AIR QUALITY** – Since the previous EIR was certified, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to air quality including: conflicts with or obstruction of implementation of the San Diego Regional Air Quality Strategy or applicable portions of the State Implementation Plan (SIP); violation of any air quality standard or substantial contribution to an existing or projected air quality violation; a cumulatively

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considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard; exposure of sensitive receptors to substantial pollutant concentrations; or creation of objectionable odors affecting a substantial number of people?

YES NO

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The 1994 EIR included an analysis of air quality regulations and legislation pertinent at the time of its preparation, as well as existing conditions and impacts related to the East Otay Mesa Business Park Specific Plan project. The 1994 EIR identified the following air quality impacts as significant: construction impacts, vehicular impacts, stationary source impacts, and total emissions. The 1994 EIR included air quality mitigation measures that relate to construction, facilities to promote the use of alternative transportation methods, and transportation. The 1994 EIR mitigation measures applicable to the Project can be found in Attachment E to this document.

The 2000 SEIR addressed air quality impacts from proposed light industrial development on the Project site and presented the mitigation measures from the 1994 EIR, determining that the measures were sufficient and that no additional measures were required. The 2000 SEIR mitigation measures applicable to the Project can be found in Attachment E to this document. The 2003 and 2012 Addenda similarly found that the proposed light industrial development on the Project site would fall below the pollutant emission levels disclosed in the 1994 EIR.

Development of the Project would physically disturb slightly less land area than analyzed for the site under the 1994 EIR, 2000 SEIR, 2003 and 2012 Addenda, and 2018 SEIR, and a similar amount of building space. Thus, the short-term construction emissions would be similar as previously disclosed, and incrementally reduced due to more restrictive federal, state, and local regulations pertaining to construction equipment fleets than were in place in the prior analysis years. For example, short-term construction emissions are anticipated to be less than the emissions disclosed and analyzed in the 1994 EIR, 2000 SEIR, and 2018 SEIR due to the implementation of newer and cleaner off-road equipment that has been developed since those documents were prepared. The Project applicant would be required to implement the applicable mitigation measures imposed by the 1994 EIR, 2000 SEIR, and 2018 SEIR and would also be subject to the same or more stringent regulatory requirements, as such requirements have become stricter since the time the 1994 EIR, 2000 SEIR, and 2018 SEIR were certified (thereby reducing a greater amount of fugitive dust and other emissions). The mitigation measures applicable to the Project can be found in Attachment E to this document.

Table 2, *Construction Emissions Summary*, summarizes the anticipated criteria pollutant emissions during Project construction activity.

Table 2 Construction Emissions Summary

Year	VOC	NO _x	CO	SO _x	PM ₁₀	PM _{2.5}
Summer (lbs/day)						
2025	4.11	37.20	32.40	0.09	4.60	2.48
2026	46.10	17.70	35.30	0.05	4.10	1.36
2027	3.81	32.00	31.00	0.09	4.38	2.28
2028	39.32	50.10	67.00	0.15	7.74	3.46
2029	19.50	14.70	24.70	0.05	2.12	0.79
2030	3.53	26.70	30.00	0.09	4.18	2.09
2031	38.55	43.20	63.80	0.15	7.47	3.19
2032	21.40	13.30	24.00	0.05	2.17	0.76
Winter (lbs/day)						
2025	4.10	37.20	32.30	0.09	4.60	2.48
2026	51.13	56.65	71.24	0.15	8.86	3.93
2027	3.81	32.10	30.90	0.09	4.38	2.28
2028	38.32	46.20	59.30	0.14	7.50	3.29
2029	23.81	47.20	60.40	0.15	6.58	3.08
2030	3.52	26.70	29.90	0.09	4.18	2.09
2031	37.64	39.40	56.40	0.14	7.25	3.05
2032	22.20	23.70	29.60	0.09	4.07	2.00
Total Maximum Daily Emissions	51.13	56.65	71.24	0.15	8.86	3.93
SCAQMD Regional Threshold	75	100	550	150	150	55
Threshold Exceeded?	NO	NO	NO	NO	NO	NO

As shown above in Table 3, based on the estimated daily construction emissions, the Project would result in less than significant construction criteria pollutant emissions. A Mobile Source Health Risk Assessment was prepared for the currently proposed Project (*Appendix A.2*) to evaluate potential health risk impacts to sensitive receptors. As detailed in the Mobile Source Health Risk Assessment the Project would not cause a significant human health or cancer risk to adjacent land uses as a result of Project construction activity.

Operationally, the Project would result in approximately the same amount of developed acreage and approximately the same amount of traffic generation as previously analyzed in the 1994 EIR, 2000 SEIR, 2003 and 2012 Addenda, and 2018 SEIR but would also be subject to updated federal, state, and local regulations that are more protective of the environment when compared to the regulations that existed when the prior analyses were conducted. For example, vehicle emissions requirements are stricter and building code provisions under the California Building Standards Code (CALGreen) as implemented by the County of San Diego require a greater level of energy efficiency than prior versions of the building code. The emissions reductions provided by stricter regulations would not, however, be sufficient to avoid the significant and unavoidable air pollutant impacts that were disclosed in the previously certified 1994 EIR, 2000 SEIR, and 2018 SEIR. Therefore, although the Project would result in fewer operational air pollutants as compared to the impacts disclosed for the previously approved project, impacts would remain significant and unavoidable.

Table 3, *Criteria Pollutant Emissions Summary*, summarizes the anticipated criteria pollutant emissions under the Project's existing approved 2018 entitlement and under the proposed Project relying on both the Institute of Transportation Engineers (ITE) and San Diego Association of Governments (SANDAG) trip rate scenarios. An Air Quality Technical Memorandum was prepared for the Project (*Appendix A.1*) for supporting analysis. As further discussed under Section XVII, *Transportation*, the Project's trip generation is based on ITE rates; however, a comparison to SANDAG trip rate scenarios is also provided for informational purposes.

Table 3 Criteria Pollutant Emissions Summary

Scenario	VOC	NO _x	CO	SO _x	PM ₁₀	PM _{2.5}
Summer (lbs/day)						
Approved Entitlement ¹	211.08	155.89	1,046.32	3.23	218.04	63.89
ITE	105.21	114.11	345.53	1.13	61.22	17.16
SANDAG	165.38	73.92	858.08	1.88	165.37	43.22
Winter (lbs/day)						
Approved Entitlement ¹	215.59	164.55	1,086.17	3.08	218.05	63.90
ITE	84.73	118.10	207.12	1.10	61.06	16.94
SANDAG	143.63	79.59	676.13	1.79	165.21	42.99

¹ Source: Otay 250 Sunroad – East Otay Mesa Business Park Specific Plan Amendment SCH No. 2016031028 Final Supplemental EIR (March 2018), Table 2.1-6.

As shown above in Table 3, based on the estimated daily operational emissions, the Project would result in lower criteria pollutant emissions as compared to the previously approved project under both the ITE and SANDAG trip rate scenarios. Furthermore, as detailed in the Mobile Source Health Risk Assessment (*Appendix A.2*), the Project would not cause a significant human health or cancer risk to adjacent land uses as a result of Project operational activity.

The Project would not cause any new significant environmental effects or a substantial increase in the severity of previously identified significant air quality impacts. There are no changes in circumstances under which the Project is being undertaken and/or "new information of substantial importance" that would cause one or more air quality impacts.

IV. **BIOLOGICAL RESOURCES** – Since the previous EIR was certified, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to biological resources including: adverse effects on any sensitive natural community (including riparian habitat) or species identified as a candidate, sensitive, or special status species in a local or regional plan, policy, or regulation, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service; adverse effects to federally protected wetlands as defined by Section 404 of the Clean Water Act; interference with the movement of any native resident or migratory fish or wildlife species or with wildlife corridors, or impeding the use of native wildlife nursery sites; and/or conflicts with the provisions of any adopted Habitat Conservation Plan,

Natural Communities Conservation Plan, or other approved local, regional or state habitat conservation plan, policies or ordinances?

YES NO

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The 2018 SEIR determined that the previously approved project's development impact footprint would result in significant direct and indirect impacts to San Diego button-celery (**Impact BI-1**), San Diego fairy shrimp (**Impact BI-2**), and Riverside fairy shrimp (**Impact BI-3**). Additionally, the 2018 SEIR found that the project's development impact footprint would result in significant direct impacts to variegated dudleya (**Impact BI-4**), burrowing owl habitat (**Impacts BI-5 and BI-13**), loggerhead shrike foraging and nesting habitat (**Impact BI-9**), black-tailed jackrabbit foraging and breeding habitat (**Impact BI-10**), raptor foraging habitat (**Impact BI-11**), and disturbed wetland habitat (**Impact BI-14**). The 2018 SEIR also found that the project's development impact footprint would result in significant indirect impacts to Biological Open Space (**Impact BI-12**). Significant impacts to special status wildlife species include turkey vulture foraging habitat (**Impact BI-6**), northern harrier breeding and foraging habitat (**Impact BI-7**), and white-tailed kites (**Impacts BI-8**). The 2018 SEIR noted that if impacted disturbed wetlands are considered to be Waters of the U.S., the approved project's development's impact footprint also would result in direct impacts to Federally-protected wetlands (**Impact BI-15**). Mitigation Measures **M-BI-1** through **M-BI-15** were included in the 2018 SEIR for impacts to biological resources. The 2018 SEIR found that all potential significant impacts to biological resources would be mitigated to less-than-significant levels with the incorporation of Mitigation Measures **M-BI-1** through **M-BI-15**. The 2018 SEIR mitigation measures applicable to the Project can be found in Attachment E to this document.

A Biological Resources Technical Memorandum was prepared for the Project (*Appendix B.1*). Additionally, a Species Assessment Memorandum to evaluate the potential for occurrence for the western spadefoot toad and Crotch's bumblebee was also prepared for the Project (*Appendix B.2*). The development footprint of the Project is the same as for the previously approved projects on the site. A slight increase of the native grassland area in the eastern corner of the Project site was noted during field surveys conducted in 2023; otherwise, the other habitat types and aquatic resources are the same as previously mapped. As explained below, the Project would not result in any significant biological impacts different from, or more severe than, those analyzed and disclosed in 2018 SEIR for the previously approved project.

A site visit to verify vegetation mapping and assess the Project site for the potential to support sensitive species was made on February 8, 2023. Habitat assessments of sensitive species included the plant species variegated dudleya (*Dudleya variegata*), prostrate navarretia (*Navarretia prostrata*), and San Diego button-celery (*Eryngium aristulatum* var. *parishii*); and the sensitive wildlife species Quino checkerspot butterfly (*Euphydryas Editha quino*). A site visit to survey a proposed off-site utility alignment and continuation of the habitat assessment for sensitive plant species was made on May 8, 2023.

Sensitive Plant and Wildlife Species

No variegated dudleya were observed during the 2023 Project site visit, and no individuals of this species were observed on-site where the species was previously documented or in surrounding

areas. Variegated dudleya was last documented on the Project site in 2006 and was not documented during surveys conducted in 2015 or 2016 and 2020 or 2021. Thus, given the current habitat conditions on the Project site, there is a low probability that the species occurs on the Project site.

No individuals of either prostrate navarretia or San Diego button-celery were observed during the 2023 site visit. Each of the known vernal pools along with other low-lying areas on the site was searched for evidence of these species. The quality of the vernal pools on-site have been degraded somewhat by the invasion of non-native grasses, which may affect the distribution of vernal pool species through displacement due to competition for space and resources. Additionally, off-road vehicle activity has affected some of the vernal pools on-site. Prostrate navarretia was last documented on the Project site in 1993 and San Diego button-celery was last observed on-site in 2004. Neither species was observed in surveys conducted in 2015 or 2016 and 2020. Due to current site conditions, there is a low probability that the aforementioned species occur on the Project site.

Other than the sensitive plant communities analyzed above, there were no other sensitive species observed during the 2023 habitat assessments conducted on the Project site. Therefore, impacts to sensitive plant communities would be reduced under the Project as compared to the previously approved project, due to the current absence and unlikely reoccupation of the site with sensitive plant species that were previously mapped and reduction in the Project's impact footprint by approximately 8.0 acres compared to the previously analyzed impact footprint.

No Quino checkerspot butterfly or larvae were observed during the 2023 site visit. None of the preferred host, larval, or nectar plants were observed on the Project site. A habitat assessment on the Project site in 2020 concluded that the on-site habitat conditions were not conducive for the Quino checkerspot butterfly. Given the site's existing conditions and the lack of observation of any host or larval plants during the 2020 and 2023 site visits, there is a low probability for the Quino checkerspot butterfly to occur on-site.

The Species Assessment Memorandum evaluated the potential for occurrence for the western spadefoot toad and Crotch's bumblebee on-site. There is a moderate potential for the western spadefoot toad to occur on the Project site. There are vernal pools present on-site and disturbed wetlands comprised of two agricultural ponds and a depressional feature along the base of an existing berm. These features can hold water during a normal or above normal wet season sufficient to support the life cycle of this toad species. Historic occurrences of western spadefoot toad are recorded within a half mile to the north in vernal pools and wetlands associated with Johnson Canyon. The Project would avoid direct impacts to the vernal pools and other disturbed wetlands on-site. Furthermore, the wetland areas include setback buffers to limit any indirect impacts and would be preserved in dedicated open space easements. Therefore, no impacts are anticipated to occur to the western spadefoot toad, if present.

There is a low potential for Crotch's bumble bee to forage or nest on the Project site. Much of the Project site supports dense non-native grassland with few natural openings to support the preferred nectar plants for the species. In addition, portions of the Project site have been historically used for agricultural purposes and the eastern part of the site has been subject to on-

going illegal off-road-vehicle activity. These disturbances have affected the overall habitat quality of the area. One historic occurrence of Crotch's bumble bee was recorded in 1998 to the southeast of the Project site. Most of the area where this occurrence was recorded has now been developed and any remaining suitable habitat now occurs further to the east and separated from the Project site by development.

There were no other sensitive wildlife species observed during the habitat assessments conducted on the Project site. Therefore, impacts to sensitive wildlife communities would be reduced under the Project as compared to the previously approved project, due to the current absence and unlikely reoccupation of the site with Quino checkerspot butterfly that was previously mapped, avoidance of impact to the western spadefoot toad, the current absence and unlikely reoccupation of the site with Crotch's bumblebee, and reduction in the Project's impact footprint by approximately 8.0 acres compared to the previously analyzed impact footprint.

As explained in the 2018 SEIR for the previously approved project, qualified biologists performed focused surveys for a number of highly sensitive species and the resources on which they rely. These surveys included: (i) general surveys in 2015 and 2016 to confirm or update documentation of biological resources on-site since the previously certified 2000 SEIR; (ii) focused surveys for rare plants; (iii) focused surveys for vernal pools; (iv) focused surveys for fairy shrimp; (v) focused surveys for wetlands; (vi) focused surveys for Quino checkerspot butterfly; and (vii) focused surveys for burrowing owl. All other biological resources identified in the 2018 SEIR were found to be no longer present on the Project site.

Based on surveys and other available data, the 2018 SEIR concluded that the approved project's development impact footprint would have significant impacts on the following: San Diego button-celery (**Impact BI-1**), San Diego fairy shrimp (**Impact BI-2**), Riverside fairy shrimp (**Impact BI-3**), variegated dudleya (**Impact BI-4**), burrowing owl habitat (**Impacts BI-5 and BI-13**), loggerhead shrike foraging and nesting habitat (**Impact BI-9**), black-tailed jackrabbit foraging and breeding habitat (**Impact BI-10**), raptor foraging habitat (**Impact BI-11**), disturbed wetland habitat (**Impact BI-14**), Biological Open Space (**Impact BI-12**). Significant impacts to special status wildlife species include turkey vulture foraging habitat (**Impact BI-6**), northern harrier breeding and foraging habitat (**Impact BI-7**), and white-tailed kites (**Impacts BI-8**). The 2018 SEIR recommended various mitigation measures which, if adopted and implemented, would reduce these impacts to less-than-significant levels.

As compared to the previously approved project, the Project would have substantially the same development impact footprint but would result in fewer impacts to sensitive plant and wildlife species because some of the previously-documented species are no longer present on the site and have no reasonable potential to reoccupy the site and 8.0 fewer acres of on-site impacts would occur. As stated above, there is a low probability that variegated dudleya, prostrate navarretia, San Diego button-celery, and Quino checkerspot butterfly individuals would occur on the Project site. Other than the aforementioned species, there were no other sensitive species observed during habitat assessments conducted on the Project site. Therefore, the Project would result in fewer impacts to sensitive plant and wildlife species as compared to the impacts disclosed for the previously approved project.

Sensitive Vegetation Communities

The 2018 SEIR found that the previously-approved project's development impact footprint would result in significant impacts associated with the permanent removal of approximately 195.99 acres of naturalized non-native grassland habitat and approximately 0.11-acre of disturbed wetlands. These impacts were found to be significant and required mitigation, which was completed as of the date of certification of the 2018 SEIR.

The limits of disturbance of the Project would result in less impacts to on-site biological resources than under the previously approved project. As compared to the previously approved project, the Project would result in the reduction of on-site impacts to an estimated 8.0 acres of on-site non-native grassland.

The biological survey conducted for the Project included a survey of an off-site sewer connection that was not included in the 2018 SEIR for the previously approved project. However, the off-site sewer connection is proposed within a planned County roadway right-of-way. The off-site sewer connection construction activity would impact approximately 0.65-acre of non-native grassland and 0.08-acre of disturbed habitat off-site. However, the reduction of on-site impacts to approximately 8.0 acres of non-native grassland would more than compensate for the impacts associated with the off-site sewer connection. Therefore, impacts would be reduced overall as compared to the previously approved project and no additional mitigation is required.

Jurisdictional Aquatic Resources

The 2018 SEIR for the previously approved project found that the Project site supports three wetland/riparian habitats: disturbed wetlands, non-native riparian, and vernal pools. The disturbed wetland areas within the agricultural stock pond and man-made swale on-site were identified as County of San Diego Resource Protection Ordinance (RPO) wetlands. Therefore, the 2018 SEIR found that the loss of disturbed wetlands would result in a significant impact (**Impact BI-14**). Additionally, the 2018 SEIR identified non-native riparian habitat in the northeastern corner of the site as an RPO wetland and the drainage within the habitat was also identified as USACE- and CDFW-jurisdictional as Waters of the U.S. and streambed, respectively (**Impact BI-15**). However, because the non-native riparian habitat would be protected in the Open Space Easement approved and designated as part of the previously approved project, the 2018 SEIR found that impacts to this resource would be less than significant.

The 2018 SEIR found that no federally-protected wetlands would be impacted because on-site vernal pools were not USACE-jurisdictional wetlands at the time of the 2018 SEIR's preparation. Additionally, the 2018 SEIR found that the federally-protected Waters of the U.S. within Johnson Canyon in the northeastern portion of the site would be protected in the Open Space Easement; thus, no Federally-protected wetlands potentially requiring a buffer would be impacted by the project evaluated in the 2018 SEIR. Therefore, the 2018 SEIR concluded that there would be less-than-significant impacts to jurisdictional aquatic resources.

The Biological Resources Technical Memorandum (*Appendix B.1*) prepared for the Project found that the limits of physical disturbance for the Project would be less physically impactful to on-site biological resources than under the previously approved project evaluated in the 2018 SEIR.

Particularly, the proposed grading limits would avoid direct impacts to aquatic resources that include the disturbed wetlands associated with the abandoned agricultural pond and those that occur adjacent to a berm. Further, the Project also contains an Open Space Easement that would protect the federally-protected Waters of the U.S. within Johnson Canyon. Thus, the Project would result in similar or decreased impacts to jurisdictional aquatic resources as compared to the previously approved project and all impacts would be reduced to less than significant with mitigation.

Wildlife Corridors

As found in the 2018 SEIR for the previously approved project, the Project site supports poor habitat for wildlife movement and is bordered by Otay Mesa Road and industrial development to the south and I-215 to the west. The only part of the Project site that is likely to serve as a wildlife corridor is Johnson Canyon along the northeastern edge of the site. As stated in the 2018 SEIR, development would be concentrated in the southern portion of the site and Johnson Canyon would be protected in an Open Space Easement.

Similar to the previously approved project, the Project's proposed development impact footprint is concentrated in the southern portion of the site and an Open Space Easement would be included in the northern portion of the site. Therefore, the Project would have similar less than significant impacts to wildlife corridors as compared to the previously approved project.

Consistency with Plans, Policies, and Ordinances

The 2018 SEIR disclosed that the Project site is located within the Multiple Species Conservation Plan (MSCP) and development activities on the site would be required to comply with MSCP requirements, including Wildlife Agency consultation pertaining to previously approved Minor and Major Amendment areas. In sum, the 2018 SEIR found that the previously approved project would not interfere with the Natural Communities Conservation Planning Process (NCCP). The 2018 SEIR found that all conditions associated with Conditional Concurrence for the Minor Amendment to the MSCP County Subarea Plan would be met by the project evaluated in the 2018 SEIR, and the project would be required to comply with the Conservation Measures included in the USFWS Biological Opinion for the Sunroad Centrum project. Thus, the 2018 SEIR found that the previously approved project would not preclude or prevent the preparation of the subregional NCCP, and impacts would be less than significant. Additionally, the previously approved project was found to not impact any coastal sage scrub and would conform to the goals and requirements of the MSCP, Major and Minor Amendment Areas, and the East Otay Mesa Business Park Specific Plan. The 2018 SEIR found that a portion of the Project site is located within a Biological Resource Core Area (BRCA). The previously approved project design was designed to minimize impacts to the BRCA; thus, impacts related to the BRCA were found by the 2018 SEIR to be less than significant and no mitigation was required.

The 2018 SEIR found that the previously approved project would impact RPO wetlands and sensitive habitat lands. The 2018 SEIR noted that the mima mound depression along Lone Star Road that contained 30 San Diego button-celery individuals in 2004 was considered to be sensitive habitat land. The 2018 SEIR found that the previously approved project's impacts to

sensitive habitat lands and RPO wetlands would be significant (**Impact BI-14**) and mitigation was required.

Similar to the previously approved project, the Project would be required to comply with MSCP requirements and the Project would be required to comply with the Conservation Measures included in the USFWS Biological Opinion for the Sunroad Centrum Project. Furthermore, the Project would continue to be required to mitigate impacts to sensitive habitat lands and RPO wetlands. Therefore, the Project would have similar impacts related to consistency with plans, policies, and ordinances as compared to the previously approved project.

As compared to the previously approved project, the Project would result in fewer or similar impacts to biological resources. The limits of disturbance for the Project would impact less on-site biological resources than under the previously approved project. Specifically, the Project would avoid direct impacts to aquatic resources that include disturbed wetlands. Furthermore, impacts to non-native grassland in the area adjacent to these disturbed wetlands would also be reduced. Off-site impacts associated with the sewer connection west of the Project site were not addressed in previous biological resource studies; however, installation of the off-site sewer connection would impact approximately 0.7-acre of non-native grassland and approximately 0.1-acre of disturbed habitat off-site west of Zinser Road which would be more than compensated for by the Project's reduced on-site impact footprint of an estimated 8.0 acres of non-native grassland as compared to the previously approved project evaluated in the 2018 SEIR. Furthermore, the Project would not adversely affect wildlife corridors, which is the same conclusion found in the 2018 SEIR for the previously approved project. In summary, the Project would result in fewer impacts to biological resources compared to those identified in the 2018 SEIR and no additional mitigation would be required.

- V. **CULTURAL RESOURCES** – Since the previous EIR was certified, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to cultural resources including: causing a change in the significance of a historical or archaeological resource as defined in State CEQA Guidelines Section 15064.5; destroying a unique paleontological resource or site or unique geologic feature; and/or disturbing any human remains, including those interred outside of formal cemeteries?

YES NO

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The 2018 SEIR determined that ground-disturbing construction activities in the previously approved project's development impact footprint would result in potentially significant direct impacts to subsurface deposits should cultural resources be encountered during construction (**Impact CR-1**). Mitigation measure **M-CR-1** recommended by the 2018 SEIR would reduce these impacts to less-than-significant levels. Mitigation measure **M-CR-1** can be found in Attachment E to this document.

A Cultural Resources Survey Memo was completed by ASM Affiliates for the Project (*Appendix C*), which summarizes a 2016 cultural resources survey and evaluation by ASM Affiliates and a

2023 survey of the proposed off-site sewer connection. Four cultural resources were identified on the Project site. An additional fifth resource was previously recorded on the Project site, but was confirmed to no longer be present. The search identified three prehistoric cultural resources (SDI-9975, SDI-12337, AND SDI-12730). SDI-12337 consists of seven total sites that were combined into one large site due to their overlapping boundaries and/or close proximity to each other. The fourth resource is a historic segment of P-37-31491, an old alignment of Otay Mesa Road. SDI-9975 is considered to be not significant under CEQA and SDI-12730 is considered to be significant under CEQA; however, all archaeological sites are considered important under County guidelines. Both SDI-9975 and SDI-12730 are located outside of the area of potential effect within the Open Space Easement and would not be affected by the Project.

The 2018 SEIR for the previously approved project and the Cultural Resources Memo for the Project found no evidence of human remains, including those interred outside of formal cemeteries; no evidence was discovered during the records search, literature, review, field survey, or site testing and evaluation.

Within the Project's physical impact footprint, there is a potential for significant impacts to subsurface cultural resource deposits should resources be encountered during ground-disturbing construction activities. Similar to the previously approved project, impacts to subsurface deposits by the Project would be mitigated to less-than-significant levels through the implementation of an archaeological monitoring program.

As with the previously approved project, the Project would avoid impacts to SDI-9975 and SDI 12730 through their location within the Open Space Easement. Impacts to subsurface deposits within the Project footprint area (**Impact CR-1**) should they be encountered during ground-disturbing construction activities were found to be mitigated to less than significant through the implementation of an archaeological monitoring program (**M-CR-1**). Similarly, the mitigation measure will apply to address the Project's potential impacts and impacts would be reduced to less-than-significant levels through grading monitoring by a qualified archaeologist and Native American Monitor and the curation discovered artifacts.

No new mitigation measures beyond those included in the 2018 SEIR for the previously approved project are necessary for the Project. The Project would not cause any new significant environmental effects or a substantial increase in the severity of previously identified impacts to cultural resources. The Project's physical disturbance impact would be substantially the same as the previous project although reduced by approximately 8.0 acres on-site. There are no changes in circumstances and/or "new information of substantial importance" that would cause one or more effects to cultural resources.

VI. **ENERGY** – Since the previous EIR was certified, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to energy including: resulting in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation, and/or conflicts with or obstruct a state or local plan for renewable energy or energy efficiency?

YES NO
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Energy use was not specifically analyzed within the 1994 EIR, 2000 SEIR, or 2018 SEIR as a separate issue area under CEQA. At the time, Energy Use was contained within Appendix F of the CEQA Guidelines and since then has been moved to the issue areas within Appendix G of the CEQA Guidelines. However, the issue of energy use in general was discussed within the previous CEQA compliance documents. The 1994 EIR, 2000 SEIR, and 2018 SEIR contained enough information about energy use as part of projected air quality emissions associated with buildout of the EOMBSPS and Project site, respectively, that with the exercise of reasonable diligence, information about potential effects due to energy use was readily available to the public. No mitigation measures related to energy use were required.

Energy demands of the Project site under both construction and operation would be similar to or less what was anticipated for the site by the 1994 EIR and 2000 SEIR.

Development of the Project would fall within the development impact footprint of the previously approved projects, the exceptions being that approximately 8.0 fewer acres would be disturbed on-site and an off-site sewer improvement would occur off-site. The light industrial land use proposed by the Project is the same land use type evaluated in the 1994 EIR, 2000 SEIR and 2003 and 2012 Addenda. Since the EIR was certified in 1994 and SEIR was certified in 2000, federal, State, and local regulations have become more stringent, thereby resulting in increased energy efficiency for construction vehicles and equipment as compared to what was assumed by the previously approved projects. For example, energy consumption of construction equipment is anticipated to be less than assumed in the 1994 EIR and 2000 SEIR due to the implementation of newer and more energy efficient off-road equipment that has been developed since those documents were prepared.

Operationally, the Project would result in approximately the same amount of developable area and approximately the same amount of traffic generation as previously analyzed in the 1994 EIR, 2000 SEIR, and 2003 and 2012 Addenda but would also be subject to updated federal, State, and local regulations that are more protective of the environment when compared to the regulations that existed when the prior analyses were conducted. For example, buildings constructed to the current California Building Standards Code (CALGreen) as implemented by the County of San Diego operate more efficiently than older buildings and modern vehicles also are more energy efficient and transitioning away from fossil fuels and toward electric power.

Therefore, the Project would result in reduced energy consumption for operational activities compared to what was assumed for the previously approved projects. The Project would be required to comply with all current and applicable energy conservation plans and regulations. Impacts relative to energy would be less than significant and no mitigation is required.

The Project would not cause any new significant environmental effects or a substantial increase in the severity of previously identified significant energy impacts. There are no changes in circumstances under which the Project is being undertaken and/or "new information of substantial importance" that would cause one or more energy impacts.

VII. **GEOLOGY AND SOILS** – Since the previous EIR was certified, are there any changes in the project, changes in circumstances under which the project is undertaken and/or “new information of substantial importance” that result in one or more effects from geology and soils including: exposure of people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, seismic-related ground failure, including liquefaction, strong seismic ground shaking, or landslides; result in substantial soil erosion or the loss of topsoil; produce unstable geological conditions that will result in adverse impacts resulting from landslides, lateral spreading, subsidence, liquefaction or collapse; being located on expansive soil creating substantial risks to life or property; and/or having soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

YES NO

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The 1994 EIR for the previously approved project found that development within the Specific Plan area would result in significant impacts due to the potential for ground acceleration/shaking from regional seismic activity, liquefaction and seismically-induced settlement, flooding of open reservoirs on-site due to seismic events, ground failure, and soil-related hazards such as erosion, expansion, or settlement. The 1994 EIR included mitigation measures relative to Geology and Soils; however, these mitigation measures are superseded by current building codes and recommendations included within the Project’s Updated Geotechnical Investigation required as a County regulatory requirement. Therefore, these mitigation measures are not applicable to the Project.

The 2018 SEIR for the previously approved project found that the Project site contains weak and highly expansive claystones and potentially compressive fill soils, topsoils, and deposits that would require special consideration during grading operations. However, remedial grading recommendations presented in the 2018 SEIR geotechnical investigation were to be followed, and no impacts were anticipated with compliance with grading requirements.

An Updated Geotechnical Investigation was prepared for the Project site (*Appendix D*). Impacts associated with seismic ground ruptures are considered less than significant. The Project site is not located within an established Alquist-Priolo Earthquake Fault Zone. The potential impacts associated with seismic ground shaking has not changed between the previous 1994 EIR or 2018 SEIR; however, the CBC has been updated to require more resilient buildings. The design of structures built as part of the Project would be built in accordance with the California Building Code (CBC) currently adopted by the County.

The Updated Geotechnical Investigation concluded that, due to the proposed Project’s grading plan and fill and the soil makeup of the Project site, potential impacts associated with liquefaction hazard at the Project site is low. The Project site is not located within a Tsunami Hazard Zone, and the risk associated with inundation hazard due to tsunamis is less than significant. Further, since the Project site is not located downstream from any large bodies of water, the risk associated with inundation due to seiches is less than significant. The Project site is not located

within a Special Flood Hazard Area, and the risk associated with inundation due to flooding is less than significant.

No evidence of landslide was observed as part of the Updated Geotechnical Investigation. The risk associated with ground movement hazard due to landslide is thus less than significant. Additionally, based on the subsurface conditions of the Project site, the risk associated with ground subsidence or seismic settlement hazard is low.

The Project does not propose any changes that would cause new significant environmental effects or a substantial increase in the severity of previously identified significant effects to geologic resources. There are no changes in circumstances under which the Project is being undertaken and/or “new information of substantial importance” that would cause one or more effects to geologic resources.

VIII. GREENHOUSE GAS EMISSIONS – Since the previous EIR was certified, are there any changes in the project, changes in circumstances under which the project is undertaken and/or “new information of substantial importance” that result in one or more new significant effects or a substantial increase in the severity of previously identified significant effects associated with greenhouse gas emissions or compliance with applicable plans, policies, or regulations adopted for the purpose of reducing greenhouse gas emissions?

YES NO

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The 1994 EIR and 2000 SEIR did not include an analysis of greenhouse gas emissions as it was not required by CEQA at the time; however, the Air Quality sections included an analysis of short-term construction impacts and operational impacts to air quality. The 1994 EIR and 2000 SEIR contained enough information about projected air quality emissions associated with buildout of the East Otay Mesa Business Park Specific Plan and light industrial uses on the Project site, respectively, that with the exercise of reasonable diligence, information about potential effects due to greenhouse gas (GHG) emissions was readily available to the public. See *Citizens for Responsible Equitable Environmental Development v. City of San Diego* (2011) 196 Cal.App.4th 515 where the court found the potential impact of GHGs on climate change alone did not require preparation of a supplemental EIR since such information has been available since before the original EIR had been certified. The 2012 Addendum, however, did rely on a technical global climate change evaluation that disclosed the previously approved project’s GHG generation as 33,061 CO₂ equivalent emissions per year, reduced to 32,956 metric tons of CO₂ equivalent emissions per year with mitigation consisting of Statewide standards and project design features. While the 2012 Addendum estimated GHG emissions at 33,061 MT CO₂e, the 2018 SEIR reevaluated the estimated emissions from the 2012 Addendum, providing a revised estimate of 28,411 MT CO₂e for the project’s emissions evaluated in the 2012 Addendum.

The 2018 SEIR also included an evaluation of GHG emissions, concluding that the previously approved project would emit 37,554 metric tons of CO₂ equivalent emissions per year, reduced to 32,786 metric tons of CO₂ equivalent emissions per year with mitigation consisting of project design features, which is approximately the same annual quantity of GHG emissions calculated

for the previously approved project in the 2012 Addendum. The GHG emissions reported in the 2018 SEIR was 28,411 MT CO₂e.

The 2018 SEIR evaluated impacts to GHG emissions based on if the project would increase GHG emissions compared to the existing environmental setting. The threshold of significance for GHG emissions was net zero, utilizing carbon offsets as one mitigation measure to achieve net zero. The 2018 SEIR concluded impacts would be less than significant with implementation of mitigation.

The analysis of the Project is based on a comparison of emissions from the Project to previously-approved entitlements for industrial uses on the Project site. Therefore, the Project's analysis compares the revised estimate of 28,411 MT CO₂e for the project's emissions inclusive of emission reductions achieved from project design features evaluated in the 2012 Addendum that studied industrial uses to the emissions anticipated by the Project.

The Project includes several Project Design Features (PDFs) that would result in the reduction of GHG emissions. The PDFs are summarized below. The PDFs are incorporated into the Project design and would be implemented with approval of the Project.

- No chilled, cold, or freezer warehouse space inside the facilities that would attract tractor trailers with transport refrigeration units
- Installation of electric vehicle charging infrastructure for passenger vehicles
- Installation of sidewalk and bikeway improvements from the County's Active Transportation Plan
- No natural gas to serve the buildings
- Utilization of renewable energy and installation of energy-efficient features in compliance with CALGreen Title 24 requirements
- Utilization of water efficiency and conservation requirements and installation of water-efficient features in compliance with CALGreen Title 24 requirements
- Planting of 3,316 trees on-site
- Cargo handling equipment would be electric
- All vehicle operators are required to comply with CARB Rule 2485 and CARB Rule 2449, which limits nonessential idling of diesel-fueled commercial vehicle engines and diesel-powered off-road equipment to five minutes or less. Prior to issuance of occupancy permits for buildings with loading dock areas, the County shall verify that signs are posted in these areas that inform vehicle and equipment operators about the requirements of these Rules except that such signs shall post a 3-minute idling restriction (instead of the 5-minutes required by CARB).

The Project would reduce the amount of traffic generated by development of the site as compared to what was evaluated for the Project site in the 2000 SEIR, 2003 and 2012 Addenda, and 2018 SEIR. Specifically, and as documented in the Project's Traffic Analysis (*Appendix H*), the Project would generate approximately 20,211 fewer average daily vehicular trips as compared to the previously approved project evaluated by the 2000 SEIR and 2003 and 2012 Addenda and 27,555 fewer average daily trips as compared to the previously approved project evaluated by the 2018 SEIR. Because the majority of GHG emissions associated with light industrial developments is

the result of vehicular traffic, the Project's level of GHG emissions would be reduced in comparison to the previously approved projects evaluated by the 2000 SEIR, 2003 and 2012 EIR Addenda, and the 2018 SEIR. Additionally, there have been numerous regulations adopted since the 1994 EIR, 2000 SEIR, 2003 and 2012 Addenda, and 2018 SEIR were certified that would result in reduced Project-related GHG emissions compared to the previously approved projects, including AB 1493, which specifies fuel efficiency standards, and the California Building Standards Code Title 24 energy efficiency requirements (CALGreen), which impose more stringent energy efficiency requirements as compared to what was in effect when the previously approved projects were approved.

The Project's GHG emissions were compared to the existing approved entitlements evaluated in the 2000 SEIR, 2003 and 2012 Addenda, and 2018 SEIR and included evaluation of traffic using both the ITE and SANDAG methodologies. As further discussed under Section XVII, *Transportation*, the Project's trip generation is based on ITE rates; however, a comparison to SANDAG trip rate scenarios is also provided for informational purposes. Table 3, *GHG Emissions Summary*, summarizes the anticipated GHG pollutant emissions for the Project, which falls below the total amount of GHG emissions that were disclosed in the 2012 Addendum and the 2018 SEIR.

Table 4 GHG Emissions Summary

Scenario	Total CO ₂ E (MT/yr)
2012 EIR Addendum Emissions ^{1, 2}	28,411
2018 SEIR Emissions ¹	32,786
Proposed Project with ITE Trip Generation Rates	17,067
Proposed Project with SANDAG Trip Generation Rates	24,888

1. Source: Otay 250 Sunroad – East Otay Mesa Business Park Specific Plan Amendment SCH No. 2016031028 Final Supplemental EIR (March 2018), Table 2.4-9.

2. While the 2012 Addendum estimated GHG emissions at 33,061 MT CO₂e, the 2018 SEIR reevaluated the estimated emissions from the 2012 Addendum, providing a revised estimate of 28,411 MT CO₂e.

(Urban Crossroads, 2023a)

As shown above in Table 4, both the ITE and SANDAG trip rate scenarios would result in lower GHG emissions than under the existing approved entitlement. Accordingly, the Project would not generate GHG emissions that may have a significant impact on the environment and would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing GHG emissions.

The Project would not cause any new significant environmental effects or a substantial increase in the severity of previously identified significant effects to GHG emissions. There are no changes in circumstances under which the Project is being undertaken and/or "new information of substantial importance" that would cause one or more effects to GHG emissions.

IX. HAZARDS AND HAZARDOUS MATERIALS – Since the previous EIR was certified, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that result in one or more

effects from hazards and hazardous materials including: creation of a significant hazard to the public or the environment through the routine transport, storage, use, or disposal of hazardous materials or wastes; creation of a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment; production of hazardous emissions or handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school; location on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 creating a hazard to the public or the environment; location within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport; within the vicinity of a private airstrip resulting in a safety hazard for people residing or working in the project area; impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan; and/or exposure of people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

YES NO

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The 1994 EIR contained an analysis of health and safety impacts related to buildout of the Otay Mesa Business Park Specific Plan area. The 1994 EIR found that development could result in potential impacts relative to exposure of people living or working within the Specific Plan area to hazardous substances due to potential use of hazardous materials and potential exposure of people to hazardous substances due to the transport of hazardous materials. The 1994 EIR found that no hazardous materials or petroleum products were located on-site, and no evidence was found of a release of hazardous materials in the Otay Mesa Business Park Specific Plan area.

The 2018 SEIR found that the previously approved project's commercial and light industrial land uses would increase the number of facilities that transport, use, store, and dispose of hazardous materials; however, the previously approved project would be subject to applicable rules, policies, and regulations and would not result in direct impacts related to the routine transport, use, storage, or disposal of hazardous materials. Additionally, the 2018 SEIR found that because there were no existing or planned schools located within one-quarter mile of the Project site, the previously approved project would result in less-than-significant impacts regarding potential hazardous emissions or materials within one-quarter mile of an existing or proposed school. Further, the Project site was determined to not be listed as a Cortese Site.

The 2018 SEIR disclosed that the Project site is located approximately one mile east of Brown Field Municipal Airport. The Project site is located within Review Area 1 of Brown Field Municipal Airport, and the western portion of the Project site is located within three safety zones for Brown Field. The Brown Field ALUCP provides restrictions regarding residential development within the safety zones. The 2018 SEIR found that, with adherence to the regulations of the Brown Field ALUCP and 2011 General Plan goals/policies related to airport hazards, impacts would be less than significant, and no mitigation would be required. There were no private airstrips located in the Project site's vicinity. The 2018 SEIR also found that the previously approved project would

not result in significant impacts associated with wildland fires and emergency response, and mitigation would not be required.

The 2018 SEIR found that the San Diego County Fire District was in the process of implementing full-time fire and emergency services in the East Otay Mesa Business Park Specific Plan at the time the 2018 SEIR was certified. The previously approved project was conditioned to fund the additional increment related to residential uses for the construction, equipment, and ongoing operations and maintenance of the new fire station. The Fire Protection Plan (FPP) prepared for the previously approved project determined that project would potentially increase the number of people exposed to wildfire risks, but the previously approved project was found to be designed to minimize wildfire exposure risks. The previously approved project was conditioned to implement design considerations and maintain the property in accordance with San Diego County Building and Fire Codes. Impacts were determined to be less than significant.

The Project site is vacant land and does not contain on-site hazardous waste contamination. The Project does not propose land uses that would use hazardous substances in excess quantities. Similar to the previously approved project evaluated in the 1994 EIR and 2000 SEIR, the Project's commercial and industrial land uses would increase the number of facilities that transport, use, and dispose of hazardous materials in the Project area. However, the Project would be subject to applicable rules, regulations, and policies that would not result in direct impacts related to the routine transport, use, storage, or disposal of hazardous materials, and impacts would be less than significant.

As with the previously approved project, the Project site is located within Review Area 1 of Brown Field Municipal Airport. However, since the Project does not propose residential uses, potential impacts relative to airport hazards would be less compared to those of the previously approved project evaluated in the 2018 SEIR. There are no private airstrips within the Project vicinity. Additionally, the Project would be subject to the Brown Field ALUCP and General Plan goals/policies relative to airport hazards, and impacts would be less than significant.

A Fire Protection Plan (FPP) prepared for the Project (*Appendix J*) indicated that the closest fire station to the Project site is San Diego Fire/Rescue Department Station #43, located at 1590 La Media Road, approximately 2.1 miles from the southwestern portion of the Project site. The response time from this fire station is compliant with the 5-minute response time goal included in the San Diego County General Plan, as shown in Table 5.

As shown in Table 6, using San Diego County Fire agencies calculated 155 annual calls per 1,000 population, the Project's estimated 2,333 on-site employees associated with the Project would generate up to 361 calls per year. Most of these calls are expected to be medical-related. Therefore, the Project is not expected to cause a decline in emergency response times by adding an average of one call per day, and impacts would be less than significant.

Table 5 Closest Responding Fire Station Summary

Station No.	Location	Equipment	Staffing	Maximum Travel Distance ^{1, 2}	Travel Time ²
City of San Diego Station #43	Otay Station 1590 La Media Road	<ul style="list-style-type: none"> ▪ Type 1 Engine ▪ Truck ▪ Brush Unit ▪ Crash Unit ▪ Ladder Truck ▪ Brush Engine 	1 SDFD Engine Company (3 full time firefighters) 1 CAL FIRE/ San Diego County Fire Authority Engine Company (3 full time firefighters)	2.10 mi.	4 minutes, 13 seconds

1 Distance measured to farthest portion of Project site

2 Assumes travel at 35 mph travel speed and does not include donning turnout gear and fire dispatch time. Actual travel speeds are likely to be closer to 45 mph speed limits.

Source: (Dudek, 2023)

Table 6 Calculated Call Volume Associated with the Project

Emergency Calls per 1,000 (County Data)	Number of Staff	Avg. No. Calls per Year (2,333\1,000 x 155)	Avg. No. Calls Per Day (361\365)
155	2,333	361	1

Source: (Dudek, 2023)

The Project would be required as a required design feature to implement the proposed Fuel Management Zones (FMZs) as included in the Project-specific FPP, as well as fully comply with the San Diego County Fire Code requirements. Like the previously proposed projects, the Project would not interfere with an adopted emergency response plan or emergency evacuation plan. Further, while the project evaluated in the 2018 SEIR planned to add residents to the Project site, the Project includes industrial development which would result in fewer people being on the Project site and thus a reduced risk of exposing people to a significant risk of wildland fires. The Project would not result in the exposure of people or structures to a significant risk involving wildland fires. Impacts would be less than significant.

The Project would not cause any new significant environmental effects or a substantial increase in the severity of previously identified significant effects associated with hazards and hazardous materials. There are no changes in circumstances under which the Project is being undertaken and/or "new information of substantial importance" that would cause one or more effects to hazards and hazardous materials.

- X. **HYDROLOGY AND WATER QUALITY** – Since the previous EIR was certified, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to hydrology and water quality including: violation of any waste discharge requirements; an increase in any listed pollutant to an impaired water body listed under section 303(d) of the Clean Water Act; cause or contribute to an exceedance of applicable surface or groundwater receiving water quality objectives or degradation of beneficial uses; substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level;

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substantially alter the existing drainage pattern of the site or area in a manner which would result in substantial erosion, siltation or flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems; provide substantial additional sources of polluted runoff; place housing or other structures which would impede or redirect flood flows within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map, including County Floodplain Maps; expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam; and/or inundation by seiche, tsunami, or mudflow?

YES NO

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The 1994 EIR found that implementation of the East Otay Mesa Business Park Specific Plan would result in significant sedimentation and increased runoff. With the implementation of mitigation measures, impacts were reduced to less-than-significant levels. The 2018 SEIR for the previously approved project found that no impacts to water quality, groundwater resources, or drainage would occur. The 2018 SEIR also noted that no impacts relative to inundation or seiche would occur, and risks associated with flooding would be less than significant.

A Preliminary Drainage Study (*Appendix F1*) and a Stormwater Quality Management Plan (SWQMP) (*Appendix F2*) were prepared for the Project. With implementation of site design and low-impact design features, Best Management Practices (BMPs), and compliance with applicable standards and guidelines, construction of the Project would result in less-than-significant impacts associated with drainage pattern or hydrology alterations. The Project would not result in peak-flow increases that would exceed the capacity of stormwater drainage systems or result in substantial erosion or siltation. All stormwater runoff would be conveyed to biofiltration detention basins on-site that are designed to attenuate the 100 year peak flows; thus, operational impacts would be less than significant.

The Project does not propose the use of groundwater for any purpose and would not affect off-site groundwater usage. As stated in the Project-specific Preliminary Drainage Study (*Appendix F1*), groundwater was not encountered within 18 feet below the lowest proposed surface and is not expected to be a constraint to the Project's development. Therefore, impacts to groundwater would be less than significant. The Project site is located outside of any FEMA floodplain boundaries. Therefore, impacts to hydrology and water quality would be less than significant and no mitigation would be required.

- XI. **LAND USE AND PLANNING** – Since the previous EIR was certified, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to land use and planning including: physically dividing an established community; and/or conflicts with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect?

YES NO

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The 1994 EIR found that implementation of the East Otay Mesa Business Park Specific Plan would replace presently undeveloped areas with a mix of industrial, residential, and supporting commercial uses, with the dominant uses being industrial. The 1994 EIR determined that implementation of the Specific Plan (including the project) would result in land use compatibility impacts between residential, commercial, and industrial uses. Additionally, the 1994 EIR noted that the previously approved project would result in impacts to existing residential uses due to lighting and noise impacts from commercial and industrial land uses within the Specific Plan area. With the implementation of mitigation measures, the 1994 EIR concluded that the previously approved project would result in less than significant impacts relative to land use.

The 2000 SEIR that evaluated light industrial development within the Project site and found that, since the County designated the previously approved project area as a Minor Amendment Area of the Multiple Species Conservation Program (MSCP) Subarea Plan, land uses were to be reevaluated for consistency with the MSCP Subarea Plan. The 2000 SEIR identified significant impacts associated with incompatible land uses between designated residential units off-site and the proposed industrial and commercial uses, as well as the proposed uses near Johnson Canyon within the Specific Plan area. With the implementation of mitigation measures, impacts were found to be less than significant. Additionally, the 2000 SEIR determined that the previously approved project would have a significant impact on the goals and policies of the MSCP Subarea Plan; however, with agency-approval of the Minor Amendment and Resource Conservation Plan, the 2000 SEIR determined that impacts would be reduced to less-than-significant levels.

The Project site is currently undeveloped, and no existing established community surrounding the Project site would be physically divided by construction or operation of the Project. The 1994 EIR and 2000 SEIR evaluated buildout with industrial and commercial uses, and the Project's industrial land uses would be consistent with the land uses evaluated for the Project site as part of prior EIRs. Additionally, as part of the review of the Project, the County of San Diego evaluated the Project for consistency with applicable General Plan and East Otay Mesa Business Park Specific Plan policies and concluded that the Project would not conflict with existing land use plans, policies, and regulations. The Project also does not conflict with the previously approved Minor Amendment and MSCP Subarea Plan as discussed in Section IV, Biological Resources.

The Project would not cause any new significant environmental effects or a substantial increase in the severity of previously identified significant effects to land use and planning. There are no changes in circumstances under which the Project is being undertaken and/or "new information of substantial importance" that cause would one or more effects to land use and planning.

- XII. **MINERAL RESOURCES** – Since the previous EIR was certified, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to mineral resources including: the loss of availability of a known mineral resource that would be of value to the region and the residents of the state; and/or loss of locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

YES NO

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The issue of mineral resources was not included for analysis within the 1994 EIR, 2000 SEIR, or 2003 or 2012 Addenda. The 2018 SEIR for the previously approved project determined that the Project site had been classified as an area of "Potential Mineral Resource Significance" (MRZ-2). The 2018 SEIR noted, however, that the Project site was approved by the East Otay Mesa Business Park Specific Plan for industrial development that precluded mining, was surrounded by undeveloped lands, industrial/business park uses, and single-family homes, and was not identified for future extraction of mineral resources at the time of the 2018 SEIR's certification. Additionally, no active or abandoned mines or quarries were located in the Project site's vicinity. Therefore, the Project site was determined to not be suitable for mining and the previously approved project would not result in the significant loss of availability of a known mineral resource, and no mitigation was required.

Geologic conditions across the Project area are essentially the same as described in the 2018 SEIR and the Project site is precluded from mining by the East Otay Mesa Business Park Specific Plan. The Project's proposed development areas fall within the physical impact footprint of the previously approved project, the exception of a proposed off-site sewer improvement. Although the off-site sewer improvement for the Project was not studied in the 2018 SEIR, the improvement is located within a planned roadway right-of-way that would preclude the extraction of mineral resources. Impacts relative to mineral resources would be less than significant, and no mitigation is required.

The Project would not cause any new significant environmental effects or a substantial increase in the severity of previously identified significant effects to mineral resources. There are no changes in circumstances under which the Project is being undertaken and/or "new information of substantial importance" that would cause one or more effects to mineral resources.

- XIII. **NOISE** – Since the previous EIR was certified, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that result in one or more effects from noise including: exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies; exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels; a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project; a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project; for projects located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport

or public use airport, or for projects within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

YES NO

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The 2000 SEIR for the previously approved project determined that planned noise sensitive uses within 1,260 feet north of the centerline of Lone Star Road that would exceed the County's noise standard of 60 dBA Leq for residential uses; however, no homes existed in the area at the time. The 2000 SEIR found that because the previously approved project entailed commercial and industrial land uses, it did not propose any noise sensitive uses. Further, the 2000 SEIR found that wildlife species expected to occur within areas that are subjected to traffic-related noise were not considered to be noise sensitive. Therefore, the 2000 SEIR found that no significant noise related impacts were expected to occur.

A Noise Memorandum (*Appendix G*) was prepared for the Project. The primary noise source under the Project would be vehicle traffic along Otay Mesa Road. The Project would be subject to the County Noise Element, but the proposed light industrial uses are not considered to be noise sensitive. The Noise Memorandum determined that the allowable noise levels would not be exceeded at any location and impacts would be less than significant with no mitigation required.

The Noise Memorandum (*Appendix G*) determined that general construction activities would not cause any significant noise impacts to surrounding sensitive receptors and impacts would be less than significant and with no mitigation required.

The Project would not cause any new significant environmental effects or a substantial increase in the severity of previously identified significant noise impacts. There are no changes in circumstances under which the Project is being undertaken and/or "new information of substantial importance" that would cause one or more noise impacts.

XIV. PALEONTOLOGICAL RESOURCES – Since the previous EIR was certified, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that result in one or more substantial adverse physical impacts associated with activities that could directly or indirectly damage a unique paleontological resource or site?

YES NO

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The 1994 EIR, the 2000 SEIR, and 2003 and 2012 Addenda did not address the topic of paleontological resources, but the topic was analyzed in the 2018 SEIR for the previously approved project. The 2018 SEIR disclosed that The Project site is located within a "High" paleontological sensitive area of the county. The previously approved Project's grading plan was expected to reach the subsurface Otay Formation, with the potential to yield fossils. Because the previously approved project's earthwork would exceed the County's threshold of 2,500 c.y. in areas of high or moderate paleontological sensitivity, impacts were determined to be potentially

significant (**Impact PR-1**) and mitigation measure **M-PR-1** was included to require monitoring of excavation activities during grading and salvage, identification, and curation of fossil remains if found. Mitigation measure **M-PR-1** can be found in Attachment E to this document.

The Project would likewise have the potential to encounter the subsurface Otay Formation during its grading operation and **M-PR-1** would apply to mitigate impacts to less than significant. The Project's on-site grading footprint is 8.0 acres less than the previously approved project but includes trenching for an off-site sewer line that was not discussed in the 2018 SEIR. Off-site impacts associated with the sewer connection west of the Project site were not addressed in previous studies; however, installation of the off-site sewer connection would impact approximately 0.8-acre of area within the planned right-of-way for Zinser Road. Therefore, the Project's potential to encounter fossil remains is substantially the same as was found in the 2018 SEIR.

The Project would not cause any new significant environmental effects or a substantial increase in the severity of previously identified significant effects to paleontological resources. There are no changes in circumstances under which the Project is being undertaken and/or "new information of substantial importance" that would cause one or more significant effects to paleontological resources.

XV. POPULATION AND HOUSING – Since the previous EIR was certified, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that result in one or more effects to population and housing including displacing substantial numbers of existing housing or people, necessitating the construction of replacement housing elsewhere?

YES NO

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The 1994 EIR that evaluated the East Otay Mesa Business Park Specific Plan determined that impacts related to population, housing, and employment would be less than significant. The 2018 SEIR that introduced planned mixed use development with a residential emphasis to the site found that although the potential population and housing effects could occur from the introduction of up to 3,158 residential units from stimulated off-site growth, that planned employment use growth was already anticipated in the General Plans and Community Plan for the surrounding areas of the City of Chula Vista and the Otay Mesa Community Plan Area in the City of San Diego. Therefore, the 2018 SEIR concluded that the previously approved project would result in less-than-significant impacts in regard to stimulated growth. The 2018 SEIR also found that the Project site did not contain existing housing, and therefore the previously approved project would not result in the displacement of housing units.

The Project does not include any residential development. Thus, the Project would result in less population growth as compared to the previously approved project evaluated in the 2018 SEIR. While the Project would increase employment opportunities in the area, it is expected that jobs would be filled by residents in the surrounding area. Similar to the previously approved projects, the Project would not displace any existing housing or substantial numbers of people because

the Project site is currently vacant. Therefore, the Project would result in less than or similar less-than-significant impacts as compared to the previously approved project.

The Project would not cause any new significant environmental effects or a substantial increase in the severity of previously identified significant effects to population and housing. There are no changes in circumstances under which the Project is being undertaken and/or "new information of substantial importance" that would cause one or more significant effects to population and housing.

XVI. PUBLIC SERVICES – Since the previous EIR was certified, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that result in one or more substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services: fire protection, police protection, schools, parks, or other public facilities?

YES NO

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The 1994 EIR for the East Otay Mesa Business Park Specific Plan concluded that implementation of the Specific Plan would not result in significant impacts in regard to fire protection and emergency services, police protection, parks and recreation, water service, and gas and electricity services. In regard to schools, the 1994 EIR found that although Specific Plan buildout would have an impact on schools, payment of required schools facilities fee would mitigate impacts to less-than-significant levels.

The 2018 SEIR for the previously approved project noted that the previously approved project would be conditioned to provide funding for the construction, equipping, and ongoing operations and maintenance of a new fire station and thus would result in less-than-significant impacts relative to fire protection and emergency services. The 2018 SEIR found that the previously approved project would result in the need for additional law enforcement personnel. With the payment of fair share contribution of the cost to develop the future Sheriff's station and incorporation of crime prevention through environmental design (CPTED) principles, the previously approved project was found to result in less-than-significant impacts relative to police protection.

The 2018 SEIR noted that the previously approved project would be served by Sweetwater Union High School District and San Ysidro Elementary School District. The previously approved project was conditioned to pay school fees prior to the issuance of building permits and, with the payment of school facilities fees, impacts relative to schools would be less than significant. The 2018 SEIR concluded that the previously approved project provided public services that would be adequate to meet the needs of its residents, and no significant impacts would result.

Similar to the 2018 SEIR, the Project Applicant would continue to be conditioned to contribute fair-share funding for fire and sheriff services. Furthermore, although the Project includes industrial uses and would not require school facilities, the Project would nonetheless be required to pay school impact fees. Therefore, the Project would result in less than or similar less-than-significant impacts as compared to the previously approved project.

The Project would not cause any new significant environmental effects or a substantial increase in the severity of previously identified significant effects to public services. Further, because residential uses are not proposed there would be a reduced impact on schools compared to the previously approved project. There are no changes in circumstances under which the Project is being undertaken and/or "new information of substantial importance" that would cause one or more effects to public services.

XVII. RECREATION – Since the previous EIR was certified, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that result in an increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated; or that include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

YES NO
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The 1994 EIR concluded that no significant impacts to parks, trails, or library facilities would occur as a result of the East Otay Mesa Business Park Specific Plan, and no mitigation was necessary. The 2018 SEIR for the previously approved project found that the previously approved project would not require the construction of new park area, since the previously approved project contained planned parks and a trail segment to serve the residential uses. Thus, the 2018 SEIR concluded that no significant impacts to recreation would result, and no mitigation was required.

In contrast to the previously approved project, the Project does not contain residential uses. As such, the Project would not result in a direct demand for resident-generated recreational resources and would not directly require the construction or expansion of recreational facilities on-site. The Project does not propose land uses that would cause the deterioration of recreational facilities and would not require the expansion or construction of recreational facilities. Thus, the Project would result in lesser impacts in comparison to the previously approved project.

The Project would not cause any new significant environmental effects or a substantial increase in the severity of previously identified significant effects to recreation. There are no changes in circumstances under which the Project is being undertaken and/or "new information of substantial importance" that would cause one or more effects to recreation.

XVIII. TRANSPORTATION – Since the previous EIR was certified, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause effects to transportation/traffic including: an

increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system; exceedance, either individually or cumulatively, of a level of service standard established by the county congestion management agency for designated roads or highways; a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks; substantial increase in hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment); inadequate emergency access; inadequate parking capacity; and/or a conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

YES NO

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Analysis Methodology

Senate Bill 743 (SB 743) was passed in 2013, which required that by July 1, 2020, a project's transportation impacts be evaluated based on a Vehicle Miles Traveled (VMT) measure, instead of evaluating impacts based on Level of Service (LOS) criteria. The Natural Resources Agency finalized updates to the CEQA Guidelines in January 2019 that were approved by the Office of Administrative Law and are currently in effect. CEQA Guidelines § 15064.3(b) now includes specific considerations for evaluating a project's transportation impacts using a VMT measure, instead of evaluating impacts based on LOS criteria, as required by SB 743. However, the appropriate methodology for analyzing the Project evaluated herein remains LOS, for the following reasons.

LOS was used as the basis for determining the significance of traffic impacts as standard practice in CEQA documents for decades, including at the time the East Otay Mesa Business Park Specific Plan EIR was certified in 1994 and its 2000 EIR and 2018 SEIR were prepared and certified. Although as of July 1, 2020, LOS can no longer be the basis for determining an environmental effect under CEQA, CEQA Guidelines § 15064.3(c) is clear that "[t]he provisions of [§ 15064.3] shall apply prospectively as described in [CEQA Guidelines] section 15007." CEQA Guidelines § 15007(c) specifically states: "[i]f a document meets the content requirements in effect when the document is sent out for public review, the document shall not need to be revised to conform to any new content requirements in Guideline amendments taking effect before the document is finally approved." As noted above, the Guidelines changes with respect to VMT took effect on July 1, 2020, while the East Otay Mesa Business Park Specific Plan EIR was certified in 1994 and its two Supplemental EIRs and various Addenda were approved through 2018. As such, and in accordance with CEQA Guidelines §§ 15064.3(c) and 15007(c), revisions to the previously certified EIR are not required under CEQA in order to conform to the new requirements established by CEQA Guidelines § 15064.3. See *A Local & Regional Monitor v. City of Los Angeles* (1993) 12 Cal.App.4th 1773, 1801. Furthermore, potential effects associated with VMT were known or should have been known at the time the EIR and its Supplemental EIRs were prepared and certified, and the adoption of the requirement to analyze VMT does not constitute significant new information requiring preparation of a subsequent or supplemental EIR. See *Concerned Dublin Citizens v. City of Dublin* (2013) 214 Cal.App.4th 1301, 1320. Because the CEQA compliance document for the Project is an EIR Addendum, LOS remains the appropriate analysis metric.

The SANDAG's (Not So) Brief Guide of Vehicular Traffic Generation Rates for the San Diego Region was published in April 2002 and provides a limited amount of information regarding industrial and warehouse uses. In fact, SANDAG's publication does not specify a percentage of trucks or trip length associated with the overall trip rate identified. The latest version of the Institute of Transportation Engineers (ITE) Trip Generation Manual (11th Edition) was released in September 2021 and includes more current and detailed survey data associated with industrial and warehouse land use types. The ITE Trip Generation Manual includes additional information associated with truck trips from industrial and warehouse land uses, including percentage of trucks, types of trucks, and different trip lengths based on land use type.

The County of San Diego Transportation Study Guidelines, published in September 2022 (page 11), acknowledge the use of ITE's Trip Generation Manual as a valid source for the evaluation of traffic. As such, it is most appropriate for the Project to be analyzed using the latest published information from ITE for purposes of trip estimating. For the reasons stated above, for purposes of analysis and evaluation of impacts as compared to the original 1994 EIR and 2000 SEIR, the ITE rates are utilized.

Analysis

The 1994 EIR included an analysis of transportation regulations pertinent at the time of the EIR's certification, as well as existing conditions and impacts related to the East Otay Mesa Business Park Specific Plan project. The 1994 EIR identified interjurisdictional inconsistencies in future roadway designations as an impact. Mitigation for transportation impacts was general and required interjurisdictional coordination for future roadway designations. Due to the general nature of these mitigation measures and the fact that all applicable interjurisdictional roadways have since been constructed, the mitigation measures included in the 1994 EIR are not applicable to the Project.

The 2000 SEIR also addressed transportation/traffic and contained new mitigation for new impacts (due to the extension of Otay Mesa Road to SR-905), in addition to carrying over previous mitigation that remained applicable to the previously approved project for the site. That mitigation no longer applies based on the results of the Project's Traffic Analysis (*Appendix H*). The 2000 SEIR mitigation measures are located on pages 2-62 through 2-66 of the 2000 SEIR.

A Traffic Analysis (*Appendix H*) was prepared for the Project to determine whether the Project would have new or substantially more severe transportation impacts as compared to the previously approved projects. Table 7, *Project Average Daily Trips*, indicates the Project would generate 6,569 average daily trips (ADT). In comparison, the previously approved project analyzed in the 2000 SEIR for light industrial and commercial uses would generate 26,780 ADT; thus, the Project would reduce trips by 20,211 ADT. Similarly, the previously approved project analyzed in the 2018 SEIR for mixed uses would generate 34,124 ADT; thus, the Project would reduce trips by 27,555 ADT.

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Table 7 Project Average Daily Trips

Land Use	Size (X)	PCE Factor ^b	Daily Trip Ends (ADTs)		AM Peak Hour					PM Peak Hour				
					Formula	In:Out Split ^a	Volume			Formula	In:Out Split	Volume		
			In	Out			Total	In	Out			Total		
Warehousing ^c														
Passenger Vehicles	1,553.25 KSF	1.0	1.58(X)+38.29	2,492	0.12(X)+23.62	77:23	162	48	210	0.12(X)+26.48	28:72	60	153	213
Heavy Trucks (w/ PCE) ^e		2.0	0.54(X)+7.47	1,692	0.02(X)	52:48	32	30	62	0.03(X)	52:48	48	45	93
High-Cube Transload and Short-Term Storage Warehouse ^d														
Passenger Vehicles	1,296.75 KSF	1.0	1.4(X)	1,815	0.08(X)	77:23	80	24	104	0.1(X)	28:72	36	94	130
Heavy Trucks (w/ PCE) ^e		2.0	0.22(X)	570	0.02(X)	49:51	25	27	52	0.01(X)	47:53	12	14	26
Total Trips				6,569			299	129	428			156	306	462

Footnotes:

- Rates are based on Institute of Transportation Engineers' (ITE) Trip Generation Manual, 11th edition.
- PCE = Passenger Car Equivalent
- Land Use 150 – Warehousing (ITE)
- Land Use 154 – High-Cube Transload and Short-Term Storage Warehouse (ITE)
- Heavy Vehicle Rate

(LLG, 2024)

The Project would generate substantially less traffic volume as compared to the previously approved projects. Additionally, the Traffic Analysis (*Appendix H*) determined that the Project is not calculated to result in any significant LOS-related impacts to any study area intersection and no mitigation measures are required. Thus, impacts would be less than significant.

The Project would consist of a number of roadways within the Project site to facilitate internal circulation. All on-site roadways would either be designed and constructed per County of San Diego Public Road Standards or have been subject to a design review and approval by the County of San Diego Public Works Division. In addition, all classified Mobility Element roadways within the Project site would be constructed to conform to the roadway classifications outlined in the EOMBSP Circulation Element. Because the Project's roadways are either consistent with County of San Diego Public Road Standards or have been reviewed and approved by the County Public Works Division, the Project would not result in a substantial increase in hazards due to a roadway design feature. Additionally, because of this compliance with standards and regulations, the Project would not result in inadequate emergency access. Impacts would be less than significant.

The Project would not cause any new significant environmental effects or a substantial increase in the severity of previously identified significant effects to transportation. There are no changes in circumstances under which the Project is being undertaken and/or "new information of substantial importance" that would cause one or more effects to transportation.

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XIX. TRIBAL CULTURAL RESOURCES – Since the previous EIR was certified, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause one or more effects to tribal cultural resources including: causing a change in the significance of a tribal cultural resource as defined in Public Resource Code § 21074?

YES NO

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The 2018 SEIR for the previously approved project addressed resources important to Native American Tribes under the subject area of Cultural Resources. Native American consultation or communication did not reveal any culturally or spiritually significant sites known to be located on the Project site. No Traditional Cultural properties that served religious or community practices were found on the site, and no Tribal Cultural Resources were identified or reported from the Native American contacts. Thus, the 2018 SEIR found that impacts to tribal cultural resources were less than significant.

Based on the analysis of the currently proposed Project's Cultural Resources Survey Memo (*Appendix C*), it was determined that known tribal cultural resources are not present within the Project site. However, as concluded in the Cultural Resources section, the potential exists to discover such resources during ground-disturbing construction activities on the Project site, in the same manner as encompassed for archaeological resources. As such, with the implementation of the Project, there would be no greater potential for impacts to significant tribal cultural resources than disclosed in the Cultural Resources section of the 2018 SEIR. Impacts would be potentially significant (**Impact CR-1**) and mitigation measure **M-CR-1** recommended by the 2018 SEIR would reduce these potential impacts to less-than-significant levels.

The Project would not cause any new significant environmental effects or a substantial increase in the severity of previously identified significant effects to tribal cultural resources. There are no changes in circumstances under which the Project is being undertaken and/or "new information of substantial importance" that would cause one or more effects to tribal cultural resources.

XX. UTILITIES AND SERVICE SYSTEMS – Since the previous EIR was certified, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause effects to utilities and service systems including: exceedance of wastewater treatment requirements of the applicable Regional Water Quality Control Board; require or result in the construction of new water or wastewater treatment facilities, new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects; require new or expanded entitlements to water supplies or new water resources to serve the project; result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments; be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs; and/or noncompliance with federal, state, and local statutes and regulations related to solid waste?

YES NO

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The 1994 EIR prepared for the East Otay Mesa Business Park Specific Plan found that the Specific Plan would result in significant impacts relative to solid waste, since a landfill for solid waste disposal may not be available after the Otay Landfill was closed; however, impacts were found to be mitigated to less-than-significant levels with a goodwill serve letter from the County Public Works, Solid Waste Division. Additionally, the 1994 EIR concluded that the Specific Plan only established wastewater disposal for the first 400 net acres of industrial or commercial development, and development beyond this amount could result in potentially significant impacts on wastewater service. Thus, the 1994 EIR concluded that mitigation required that no development be allowed until all necessary infrastructure and treatment plants were constructed and operable.

Based on the findings from the Otay Water District's 2015 Urban Water Management Plan (UWMP) and the Water Authority's 2010 UWMP, the 2018 SEIR for the previously approved project concluded that the previously approved project evaluated in the 2018 SEIR would not result in unanticipated demands and no significant impacts relative to water services would occur. The 2018 SEIR found that the previously approved project was consistent with the wastewater treatment requirements of the Regional Water Quality Control Board (RWQCB) and would not require construction of new or expanded water or wastewater treatment facilities. Thus, the previously approved project was found to not result in significant impacts relative to wastewater. The 2018 SEIR noted that the previously approved project required relocation of gas lines. However, all utility relocated would occur within the previously approved project development area, and no impacts relative to gas and electricity beyond those assumed as part of construction would occur. The 2018 SEIR also found that there was sufficient existing solid waste capacity to accommodate the previously approved project's solid waste disposal needs, and impacts associated with solid waste were found to be less than significant.

The Project would not create any greater demand on utilities and service systems compared to what was analyzed for the previously approved project in the 2018 SEIR. Otay Water District released its 2020 Urban Water Management Plan in June 2021, which shows adequate supplies

based on planned land uses and that considered the previously approved project. Furthermore, the light industrial land uses proposed by the Project would demand much less water and generate much less wastewater requiring treatment than the technology center, commercial, and residential land uses previously approved. As discussed under the topic of Energy, the Project also would be more energy efficient and consume less energy than the previously approved projects. Similarly, the Project would not generate any greater amount of solid waste requiring landfill disposal than assumed for the previously approved projects. Service availability letters for the Project are contained in *Appendix I*.

The Project would not cause any new significant environmental effects or a substantial increase in the severity of previously identified significant effects related to utilities and service systems. There are no changes in circumstances under which the Project is being undertaken and/or "new information of substantial importance" that would cause one or more utilities or service systems effects.

XXI. MANDATORY FINDINGS OF SIGNIFICANCE – Since the previous EIR was certified, are there any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that result in any mandatory finding of significance listed below?

Does the project 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 a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?

YES NO

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As described in this Checklist, there are no changes in the Project, changes in circumstances under which the Project is undertaken and/or "new information of substantial importance" that result in any of the mandatory findings of significance.

The Project's Biological Technical Memorandum (see Appendix B.1) included cumulative impact analyses for biological resources. Off-site impacts associated with the sewer connection west of the Project site were not addressed in previous biological resource studies; however, installation of the off-site sewer connection would impact approximately 0.7-acre of non-native grassland and approximately 0.1-acre of disturbed habitat off-site west of Zinser Road. This technical memorandum determined that the Project, including off-site sewer connection, would reduce the

overall acreage of impacts to biological resources by approximately 8.0 acres on site compared to the previously approved project.

The Project would result in potentially significant impacts to biological resources, including direct and indirect impacts to sensitive vegetation communities, and special status plant and wildlife species; however, impacts would be mitigated to less than significant and the Project's contribution is less than cumulatively considerable. Refer to Section IV, Biological Resources of this checklist for mitigation measures.

The Project's contribution to cumulative impacts have been analyzed and disclosed throughout this EIR Addendum and in Appendices A through J. The Project includes the same development impact footprint as the previously approved project other than the on-site reduction of 8.0 acres of impact and the addition of an off-site sewer connection located within an existing planned right-of-way; therefore, cumulative impacts related to physical impact area (i.e., biological resources, cultural resources, geology and soils, and tribal cultural resources) would not increase impacts as compared to the previously approved project. Furthermore, the Project would generate less traffic and result in a concomitant reduction in air quality, GHG, and noise impacts compared to the previous projects; therefore, the cumulative impacts of the Project would also be reduced. Thus, the Project would not cause new or significantly greater contributions to cumulative impacts previously analyzed and disclosed in the 1994 EIR, 2000 SEIR, 2003 and 2012 Addenda, and 2018 SEIR prepared for previously approved projects on the Project site.

The Project would not have environmental effects that will cause substantial adverse effects on human beings. Refer to Section III, Air Quality (Sensitive Receptors), Section VII, Geology and Soils (rupture or faults), Section IX, Hazards and Hazardous Materials (wildfire hazard and emergency evacuations), and Section XV Public Services (fire protection and law enforcement services).

7. Attachments

- A. Regional Location Map
- B. Project Specific Plan Amendment
- C. Project Vesting Tentative Map
- D. Project Site Plan
- E. Summary of Mitigation Measures

8. Appendices

- A1. Air Quality and Greenhouse Gas Technical Memorandum
- A2. Health Risk Assessment
- B1. Biological Resources Technical Memorandum
- B2. Species Assessment Memorandum
- C. Cultural Resources Technical Memorandum
- D. Geotechnical Technical Memorandum
- E. Phase I Environmental Site Assessment
- F1. Drainage Study

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- F2. Stormwater Quality Management Plan
- G. Noise Technical Memorandum
- H. Traffic Technical Memorandum
- I. Service Availability Letters
- J. Fire Protection Plan

REFERENCES

ASM Affiliates. 2023. *A Cultural Resources Survey and Update Memo for the Sunroad—East Otay Mesa Project, San Diego, California*. May 2023.

Dudek. 2023. *Fire Protection Plan East Otay Mesa Business Park Otay 200 Project FPP*. July 2023.

Geocon. 2023. *Updated Geotechnical Investigation, Sunroad 200 Otay Mesa and Harvest Roads*. June 2023.

Linscott Law and Greenspan (LLG) Engineers. 2024. *Transportation Study Otay Majestic Project*. January 2024.

PBLA Engineering. 2023. *Preliminary Drainage Study*. April 2023.

PBLA Engineering. 2023. *Stormwater Quality Management Plan*. May 2023.

RECON. 2023. *Otay 250 – SPA Proposed Change to TM5607 to an Industrial Project Biological Resource Analysis*. June 2023.

RECON. 2024. *Otay 250 SPA – Assessment of Potential for Occurrence for Western Spadefoot Toad and Crotch’s Bumblebee*. March 2024.

SCS Engineers. 2015. *Phase I Environmental Site Assessment*. July 2015.

Urban Crossroads. 2023. *Otay Mesa 200 Emissions Comparison*. August 2023.

Urban Crossroads. 2023. *Otay Mesa 200 Mobile Source Health Risk Assessment*. August 2023.

Urban Crossroads. 2023. *Majestic Otay Noise Impact Analysis*. August 2023.

PREVIOUS ENVIRONMENTAL ANALYSIS INCORPORATED BY REFERENCE

Environmental Impact Report, July 1994. East Otay Mesa Business Park Specific Plan. SCH No. 92101099.

Supplemental Environmental Impact Report, December, 2000. East Otay Mesa Specific Plan Sunroad Spectrum TM 5139. SCH No. 92101099.

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Addendum to the Environmental Impact Report. April 2003. Revised Tentative Map TM5319-RPL6R. SCH No. 92101099.

Addendum to the Environmental Impact Report. December 2012. Sunroad Otay Tech Centre TM 5538. March 2012. SCH No. 92101099.

Supplemental Environmental Impact Report, March 2018. Otay 250 Sunroad – East Otay Mesa Business Park Specific Plan Amendment, SCH No. 2016031028.

REVIEW FOR APPLICABILITY OF/COMPLIANCE WITH ORDINANCES/POLICIES

FOR PURPOSES OF CONSIDERATION OF OTAY MAJESTIC 250 PROJECT

PDS2022-SPA-22-001; PDS2023-VTM (5651), PDS2023-STP-23-007, PDS2022-ER-98-19-013I

February 19, 2024

I. HABITAT LOSS PERMIT ORDINANCE – Does the proposed project conform to the Habitat Loss Permit/Coastal Sage Scrub Ordinance findings?

YES
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NO
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NOT APPLICABLE/EXEMPT
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The proposed project and any off-site improvements are located within the boundaries of the Multiple Species Conservation Program. Therefore, conformance to the Habitat Loss Permit/Coastal Sage Scrub Ordinance findings is not required.

II. MSCP/BMO - Does the proposed project conform to the Multiple Species Conservation Program (MSCP) and Biological Mitigation Ordinance?

YES
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NO
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NOT APPLICABLE/EXEMPT
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The proposed project and any off-site improvements related to the proposed project are within the boundaries of the MSCP. The project conforms with the MSCP and the Biological Mitigation Ordinance as discussed in the MSCP Findings dated December 15, 2000.

III. GROUNDWATER ORDINANCE - Does the project comply with the requirements of the San Diego County Groundwater Ordinance?

YES
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NO
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NOT APPLICABLE/EXEMPT
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The project will obtain its water supply from the Otay Water District which obtains water from surface reservoirs and/or imported sources. The project will not use any groundwater for any purpose, including irrigation or domestic supply.

IV. RESOURCE PROTECTION ORDINANCE - Does the project comply with:

The wetland and wetland buffer regulations (Sections 86.604(a) and (b)) of the Resource Protection Ordinance?

YES NO NOT APPLICABLE/EXEMPT
☒ ☐ ☐

YES NO NOT APPLICABLE/EXEMPT

Otay Majestic 250
PDS2023-STP-23-007, PDS2022-
SPA-22-001, PDS2023-VTM-5651 &
PDS2022-ER-98-19-013I

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The Floodways and Floodplain Fringe section
(Sections 86.604(c) and (d)) of the Resource
Protection Ordinance?

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The [Steep Slope](#) section (Section 86.604(e))?

YES

NO

NOT APPLICABLE/EXEMPT

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The Sensitive Habitat Lands section (Section
86.604(f)) of the Resource Protection Ordinance?

YES

NO

NOT APPLICABLE/EXEMPT

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The Significant Prehistoric and Historic Sites
section (Section 86.604(g)) of the Resource
Protection Ordinance?

YES

NO

NOT APPLICABLE/EXEMPT

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Discussion:

Wetland and Wetland Buffers:

The site contains approximately 0.11-acre of disturbed wetland habitat as defined by the San Diego County Resource Protection Ordinance. The project site supports three wetland/riparian habitats: disturbed wetlands, non-native riparian, and vernal pools. The disturbed wetland areas within the agricultural stock pond and man-made swale on-site were identified as County of San Diego Resource Protection Ordinance wetlands. The proposed grading limits would avoid direct impacts to aquatic resources that include the disturbed wetlands associated with the abandoned agricultural pond and those that occur adjacent to a berm. The project also contains an Open Space Easement that would protect the federally protected Waters of the U.S. within Johnson Canyon. Thus, the project would result in similar or decreased impacts to jurisdictional aquatic resources as compared to the previously approved project, and all impacts to wetlands would be reduced to less than significant with mitigation. Therefore, it has been found that the proposed project complies with Sections 86.604(a) and (b) of the Resource Protection Ordinance.

Floodways and Floodplain Fringe:

The project is not located near any floodway or floodplain fringe area as defined in the Resource Protection Ordinance, nor is it near a watercourse plotted on any official County floodway or floodplain map. Therefore, it has been found that the proposed project complies with Sections 86.604(c) and (d) of the Resource Protection Ordinance.

Steep Slopes:

Slopes with a gradient of 25 percent or greater and 50 feet or higher in vertical height are required to be placed in open space easements by the San Diego County Resource Protection Ordinance. Approximately 3.4 percent of the subject property contains steep slopes; however, no steep slopes are present in areas proposed for project grading. Therefore, it has been found that the proposed project complies with Sections 86.604(e) of the Resource Protection Ordinance.

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Sensitive Habitats:

Sensitive habitat lands include unique vegetation communities and/or habitat that is either necessary to support a viable population of sensitive species, is critical to the proper functioning of a balanced natural ecosystem, or which serves as a functioning wildlife corridor. The project would result in direct impacts to approximately 188.64 acres of non-native grassland. However, the project would be required to comply with MSCP requirements, and the project would be required to comply with the Conservation Measures included in the USFWS Biological Opinion for the Sunroad Centrum Project. Furthermore, the project would result in similar or decreased impacts to jurisdictional aquatic resources as compared to the previously approved project, and all impacts to sensitive habitat lands would be reduced to less than significant with mitigation. Therefore, it has been found that the proposed project complies with Section 86.604(f) of the Resource Protection Ordinance.

Significant Prehistoric and Historic Sites:

The property has been surveyed by a County of San Diego approved archaeologist and it has been determined that three pre-contact cultural resources and one historic structure are present within the project site. The project would include mitigation measures as previously required to avoid potential direct and indirect impacts to cultural resources. Additionally, mitigation measures may be required to address unknown resources potentially discovered during grading and/or ground disturbing activities. Therefore, it has been found that the proposed project complies with Section 86.604(g) of the Resource Protection Ordinance.

V. STORMWATER ORDINANCE (WPO) - Does the project comply with the County of San Diego Watershed Protection, Stormwater Management and Discharge Control Ordinance (WPO)?

YES
☒

NO
☐

NOT APPLICABLE
☐

The project Priority Development Project Storm Water Quality Management Plan (PDP SWQMP) has been reviewed and is found to be complete and in compliance with the WPO. As outlined in the project's PDP SWQMP (dated May 26, 2023), the project will implement source control, site design and structural BMPs to reduce potential pollutants, to the maximum extent practicable, from entering storm water runoff.

VI. NOISE ORDINANCE – Does the project comply with the County of San Diego Noise Element of the General Plan and the County of San Diego Noise Ordinance?

YES
☒

NO
☐

NOT APPLICABLE
☐

The project would not expose people to nor generate potentially significant noise levels during construction or operation which exceed the allowable limits of the County of San

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Diego Noise Element of the General Plan, County of San Diego Noise Ordinance, and other applicable local, State, and Federal noise control regulations.

NOISE ORDINANCE COMPLIANCE: In order to comply with the [County Noise Ordinance 36.401](#) et seq. and the Noise Standards pursuant to the General Plan Noise Element (Table N-1 & N-2), noise generating equipment and project related noise sources associated with the future use and discretionary actions shall be subject to further noise evaluation. The owner or applicant of the project shall demonstrate that the proposed project complies with the sound level limits pursuant to the Noise Ordinance Section 36.404 and the General Plan Noise Elements.

Draft Conditions:

No noise-related mitigation measures have been identified for the Project. Noise generating equipment and project related noise sources associated with the future use and discretionary actions shall be subject to further noise evaluation at the time of equipment operation. The owner or applicant of the project shall demonstrate that the proposed project complies with the sound level limits pursuant to the Noise Ordinance Section 36.409 during construction, and Section 36.404 and the General Plan Noise Elements during operation.

MULTIPLE SPECIES CONSERVATION PROGRAM CONFORMANCE STATEMENT

**Otay Majestic
PDS2022-SPA-22-001
APN 646-080-26, -27, -28, -29, -31, -32, -33, 646-240-30, and 646-310-17**

March 6, 2024

The project proposes a Specific Plan Amendment (SPA) to the East Otay Mesa Business Park Specific Plan to establish a new Light Industrial Master Planned Business Park area, which would allow for the construction of a series of Class A industrial buildings. The project is utilizing the same development footprint that of the approved Otay 250 project (PDS2015-SPA-15-001, PDS2015-TM-5607), which was approved by the Planning Commission on April 13, 2018. A Biological Technical Report (REC Consultants, Inc; March 2017) was prepared and accepted for the approved Otay 250 project. A Biological Resource Memorandum (RECON Environmental; June 5, 2023) was provided for the proposed project and includes the results of the site visits that were conducted on February 8, 2023 and May 8, 2023 to verify vegetation mapping and perform sensitive species assessments. A Biological Resource Memorandum (RECON Environmental; March 1, 2024) was provided and includes sensitive species assessments for western spadefoot toad and Crotch's bumble bee.

It was verified that the vegetation mapping of the project site is similar to what was previously reported for the approved project. There is a small increase in the native grassland area noted in the eastern corner of the property. However, the other habitat types and aquatic resources are the same as previously mapped.

Habitat assessments for the sensitive plant species variegated dudleya (*Dudleya variegata*), prostrate navarretia (*Navarretia prostrata*), and San Diego button-celery (*Eryngium aristulatum* var. *parishii*) were conducted. No variegated dudleya were observed during the recent site visit. This species was last documented on the site in 2006, when only 11 individuals were observed, and was not found during surveys conducted in 2015, 2016, 2020, or 2021. Given the current habitat conditions on the site, there is a low probability that the species still occurs on the site. Prostrate navarretia and San Diego button-celery were not observed during the most recent site visit, nor during surveys conducted in 2015, 2016, or 2020. Given the current habitat conditions on the site there is a low probability that these species still occur on the site.

A general habitat assessment for the sensitive wildlife species Quino checkerspot butterfly (*Euphydryas editha quino*) was conducted during the recent site visits. None of the preferred host, larval, or nectar plants was observed on the site. The last protocol survey for Quino checkerspot butterfly conducted on the site occurred in 2016, and a small patch of dot-seed plantain was observed but no Quino

checkerspot butterfly or larvae were observed. In addition, a habitat assessment conducted in 2020 concluded that the onsite habitat conditions were not conducive for this butterfly species. Given the existing condition of a dense non-native grassland and thatch and lack of observation of any host or larval plants during the current habitat assessment, it was concluded that there is a low probability for the Quino checkerspot butterfly to occur on the site.

A general assessment was conducted to evaluate the potential for the project site to support western spadefoot toad (*Spea hammondi*) and Crotch's bumble bee (*Bombus crotchii*). The general assessment was based on site visits conducted in February and May of 2023 and a search of the California Natural Diversity Data Base (CNDDB) species occurrence database and the U.S. Fish and Wildlife Service (USFWS) all species occurrence database. There is a moderate potential for western spadefoot toad to occur on the project site. There are vernal pools present on-site and disturbed wetlands comprised of two agricultural ponds and a depressional feature along the base of an existing berm. These features can hold water during a normal or above normal wet season sufficient to support the life cycle of this toad species. However, the proposed project will avoid direct impacts to these features as these areas will have setback buffers and will be preserved in open space easements. Therefore, no impacts are anticipated to occur to this species. There is a low potential for Crotch's bumble bee to forage or nest on the project site. Much of the project site supports dense non-native grassland with few natural openings to support the preferred nectar plants for the species. The dense growth and thatch of non-native grasses on the site has eliminated any historic openings in the habitat where these nectar plants would occur and observations of substantial populations for preferred nectar plants is lacking for the site.

A review of the grading limits for the proposed project was conducted to verify that the impacts to biological resources were in substantial conformance with as those addressed with the approved project. The review concluded that the grading limits of disturbance for the proposed industrial project would impact less onsite biological resources than under the previously approved project. Offsite impacts associated with the sewer connection to the west of the project site were not addressed in previous biological resource studies. This construction activity would impact approximately 0.65 acre of non-native grassland and 0.08 acre of disturbed habitat offsite. The reduction in onsite impacts to an estimated 8 acres of non-native grassland would be more than the impacts associated with the offsite sewer connection and, therefore, no increase in impacts previously reported. Therefore, no additional mitigation would be required, and the previously approved Otay 250 biological mitigation measures will apply to this proposed project.

The approximately 250 acre proposed project site is located within the County's Multiple Species Conservation Program (MSCP) in land designated as Minor Amendment Area, Minor Amendment Area Subject to Special Consideration, and Major Amendment Area. MSCP Findings were provided and accepted for the approved Otay 250 project, dated March 23, 2017. A Minor Amendment was

processed for the Sunroad Centrum (TM-5139) project and concurrence was received from the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife on November 14, 2003. Once the mitigation has been completed, the site will be designated as Take Authorized and Hardline Preserve.

MSCP COMPLIANCE
SUNROAD – OTAY 250, GPA-15-008; SPA-15-001; REZ-15-007 TM 5607;
ER 15-98-190-13G

MARCH 23, 2017

This process results in a determination of whether or not a project is compliance with the Endangered Species Act (ESA) (Section 10, Implementing Agreement between the County of San Diego and the California Department of Fish and Game and the U.S. Fish and Wildlife Service). An applicant receives Third Party Beneficiary Status under the ESA when: 1) necessary mitigation has occurred in compliance with Section 10 of the Implementing Agreement; 2) the determined mitigation includes an immediately effective requirement to maintain the biological values of the land committed for mitigation; and 3) the mitigation has been imposed through a condition of development (such as a mitigation agreement) that is recorded and runs with the land and is enforceable against and binding upon the Third Party Beneficiary and any successor in interest to the Third Party Beneficiary. Third Party Beneficiary Status may be attained for the project as a whole, or for a discrete phase(s) of the project, so long as the mitigation for the discrete phase(s) is not functionally dependent in the context of the MSCP and Subarea Plan upon the mitigation proposed for subsequent phases.

PROJECT DESCRIPTION:

The Otay 250 Specific Plan Amendment project consists of an amendment to the East Otay Mesa Business Park Specific Plan, an amendment to the Otay Subregional Plan, a Rezone and a Tentative Map. The approximately 253-acre Project site is located within the previously approved East Otay Mesa Business Park Specific Plan (EOMBSPSP). The project proposes a Specific Plan Amendment (SPA) to the EOMSP to establish a new Mixed-Use Village Core area, which would allow for the establishment of a mix of employment, retail, and residential uses. The proposed project would authorize a maximum of 3,158 dwelling units, 78,000 square feet of general commercial uses, and 765,000 square feet of employment uses, and approximately 51.34 acres of permanent biological open space (the project dedicated open space lot).

Approximately 201.39 acres will be impacted on the site, and another 2.69 acres will be impacted offsite to the north and east. Approximately 51.75 acres will be preserved within a 51.34-acre biological open space lot and a 0.41-acre open space easement. Development of the project site will result in significant impacts to non-native grassland and disturbed wetland habitats, and to variegated dudleya, San Diego button-celery, coast barrel cactus, fairy shrimp, turkey vulture, northern harrier, white-tailed kite, loggerhead shrike, San Diego black-tailed jackrabbit, burrowing owl, and raptors.

The project site was approved for development in 2012 to subdivide the site into 55 lots (Sunroad Centrum). Sunroad Centrum consists of 52 technology business park lots ranging in size from 1.8 acres to 5.3 acres, one lot for a sewer pump station, one storm water detention lot, and a 51.34-acre dedicated open space lot. A 0.41-acre easement

within the subdivision was identified as an open space easement established for the protection of biological resources (vernal pools).

Mitigation for impacts to biological resources was proposed and approved through the December 2000 FSEIR for Sunroad Centrum, which included a Resource Conservation Plan (RCP). An updated final RCP was prepared and approved for the Sunroad Centrum project in December 2003. The December 2003 RCP included revisions and additions to the approved FSEIR mitigation measures. A conditional concurrence for a Minor Amendment was completed in 2003. Subsequent to the conditional concurrence for a Minor Amendment, 51.34 acres of on-site biological open space was dedicated, 54.1 acres of non-native grassland habitat was purchased off-site at the Hollenbeck Canyon Wildlife Area and translocation of barrel cactus species was completed as identified in the RCP.

The mitigation measures from the 2003 RCP, the 2003 Minor Amendment, and the 2012 Conditions of Approval are carried forward to mitigate the impacts of this Project. The mitigation measures include onsite habitat preservation within established biological open space easements (vernal pools, native grassland, non-native grassland, riparian habitat); onsite preservation of vernal pools; onsite fairy shrimp preservation, habitat creation/restoration, and fairy shrimp translocation; onsite variegated dudleya preservation; onsite barrel cactus preservation and translocation; onsite wetland creation; and purchase of offsite mitigation land for non-native grassland and variegated dudleya. Applicability of the approved mitigation measures to new determinations of significant impacts based on current County guidelines is also described in this report. All Project mitigation measures are summarized in Section 8 of this report.

Table Summarizing Project Impacts and Mitigation With Respect to Habitat Type
(all numbers represent acreage)

	Direct Impacts	Proposed Open Space	Offsite Mitigation	Total Area Onsite
Disturbed Wetlands (mitigation ratio = 2:1)	0.11	.22	0.0	0.11
Non-Native Grassland (mitigation ratio = 0.5:1)	195.99	46.87 ¹	49.28	240.24
Disturbed/Developed (no mitigation required)	7.91	0.0	0.0	10.23

¹ of which 0.11 in biological open space will be used for wetland creation

BMO FINDINGS

1. Approximately 60 acres of the site is a BRCA because it is underlain by clay soils which support sensitive plant species, including San Diego button celery, variegated dudleya, San Diego barrel cactus and spreading navarretia. The BRCA contributes to the wildlife corridor associated with Johnson Canyon.
2. The rest of the project site is not a BRCA with the following findings supporting this conclusion (Area shown on "Open Space Map").
 - a. The land is not shown as a Pre-Approved Mitigation Area on the wildlife agencies' Pre-Approved Mitigation Area map.

Findings of Fact:

The non-BRCA land is not shown as a Pre-Approved Mitigation Area on the wildlife agencies' Pre-Approved Mitigation Area map. The project is located on Otay Mesa, east of Brown Field, north of Otay Mesa Road and both east and west of Harvest Road. A portion of the site is a Major Amendment Area, a Minor Amendment Area and a Minor Amendment Area with special concerns. The Minor Amendments has been approved by the Wildlife Agencies (please see attached 2003 Conditional Concurrence and Sunroad Centrum MSCP Findings). The Major Amendment is not required because all of this area will be within a conservation easement for resource preservation.

- b. The land is not located within an area of habitat which contains biological resources that support or contribute to the long-term survival of sensitive species, and is not adjacent or contiguous to preserved habitat that is within the Pre-Approved Mitigation Area on the wildlife agencies' Pre-Approved Mitigation Area map.

Findings of Fact:

The non-BRCA land is not located within an area of habitat which contains biological resources that support or contribute to the long-term survival of sensitive species. It is non-native grassland that has supported agriculture for many years.

- c. The land is not part of a regional linkage/corridor. The site is not land that contains topography that serves to allow for the movement of all sizes of wildlife, including large animals on a regional scale. The site does not contain adequate vegetation cover providing visual continuity so as to encourage the use of the corridor by wildlife. The site has not been identified as the primary linkage/corridor between the northern and

southern regional populations of the California gnatcatcher in the population viability analysis for the California gnatcatcher, MSCP Resource Document Volume II, Appendix A-7 (Attachment I of the BMO.)

Findings of Fact:

The non-BRCA land is not part of a regional linkage or corridor because it lies within an area in which all native habitats have been converted by intensive agriculture to non-native grassland or disturbed habitats. Agriculture has been practiced on this site and in the greater East Otay Mesa area over the course of many decades.

While not a part of a regional corridor, onsite portions of Johnson Canyon and its slopes will be preserved in order to maintain a wildlife corridor between the Otay River Valley to the north and the Otay Mountains to the east. Additionally, a very small portion of the site (most of which will be preserved) in the northeastern corner is contiguous with larger blocks of habitat. However, this finger, relative to the larger undisturbed habitat of which it is a part, is small and is surrounded almost entirely by land disturbed primarily through agricultural practices. It represents a “dead end” for species that may be utilizing the habitat as a corridor. The site has not been identified as the primary linkage/corridor between the northern and southern regional populations of the California gnatcatcher in the population viability analysis for the California gnatcatcher (Attachment I of the BMO).

- d. The land is not shown on the habitat evaluation map (Attachment J to the BMO) as very high or high and does not link significant blocks of habitat (except that land which is isolated or links small, isolated patches of habitat and land that has been affected by existing development to create adverse edge effects shall not qualify as BRCA).

Findings of Fact:

All of the non-BRCA lands are mapped as “Agricultural”.

- e. The land does not consist of or is not within a block of habitat greater than 500 acres in area of diverse and undisturbed habitat that contributes to the conservation of sensitive species.

Findings of Fact:

The non-BRCA lands while greater than 500 acres have been repeatedly disturbed by agriculture. No diversity of flora or fauna is found. In fact, after six years of being left fallow, only mustard and invasive non-native grasses have returned. There has been no succession to shrublands.

- f. The land does not contain a high number of sensitive species and is not adjacent or contiguous to surrounding undisturbed habitats, and does not contain soil derived from the following geologic formations: gabbroic rock; metavolcanic rock; clay; and coastal sandstone, which are known to support sensitive species.

Findings of Fact:

No sensitive plant species were identified on the non-BRCA lands. No diversity of flora or fauna is found. In fact, after six years of being left fallow, only mustard and invasive non-native grasses have returned. There has been no succession to shrublands. Soils are derived from clay but are 100% altered by past agriculture.

**FINDINGS FOR CONFORMANCE WITH THE
BIOLOGICAL MITIGATION ORDINANCE**

The Biological Mitigation Ordinance has several sets of criteria that must be met when projects are designed. They include Findings under Article V. A. Project Design Criteria, and findings in Attachments G and H. These findings are to be made, if appropriate, in addition to the overall findings listed for conformance with the Subarea Plan.

PROJECT DESIGN CRITERIA.

1. Project development shall be sited in areas to minimize impact to habitat;

Findings of Fact: The proposed development has designed open space that will protect the viability of sensitive resources. All (0.21 acre) of the vernal pool habitat (supporting two sensitive plant species and the endangered San Diego fairy shrimp), 1.96 acres of native grassland, and 46.87 acres of non-native grassland will be preserved onsite. Impacts to *Dudleya variegata* and *Ferocactus viridescens* will be minimized through transplantation of individuals from areas that are proposed for development into the preserved open space onsite (dudleya may be mitigated by off-site purchase of habitat). While there will be some loss of sensitive habitat associated with the proposed project, that loss has been limited and therefore meets the standards set forth in the Biological Mitigation Ordinance and appropriate mitigation measures have been included as part of the project. Impacts to 0.11 acre of disturbed wetlands/waters will be mitigated through onsite creation of disturbed waters and fairy shrimp habitat. It is proposed that impacts to native grassland and non-native grassland be

mitigated both on and offsite. Mitigation for impacts to 195.99 acres of non-native grassland, at a 0.5:1 mitigation ratio, will be accomplished by the on site preserve of 48.72 acres of non-native grassland and the purchase of 49.28 acres of habitat off-site.

2. Clustering to the maximum extent permitted by County regulations shall be considered where necessary as a means of achieving avoidance:

Findings of Fact:

Development is concentrated away from the sensitive resources. Areas not proposed for development will be placed in an open space preserve managed by a Habitat Conservation Plan.

3. Notwithstanding the requirements of the Slope Encroachment Regulations contained within the Resource Protection Ordinance, effective October 10, 1991, projects shall be allowed to utilize design which may encroach into steep slopes to avoid impacts to habitat;

Findings of Fact:

The site does not contain steep slope areas that can be utilized for development to better provide for the protection of sensitive resources located in flatter areas. The only sloping areas onsite are the banks of Johnson Canyon. Johnson Canyon and its slopes will be preserved in order to maintain a wildlife corridor. Preservation of Johnson Canyon and its slopes as a wildlife corridor is consistent with the East Otay Mesa Specific Plan.

4. The County shall consider reduction in road standards to the maximum extent consistent with public safety considerations;

Findings of Fact:

The project is not affected by roads to the degree that a reduction in standards could reduce the impacts associated with it. The project would require offsite improvements to Otay Mesa Road. These road improvements are expected to result in an impact to 0.1 acre of non-native grassland and mitigation in accordance with the BMO has been included in the mitigation totals.

5. Projects shall be required to comply with applicable design criteria in the County MSCP Subarea Plan, attached hereto as Attachment G (Preserve Design Criteria) and Attachment H.

PRESERVE DESIGN CRITERIA (ATTACHMENT G).

The project conforms to the Preserve Design Criteria and the linkages and corridors criteria as specified through the findings of the project design criteria.

DESIGN CRITERIA FOR LINKAGES AND CORRIDORS (ATTACHMENT H).

- a. Habitat linkages as defined by the Biological Mitigation Ordinance, rather than just corridors, will be maintained.

Findings of Fact:

The proposed development area is not part of a regional linkage because it lies within an area in which habitats have constraints due to adjacency to disturbed (through agriculture) lands or developed lands. A portion of the proposed project does meet the definition of a linkage as defined in the Biological Mitigation Ordinance has been preserved. This portion of the site in the northeastern corner is contiguous with larger blocks of habitat from Otay River to the Otay Mountains.

- b. Existing movement corridors within linkages will be identified and maintained.

Findings of Fact:

The proposed development area is not considered part of a linkage as described in section A above.

- c. Corridors with good vegetative and/or topographic cover will be protected.

Findings of Fact:

Johnson Canyon and its slopes encompassed by the project site will be preserved in order to maintain a wildlife corridor between the Otay River Valley to the north and the Otay Mountains to the east. Preservation of Johnson Canyon and its slopes as a wildlife corridor is consistent with the East Otay Mesa Specific Plan. In addition, the project's conformance with the MSCP and the Biological Mitigation Ordinance further add to the regional connectivity of the open space preserved onsite. The portion of the BRCA south of proposed Lone Star Road has been disturbed by agriculture and will be functionally separated from the more valuable habitat north of the road. All land north of the road will be preserved as a conservation easement subject to an RCP.

- d. Regional linkages that accommodate travel for a wide range of wildlife species, especially those linkages that support resident populations of wildlife, will be selected.

Findings of Fact:

The proposed development area does not contain a linkage that meets these specifications. However, portions of Johnson Canyon and its slopes encompassed by the project site will be preserved in order to maintain a

wildlife corridor between the Otay River Valley to the north and the Otay Mountains to the east. All land north of the Lone Star Road will be preserved as a conservation easement subject to an RCP.

- e. The width of a linkage will be based on the biological information for the target species, the quality of the habitat within and adjacent to the corridor, topography, and adjacent land uses. Where there is limited topographic relief, the corridor must be well vegetated and adequately buffered from adjacent development.

Findings of Fact:

The proposed development area does not contain a linkage that meets these specifications. However, portions of the BRCA adjacent to Johnson Canyon and its slopes encompassed by the project site will be preserved in order to maintain a wildlife corridor between the Otay River Valley to the north and the Otay Mountains to the east. All land north of the Lone Star Road, which is contiguous with Johnson Canyon, will be preserved as a conservation easement subject to an RCP.

- f. If a corridor is relatively long, it must be wide enough for animals to hide in during the day. Generally, wide linkages are better than narrow ones. If narrow corridors are unavoidable, they should be relatively short. If the minimum width of a corridor is 400 feet, it should be no longer than 500 feet. A width of greater than 1,000 feet is recommended for large mammals and birds. Corridors for bobcats, deer and other large animals should reach rim-to-rim along drainages, especially if the topography is steep.

Findings of Fact:

All land north of the Lone Star Road, which is contiguous with Johnson Canyon, will be preserved as a conservation easement subject to an RCP. This will maintain a wildlife corridor between the Otay River Valley to the north and the Otay Mountains to the east. The portion of this corridor that lays onsite is approximately 1500 feet from the bottom of Johnson Canyon. Preserved open space adequately buffers the onsite portion of the corridor from adjacent development to the southwest. Furthermore, the development is set back from the rim of the canyon and separated from the open space by Lone Star Road and a 5-foot fence.

- g. Visual continuity (i.e., long lines-of-site) will be provided within movement corridors. This makes it more likely that animals will keep moving through it. Developments along the rim of a canyon used as a corridor should be

set back from the canyon rim and screened to minimize their visual impact.

Findings of Fact:

Within the portion of the corridor preserved onsite, non-native grassland, non-native riparian, San Diego Mesa Claypan Vernal Pool and Native Grassland are proposed to be preserved. Wildlife traveling through Johnson Canyon will not have a visual change. The proposed development is set back from the rim of the canyon and separated from the open space by Lone Star Road and a 5-foot fence.

- h. Corridors with low levels of human disturbance, especially at night, will be selected. This includes maintaining low noise levels and limiting artificial lighting.

Findings of Fact:

The design of the project includes conditions and criteria to limit night-time disturbance, including building setbacks, shielded lighting, and limited access. This area already has light disturbance from the State Prison.

- i. Barriers, such as roads, will be minimized. Roads that cross corridors should have 10-foot high fencing that channels wildlife to underpasses located away from interchanges. The length-to-width ratio for wildlife underpasses is less than 2, although this restriction can be relaxed for underpasses with a height of greater than 30 feet.

Findings of Fact:

The open space, which includes the Johnson Canyon corridor, will not have any roads or barriers within it.

- j. Where possible at wildlife crossings, road bridges for vehicular traffic rather than tunnels for wildlife use will be employed. Box culverts will only be used when they can achieve the wildlife crossing/movement goals for a specific location. Crossings will be designed as follows: sound insulation materials will be provided; the substrate will be left in a natural condition, and vegetated with native vegetation if possible; a line-of-site to the other end will be provided; and if necessary, low-level illumination will be installed in the tunnel.

Findings of Fact:

The project does not have a wildlife crossing, since there is no proposed crossing of the open space.

- k. If continuous corridors do not exist, archipelago (or steppingstone) corridors may be used for short distances. For example, the gnatcatcher may use disjunct patches of sage scrub for dispersal if the distance involved is less than 1-2 miles.

Findings of Fact:

The project proposes a continuous corridor.

FINDINGS IN CONFORMANCE WITH THE SUBAREA PLAN

All projects whether considered an exception or an exemption to the Biological Mitigation Ordinance must conform to the San Diego County Subarea Plan. The concept of conformance to the plan does not mean specific and direct compliance with the mitigation ratios. Exemption and exception is intended to provide for flexibility from those standards when there are specific reasons to do so. Conformance with the Subarea Plan does involve the review of the project to see that it does not create a situation where a project is affecting the potential for preserve design.

1. The project will not conflict with the no-net-loss-of-wetlands standard in satisfying state and federal wetland goals and policies.

Findings of Fact:

The project will not conflict with the no-net-loss-of-wetlands standard in satisfying state and federal wetland goals and policies. The project proposes to directly impact, by grading, 0.2 acre of disturbed wetland/waters. As part of the permit process with this resource, a detailed site-specific mitigation and monitoring plan has been prepared. Impacts to disturbed water/wetlands onsite will be in-kind replacement of habitat quality. Specifically, the objective of the wetlands mitigation plan shall be to create five basins (totaling 0.1 acre) that will collect water adequately to provide habitat for the two species of fairy shrimp and to ensure no net loss of wetland habitat value. In addition, another 0.1 acre of wetland creation will be required to bring up the mitigation ratio to 2:1.

2. The project includes measures to maximize the habitat structural diversity of conserved habitat areas including conservation of unique habitats and habitat features.

Findings of Fact:

The proposed project will place 66 percent of the BRCA including the most diverse and unique habitats within conservation easements. The preservation of all vernal pools (which support two sensitive plant species and the endangered San Diego fairy shrimp), 0.4 acre of southern willow scrub, 3.2 acres of coastal

sage scrub, 3.1 acres of native grassland, and 44.7 acres of non-native grassland meets this criteria.

3. The project provides for conservation of spatially representative examples of extensive patches of coastal sage scrub and other habitat types that were ranked as having high and very high biological values by the MSCP habitat evaluation model.

Findings of Fact:

The proposed project will place 66 percent of the BRCA including the conservation of spatially representative examples of very high value habitats. The preservation of all vernal pools (which support two sensitive plant species and the endangered San Diego fairy shrimp), 1.96 acres of native grassland, and 46.87 acres of non-native grassland meets this criteria. The portion of the BRCA, ranked as “very high” that will be developed (15 acres) is disturbed by agriculture and is cut off from the larger portion of BRCA by the adopted circulation element route of Lone Star Road.

4. The project provides for the creation of significant blocks of habitat to reduce edge effects and maximize the ratio of surface area to the perimeter of conserved habitats.

Findings of Fact:

The proposed project will place open space easements on land that is configured to maximize the ratio of surface area to perimeter. This is accomplished by minimizing intrusions by development into the preserve area boundary and maintaining boundaries of gently sweeping curves rather than acute indentations and peninsulas of development partially surrounded by preserved land. In addition the project has been designed with an adequate setback from development to avoiding lighting and noise conflicts. A five-foot fence barrier will border the road interface with the preserve.

5. The project provides for the development of the least sensitive habitat areas.

Findings of Fact:

Areas proposed for preservation in open space contain the majority of sensitive species and habitats on site. Development is primarily restricted to areas currently occupied by non-native grassland habitat, a Tier III habitat, the least sensitive of all habitat types found onsite. One agricultural contains fairy shrimp. While the fairy shrimp are endangered, this artificial occupied habitat is not natural or sensitive. In the 2003 Biological Opinion for Sunroad Centrum, the Wildlife Agencies agreed to a project design which impacts the pond is appropriate with mitigation that will create habitat for fairy shrimp.

6. The project provides for the conservation of key regional populations of covered species, and representations of sensitive habitats and their geographic sub-associations in biologically functioning units.

Findings of Fact:

No key regional populations of covered species are present on the site. The project does provide for conservation of sensitive habitats in biologically functioning units. The majority of the sensitive habitats are being protected in place through dedication of a conservation easement. The conservation easement has been designed to minimize impacts to these sensitive habitats and to wildlife species using the Johnson Canyon corridor. All of the vernal pools (which support two sensitive plant species and the endangered San Diego fairy shrimp) and of the southern willow scrub habitat associated with Johnson Canyon will be preserved onsite. While there will be some loss of sensitive habitat associated with the proposed project, that loss has been limited and therefore meets the standards set forth in the Biological Mitigation Ordinance and appropriate mitigation measures have been included as part of the project.

The proposed development has designed open space that will protect the viability of sensitive resources. All (0.2 acre) of the vernal pool habitat (supporting two sensitive plant species and the endangered San Diego fairy shrimp), 1.96 acres of native grassland, .39 acres of non-native riparian and 46.87 acres of non-native grassland will be preserved onsite. Impacts to *Dudleya variegata* and *Ferocactus viridescens* will be minimized through transplantation of individuals (or off-site purchase of dudleya habitat) from areas that are proposed for development into the preserved open space onsite. While there will be some loss of sensitive habitat associated with the proposed project, that loss has been limited and therefore meets the standards set forth in the Biological Mitigation Ordinance and appropriate mitigation measures have been included as part of the project. Impacts to 0.11 acre of disturbed wetlands/waters will be mitigated through onsite creation of disturbed waters and fairy shrimp habitat. It is proposed that impacts to native grassland and non-native grassland be mitigated both on and offsite. Mitigation for impacts to 195.99 acres of non-native grassland, at a 0.5:1 mitigation ratio, will be accomplished by the on site preserve of 46.87 acres of non-native grassland and the purchase of 49.28 acres of habitat off-site.

7. Conserve large interconnecting blocks of habitat that contribute to the preservation of wide-ranging species such as mule deer, golden eagle, and predators as appropriate. Special emphasis will be placed on conserving adequate foraging habitat near golden eagle nest sites.

Findings of Fact:

Onsite a “finger” of land of “very high” habitat value projects into the northeast corner of the project site. This finger is contiguous with a block of habitat greater than 500 acres in area of diverse and undisturbed habitat that contributes to the conservation of sensitive species. But, this area has been impacted by past agriculture and will be isolated from the conservation area by Lone Star Road. The most sensitive portion of land onsite with a “very high” habitat value (i.e. that containing seven vernal pools) located onsite will be preserved. Additionally, portions of Johnson Canyon and its slopes encompassed by the project site will be preserved in order to maintain a wildlife corridor between the Otay River Valley to the north and the Otay Mountains to the east. Approximately 1500 feet from the canyon bottom is included in the conservation easement. In addition, other portions of the corridor are/will be preserved through a discretionary review process in and outside the East Otay Mesa Specific Plan area. To the south and west the project site is surrounded by either disturbed (primarily through agriculture) or developed land.

8. All projects within the San Diego County Subarea Plan shall conserve identified critical populations and narrow endemics to the levels specified in the Subarea Plan. These levels are generally no impact to the critical populations and no more than 20 percent loss of narrow endemics and specified rare and endangered plants.

Findings of Fact:

The project site supports three sensitive plant species; barrel cactus (*Ferocactus viridescens*), button celery (*Eryngium aristulatum*), and variegated dudleya (*Dudleya variegata*). One additional sensitive plant was identified during past surveys and is presumed to exist onsite: *Prostrate navarretia* (*Navarretia fossalis*). Both the *Navarretia fossalis* and the *Eryngium aristulatum* occur within the J22 vernal pool complex. Preservation of the vernal pool complex (mima mound-pool topography plus watershed) in designated open space will reduce impacts to below a level of significance. A further mitigation measure providing for the conservation of covered species is salvage and relocation, *Dudleya variegata* and *Ferocactus viridescens* to the preserved open space. A minimum of 80% of the transplanted populations will be maintained under the Resource Conservation Plan (RCP). The RCP also provides for creation/enhancement of shrimp habitat.

9. No project shall be approved which will jeopardize the possible or probable assembly of a preserve system within the Subarea Plan.

Findings of Fact:

The project proposes a conservation easement that will preserve any potential or likely corridors and the best quality habitat onsite such that it could be included within a sound preserve system. The project open space and purchase of habitat in Hollenbeck Canyon will contribute to the preserve system in the Subarea.

10. All projects that propose to count on-site preservation toward their mitigation responsibility must include provisions to reduce edge effects.

Findings of Fact:

The project has included specific measures through project design and management that would reduce edge effects. The sensitive area preserved in open space borders proposed development on only one side. Access to the sensitive habitat is precluded by Lone Star Road and through the provision of fencing of the proposed open space. The use of non-native, invasive plant species will be prohibited around all residential, industrial and commercial structures, and along roads and entryways. All project lighting will be directed away from the open space. To avoid direct impacts to the one vernal pool located south of Lone Star Road, it will be preserved with its watershed and fenced, and managed in conjunction with the pools in the northern open space. Some indirect impacts are expected, but overall, the project's preservation design is good and will have edge effect reduced.

11. Every effort has been made to avoid impacts to BRCA, sensitive resources and specific sensitive species as defined in the Biological Mitigation Ordinance.

Findings of Fact:

The proposed development has avoided 66 percent of the BRCA and has designed open space that will protect the sensitive species on the site. All (0.2 acre) of the vernal pool habitat (supporting two sensitive plant species and the endangered San Diego fairy shrimp), 1.96 acres of native grassland, 0.39 acre of non-native riparian and 46.87 acres of non-native grassland will be preserved onsite. Impacts to *Dudleya variegata* and *Ferocactus viridescens* will be minimized through transplantation of individuals from areas that are proposed for development into the preserved open space onsite (or off-site purchase of dudleya habitat). While there will be some loss of sensitive habitat associated with the proposed project, that loss has been limited and therefore meets the standards set forth in the Biological Mitigation Ordinance and appropriate mitigation measures have been included as part of the project. The total area preserved onsite totals 51.6 acres in a consolidated open space north of Lone Star Road (adjacent to Johnson Canyon corridor/linkage) and includes a vernal pool open space south of Lone Star Road.

CONCLUSION:

Review of the project's impacts on biological resources and a determination of whether or not necessary mitigation have occurred, in compliance with Section 10 of the Implementing Agreement between the County of San Diego and the California Department of Fish and Game and the U.S. Fish and Wildlife Service.

This project has been found to conform to the San Diego County Multiple Species Conservation Program Subarea Plan, Biological Mitigation Ordinance and Implementing Agreement. Upon fulfillment of the requirements for permanent mitigation and management of preserved areas as outlined in Section 17.1(A) of the County's Implementing Agreement for the Multiple Species Conservation Program (MSCP) Plan, Third Party Beneficiary Status can be attained for the project. Third party beneficiary status allows the property owner to perform "incidental take" under the State and Federal Endangered Species Acts, of species covered by the MSCP plan while undertaking land development activities in conformance with an approval granted by the County in compliance with the County's Implementing Agreement.



US Fish and Wildlife Service
 Carlsbad Fish and Wildlife Office
 6010 Hidden Valley Road
 Carlsbad, CA 92009
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California Department of Fish and Game
 4949 Viewridge Avenue
 San Diego, CA 92123
 (858) 467-4201
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In Reply, Refer To:
 FWS-SDG-944.6

Gary L. Pryor, Director
 County of San Diego
 Department of Planning and Land Use
 5201 Ruffin Road, Suite B
 San Diego, California 92123-1666

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 NOV 19 2003

NOV 14 2003

San Diego County
 DEPT. OF PLANNING & LAND USE

Attn: Ms. Maggie Loy

Re: Wildlife Agencies' Review and Conditional Concurrence for the Sunroad Centrum Minor Amendment to the MSCP County Subarea Plan (TM5139RPL6R)

Dear Mr. Pryor:

The California Department of Fish and Game (Department), and the U.S. Fish and Wildlife Service (Service), hereafter collectively referred to as the Wildlife Agencies, have been working with the applicant and County staff on the Sunroad Centrum project since August of 1998. Our conditional concurrence on the Minor Amendment to the County of San Diego's Multiple Species Conservation Program (MSCP) for the Sunroad Centrum project is based upon the August 2003, *Sunroad Centrum Resource Conservation Plan* (RCP); the County's letter dated September 19, 2003, requesting the Wildlife Agencies' approval for a Minor Amendment to the MSCP; and the Service's biological opinion for the project (FWS-SDG-944.5), dated November 12, 2003.

The primary concern and mandate of the Service is the protection of public fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). The Department is a trustee agency under the California Environmental Quality Act and is responsible for ensuring appropriate conservation of fish and wildlife resources including rare, threatened, and endangered plant and animal species, pursuant to the California Endangered Species Act, and administers the Natural Community Conservation Program.

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Mr. Pryor (FWS-SDG-944.6)

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The project is located on Otay Mesa, east of Brown Field, and adjacent to Harvest Road, in San Diego County. The proposed project falls within the South County Segment of the MSCP. The majority of the site has been designated as a Minor Amendment area. The northeast portion of the site has been designated a Major Amendment area. The project site is approximately 253 acres in size, with proposed development of 55 one-acre commercial/industrial lots. Approximately 201.8 acres of habitat are proposed to be impacted; however, the project will avoid impacts to the Major Amendment area. Approximately 51.3 acres on-site will be fenced and managed in perpetuity as open space, including the existing vernal pool complex, the proposed San Diego barrel cactus (*Ferocactus viridescens*) transplantation area, and the vernal pool basins to be created.

Proposed project impacts to the federally listed as endangered San Diego fairy shrimp (*Branchinecta sandiegonensis*) and Riverside fairy shrimp (*Streptocephalus woottoni*) were addressed in the Service's biological opinion for the project. In addition, the federally listed as threatened spreading navarretia (*Navarretia fossalis*), and variegated dudleya (*Dudleya variegata*), an MSCP narrow endemic species, occur within the proposed open space, but will not be impacted. Impacts to San Diego barrel cactus will occur, but will be mitigated through implementation of the *Sunroad Centrum Barrel Cactus Transplantation Plan* (REC, August 2003).

The Wildlife Agencies concur with the minor amendment for the Sunroad Centrum project provided the *Conservation Measures* outlined in the Service's biological opinion are carried out, the measures described in the RCP are implemented, and the following conditions are met:

1. The RCP should be modified to require three-strand fencing to be installed around the entire perimeter of the conserved area, except where the chain-link fencing is required to protect the vernal pools. *3/4 10-15 ft approx*
2. The Long-term Management, Maintenance, and Monitoring Plan needs to be more specific that it covers management of the entire 51.3 acre preserve. *No project impact here to provide MSCP management language.*
3. The PAR and resulting endowment need to be modified to include costs for fence construction and the periodic repair/replacement of both the three-strand and the chain-link fencing associated with the preserve.
4. Either the County or the Department must hold the endowment for long-term management; the site manager cannot hold the endowment. We recommend that the County hold the endowment because the Department's requirements assume a lower rate of return, which will result in a higher endowment.
5. The document must specify who will be holding title to the property or be the grantee of the conservation easement. We recommend that either the County hold title and that the Department hold a conservation easement, or that the County hold the conservation easement and the Department be named as a third party beneficiary.
6. The Long-term Management, Maintenance, and Monitoring Plan needs to be revised so that weeding requirements are not solely subject to approval by the conservation manager.

Mr. Pryor (FWS-SDG-944.6)


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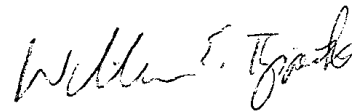
The County should have authority to direct weed management. Furthermore, the plan should direct that highly invasive exotics, particularly those listed on List A of the California Exotic Pest Plant Council, be prioritized for removal.

7. As we have previously recommended, site inspections to ensure fencing and signage is maintained should be performed on a monthly basis. Preserved properties in this area of the County have been under considerable pressure from off-road vehicles and other activities, and quarterly site inspections are not expected to be sufficient.
8. The above conditions should be resolved prior to the project being approved by the County Board of Supervisors.

If you have questions or comments regarding the contents of this letter, please contact Mr. David Mayer (Department) at (858) 467-4234, or Ms. Kathleen Brubaker (Service) at (760) 431-9440, extension 255.

Sincerely,

for 
Therese O'Rourke
Assistant Field Supervisor
Carlsbad Field Office
U.S. Fish and Wildlife Service


William E. Tippetts
Deputy Regional Manager
South Coast Region
California Department of Fish and Game



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road
Carlsbad, California 92009



In Reply, Refer To:
FWS-SDG-944.5

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NOV 18 2003

NOV 12 2003

Memorandum

San Diego County
DEPT. OF PLANNING & LAND USE

To: Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office, Carlsbad, California

From: *TR* Therese O'Rourke, Assistant Field Supervisor, Carlsbad Fish and Wildlife Office, Carlsbad, California *SO*

Re: Biological Opinion for the Sunroad Centrum Project on East Otay Mesa, San Diego County, California; FWS Log No. (1-6-03-FW-944.5)

This document transmits the U.S. Fish and Wildlife Service's (Service) biological opinion based on our review of the proposed implementation of the Sunroad Centrum Project that is located in a Minor Amendment area, within the County of San Diego's Multiple Species Conservation Program (MSCP) on east Otay Mesa, and its effects on the endangered San Diego fairy shrimp (*Branchinecta sandiegonensis*) and Riverside fairy shrimp (*Streptocephalus woottoni*) in accordance with section 7 of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). Although critical habitat has been designated for the San Diego fairy shrimp, no critical habitat occurs within the action area, and therefore critical habitat will not be addressed.

This biological opinion is based on information provided in the August 2003, *Sunroad Centrum Resource Conservation Plan* (prepared by REC; RCP); a letter dated September 19, 2003, from the County of San Diego, Department of Land Use and Planning, requesting concurrence on the Minor Amendment; electronic mail of conservation measures to be incorporated into the project description; the project proposal; field investigations conducted by Service staff; and other information available in our files. A complete administrative record of this consultation is on file at this office.

Consultation History

We have been working with the applicant and County staff on this project since August of 1998. We identified our concerns over the project's potential impacts to biological resources during a



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series of meetings on: November 18, 1998; February 11, 1999; May 18, 1999; and July 14, 1999. Of particular concern was the potential impacts to vernal pools and the sensitive species that inhabit them, including listed fairy shrimp species and plants. In addition to listed species, we also discussed the status of, and potential impacts to, native grasslands and species designated as narrow endemics under the MSCP. In a letter dated October 21, 1999, the Wildlife Agencies (Service and California Department of Fish and Game) provided comments regarding the Notice of Preparation for a Supplemental Environmental Impact Report (SEIR) for the Sunroad Centrum project per the California Environmental Quality Act (CEQA). That letter reiterated our concerns over the listed San Diego fairy shrimp, Riverside fairy shrimp, spreading navarretia (*Navarretia fossalis*), and additional MSCP narrow endemic species.

On June 29, 2000, we received the draft SEIR for the project and provided our comments to the County in a letter dated August 11, 2000. In that letter we identified the following issues: (1) mapping of onsite native grassland and more-specific grassland mitigation measures; (2) avoidance measures and species-specific mitigation for variegated dudleya (*Dudleya variegata*) and coast barrel cactus (*Ferocactus viridescens*) that assured consistency with the County's Biological Mitigation Ordinance (BMO); (3) refined wetland mitigation measures; (4) the need to process both Major and Minor Amendments for the project; and, (5) the need to conduct protocol surveys for the federally listed Quino checkerspot butterfly (*Euphydryas editha quino*) during the survey season immediately prior to ground-disturbing activities.

The interested parties met again on August 24, 2000, and August 31, 2000, to discuss the outstanding issues, including how to address the Major and Minor Amendment areas. These meetings and subsequent discussions with County staff, resulted in a letter from us dated December 14, 2000 (FWS-SDG-944.3). In that letter, we agreed that the Major Amendment process was not necessary for this project because the applicant was no longer going to impact the Major Amendment area. However, there were still impacts proposed in the Minor Amendment area, and thus the Minor Amendment process would be necessary.

Because we had not received any official correspondence regarding the project since December 2000, on September 19, 2001, the Service contacted Ms. Elyssa Robertson of REC, the project's biological consultant, via electronic mail to request an update on the project. In a electronic mail transmission the same day, Ms. Robertson replied that the updated RCP was still being prepared and would be submitted to the County for review when completed. We received no other correspondence regarding the project until we met with County staff to discuss the Sunroad project, among other topics, on February 11, 2002.

On March 6, 2002, the County sent a letter requesting clarification regarding our December 14, 2000, letter and the Minor Amendment for the project. The Service attempted to contact County staff on March 18, 2002. We left voice mail messages with Mr. Robert Asher, Dr. Glenn Russell, and Ms. Claudia Anzures regarding this letter. Furthermore, we indicated that the Service wanted to coordinate with the County regarding timing and to be sure that all parties were aware of the process. Mr. Gjon Hazard, of the Service, was able to discuss the project with Dr. Russell in a telephone conversation on April 10, 2002. During that call, Dr. Russell indicated that the project still needed to move through several steps in the County's process and that it

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would not be finalized until late summer 2002, at the earliest, and that the biological opinion was not needed imminently.

We received the May 2002 revision of the RCP on June 6, 2002, and the supplement to the RCP on August 5, 2002. In an electronic mail transmission on June 18, 2002, Mr. Hazard informed Ms. Maggie Loy, of the County, that the Wildlife Agencies would provide, in writing, our comments regarding the RCP but our review would be delayed due to workload constraints. On May 2, 2003, we met with the County, Sunroad, and REC to discuss additional information needed for the RCP. Of particular concern was the need for weed control in the vernal pools and their watersheds within the restoration site. Also, a map depicting the area where created pools were proposed was requested to be included in the RCP.

A Minor Amendment concurrence request from the County was received on September 19, 2003 for the Sunroad Property. On August 22, 2003, an updated RCP was received, but it did not contain sufficient information to initiate formal consultation on the San Diego and Riverside fairy shrimp. On October 21, 2003, we sent the County additional conservation measures to be incorporated into the project description which would condition the project to avoid and minimize impacts to fairy shrimp.

BIOLOGICAL OPINION

DESCRIPTION OF THE PROPOSED ACTION

The project is located on Otay Mesa, east of Brown Field, north of Otay Mesa and adjacent to Harvest Road, in San Diego County (Figure 1). The project site is generally flat near the central portion of the site, and slopes away to the south and to the north. Johnson Canyon occurs north of the project site. Elevations range onsite from 445 feet above mean sea level, near the northeast corner of the site, to 630 feet above mean sea level on the mesa near the central portion of the property. The proposed project falls within the South County Segment of the MSCP. Portions of the project site have been designated as minor and major amendment areas requiring consultation with the Wildlife Agencies (Figure 2).

The revised Tentative Map was approved on December 15, 2000, for industrial development pursuant to the East Otay Mesa Specific Plan. The project site is approximately 253 acres, with proposed development of 55 one acre commercial/industrial lots. Approximately 201.8 acres of habitat are proposed to be impacted, which includes 0.11 acre of disturbed wetland designated as freshwater marsh, and a portion of an abandoned agricultural pond known to contain San Diego fairy shrimp. Although no protocol surveys were performed, Sunroad Centrum requested that Riverside fairy shrimp be addressed in this consultation as well. In addition, the project will impact the disturbed coastal sage scrub onsite and non-native grassland habitat. Of the 253 acre project site, approximately 51.3 acres will be set aside as open space, including the existing J22 vernal pool complex (Bauder, 1986), created vernal pool basins, and the barrel cactus transplantation area.

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As part of the compensation for loss of fairy shrimp, 0.11 acre of vernal pool basin will be created within the J22 complex. Prior to project impacts, soil and cysts of San Diego and Riverside fairy shrimp will be salvaged from the disturbed wetland, and translocated into the created pools. In addition to creation of fairy shrimp habitat, the 51.3 acre open space area will be restored, secured with fencing to reduce unwanted traffic, and managed in perpetuity.

Conservation Measures

The proposed action contains the following measures which will be implemented to avoid and/or minimize potential adverse effects of the action on San Diego and Riverside Fairy Shrimp:

1. A final contour plan (Plan) will be submitted to the Service for approval prior to implementation of the fairy shrimp habitat creation project (J22 vernal pool complex) on Unit 6 of Tentative Map 5139RPL6R. The final Plan will include a 6-inch contour topographic map that depicts the proposed creation area. The Plan will include both the mima mounds and basins to be created and will blend in with the existing topography. Creation of berms and other structures that would disrupt the natural hydrological regime within the J22 vernal pool complex is prohibited. The margins of the basins need to be designed to avoid erosion during storm events, which may impact the water quality and shrimp viability in the created pools.
2. The Plan for the Unit 6 of Tentative Map 5139RPL6R will specify the areas of existing native upland habitat, vernal pools and their watersheds, which are to remain unaffected by restoration activities, and these areas will be protected by temporary barriers prior to implementation. The Plan will be implemented using small tracked dozers with ripping tines and slope boards, rubber-tired loaders, and a sheeps-foot for mound construction.
3. To minimize compaction of the clay soils by equipment and impacts to existing fairy shrimp on Unit 6 of Tentative Map 5139RPL6R (J22 complex), vehicular activities within the restoration site will be conducted during late summer and fall, when soil is completely dry and seeds have set. Fairy shrimp habitat creation will be conducted during dry months (July-November).
4. Soil (inoculum) will be salvaged from the impacted agricultural pond onsite. Soil will be collected during dry conditions to avoid damaging or destroying fairy shrimp cysts which are fragile when wet. A hand tool or similar instrument will be used to collect the soil, whenever possible. Soil will be collected in chunks. The trowel will be used to pry up intact pieces of soil, rather than loosening the soil by raking and shoveling, which can damage cysts. If inoculum is needed from other pools, no more than one percent (1%) of the total soil surface of any one pool will be collected. Individual soil samples will not exceed 10 X 10 centimeters. Authorization from the Service will be required if additional pools are considered as a source for inoculum.

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5. The inoculum used will not contain *Brachinecta lindahli*, in order to reduce the likelihood of introducing this species into the J22 complex.
6. The names, any permit numbers, resumé, and at least three references (of people who are familiar with the relevant qualifications of the proposed biologist), of all biologists who might need to handle fairy shrimp must be submitted to the Service for approval prior to the initiation of the proposed project. Proposed activities on the Unit 6 of Tentative Map 5139RPL6R will not begin until an authorized biologist has been approved by the Service.
7. The shaping of the fairy shrimp habitat creation area within the J22 complex will be conducted under the direction of an authorized biologist with three years of vernal pool restoration experience in Southern California and who has successfully restored vernal pools. Resumes will be submitted and proposed activities will not begin until an authorized biologist has been approved by the Service.
8. The contractor and operators will be experienced in vernal pool restoration work. The fairy shrimp habitat creation team will include a licensed surveyor to assure that the Plan is implemented as designed.
9. The final Fairy Shrimp Translocation and Five-Year Mitigation Monitoring Plan (Fairy Shrimp Translocation Plan) for Tentative Map 5139RPL6R will be submitted to the Service for approval prior to implementation of the Plan.
10. The Fairy Shrimp Translocation Plan will contain measures for controlling exotic plants and restoring upland habitat in the watershed and buffer to the created basins. The Fairy Shrimp Translocation Plan will contain a figure that delineates the area of upland habitat to be restored/enhanced.
11. The final Fairy Shrimp Translocation Plan will address specific measures for controlling exotic vegetation within the fairy shrimp habitation creation area and adjacent uplands. No use of herbicides will occur within the existing vernal pools basins or created basins. Service approved herbicides used to control exotic vegetation in the upland portion of the restoration area will only be administered by a qualified biologist. Prior to any herbicide application, vernal pools basins and created basins will be delineated, flagged and avoided. A minimum five- meter buffer between adjacent upland habitat and vernal pool basins and created basins will be established. No herbicides will be applied prior to or following 24 hours of a projected rain event, and or during winds conditions greater than one (1) on a beaufort scale.
12. Control pools and upland habitat areas will be subject to approval from the Service before monitoring is set to begin. The J26 complex pools and the J23 complex upland habitat areas are pre-approved for this purpose.

13. Annual Reports will be provided to the Service by November 1 of each year. The final Fairy Shrimp Translocation Plan will include a scaled aerial photograph depicting the baseline status of the site. In addition, the final Fairy Shrimp Translocation Plan will include a map that clearly delineates the extant vernal pool basins and watersheds, proposed fairy shrimp habitat creation basins and watersheds, and the adjacent upland areas. The Annual Report will identify (graphically) and discuss the vegetation communities and any sensitive species occurring on the property, as well as exotic species, except for various non-native grasses which may be widespread on-site but not a specific threat to habitats. The Annual Report will describe all on-site measures undertaken to remove exotic species during the prior year, review the effectiveness of those actions or actions performed in prior years (as appropriate), and identify measures (methods, locations, etc.) to be performed in the coming year. Photographs (i.e., before and after implementation of control measures) will be included in the Annual Report. Representative photographs will also be used to illustrate site conditions or other issues relevant to site management. A list of the plant and animal species occurring on the property will be included as an appendix to the report. The Annual Report will also summarize the status of the endowment, funds generated, and expenses incurred in performing site management. Copies of the Annual Report will be provided to the County DPLU and the Wildlife Agencies by the end of January for the prior calendar year efforts.
14. By the end of the five year monitoring program for the project, the project proponent must demonstrate that the created fairy shrimp habitat basins in the J22 complex support successfully reproducing populations of Riverside or San Diego fairy shrimp, at similar densities ($p < .05$) to that of control pools. This will be determined by measuring the density of viable cysts within the soil. Dry samples will be taken in both the control pools and created basins to determine the density and viability of the cysts. At least 0.11 acre of created basin area will support reproducing Riverside and San Diego fairy shrimp. If a protocol survey for the Riverside fairy shrimp demonstrates that this species is not present in the impact area, then the success criteria related to this species is dismissed. Results of the protocol surveys (2 wet; or 1 dry and 1 wet) will be submitted for approval in order to remove this requirement.
15. If success criteria, as described in the final Fairy Shrimp Translocation Plan, are not met, then the project schedule will repeat on the year that the criteria were not met. For example, if the second year criteria are met, but the third year criteria are not met, then the third year will be repeated, and an additional year added to the monitoring program.
16. Prior to commencement of work in the proposed areas, the project proponent will place a conservation easement in the preserve areas. The conservation easement will allow the work described in the final Fairy Shrimp Translocation Plan to be conducted within the easement area.

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17. The project proponent will establish an endowment fund that ensures in perpetuity management for the created basins, and their restored watershed on Unit 6 of Tentative Map 5139RPL6R (J22 complex).
18. Although not required for success, native vernal pool plant species may be introduced into the created basins.

STATUS OF THE SPECIES

Riverside fairy shrimp (*Streptocephalus woottoni*)

Listing Status

The Riverside fairy shrimp was listed as endangered on August 3, 1993 (58 Federal Register: 41391), after the Service determined that the present range and continued existence of the species was being rapidly destroyed by habitat loss and degradation due to urban and agricultural development, off-road vehicle use, trampling, and other factors. A vernal pool recovery plan which includes Riverside fairy shrimp was published in September 1998 (U.S. Fish and Wildlife Service 1998). Critical habitat was designated for this species on May 30, 2001 (66 Federal Register: 29384). Critical habitat for this species was vacated for this species per U.S. District Court for the District of Columbia order dated October 30, 2002. The District Court ordered the Service to publish new final regulations with respect to this species. While critical habitat for this species has been vacated, Riverside fairy shrimp is still a fully protected species under the Endangered Species Act, as amended.

Species Description and Identification

The Riverside fairy shrimp is a small freshwater crustacean in the Family *Streptocephalidae*, of the Order *Anostraca*. The species was first collected in 1979, by Dr. Clyde Erickson and formally described as a new species in 1990 (Eng *et al.* 1990). Mature males are between 13 and 25 millimeters (mm) (0.5 to 1.0 inches (in.)) long. The cercopods (structures that enhance the rudder-like function of the abdomen) are separate with plumose setae (feathery bristles) along the borders. Mature females are between about 13 and 22 mm (0.5 to 0.87 in.) in length. The brood pouch extends to the seventh, eighth, or ninth abdominal segment. The cercopods of females are the same as in males. The species most taxonomically similar to *S. woottoni* is *S. seali* (Eng *et al.* 1990). However, in *S. woottoni*, both the male and the female have the red color of the cercopods covering the ninth and 30 to 40 percent of the eighth abdominal segments (Eng *et al.* 1990). No red extends onto the abdominal segments in living *S. seali* of either sex (Eng *et al.* 1990). A full description of identifying characteristics for this species is given by Eng *et al.* 1990.

Distribution

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The Riverside fairy shrimp distribution is limited (Eng *et al.* 1990, Simovich and Fugate 1992). The northern distribution limit for the Riverside fairy shrimp is Cruzan Mesa, Los Angeles County and the former Carlsberg Ranch, Ventura County (U.S. Fish and Wildlife Service 2001). In Baja California, Mexico it has been documented at two locations: Valle de las Palmas, south of Tecate, and Bajamar, north of Ensenada (Brown *et al.* 1993). With the exception of the Riverside populations, all populations are within 15 kilometers of the coast (Eriksen and Belk 1999). All known populations lie between 30 and 415 meters in elevation. In Southern San Diego County, Riverside fairy shrimp have been documented in pools on Arnie's Point, in and adjacent to Spring Canyon, on North West Otay Mesa adjacent to Dennery Canyon (Cal Terraces and Robinhood Ridge Vernal Pool Preserves), on Brown Field, and on East Otay Mesa.

Habitat Affinities

Riverside fairy shrimp are restricted to deep (greater than 25 centimeters in depth) vernal pools, and vernal pool like ephemeral ponds, including stock ponds (Eng *et al.* 1990, U.S. Fish and Wildlife Service 1993). They prefer warm-water pools that have low to moderate dissolved solids (Eriksen and Belk 1999). Pools are generally open and unvegetated with turbid water conditions and low total dissolved solids, alkalinity, and chloride levels, as evidenced by approximately neutral pH values (Eng *et al.* 1990). All known habitat lies within annual grasslands, which may be interspersed through chaparral or coastal sage scrub vegetation.

Life History

Riverside fairy shrimp are non-selective particle-feeding filter-feeders, or omnivores. Detritus, bacteria, algal cells, and other items between 0.3 to 100 microns may be filtered and ingested (Eriksen and Belk 1999). Females produce between 17 and 427 cysts over their lifetime (Simovich and Hathaway 1997). Presumably because of the ephemeral and unpredictable nature of the pool resource, few of the available cysts hatch at any one time (Eriksen and Belk 1999). Cysts may hatch when water temperature is at 10 degrees Celsius but develop slowly below 15 degrees Celsius (Eriksen and Belk 1999). Hathaway and Simovich (1996) found that Riverside fairy shrimp hatched in 7 to 12 days when water temperature was between 10 and 20 degrees Celsius and maturity was noted between 48 to 56 days. The eggs are either dropped to the pool bottom or remain in the brood sac until the female dies and sinks (U.S. Fish and Wildlife Service 2001). Eggs may persist in the substrate for several years. When the pools refill in the same or subsequent rainy seasons, some but not all of the eggs may hatch (U.S. Fish and Wildlife Service 2001). Fairy shrimp may be eaten by a wide variety of species, including beetles, dragonfly larvae and other arthropods, frog, salamander, and toad tadpoles, shorebirds, ducks, and even other fairy shrimp.

Population Trends

Within San Diego County, Riverside fairy shrimp occur primarily in the northern and southern extremes of the County. Pools on Camp Pendleton represent the northern population and Otay Mesa the southern, with only one known location in the center of the County at Marine Corps Air Station, Miramar. (U.S. Fish and Wildlife Service 2001). Many populations of Riverside fairy shrimp have likely been extirpated or have experienced drastic declines due to the substantial

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loss of habitat in Southern California. The majority of the vernal pools in Southern California were lost prior to 1990 (Keeler-Wolf *et al.* 1998). The greatest recent losses of vernal pool habitat in San Diego County have occurred in Mira Mesa, Rancho Penasquitos, and Kearny Mesa, which accounted for 73 percent of all the pools destroyed in the region from 1979 to 1986 (Keeler-Wolf *et al.* 1998). Other substantial losses have occurred in the Otay Mesa area, where over 40 percent of the vernal pools were destroyed between 1979 and 1990 (U.S. Fish and Wildlife Service 2001). Similar to San Diego County, vernal pool habitat was once extensive on the coastal plain of Los Angeles and Orange counties. Unfortunately, there has been a near total loss of vernal pool habitat in these areas (Bauder 1990). Significant losses of vernal pools supporting this species also occur in Riverside County (U.S. Fish and Wildlife Service 2001).

Threats

The Riverside fairy shrimp is especially vulnerable to alteration in hydrology, therefore the protection of the pools' watershed function is critical to its survival. Riverside fairy shrimp are also threatened by urban, agricultural development, modified hydrology due to adjacent road construction, and illegal trash dumping. Unpredictable natural events such as drought or fire may extirpate the Riverside fairy shrimp due to its fragmented and restricted range. They are also vulnerable to contaminants in runoff waters and watershed quality. Low levels of genetic variability may affect the species potential for long term viability (U.S. Fish and Wildlife Service 1993). With the long distances between the few remaining pools, gene flow is greatly, if not completely, reduced.

San Diego Fairy Shrimp (*Branchinecta sandiegonensis*)

Listing Status

The San Diego fairy shrimp was federally listed as endangered on February 3, 1997 (62 Federal Register: 4925), after the Service determined that the continued survival of the species was threatened by habitat destruction from agricultural and urban development, alteration of wetland hydrology by draining, off-road vehicle activity, cattle grazing, and replacement by other fairy shrimp species that are habitat generalists. A vernal pool recovery plan which includes San Diego fairy shrimp was published in September 1998 (U.S. Fish and Wildlife Service 1998). Critical Habitat was designated for this species on October 23, 2000 (65 Federal Register: 63438). On June 11, 2002, the U.S. District Court, Central District of California, ordered us to reconsider the economic impacts of the designation and publish a new final designation.

Species Description and Identification

The San Diego fairy shrimp is a small aquatic crustacean (Order: *Anostraca*) restricted to vernal pools. The San Diego fairy shrimp was originally described by Fugate (1993) from samples collected on Del Mar Mesa, San Diego County. Mature individuals lack a carapace (hard outer covering of the head and thorax) and have a delicate elongated body, large stalked compound eyes, and 11 pairs of swimming legs (U.S. Fish and Wildlife Service 2000). Adult male San Diego fairy shrimp range in size from 9 to 16 millimeters (mm) (0.35 to 0.63 in); adult females

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are 8 to 14 mm (0.31 to 0.55 in) long. The second pair of antennae in males are greatly enlarged and specialized for clasping the females during copulation, while the second pair of antennae in the females are cylindrical and elongate. Refer to Fugate (1993) for a detailed description of the identifying characteristics of the San Diego fairy shrimp.

Distribution

The San Diego fairy shrimp occurs in vernal pools from Camp Pendleton Marine Base, inland to Ramona and south through Del Mar Mesa, Proctor Valley, and Otay Mesa, San Diego County, California. The species has recently been documented in Orange County in the Fairview Park vernal pools and at Saddleback Meadows (U.S. Fish and Wildlife Service 1997). In Baja California, it has been recorded at two localities (Valle de Palmas, south of Tecate, and Baja Mar, north of Ensenada). (U.S. Fish and Wildlife Service 1995). On Otay Mesa, San Diego fairy shrimp occur in most of the pool complexes.

Habitat Affinities

These fairy shrimp tend to inhabit shallow, small vernal pools with water temperatures of 10-26 degrees Celsius. They are ecologically dependent on seasonal fluctuations in their habitat, such as absence or presence of water during specific times of the year, duration of inundation, and other environmental factors that likely include specific salinity, conductivity, dissolved solids, and pH levels. Gonzalez *et al.* (1996) found water chemistry as an important factor in determining the distribution of the San Diego fairy shrimp.

Life History

San Diego fairy shrimp are non-selective particle feeding filter-feeders, or omnivores. Detritus, bacteria, algal cells, and other items between 0.3 to 100 microns may be filtered and ingested (Eriksen and Belk 1999). Adult fairy shrimp are usually observed from January to March; however, in years with early or late rainfall, the hatching period may be extended (U.S. Fish and Wildlife Service 2000). This species hatches in 3 to 8 days and matures in about 7 to 17 days depending on water temperature (Hathaway and Simovich 1996). San Diego fairy shrimp may only persist for about 4 to 6 weeks after hatching (Hathaway and Simovich 1996). The eggs are either dropped to the pool bottom or remain in the brood sac until the female dies and sinks (U.S. Fish and Wildlife Service 2000). Eggs may persist in the substrate for several years. When the pools refill in the same or subsequent rainy seasons, some but not all of the eggs may hatch (U.S. Fish and Wildlife Service 2000). Fairy shrimp may be eaten by a wide variety of species, including beetles, dragonfly larvae and other arthropods, frog, salamander, and toad tadpoles, shorebirds, ducks, and even other fairy shrimp.

Population Trend

Many populations of San Diego fairy shrimp have likely been extirpated or have experienced drastic declines due to the substantial loss of habitat in southern California. The majority of the vernal pools within the range of the San Diego fairy shrimp were lost prior to 1990 (Bauder 1986). The greatest recent losses of vernal pool habitat in San Diego County have occurred in

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Mira Mesa, Rancho Penasquitos, and Kearny Mesa, which accounted for 73 percent of all the pools destroyed in the region from 1979 to 1986 (U.S. Fish and Wildlife Service 2000). Other substantial losses have occurred in the Otay Mesa area, where over 40 percent of the vernal pools were destroyed between 1979 and 1990 (U.S. Fish and Wildlife Service 2000). Similar to San Diego County, vernal pool habitat was once extensive on the coastal plain of Los Angeles and Orange counties. Unfortunately, there has been a near total loss of vernal pool habitat in these areas (Keeler-Wolf *et al.* 1998).

Threats

The San Diego fairy shrimp is especially vulnerable to alteration in hydrology, therefore the protection of the pools' watershed function is critical to its survival. San Diego fairy shrimp are also threatened by urban, agricultural development, modified hydrology due to adjacent road construction, and illegal trash dumping. Unpredictable natural events such as drought or fire may extirpate the San Diego fairy shrimp due to its fragmented and restricted range. They are also vulnerable to contaminants in runoff waters and watershed quality. Low levels of genetic variability may affect the species potential for long term viability (U.S. Fish and Wildlife Service 1997).

ENVIRONMENTAL BASELINE

Regulations implementing the Act (50 CFR §402.02) define the environmental baseline as the past and present impacts of all Federal, State, or private actions and other human activities in the action area. Also included in the environmental baseline are the anticipated impacts of all proposed Federal projects in the action area that have undergone section 7 consultation, and the impacts of State and private actions which are contemporaneous with the consultation in progress.

The entire action area is within the Multiple Species Conservation Program (MSCP). The MSCP is a comprehensive, long-term habitat conservation plan which addresses the needs of multiple species, including San Diego and Riverside fairy shrimp, and the preservation of natural vegetation communities in San Diego County. The MSCP identifies a reserve system, the Multiple Habitat Planning Area (MHPA), that will be established over time. The MHPA identifies core biological resource areas and corridors targeted for conservation. Within the MSCP, vernal pools are to be conserved both inside and outside the MHPA. Portions of east Otay Mesa, including the vernal pools on the Sunroad Centrum project site, are located within the MHPA. On east Otay Mesa, the area supporting vernal pool habitat is identified as an Amendment area to the MSCP (Figure 2). Amendment areas in the County include key core habitat areas which are vital to the continued existence of many of the covered species.

The vernal pools on the Sunroad Centrum project site are referred to as the J22 complex (Bauder 1986). Existing pools located within the open space (J22) have been surveyed, with confirmed presence of San Diego fairy shrimp. Riverside fairy shrimp surveys have not been conducted; however, appropriate habitat is located within the stock pond on site. Surveys will be performed prior to project impacts.

South of the J22 complex, we recently completed a consultation with the Immigration and Naturalization Service (INS) that addressed one linear vernal pool that was impacted due to construction of the road associated with the secondary border fence, as well as three other pools along a section of the International Border Fence known as Area II. Compensation for loss of these pools was implemented through the creation of additional vernal pools, and enhancement and restoration of the existing vernal pool watershed in the J15 complex, also referred to as Arnie's Point. In addition, we also consulted with the Federal Highway Administration for State Route (SR) 125 (biological opinion number 1-6-99-F-14), located just west of the Sunroad Centrum project, which will impact the J29-30 complex. As part of the SR 125 project, a 12-acre vernal pool complex will be restored along the southern rim of Johnson Canyon adjacent to an existing vernal pool complex.

Besides the International Border Fence (located at Arnie's Point) and SR 125 (located at Johnson Canyon) restoration sites, other vernal pool restoration sites on Otay Mesa include pools managed by The Environmental Trust (located northwest of Arnie's Point adjacent to Wruck Canyon) and pools managed by Pardee (located north and south of Otay Mesa Road). Both species of fairy shrimp occur in these pools. Several vernal pool complexes occur to the east of Arnie's Point (near La Media Road) and immediately north of the Mexican border. One of these complexes was preserved and enhanced as part of the Empire Center Development Project while the others remain undeveloped on private property.

Other vernal pool complexes occur on Brown Field Airport and immediately to the northeast on INS and U.S. Navy property. These vernal pool complexes are being conserved by the City of San Diego, INS, and as specified in the Navy's Integrated Natural Resources Management Plan. Further to the northeast of Brown Field Airport are a series of vernal pool complexes on the mesas above Johnson Canyon which will be managed for the long-term preservation of vernal pool species by the City and County of San Diego through the MSCP and through the Otay Ranch Resource Management Plan.

Threats to Vernal pool habitat and fairy shrimp on Otay Mesa, including the J22 complex, includes degradation from off-highway vehicles, illegal dumping, invasion of exotic species, and border patrol activities. Currently, the existing vernal pools and their watersheds at J22 are lacking native plant diversity, and are dominated by exotic vegetation.

EFFECTS OF THE ACTION

Effects of the action refer to the direct and indirect effects of an action on the species or critical habitat, together with the effects of other activities that are interrelated and interdependent with that action, that will be added to the environmental baseline. Interrelated actions are those that are part of a larger action and depend on the larger action for their justification. Interdependent actions are those that have no independent utility apart from the action under consideration. Indirect effects are those that are caused by the proposed action and are later in time, but are still reasonably certain to occur.

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EFFECTS OF THE ACTION

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The development of approximately 56 commercial/industrial lots will result in the loss of an agricultural pond that is occupied by San Diego fairy shrimp. Surveys for Riverside fairy shrimp will be conducted prior to project impacts. The 0.11 acre pond supporting San Diego fairy shrimp populations, and possibly Riverside fairy shrimp, will be filled during construction of the project. It is anticipated that all of the shrimp in this pond may be killed. However, the project proponent, Sunroad, proposes to salvage shrimp cysts/soils from the agricultural pond, to the maximum extent practicable, prior to the destruction of the pond. Salvaged shrimp will be reintroduced into the created vernal pools within the open space at the J22 complex. The process of salvaging shrimp cysts will result in the loss of some individuals due to crushing by the equipment used to collect the material. In addition, the viability of the cysts may decrease during transport, and extended storage. Also of concern is the proposed reintroduction of fairy shrimp to the newly created pools, which could have a negative effect on the extant population of shrimp at the J22 complex. Therefore, to maintain the genetic integrity of the shrimp populations that currently exist in the vernal pools at J22, soil and cysts will only be introduced into new pools. Ideally, only salvaged material from on site will be used. However, soils/cysts from additional ponds, such as the fairy shrimp soil/cyst material currently being stored for the adjacent Area II of the International Border fence project may be used, if necessary.

The J22 complex has not been managed or monitored and therefore continues to be degraded from vehicle and foot traffic. Therefore, restoration/enhancement and fencing of the approximately 52 acres of adjacent open space surrounding the J22 complex will result in long term benefits for fairy shrimp. This open space will be conserved in perpetuity and appropriately managed for vernal pool resources. Creation of 0.11 acre of vernal pool basin area, will maintain an equal amount of habitat for reproducing populations of San Diego and Riverside fairy shrimp to that being lost. Additionally, native grassland restoration (part of the Sunroad Resource Conservation Plan) in the upland areas will decrease erosion and excessive siltation into created pools. As part of the restoration plan, control of exotic vegetation in the upland areas will be reduced and managed to 10 percent cover or less. Weed control will facilitate native floral diversity which in turn may improve hydrological conditions and water quality of the vernal pools. In addition, the remaining vernal pools within the J22 complex will be fenced and it is anticipated that this will minimize impacts from off road vehicle use in the area.

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Once the proposed action is completed, it is anticipated that the remaining vernal pools at the J22 complex will benefit from the removal exotic vegetation, and the revegetation of the upland areas with native flora. Restoration will also enhance the basin area of vernal pools within the J22 complex. Enhancement and management of the vegetation in upland areas adjacent to the vernal pool watershed should improve native diversity, water quality, structure and overall integrity of vernal pools within this area.

Cumulative effects

Cumulative effects include the effects of future State, tribal, local or private actions that are reasonably certain to occur in the action area considered in this Biological Opinion. Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the Act.

Because San Diego and Riverside fairy shrimp are endemic to vernal pool habitat in southern California, we anticipate that a wide range of activities will be determined to affect these species. Such activities include, but are not limited to urban, water, flood control, highway, and utility projects; chemical contaminants; as well as conversion or degradation of vernal pools resulting from agriculture and grazing use. Many of these activities will be reviewed under section 7 of the Act as a result of a Federal nexus.

However, within San Diego County, vernal pool habitat continues to be degraded from the lack of effective habitat management and protection. Vernal pools, including those in protected preserves, continue to be degraded by off-road vehicles, illegal dumping, grazing, illegal alien traffic, destruction of the watershed, and the diversion of water to and away from the vernal pool. Additionally, habitat fragmentation can significantly deteriorate the viability of the remaining pool habitat, including areas specifically set aside to protect this habitat.

CONCLUSION

After reviewing the current status of the fairy shrimp, the environmental baseline for the action area, the effects of the drainage structure installation and fence/road construction, and the cumulative effects, it is the Service's biological opinion that the action, as proposed, is not likely to jeopardize the continued existence of San Diego fairy shrimp or Riverside fairy shrimp. We present this conclusion for the following reasons:

San Diego and Riverside Fairy Shrimp

- The loss of 0.11 acre of vernal pool is not expected to significantly decrease the long-term viability of the San Diego and Riverside fairy shrimp.
- The anticipated loss will be offset by restoration and creation of at least 0.11 acre (at the J22 complex) of functioning vernal pool basins that support reproducing populations of fairy shrimp, that will be managed in perpetuity in order to achieve no-net-loss of habitat.

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- Remaining vernal pools and their watersheds at the J22 complex will benefit from restoration/enhancement, control of exotic vegetation in the surrounding habitat, and protection from further habitat degradation resulting from illegal foot traffic and off road vehicle use.

INCIDENTAL TAKE STATEMENT

Section 9 of the 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, collect, or to attempt to engage in any such conduct. Harm is further defined by the Service to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavior patterns, including breeding, feeding, or sheltering. Harass is defined by the Service as intentional or negligent actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior 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. Under the terms of section 7(b)(4) and 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the Act provided that such taking is in compliance with the terms and conditions of this Incidental Take Statement.

AMOUNT OR EXTENT OF TAKE

It is not possible to precisely predict the number of San Diego and Riverside fairy shrimp that may be taken as a result of the proposed action, however, the Service anticipates that all of the fairy shrimp within the impacted pool (0.11 acre) may be incidentally taken as a result of the implementation of the proposed project. In addition, an unquantifiable number of San Diego and Riverside fairy shrimp cysts may be taken during the salvage/restoration of the vernal pools. Take is expected to occur from direct mortality and harm. However, if salvage of fairy shrimp from the existing vernal pool is successful, some individuals may survive.

EFFECT OF THE TAKE

In the accompanying biological opinion, the Service determined that this level of anticipated take is not likely to result in jeopardy to the species.

REINITIATION NOTICE

This concludes formal consultation on the Sunroad Properties. As provided in 50 CFR §402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this opinion; or (4) a new species is listed or critical

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habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation. If you have any questions or concerns about this biological opinion, please contact Susan Wynn of my staff at (760) 431-9440.

Literature Cited

- Bauder, E.T. 1986. San Diego vernal pools: Recent and projected losses; their condition; and threats to their existence, 1979-1990. Report prepared for Endangered Plant Project, California Department of Fish and Game, Sacramento, California.
- Brown, J.W., H.A. Wier, and D. Belk. 1993. New records of fairy shrimp (*Crustacea: Anostraca*) from Baja California, Mexico. *The Southwestern Naturalist* 38: 389-390.
- Eng, L.L., D. Belk and C.H. Eriksen. 1990. California Anostraca: distribution, habitat and status. *Journal of Crustacean Biology* 10: 247 - 277.
- Eriksen, C. and D. Belk 1999. Fairy Shrimps of California's Puddles, Pools, and Playas. Mad River Press, Inc., Eureka, California.
- Fugate, M. 1993. *Branchinecta sandiegonensis*, a new species of fairy shrimp (*Crustacea: Anostraca*) from western North America. *Proc. Biol. Soc. Wash.* 106: 296-304.
- Gonzalez, R.J., J. Drazen, S. Hathaway, B. Bauer, and M. Simovich. 1996. Physiological correlates of water chemistry requirements in fairy shrimps (*Anostraca*) from southern California. *Journal of Crustacean Biology* 16: 315-322.
- Hathaway, S.A. and M.A. Simovich. 1996. Factors affecting the distribution and co-occurrence of two southern California anostracans (*Branchiopoda*), *Branchinecta sandiegonensis* and *Streptocephalus woottoni*. *Journal of Crustacean Biology* 16:669-677.
- Keeler-Wolf, T., D.R. Elam, K. Lewis, and S.A. Flint. 1998. California vernal pool assessment. Preliminary Report. California Department of Fish and Game. Wetlands Inventory and Conservation Unit, Sacramento, CA.
[wysiwyg://18/http://maphost.dfg.ca.gov/wetlands/vp-assess-rept/index.htm]
- Simovich, M. and M. Fugate. 1992. Branchiopod diversity in San Diego County, California, USA. *Transactions of the Western Section of the Wildlife Society* 28:6-14.
- U.S. Fish and Wildlife Service. 2001. Final designation of critical habitat for the Riverside fairy shrimp; Final rule. *Federal Register* 66: 29384-29414.
- U.S. Fish and Wildlife Service. 2000. Final determination of critical habitat for the San Diego fairy shrimp (*Branchinecta sandiegonensis*); Final rule. *Federal Register* 65: 63438-63466.

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U.S. Fish and Wildlife Service. 1998. Recovery plan for vernal pools of southern California. U.S. Fish and Wildlife Service, Portland, Oregon. 113+pp.

U.S. Fish and Wildlife Service. 1997. Determination of endangered status for the San Diego fairy shrimp. Federal Register 62: 4925-4939.

U.S. Fish and Wildlife Service. 1995. Status review of the proposed endangered San Diego fairy shrimp (*Branchinecta sandiegonensis*). Unpublished report. Carlsbad Field Office, Carlsbad, CA. March 14. 20pp.

U.S. Fish and Wildlife Service. 1993. Determination of endangered status for three vernal pool plants and the Riverside fairy shrimp. Federal Register 58: 41384-41392.

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MSCP COMPLIANCE SUNROAD CENTRUM, TM 5139 RPL6; ER 98-19-013 DECEMBER 15, 2000

This process results in a determination of whether or not a project is compliance with the Endangered Species Act (ESA) (Section 10, Implementing Agreement between the County of San Diego and the California Department of Fish and Game and the U.S. Fish and Wildlife Service). An applicant receives Third Party Beneficiary Status under the ESA when: 1) necessary mitigation has occurred in compliance with Section 10 of the Implementing Agreement; 2) the determined mitigation includes an immediately effective requirement to maintain the biological values of the land committed for mitigation; and 3) the mitigation has been imposed through a condition of development (such as a mitigation agreement) that is recorded and runs with the land and is enforceable against and binding upon the Third Party Beneficiary and any successor in interest to the Third Party Beneficiary. Third Party Beneficiary Status may be attained for the project as a whole, or for a discrete phase(s) of the project, so long as the mitigation for the discrete phase(s) is not functionally dependent in the context of the MSCP and Subarea Plan upon the mitigation proposed for subsequent phases.

PROJECT DESCRIPTION: The Sunroad Centrum project consists of an approximate 250-acre tentative map within the already approved East Otay Mesa Specific Plan. The project is a tentative map for 96 commercial/industrial lots with an open space easement. The project site supports seven habitat types: vernal pools, coastal sage scrub, freshwater marsh (disturbed wetland), agricultural pond, southern willow scrub, non-native grassland and disturbed habitat. Eight sensitive species: San Diego button celery, variegated dudleya, San Diego barrel cactus, spreading navarretia, San Diego Fairy shrimp and three raptor species are documented to occur onsite.

Approximately 190 acres of habitat are proposed to be impacted including approximately 15 acres of BRCA (including impacts from construction of Lone Star Road. Approximately 45 acres (66 percent) of the BRCA are proposed to be included in a conservation easement governed by a Resource Conservation Plan (RCP). All of the vernal pools onsite supporting three USFWS threatened and endangered species, are proposed to be preserved onsite.

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Significant impacts are expected to occur to wetlands and waters of the U.S. including the artificial pond designated as freshwater marsh, and a portion of an abandoned agricultural pond located near the central portion of the site. In addition, the project would significantly impact the area of disturbed coastal sage scrub onsite and non-native grassland habitat (in accordance with the Biological Mitigation Ordinance). Significant impacts to sensitive species include impacts to San Diego fairy shrimp, barrel cactus, variegated dudleya, and northern harrier. The spreading navarretia occurs within the open space easement and is not expected to be impacted.

It is proposed that the project impacts be mitigated both on and off site. Mitigation for these impacts proposed are consistent with the approved East Otay Mesa SPA plan and include a combination of some or all of the following: onsite preservation of vernal pools, native and non-native grassland, and coastal sage scrub habitat, offsite purchase of additional lands needed to offset impacts in accordance with the BMO, and sensitive plant salvage and translocation program and a wetland (fairy shrimp habitat) creation program.

Table Summarizing Project Impacts and Mitigation With Respect to Habitat Type
(all numbers represent acreage)

	Direct Impacts	Proposed Open Space	Offsite Mitigation	Total Area Onsite
Vernal Pools (no net loss)	0.0	0.2	0	0.2
Southern Willow Scrub (no net loss)	0.2	0.4*	0	0.6
Disturbed Waters (no net loss)	0.1	0.2**	0	0.2
Coastal Sage Scrub (mitigation ratio = 1:1)	2.1	3.2	0	5.4
Native Grassland (mitigation ratio = 2:1)	4.2	3.1	5.4	7.3
Non-Native Grassland (mitigation ratio = 0.5:1)	186.5	44.7	48.6	231.2
Disturbed/Developed (no mitigation required)	5.9	0.0	N/A	5.9

* A total of 0.4 acre of southern willow scrub habitat will be preserved onsite and an additional 0.4-acre of southern willow scrub habitat will be created onsite (or offsite).

** A total of 0.2 acre of disturbed waters will be created onsite (or offsite).

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BMO FINDINGS

1. Approximately 60 acres of the site is a BRCA because it is underlain by clay soils which support sensitive plant species, including San Diego button celery, variegated dudleya, San Diego barrel cactus and spreading navarretia. The BRCA contributes to the wildlife corridor associated with Johnson Canyon.
2. The rest of the project site is not a BRCA with the following findings supporting this conclusion (Area shown on "Open Space Map").
 - a. The land is not shown as a Pre-Approved Mitigation Area on the wildlife agencies' Pre-Approved Mitigation Area map.

Findings of Fact:

The non-BRCA land is not shown as a Pre-Approved Mitigation Area on the wildlife agencies' Pre-Approved Mitigation Area map. The project is located on Otay Mesa, east of Brown Field, north of Otay Mesa Road and both east and west of Harvest Road. A portion of the site is a Major Amendment Area, a Minor Amendment Area and a Minor Amendment Area with special concerns. The Minor Amendments has been approved by the Wildlife Agencies. The Major Amendment is not required because all of this area will be within a conservation easement for resource preservation.

- b. The land is not located within an area of habitat which contains biological resources that support or contribute to the long-term survival of sensitive species, and is not adjacent or contiguous to preserved habitat that is within the Pre-Approved Mitigation Area on the wildlife agencies' Pre-Approved Mitigation Area map.

Findings of Fact:

The non-BRCA land is not located within an area of habitat which contains biological resources that support or contribute to the long-term survival of sensitive species. It is non-native grassland that has supported agriculture for many years.

- c. The land is not part of a regional linkage/corridor. The site is not land that contains topography that serves to allow for the movement of all sizes of wildlife, including large animals on a regional scale. The site does not contain adequate vegetation cover providing visual continuity so as to encourage the use of the corridor by wildlife. The site has not been identified as the primary linkage/corridor between the northern and southern regional populations of the California gnatcatcher in the

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population viability analysis for the California gnatcatcher, MSCP Resource Document Volume II, Appendix A-7 (Attachment I of the BMO.)

Findings of Fact:

The non-BRCA land is not part of a regional linkage or corridor because it lies within an area in which all native habitats have been converted by intensive agriculture to non-native grassland or disturbed habitats. Agriculture has been practiced on this site and in the greater East Otay Mesa area over the course of many decades.

While not a part of a regional corridor, onsite portions of Johnson Canyon and its slopes will be preserved in order to maintain a wildlife corridor between the Otay River Valley to the north and the Otay Mountains to the east. Additionally, a very small portion of the site (most of which will be preserved) in the northeastern corner is contiguous with larger blocks of habitat. However, this finger, relative to the larger undisturbed habitat of which it is a part, is small and is surrounded almost entirely by land disturbed primarily through agricultural practices. It represents a "dead end" for species that may be utilizing the habitat as a corridor. The site has not been identified as the primary linkage/corridor between the northern and southern regional populations of the California gnatcatcher in the population viability analysis for the California gnatcatcher (Attachment I of the BMO).

- d. The land is not shown on the habitat evaluation map (Attachment J to the BMO) as very high or high and does not link significant blocks of habitat (except that land which is isolated or links small, isolated patches of habitat and land that has been affected by existing development to create adverse edge effects shall not qualify as BRCA).

Findings of Fact:

All of the non-BRCA lands are mapped as "Agricultural".

- e. The land does not consist of or is not within a block of habitat greater than 500 acres in area of diverse and undisturbed habitat that contributes to the conservation of sensitive species.

Findings of Fact:

The non-BRCA lands while greater than 500 acres have been repeatedly disturbed by agriculture. No diversity of flora or fauna is found. In fact, after six years of being left fallow, only mustard and invasive non-native grasses have returned. There has been no succession to shrublands.

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- f. The land does not contain a high number of sensitive species and is not adjacent or contiguous to surrounding undisturbed habitats, and does not contain soil derived from the following geologic formations: gabbroic rock; metavolcanic rock; clay; and coastal sandstone, which are known to support sensitive species.

Findings of Fact:

No sensitive plant species were identified on the non-BRCA lands. No diversity of flora or fauna is found. In fact, after six years of being left fallow, only mustard and invasive non-native grasses have returned. There has been no succession to shrublands. Soils are derived from clay but are 100% altered by past agriculture.

**FINDINGS FOR CONFORMANCE WITH THE
BIOLOGICAL MITIGATION ORDINANCE**

The Biological Mitigation Ordinance has several sets of criteria that must be met when projects are designed. They include Findings under Article V. A. Project Design Criteria, and findings in Attachments G and H. These findings are to be made, if appropriate, in addition to the overall findings listed for conformance with the Subarea Plan.

PROJECT DESIGN CRITERIA.

1. Project development shall be sited in areas to minimize impact to habitat;

Findings of Fact: The proposed development has designed open space that will protect the viability of sensitive resources. All (0.2 acre) of the vernal pool habitat (supporting two sensitive plant species and the endangered San Diego fairy shrimp), 0.4 acre of southern willow scrub, 3.2 acres of coastal sage scrub (which supports two sensitive plant species), 3.1 acres of native grassland, and 44.7 acres of non-native grassland will be preserved onsite. Impacts to *Dudleya variegata* and *Ferocactus viridescens* will be minimized through transplantation of individuals from areas that are proposed for development into the preserved open space onsite (dudleya may be mitigated by off-site purchase of habitat). While there will be some loss of sensitive habitat associated with the proposed project, that loss has been limited and therefore meets the standards set forth in the Biological Mitigation Ordinance and appropriate mitigation measures have been included as part of the project. Impacts to 0.1 acre of disturbed wetlands/waters will be mitigated through onsite creation of disturbed waters and fairy shrimp habitat. It is proposed that impacts to native grassland and non-native grassland be mitigated both on and offsite. A total of 2.1 acres of coastal

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sage scrub would be impacted. Mitigation for coastal sage scrub is required at a ratio of 1.5:1 and will be accomplished by preserving 3.2 acres on site. Mitigation for impacts to 4.2 acres of native grassland, at a 2:1 mitigation ratio, will be accomplished by preserve of 3.1 acres of native grassland and the purchase of 5.4 acres of habitat off-site. Mitigation for impacts to 186.5 acres of non-native grassland, at a 0.5:1 mitigation ratio, will be accomplished by the on site preserve of 44.7 acres of non-native grassland and the purchase of 48.6 acres of habitat off-site. By special agreement with the wildlife agencies, the total off-site purchase requirement of 54 acres will be purchased in Hollenbeck Canyon (Daley Ranch). Should this transaction fail to proceed, off-site purchase would occur according to the BMO.

2. Clustering to the maximum extent permitted by County regulations shall be considered where necessary as a means of achieving avoidance:

Findings of Fact:

The proposed development for the Sunroad Centrum Project of 96 commercial industrial lots is not considered a clustered development. Development, however, is concentrated away from the sensitive resources. Areas not proposed for development will be placed in an open space preserve managed by a Habitat Conservation Plan.

3. Notwithstanding the requirements of the Slope Encroachment Regulations contained within the Resource Protection Ordinance, effective October 10, 1991, projects shall be allowed to utilize design which may encroach into steep slopes to avoid impacts to habitat;

Findings of Fact:

The site does not contain steep slope areas that can be utilized for development to better provide for the protection of sensitive resources located in flatter areas. The only sloping areas onsite are the banks of Johnson Canyon. Johnson Canyon and its slopes will be preserved in order to maintain a wildlife corridor. Preservation of Johnson Canyon and its slopes as a wildlife corridor is consistent with the East Otay Mesa Specific Plan.

4. The County shall consider reduction in road standards to the maximum extent consistent with public safety considerations;

Findings of Fact:

The project is not affected by roads to the degree that a reduction in standards could reduce the impacts associated with it. The project would require offsite improvements to Otay Mesa Road. These road improvements are expected to result in an impact to 0.1 acre of non-native grassland and mitigation in

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accordance with the BMO has been included in the mitigation totals.

5. Projects shall be required to comply with applicable design criteria in the County MSCP Subarea Plan, attached hereto as Attachment G (Preserve Design Criteria) and Attachment H.

PRESERVE DESIGN CRITERIA (ATTACHMENT G).

The project conforms to the Preserve Design Criteria and the linkages and corridors criteria as specified through the findings of the project design criteria above.

DESIGN CRITERIA FOR LINKAGES AND CORRIDORS (ATTACHMENT H).

- a. Habitat linkages as defined by the Biological Mitigation Ordinance, rather than just corridors, will be maintained.

Findings of Fact:

The proposed development area is not part of a regional linkage because it lies within an area in which habitats have constraints due to adjacency to disturbed (through agriculture) lands or developed lands. A portion of the proposed project does meet the definition of a linkage as defined in the Biological Mitigation Ordinance has been preserved. This portion of the site in the northeastern corner is contiguous with larger blocks of habitat from Otay River to the Otay Mountains.

- b. Existing movement corridors within linkages will be identified and maintained.

Findings of Fact:

The proposed development area is not considered part of a linkage as described in A above.

- c. Corridors with good vegetative and/or topographic cover will be protected.

Findings of Fact:

Johnson Canyon and its slopes encompassed by the project site will be preserved in order to maintain a wildlife corridor between the Otay River Valley to the north and the Otay Mountains to the east. Preservation of Johnson Canyon and its slopes as a wildlife corridor is consistent with the East Otay Mesa Specific Plan. In addition, the project's conformance with the MSCP and the Biological Mitigation Ordinance further add to the regional connectivity of the open space preserved onsite. The portion of the BRCA south of proposed Lone Star Road has been disturbed by

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agriculture and will be functionally separated from the more valuable habitat north of the road. All land north of the road will be preserved as a conservation easement subject to an RCP.

- d. Regional linkages that accommodate travel for a wide range of wildlife species, especially those linkages that support resident populations of wildlife, will be selected.

Findings of Fact:

The proposed development area does not contain a linkage that meets these specifications. However, portions of Johnson Canyon and its slopes encompassed by the project site will be preserved in order to maintain a wildlife corridor between the Otay River Valley to the north and the Otay Mountains to the east. All land north of the Lone Star Road will be preserved as a conservation easement subject to an RCP.

- e. The width of a linkage will be based on the biological information for the target species, the quality of the habitat within and adjacent to the corridor, topography, and adjacent land uses. Where there is limited topographic relief, the corridor must be well vegetated and adequately buffered from adjacent development.

Findings of Fact:

The proposed development area does not contain a linkage that meets these specifications. However, portions of the BRCA adjacent to Johnson Canyon and its slopes encompassed by the project site will be preserved in order to maintain a wildlife corridor between the Otay River Valley to the north and the Otay Mountains to the east. All land north of the Lone Star Road, which is contiguous with Johnson Canyon, will be preserved as a conservation easement subject to an RCP.

- f. If a corridor is relatively long, it must be wide enough for animals to hide in during the day. Generally, wide linkages are better than narrow ones. If narrow corridors are unavoidable, they should be relatively short. If the minimum width of a corridor is 400 feet, it should be no longer than 500 feet. A width of greater than 1,000 feet is recommended for large mammals and birds. Corridors for bobcats, deer and other large animals should reach rim-to-rim along drainages, especially if the topography is steep.

Findings of Fact:

All land north of the Lone Star Road, which is contiguous with Johnson

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Canyon, will be preserved as a conservation easement subject to an RCP. This will maintain a wildlife corridor between the Otay River Valley to the north and the Otay Mountains to the east. The portion of this corridor that lays onsite is approximately 1500 feet from the bottom of Johnson Canyon. Preserved open space adequately buffers the onsite portion of the corridor from adjacent development to the southwest. Furthermore,

the development is set back from the rim of the canyon and separated from the open space by Lone Star Road and a 5-foot fence.

- g. Visual continuity (i.e., long lines-of-site) will be provided within movement corridors. This makes it more likely that animals will keep moving through it. Developments along the rim of a canyon used as a corridor should be set back from the canyon rim and screened to minimize their visual impact.

Findings of Fact:

Within the portion of the corridor preserved onsite, coastal sage scrub, native grassland, non-native grassland and southern willow scrub are proposed to be preserved. Wildlife traveling through Johnson Canyon will not have a visual change. The proposed development is set back from the rim of the canyon and separated from the open space by Lone Star Road and a 5-foot fence.

- h. Corridors with low levels of human disturbance, especially at night, will be selected. This includes maintaining low noise levels and limiting artificial lighting.

Findings of Fact:

The design of the project includes conditions and criteria to limit night-time disturbance, including building setbacks, shielded lighting, and limited access. This area already has light disturbance from the State Prison.

- i. Barriers, such as roads, will be minimized. Roads that cross corridors should have 10-foot high fencing that channels wildlife to underpasses located away from interchanges. The length-to-width ratio for wildlife underpasses is less than 2, although this restriction can be relaxed for underpasses with a height of greater than 30 feet.

Findings of Fact:

The open space, which includes the Johnson Canyon corridor, will not have any roads or barriers within it.

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- j. Where possible at wildlife crossings, road bridges for vehicular traffic rather than tunnels for wildlife use will be employed. Box culverts will only be used when they can achieve the wildlife crossing/movement goals for a specific location. Crossings will be designed as follows: sound insulation materials will be provided; the substrate will be left in a natural condition, and vegetated with native vegetation if possible; a line-of-site to the other end will be provided; and if necessary, low-level illumination will be installed in the tunnel.

Findings of Fact:

The project does not have a wildlife crossing, since there is no proposed crossing of the open space.

- k. If continuous corridors do not exist, archipelago (or steppingstone) corridors may be used for short distances. For example, the gnatcatcher may use disjunct patches of sage scrub for dispersal if the distance involved is less than 1-2 miles.

Findings of Fact:

The project proposes a continuous corridor.

FINDINGS IN CONFORMANCE WITH THE SUBAREA PLAN

All projects whether considered an exception or an exemption to the Biological Mitigation Ordinance must conform with the San Diego County Subarea Plan. The concept of conformance to the plan does not mean specific and direct compliance with the mitigation ratios. Exemption and exception is intended to provide for flexibility from those standards when there are specific reasons to do so. Conformance with the Subarea Plan does involve the review of the project to see that it does not create a situation where a project is affecting the potential for preserve design.

1. The project will not conflict with the no-net-loss-of-wetlands standard in satisfying state and federal wetland goals and policies.

Findings of Fact:

The project will not conflict with the no-net-loss-of-wetlands standard in satisfying state and federal wetland goals and policies. The project proposes to directly impact, by grading, 0.2 acre of disturbed wetland/waters. These impacts will require a permit from the ACOE under Section 404 of the Clean Water Act, and a 401 water quality certification from the RWQCB. As part of the permit process with these resource and regulatory agencies, a detailed site-specific mitigation

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and monitoring plan has been prepared. Impacts to disturbed water/wetlands onsite will be in-kind replacement of habitat quality. Specifically, the objective of the wetlands mitigation plan shall be to create five basins (totaling 0.1 acre) that will collect water adequately to provide habitat for the two species of fairy shrimp and to ensure no net loss of wetland habitat value. In addition, another 0.1 acre of wetland creation will be required to bring up the mitigation ratio to 2:1.

2. The project includes measures to maximize the habitat structural diversity of conserved habitat areas including conservation of unique habitats and habitat features.

Findings of Fact:

The proposed project will place 66 percent of the BRCA including the most diverse and unique habitats within conservation easements. The preservation of all vernal pools (which support two sensitive plant species and the endangered San Diego fairy shrimp), 0.4 acre of southern willow scrub, 3.2 acres of coastal sage scrub, 3.1 acres of native grassland, and 44.7 acres of non-native grassland meets this criteria.

3. The project provides for conservation of spatially representative examples of extensive patches of coastal sage scrub and other habitat types that were ranked as having high and very high biological values by the MSCP habitat evaluation model.

Findings of Fact:

The proposed project will place 66 percent of the BRCA including the conservation of spatially representative examples of very high value habitats. The preservation of all vernal pools (which support two sensitive plant species and the endangered San Diego fairy shrimp), all (0.4 acre) of southern willow scrub associated with the on site portion of Johnson Canyon, 3.2 acres of coastal sage scrub, 3.1 acres of native grassland, and 44.7 acres of non-native grassland meets this criteria. The portion of the BRCA, ranked as "very high" that will be developed (15 acres) is disturbed by agriculture and is cut off from the larger portion of BRCA by the adopted circulation element route of Lone Star Road.

4. The project provides for the creation of significant blocks of habitat to reduce edge effects and maximize the ratio of surface area to the perimeter of conserved habitats.

Findings of Fact:

The proposed project will place open space easements on land that is configured to maximize the ratio of surface area to perimeter. This is accomplished by

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minimizing intrusions by development into the preserve area boundary and maintaining boundaries of gently sweeping curves rather than acute indentations and peninsulas of development partially surrounded by preserved land. In addition the project has been designed with an adequate setback from development to avoiding lighting and noise conflicts. A five-foot fence barrier will border the road interface with the preserve.

5. The project provides for the development of the least sensitive habitat areas.

Findings of Fact:

Areas proposed for preservation in open space contain the majority of sensitive species and habitats on site. Development is primarily restricted to areas currently occupied by non-native grassland habitat, a Tier III habitat, the least sensitive of all habitat types found onsite. One agricultural pond (waters of the US) contains fairy shrimp. While the fairy shrimp are endangered, this artificial occupied habitat is not natural or sensitive. The Army Corps and the Wildlife Agencies have agreed to a project design which impacts the pond is appropriate with mitigation that will create habitat for fairy shrimp.

6. The project provides for the conservation of key regional populations of covered species, and representations of sensitive habitats and their geographic sub-associations in biologically functioning units.

Findings of Fact:

No key regional populations of covered species are present on the site. The project does provide for conservation of sensitive habitats in biologically functioning units. The majority of the sensitive habitats are being protected in place through dedication of a conservation easement. The conservation easement has been designed to minimize impacts to these sensitive habitats and to wildlife species using the Johnson Canyon corridor. All of the vernal pools (which support two sensitive plant species and the endangered San Diego fairy shrimp) and of the southern willow scrub habitat associated with Johnson Canyon will be preserved onsite. While there will be some loss of sensitive habitat associated with the proposed project, that loss has been limited and therefore meets the standards set forth in the Biological Mitigation Ordinance and appropriate mitigation measures have been included as part of the project.

The proposed development has designed open space that will protect the viability of sensitive resources. All (0.2 acre) of the vernal pool habitat (supporting two sensitive plant species and the endangered San Diego fairy shrimp), 0.4 acre of southern willow scrub, 3.2 acres of coastal sage scrub (which supports two sensitive plant species), 3.1 acres of native grassland, and 44.7 acres of non-native grassland will be preserved onsite. Impacts to *Dudleya variegata* and

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Ferocactus viridescens will be minimized through transplantation of individuals (or off-site purchase of dudleya habitat) from areas that are proposed for development into the preserved open space onsite. While there will be some loss of sensitive habitat associated with the proposed project, that loss has been limited and therefore meets the standards set forth in the Biological Mitigation Ordinance and appropriate mitigation measures have been included as part of the project. Impacts to 0.1 acre of disturbed wetlands/waters will be mitigated through onsite creation of disturbed waters and fairy shrimp habitat. It is proposed that impacts to native grassland and non-native grassland be mitigated both on and offsite. A total of 2.1 acres of coastal sage scrub would be impacted. Mitigation for coastal sage scrub is required at a ratio of 1.5:1 and will be accomplished by preserving 3.2 acres on site. Mitigation for impacts to 4.2 acres of native grassland, at a 2:1 mitigation ratio, will be accomplished by preserve of 3.1 acres of native grassland and the purchase of 5.4 acres of habitat off-site. Mitigation for impacts to 186.5 acres of non-native grassland, at a 0.5:1 mitigation ratio, will be accomplished by the on site preserve of 44.7 acres of non-native grassland and the purchase of 48.6 acres of habitat off-site. By special agreement with the wildlife agencies, the total off-site purchase requirement of 54 acres will be purchased in Hollenbeck Canyon (Daley Ranch). Should this transaction fail to proceed, off-site purchase would occur according to the BMO.

7. Conserve large interconnecting blocks of habitat that contribute to the preservation of wide-ranging species such as mule deer, golden eagle, and predators as appropriate. Special emphasis will be placed on conserving adequate foraging habitat near golden eagle nest sites.

Findings of Fact:

Onsite a "finger" of land of "very high" habitat value projects into the northeast corner of the project site. This finger is contiguous with a block of habitat greater than 500 acres in area of diverse and undisturbed habitat that contributes to the conservation of sensitive species. But, this area has been impacted by past agriculture and will be isolated from the conservation area by Lone Star Road. The most sensitive portion of land onsite with a "very high" habitat value (i.e. that containing seven vernal pools and the associated mima-mound topography) located onsite will be preserved. Additionally, portions of Johnson Canyon and its slopes encompassed by the project site will be preserved in order to maintain a wildlife corridor between the Otay River Valley to the north and the Otay Mountains to the east. Approximately 1500 feet from the canyon bottom is included in the conservation easement. In addition, other portions of the corridor are/will be preserved through a discretionary review process in and outside the East Otay Mesa Specific Plan area. To the south and west the project site is surrounded by either disturbed (primarily through agriculture) or developed land.

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8. All projects within the San Diego County Subarea Plan shall conserve identified critical populations and narrow endemics to the levels specified in the Subarea Plan. These levels are generally no impact to the critical populations and no more than 20 percent loss of narrow endemics and specified rare and endangered plants.

Findings of Fact:

The project site supports three sensitive plant species; barrel cactus (*Ferocactus viridescens*), button celery (*Eryngium aristulatum*), and variegated dudleya (*Dudleya variegata*). One additional sensitive plant was identified during past surveys and is presumed to still exist onsite: *Prostrate navarretia* (*Navarretia fossalis*). Both the *Navarretia fossalis* and the *Eryngium aristulatum* occur within the J22 vernal pool complex. Preservation of the vernal pool complex (mima mound-pool topography plus watershed) in designated open space will reduce impacts to below a level of significance. Preservation of 80% of the *Dudleya variegata* and 50% of the *Ferocactus viridescens* populations will occur within the designated open space. A further mitigation measure providing for the conservation of covered species is salvage and relocation, *Dudleya variegata* and *Ferocactus viridescens* to the preserved open space. A minimum of 80% of the transplanted populations will be maintained under the Resource Conservation Plan (RCP). The RCP also provides for creation/enhancement of shrimp habitat.

9. No project shall be approved which will jeopardize the possible or probable assembly of a preserve system within the Subarea Plan.

Findings of Fact:

The project proposes a conservation easement that will preserve any potential or likely corridors and the best quality habitat onsite such that it could be included within a sound preserve system. The project open space and purchase of habitat in Hollenbeck Canyon will contribute to the preserve system in the Subarea.

10. All projects that propose to count on-site preservation toward their mitigation responsibility must include provisions to reduce edge effects.

Findings of Fact:

The project has included specific measures through project design and management that would reduce edge effects. The sensitive area preserved in open space borders proposed development on only one side. Access to the sensitive habitat is precluded by Lone Star Road and through the provision of

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fencing of the proposed open space. The use of non-native, invasive plant species will be prohibited around all industrial and commercial structures, and along roads and entryways. All project lighting will be directed away from the open space. To avoid direct impacts to the one vernal pool located south of Lone Star Road, it will be preserved with its watershed and fenced, and managed in conjunction with the pools in the northern open space. Some indirect impacts are expected, but overall, the project's preservation design is good and will have edge effect reduced.

11. Every effort has been made to avoid impacts to BRCA, sensitive resources and specific sensitive species as defined in the Biological Mitigation Ordinance.

Findings of Fact:

The proposed development has avoided 66 percent of the BRCA and has designed open space that will protect the sensitive species on the site. All (0.2 acre) of the vernal pool habitat (supporting two sensitive plant species and the endangered San Diego fairy shrimp), 0.4 acre of southern willow scrub, 3.2 acres of coastal sage scrub (which supports two sensitive plant species), 3.1 acres of native grassland, and 44.7 acres of non-native grassland will be preserved onsite. Impacts to *Dudleya variegata* and *Ferocactus viridescens* will be minimized through transplantation of individuals from areas that are proposed for development into the preserved open space onsite (or off-site purchase of dudleya habitat). While there will be some loss of sensitive habitat associated with the proposed project, that loss has been limited and therefore meets the standards set forth in the Biological Mitigation Ordinance and appropriate mitigation measures have been included as part of the project. The total area preserved onsite totals 51.6 acres in a consolidated open space north of Lone Star Road (adjacent to Johnson Canyon corridor/linkage) and includes a vernal pool open space south of Lone Star Road.

CONSLUSION:

Review of the project's impacts on biological resources and a determination of whether or not necessary mitigation have occurred, in compliance with Section 10 of the Implementing Agreement between the County of San Diego and the California Department of Fish and Game and the U.S. Fish and Wildlife Service.

This project has been found to conform to the San Diego County Multiple Species Conservation Program Subarea Plan, Biological Mitigation Ordinance and Implementing Agreement. Upon fulfillment of the requirements for permanent mitigation and management of preserved areas as outlined in Section 17.1(A) of the County's Implementing Agreement for the Multiple Species Conservation Program (MSCP) Plan, Third Party Beneficiary Status can be attained for the project. Third party beneficiary

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status allows the property owner to perform "incidental take" under the State and Federal Endangered Species Acts, of species covered by the MSCP plan while undertaking land development activities in conformance with an approval granted by the County in compliance with the County's Implementing Agreement.

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Appendix E

Mitigation Measures and Project Design Features

Appendix E contains applicable Mitigation Measures from the 1994 EIR, 2000 SEIR, and 2018 SEIR projects. The analysis in the 2003 and 2012 EIR Addenda relied on the mitigation measures in the 1994 EIR and 2000 SEIR; thus, mitigation measures for these documents are not listed separately. None of the language or requirements of the mitigation measures applicable to the Project have changed from the original approved CEQA documents.

Air Quality

1994 EIR

- MM 9A** The County shall require applicants to use several techniques to reduce potentially significant construction emissions.
- MM 9B** Development projects shall provide bicycle facilities to promote use of alternative transportation methods.
- MM 9C** The County shall coordinate with appropriate agencies to implement reduction of vehicle emissions.

2000 SEIR

- MM 2.6.4.1** "Construction Mitigation Measures: The County shall require applicants to use combinations of the following techniques to reduce potentially significant construction emissions:

- minimize simultaneous operation of multiple construction equipment units
- minimize the area being graded at any one time (i.e., grade only those areas which will be developed in the immediate future)
- use low pollutant-emitting construction equipment
- use [alternative fueled] or electrical construction equipment, [where economically feasible] use catalytic reduction for gasoline-power equipment
- use injection timing retard for diesel-powered equipment
- water the construction area to minimize fugitive dust halt grading during periods of high wind (>20 mph) stabilize graded areas (pave roads, hydroseed open areas, etc.) as soon as practical
- limit vehicles speeds on unpaved surfaces to 10 mph
- cover trucks hauling dirt for cut and fill operations

The County would place conditions on the grading permits for the project. Those conditions would require implementation of measures similar to those listed above."

MM 2.6.4.2 "Facilities Mitigation Measures: Development projects shall provide facilities, as appropriate, to promote use of alternative transportation methods, such as:

- bicycle storage facilities at industrial and commercial facilities and park-and-ride lots
- shuttle service between business and the transit stop.

Bicycle storage facilities shall be provided on each industrial and commercial lot as specified in the design guidelines for the project. The need for park and ride facilities and/or shuttles and appropriate locations for such facilities shall be coordinated with County Staff, SANDAG and Metropolitan Transit Development Board (MTDB). The party responsible for implementing any identified, off-site park-and-ride lots would provide bike storage facilities and the effected agencies will determine appropriate shuttle stops. Implementation of the project does not foreclose opportunities for transit or shuttle stops to be implemented within public right-of-ways.

Transportation Mitigation Measures: The County shall coordinate with other appropriate agencies (SANDAG, North County Transit District [sic J) to implement the following techniques to further reduce vehicle emissions:

- provide funding support for transit improvements (i.e., bicycle lanes, additional bus service)
- implement transportation control measures (tolls, parking fees, taxation policies, etc.)
- implement commute travel reduction program such as employment rideshare program, transit pass subsidy to employers, flexible work hours, telecommuting programs, etc.
- implement an ordinance to reduce truck deliveries and goods movements
- require clean fuel vehicle fleets
- expand transit services
- retrofit transit buses to clean fuels or electrification

The County has and continues to coordinate programs similar to those listed above. It should be noted that the transit provider is MTDB and not the North County Transit District"

2018 SEIR

M-AQ-1 The Project would reduce construction emissions associated with VOC to the extent feasible by utilizing low-VOC coatings in accordance with APCD Rule 67.0.1 requirements.

Cultural Resources

2018 SEIR

M-CR-1 "To mitigate for direct impacts to subsurface deposits, an archaeological monitoring program will be implemented that consists of the following:

- Pre-Construction: Pre-construction meeting to be attended by the Project Archaeologist and Kumeyaay Native American monitor to explain the monitoring requirements.
- Construction: Monitoring. Both the Project Archaeologist and Kumeyaay Native American monitor are to be onsite during earth disturbing activities. The frequency and location of monitoring of native soils will be determined by the Project Archaeologist in consultation with the Kumeyaay Native American monitor. Both the Project Archaeologist and Kumeyaay Native American monitor will evaluate fill soils to ensure that they are negative for cultural resources. If cultural resources are identified:
 - Both the Project Archaeologist and Kumeyaay Native American monitor have the authority to divert or temporarily halt ground disturbance operations in the area of the discovery. The Project Archaeologist shall contact the County Archaeologist.
 - The Project Archaeologist in consultation with the County Archaeologist and Kumeyaay Native American shall determine the significance of discovered resources.
 - Construction activities will be allowed to resume after the County Archaeologist has concurred with the significance evaluation.
 - Isolates and non-significant deposits shall be minimally documented in the field. Should the isolates and non-significant deposits not be collected by the Project Archaeologist, the Kumeyaay Native American monitor may collect the cultural material for transfer to a Tribal curation facility or repatriation program.
 - If cultural resources are determined to be significant, a Research Design and Data Recovery Program shall be prepared by the Project Archaeologist in consultation with the Kumeyaay Native American monitor and approved by the County Archaeologist. The program shall include reasonable efforts to preserve (avoid) unique cultural resources of Sacred Sites; the capping of identified Sacred Sites or unique cultural resources and placement of development over the cap if avoidance is infeasible; and data recovery for non-unique cultural resources. The preferred option is preservation (avoidance).

Human Remains:

- The Property Owner or their representative shall contact the County Coroner and the PDS Staff Archaeologist. § Upon identification of human remains, no further disturbance shall occur in the area of the find until the County Coroner has made the necessary findings as to origin.

- If the remains are determined to be of Native American origin, the Most Likely Descendant (MLD), as identified by the Native American Heritage Commission (NAHC), shall be contacted by the Property Owner or their representative in order to determine proper treatment and disposition of the remains.
- The immediate vicinity where the Native American human remains are located is not to be damaged or disturbed by further development activity until consultation with the MLD regarding their recommendations as required by Public Resources Code Section 5097.98 has been conducted. § Public Resources Code §5097.98, CEQA §15064.5 and Health & Safety Code §7050.5 shall be followed in the event that human remains are discovered.
- If needed any repatriation will be performed in landscaped areas within the public park or within the parkways along the public streets, within an area and depth that will not be disturbed by future ground disturbance.

Rough Grading:

Upon completion of Rough Grading, a monitoring report shall be prepared identifying whether resources were encountered. A copy of the monitoring report shall be provided to the South Coastal Information Center and any culturally-affiliated tribe who requests a copy.

Final Grading:

A final report shall be prepared substantiating that earth-disturbing activities are completed and whether cultural resources were encountered. A copy of the final report shall be submitted to the South Coastal Information Center and any culturally-affiliated tribe who requests a copy. Disposition of cultural material:

- A final report shall be prepared substantiating that earth-disturbing activities are completed and whether cultural resources were encountered. A copy of the final report shall be submitted to the South Coastal Information Center and any culturally-affiliated tribe who requests a copy.
- The final report shall include evidence that all historic materials have been curated at a San Diego curation facility that meets federal standards per 36 CFR Part 79.
- If requested by the Native American monitor, repatriation of any prehistoric materials, collected by the Native American monitor during construction monitoring will be repatriated to landscaped areas within the public park or within the parkways along the public streets, within an area and depth that will not be disturbed by future ground disturbance after artifact analysis is completed. "

Biological Resources

2018 SEIR

- M-BI-2** The following mitigation measures would be implemented to mitigate Project impacts to San Diego fairy shrimp (BI-2) to below a level of significance:

- M-BI-2a** A pre-construction survey shall be conducted in the Project development area prior to clearing of the development area to determine if San Diego fairy shrimp are present on the Project site.
- M-BI-2b** Creation of wetlands suitable for both San Diego and Riverside species of fairy shrimp would fully mitigate impacts to these species to below a level of significance. The restoration effort would incorporate measures to salvage these species from on-site ponds and relocate them into the created pools within the Open Space Easement (Lot 20 of the proposed Tentative Map). The pools would be monitored for fairy shrimp at intervals specified in the RCP for a five-year period. Quarterly reports would be prepared by the applicant's consultant for the first year and annual reports thereafter. If the success criteria listed in the RCP are not met at the end of a given year, remedial action would be taken, pursuant to the direction and approval from the US Army Corps of Engineers and US Fish and Wildlife Service.
- M-BI-2c** Impacts to San Diego Fairy Shrimp would be mitigated to a level below significant by the creation of habitat and the preservation of the J-22 vernal pool complex as specified in the Fairy Shrimp Translocation and Five Year Monitoring Mitigation Plan (Southwest Biological Services, December 2003) approved by in 2012.
- M-BI-3** The following mitigation measures would mitigate Project impacts to Riverside fairy shrimp (BI-3) to below a level of significance:
- M-BI-3a** A pre-construction survey shall be conducted in the Project development area prior to clearing of the development area to determine if Riverside fairy shrimp are present on the Project site.
- M-BI-3b** Creation of wetlands suitable for both San Diego and Riverside species of fairy shrimp would fully mitigate impacts to these species to below a level of significance. The restoration effort would incorporate measures to salvage these species from on-site ponds and relocate them into the created pools within the open space easement. The pools would be monitored for fairy shrimp at intervals specified in the RCP for a five-year period. Quarterly reports would be prepared by the applicant's consultant for the first year and annual reports thereafter. If the success criteria listed in the RCP are not met at the end of a given year, remedial action would be taken, pursuant to the direction and approval from the US Army Corps of Engineers and US Fish and Wildlife Service.
- M-BI-3c** Impacts to Riverside fairy shrimp, which is assumed present, would be mitigated to a level below significance by the creation of habitat and the preservation of the J-22 vernal pool complex as specified in the Fairy Shrimp Translocation and Five Year Monitoring Mitigation Plan (Southwest Biological Services, December 2003) approved in 2012. As required by the 2003 USFWS Biological Opinion, wet season and dry season Riverside fairy shrimp surveys shall be conducted in 2016-2017. If a protocol survey (2 wet or 1 dry and 1 wet survey) for Riverside fairy shrimp demonstrates that

this species is not present in the agricultural pond, then the success criteria for Riverside fairy shrimp would be dismissed.

- M-BI-5** A pre-construction burrowing owl survey shall be conducted in the Project development area prior to clearing of the development area and a pre-construction burrowing owl survey to be conducted in the Open Space Easement (Lot 20 of the proposed Tentative Map) prior to disturbance within the Open Space Easement (Lot 20 of the proposed Tentative Map) (such as excavation of new vernal pool). A burrowing owl translocation plan shall be developed and approved by the County and Wildlife Agencies, if owls are found during pre-construction surveys.

- M-BI-6** Implementation of mitigation measures M-BI-7 and M-BI-8, below, would reduce impacts to turkey vulture (BI-6) to below a level of significance.

- M-BI-7** Mitigation requirements for northern harrier (BI-7) would be partially met by the preservation of foraging habitat within the Open Space Easement (Lot 20 of the proposed Tentative Map). The enhancement of the habitat within the open space would further reduce impacts to this species. In addition, initial clearing of vegetation shall occur outside the nesting season (mid-April through July). If that is not possible, a raptor nesting survey shall be conducted. If an active nest is found, grading would cease in the immediate vicinity, and the monitoring biologist and County staff would determine and agree to an acceptable buffer between the nest location and grading activities. Table 3.5 in the 1996 MSCP Plan (approved by the County Board of Supervisors on October 27, 1997) states that an acceptable buffer would be 900 feet. Once the nest becomes non-active, grading restrictions shall not longer apply. Mitigation in conformance with the BMO for both on- and offsite habitat preservation (as proposed above in the discussion of sage scrub and grassland habitat mitigation) would fully mitigate for the loss of foraging habitat for this species regionally.

- M-BI-8** Mitigation requirements for the loss of foraging habitat and potential breeding habitat for white-tailed kite (BI-8) would be met by requiring a qualified biologist to monitor the construction area for suitable nesting habitat (e.g., trees) in the vicinity of construction during the breeding season. If white-tailed kite is found nesting on the Project site during pre-construction surveys, CDFW shall be notified. The RCP would require that a 'construction-free zone' be created around any identified nesting sites until fledging has occurred. The biologist would coordinate with County staff during the monitoring efforts to determine the size of any required construction zone. This would mitigate the impacts to a level below significant.

- M-BI-9** Implementation of mitigation measures M-BI-7 and M-BI-8, above, would reduce impacts to loggerhead shrike (BI-9) to below a level of significance.

- M-BI-10** Implementation of mitigation measure M-BI-12, below, would reduce impacts to black-tailed jackrabbit (BI-10) to below a level of significance.

- M-BI-11** Implementation of mitigation measures M-BI-7 and M-BI-8, above, would reduce impacts to raptor foraging habitat (BI-11) to below a level of significance.

M-BI-12 The following mitigation measures fully mitigate indirect Project impacts to preserved land in the Biological Open Space (BI-12) to below a level of significance:

M-BI-12a Human Activities. The adverse effects on vegetation due to the increase in human activity in the area would be reduced by: 1) creating buffer zones adjacent to the open space easements to minimize the effects from noise and lighting; 2) limiting pedestrian and equestrian trails to existing roads or non-sensitive habitats; and 3) discouraging entry into native habitats such as the riparian and vernal pool habitats by installing fencing and barrier plantings and/or signage. In addition, the RCP would require fencing around the entire open space preserve easement to discourage trespassing and illegal dumping.

M-BI-12b Construction Activities. Indirect impacts to habitats may result from construction activities, such as construction of Lone Star Road. To avoid the potential impacts, the limits of the vernal pool habitats shall be surveyed and staked prior to construction. These limits shall be clearly shown on all construction drawings as 'no impact zones.' This area would have temporary fencing prior to construction to prevent vehicular or pedestrian access, equipment storage, storage of spoils materials, and refuse disposal.

M-BI-12c Introduced Species. The use of non-native, invasive plant species would be prohibited in the proposed landscaping palettes (including container stock and hydroseed material) for the streetscapes and commercial/industrial. A qualified biologist or native plant horticulturist shall review and sign all landscaping plans to determine the appropriate species to be used in landscaping, prior to project approval. These measures would reduce the potential impacts to below significant.

M-BI-12d Increased Runoff, Erosion, and Sedimentation. The proposed construction of Lone Star Road would result in the removal of vegetation on hillsides that could result in a temporary increase in runoff into the on-site vernal pools. Increased runoff can, in turn, result in erosion and sedimentation that could adversely affect wetland vegetation or other drainages. Erosion and sedimentation impacts would be mitigated by employing standard erosion control procedures, such as, sandbagging, diversion ditches, and stream bank stabilization. Prior to Site Plan approval for future development projects, a construction erosion control plan would be reviewed and approved by the County. In addition, the project would be required to obtain a National Pollutant Discharge Elimination System (NPDES) Permit for construction activities from the Regional Water Quality Control Board, of which would require an approved Storm Water Pollution Prevention plan. That plan would require the permit applicant to implement measures to prevent contamination of the surrounding drainages during construction. These measures would mitigate the potential for significant impacts to a level below significant.

M-BI-12e Toxic Materials. Spills of toxic materials could occur during both construction and operational phases of the Project. These spills could contaminate drainages and create a significant impact to habitat and water quality. In order to prevent these

impacts, a 'no fueling' zone shall be designated within 25 feet of all drainages during the construction period. In addition, all equipment used near drainages during construction shall be routinely maintained and inspected for leaks. Major leaks shall be repaired immediately. Drip pans and tarps shall be placed under minor leaks. Used drip pans and tarps shall be properly disposed of at the end of each work day. Emergency provisions (e.g. straw bales) shall be placed at all drainage crossings, prior to the onset of construction to deal with unintentional spills. All of these measures would be included in approved Storm Water Pollution Prevention Plan (SWPPP) as a part of the RWQCB-required NPDES permit for construction activities. In addition, all commercial/industrial uses that plan to store materials within the proposed commercial/industrial complex would be required to obtain a NPDES permit for operational activities from RWQCB. That permit would also require a SWPPP for each facility to prevent contamination of nearby drainages. These measures would mitigate the potential for significant impacts to a level below significant.

- M-BI-12f** Habitat Fragmentation. Lone Star Road could potentially result in habitat fragmentation between the vernal pool complex to the north of Lone Star Road and the one vernal pool to the south of Lone Star Road. The southern vernal pool would be managed as a part of the larger vernal pool complex within the Open Space Easement (Lot 20 of the proposed Tentative Map) to the north. Integrated management of the southern pool with the rest of the vernal pool complex would ensure the long term viability of this pool and associated plant populations. The required RCP includes a management program for the vernal pools and would mitigate the potential for impacts to below significant.
- M-BI-12g** Provision should be made to inform the construction contractor(s) (prior to the construction process) about the biological constraints of this project. The contractor(s) would be responsible for impacts to biological sensitivities beyond those identified in this report and that occur as a direct result of construction activities. All sensitive habitat areas or occurrences of sensitive species to be avoided shall be clearly marked on project maps provided to the contractor. These areas shall be designated as "no construction" or "limited construction" zones. These areas would be flagged by the project biologist prior to the onset of construction activities. In some cases, resources may need to be fenced or otherwise protected from direct or indirect impacts.
- M-BI-12h** A contractor education meeting shall be conducted to ensure that contractors and all construction personnel are fully informed of the biological sensitivities associated with this project. This meeting should focus on: 1) the purpose for resource protection; 2) contractor identification of sensitive resource areas in the field (e.g., areas delineated on maps and by flags or fencing); and 3) sensitive construction practices (see nos. 4-9, on Pages 4.3-106 and 4.3-107 of the Specific Plan EIR), and protocol to resolve conflicts that may arise during the construction process. This meeting shall be conducted by a qualified biologist, and shall be a requirement for all construction personnel.
- M-BI-12i** Heavy equipment and construction activities shall be restricted to the development area. Prohibited activities within drainages or other wetland areas (including vernal

pools) include staging areas, equipment access, and disposal or temporary placement of excess fill.

- M-BI-12j** Staging areas are prohibited within sensitive habitat areas or any habitat included in open space. Staging areas shall be delineated on the grading plans and reviewed by a qualified biologist. Likewise, vehicle access shall be prohibited in all open space areas.
- M-BI-12k** Fueling of equipment shall not occur adjacent to drainages. ...[F]ueling zones should be designated on construction maps and shall be situated a minimum distance of 7.6 meters (25 feet) from all drainages the open space limits or near storm drains that may drain into Johnson Canyon
- M-BI-12l** Construction in or adjacent to sensitive areas should be appropriately scheduled to minimize potential impacts to biological resources. All work in or near wetlands or other "waters of the U.S." shall take place during periods of minimum flow (i.e., summer through the first significant rain of fall) to avoid excessive sedimentation and erosion.
- M-BI-12m** The open space limits must be staked and flagged prior to clearing or grubbing. The limits of the open space must be fenced with a chain link fence at least five feet tall prior to clearing or grubbing. The fence location must be approved by County staff or monitoring biologist prior to receipt of grading permit and would be a permanent protection measure.
- M-BI-12n** A Resource Conservation Plan detailing wetland enhancement, preservation, and maintenance, coastal sage scrub habitat preservation, sensitive species salvaging, and transplanting as well as success standards and report requirements must be completed prior to the initiation of construction.
- M-BI-12o** Temporary construction fencing shall be installed.
- M-BI-12p** Installation of a sturdy fence that can prevent cutting fence shall be extended around the entire western, northern, and eastern edges of the northern Open Space Easement (lot 20 of the proposed Tentative Map) due to the ongoing problem of trespassing recreational off-road vehicles (this type of fence would not prevent entry and use by wildlife).
- M-BI-13** Significant impacts to 195.99 acres of non-native grassland (BI-13) would be mitigated at a ratio of 0.5:1, as previously approved in the 2000 SEIR. The required 98.00 acres of non-native grassland mitigation would be provided through preservation of 46.76 acres of non-native grassland and 1.96 acres of native grassland within the Open Space Easement (Lot 20 of the proposed Tentative Map), and purchase of 49.28 acres in an approved offsite mitigation bank. On-site non-native grassland mitigation acreage would be within both the northern Open Space Easement (Lot 20 of the proposed Tentative Map) and the smaller vernal pool Open Space Easement (Lot 20 of the proposed Tentative Map). The northern Open Space Easement (Lot 20 of the proposed Tentative Map) would preserve 46.39 acres of non-native grassland and 1.96

acre of native grassland (totaling 48.35 acre of grassland). The southern vernal pool Open Space Easement (Lot 20 of the proposed Tentative Map) would preserve of 0.37 acre of non-native grassland on-site within the southern vernal pool Open Space Easement (Lot 20 of the proposed Tentative Map). Furthermore, the applicant has satisfied the requirement for purchase of 49.28 acres in an approved off-site mitigation bank. The applicant contributed \$243,450 toward the preservation of land in Hollenbeck Canyon, a preserve area in the MSCP subarea, which provided habitat value equal to 5.4 acres of native grassland and 48.6 acres of non-native grassland.

- M-BI-15** Mitigation for potential Project impacts to Federally protected wetlands (BI-15) shall consist of wetland creation and enhancement/ restoration as proposed for wetland habitat impacts in M-BI-12, above.

Paleontological Resources

2018 SEIR

- M-PR-1** Paleontological monitoring shall be conducted during all mass grading and excavation activities in surface exposures of the Otay Formation to mitigate any adverse impacts (i.e., loss or destruction) to potential nonrenewable paleontological resources. A mitigation monitoring and reporting program consistent with County and CEQA guidelines and requirements shall be implemented prior to any mass grading and/or excavation-related activities, including utility trenching, within the Otay Formation. The mitigation monitoring and reporting program shall be conducted in accordance with the following procedures: A. A Qualified Paleontologist or Paleontological Resources Monitor (under the supervision of the Qualified Paleontologist) shall be on-site during all excavation operations within geologic formations that may contain paleontological resources (i.e., the Otay Formation). The Qualified Project Paleontologist is a person with a Ph.D. or master's degree in paleontology or related field, and who has knowledge of San Diego County paleontology, and documented experience in professional paleontological procedures and techniques. A Paleontological Monitor is defined as an individual with at least 1 year of experience in field identification and collection of fossil materials. The Paleontological Monitor shall work under the direct supervision of the Qualified Paleontologist. The applicant shall authorize the Qualified Paleontologist and/or Paleontological Monitor to direct, divert, or halt any grading activity, and to perform all other acts required by the provisions listed below. B. The Qualified Paleontologist and/or Paleontological Monitor shall monitor all grading and excavation activities of undisturbed formations of sedimentary rock; C. If paleontological resources are unearthed, the Qualified Paleontologist or Paleontological Monitor shall do the following: 1. Direct, divert, or halt any grading or excavation activity until such time that the sensitivity of the resource can be determined and the appropriate recovery implemented. 2. Salvage unearthed fossil remains, including simple excavation of exposed specimens or, if necessary, plaster-jacketing of large and/or fragile specimens or more elaborate quarry excavations of richly fossiliferous deposits. 3. Record stratigraphic and geologic data to provide a context for the recovered fossil remains, typically including a detailed description of all paleontological localities within the Project site, as well as the lithology of fossil-bearing

strata within the measured stratigraphic section, if feasible, and photographic documentation of the geologic setting. 4. Prepare collected fossil remains for curation to include cleaning the fossils by removing the enclosing rock material; stabilizing fragile specimens using glues and other hardeners, if necessary; and repairing broken specimens. 5. Curate, catalog, and identify all fossil remains to the lowest taxon possible; inventory specimens; assign catalog numbers; and enter the appropriate specimen and locality data into a collection database. 6. Transfer the cataloged fossil remains to an accredited institution (museum or university) in California that maintains paleontological collections for archival storage and/or display. The transfer shall include copies of relevant field notes, maps, stratigraphic sections, and photographs. D. The Qualified Paleontologist shall prepare a final Paleontological Resources Mitigation Report summarizing the field and laboratory methods used, the stratigraphic units inspected, the types of fossils recovered, and the significance of the curated collection. E. Submit two hard copies of the final Paleontological Resources Mitigation Report to the Director of PDS for final approval of the mitigation, and submit an electronic copy of the report according to the County PDS Electronic Submittal Format Guidelines.

**OTAY MAJESTIC PROJECT
PDS2022-SPA-22-001; PDS2023-VTM (5651),
PDS2023-STP-23-007 AND PDS2022-ER-98-19-013I**

**ENVIRONMENTAL FINDINGS
February 19, 2024**

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS

- 1) Find that the environmental impact report (EIR) dated July 27, 1994 on file with the Department of Planning and Development Services (PDS) as Environmental Review Number Log No. 93-19-006 was completed in compliance with the California Environmental Quality Act (CEQA) and the State and County CEQA Guidelines and that the Board of Supervisors has reviewed and considered the information contained therein and Addendum thereto dated on file with PDS as Environmental Review Number (PDS2022-ER-98-19-013I) before approving the project.
- 2) In the years since the certification of the original 1994 EIR, two addenda and two Supplemental EIRs have been processed and approved by the County for projects located within the East Otay Mesa Business Park Specific Plan area, including the 253.1 acres that make up the Project site area.
- 3) The Project entails a proposal to implement light industrial land uses on the portions of the site designated for development and consistent with the light industrial land use designation previously approved for the site in the East Otay Mesa Business Park Specific Plan and evaluated in the 1994 EIR, 2000 Supplemental EIR (SEIR) (TM 5139-RPL6, Log No. 9101099), 2003 EIR Addendum (TM5139-RPL6R, Log No. ER 98-19-013A), 2012 EIR Addendum (TM5538), and 2018 SEIR (PDS2015-ER-15-98-190-13G). And the Board of Supervisors has reviewed and considered the information contained in each of these CEQA documents in consideration of the project.
- 4) Find that there are no changes in the project or in the circumstances under which the project is undertaken that involve significant new environmental impacts which were not considered in the previously certified EIR dated July 27, 1994, as well as the 2000 SEIR, 2003 Addendum, 2012 Addendum, and 2018 SEIR, that there is no substantial increase in the severity of previously identified significant effects, and that no new information of substantial importance has become available since the EIR was certified as explained in the Environmental Review Update Checklist dated November 2023.
- 5) Addendum for Otay Majestic, PDS2022-SPA-22-001, PDS2023-VTM (5651), PDS2023-STP-23-007, PDS2022-ER-98-19-013I and the approved PDS2022-TM-5607RTE.
- 6) Adopt the Mitigation Monitoring and Reporting Program (MMRP) as incorporated into the project conditions of approval pursuant to CEQA Guidelines section 15074(d).
- 7) Find that the proposed project is consistent with the Resource Protection Ordinance (RPO) (County Code, Section 86.601 et seq.).
- 8) Find that plans and documentation have been prepared for the proposed project that demonstrate that the project complies with the Watershed Protection, Stormwater Management, and Discharge Control Ordinance (County Code, Section 67.801 et seq.).
- 9) Find that the project is consistent with the Biological Mitigation Ordinance (County Code, section 86.501 et seq.)

NOTICE OF DETERMINATION

TO: ☒ Recorder/County Clerk
 Attn: James Scott
 1600 Pacific Highway, M.S. A33
 San Diego, CA 92101

FROM: County of San Diego
 Planning & Development Services, M.S. O650
 Attn: Project Planning Section Secretary
 5510 Overland Avenue, Suite 110
 San Diego, CA 92123

☒ Office of Planning and Research
 P.O. Box 3044
 Sacramento, CA 95812

SUBJECT: FILING OF NOTICE OF DETERMINATION IN COMPLIANCE WITH PUBLIC RESOURCES CODE SECTION 21152

Project Name and Number(s): Otay Majestic PDS2022-SPA-22-001 (SPA); PDS2023-TM-5651(VTM); PDS2023-STP-23-007 (STP) and PDS2022-ER-98-19-013I (ER)

State Clearinghouse No.: _____

Project Location: The 253-acre project site is generally located along existing north of Otay Mesa Road between Harvest Road and Vann Centre Blvd in southwestern edge unincorporated San Diego County immediately adjacent to the U.S./Mexico border. It lies between the Otay River Valley to the north (City of Chula Vista further to the north), the international border with Mexico to the south, the San Ysidro Mountains to the east, and the City of San Diego to the west. approximately one mile south of the City of Chula Vista and half in the northerly most portion of the Otay Subregional Plan Area, within unincorporated San Diego County.

Project Applicants:	Sunroad Otay Partners, L.P. Arron Feldman 8620 Spectrum Center Blvd. North Suite 1100 Los Angeles, CA 90049	Otay Majestic Company Tom Simmons 13191 Crossroads Parkway North 6 th Floor City of Industry, CA 91746
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Project Description: The project is a Specific Plan (SPA), Site Plan (STP), and a Vesting Tentative Map (VTM) and Addendum (ER). Otay Majestic is located on approximately 253 acres. The project applicants are requesting the construction of up to 2,850,000 square feet of industrial warehouse buildings (Parcels 1 to 12) and roads spread out over five phases. The Project would include approximately 51.3 acres of permanently conserved biological open space at the northeastern corner of the site (Parcel D) northeast of Lone Star Road, and a combination of permanently conserved open space and manufactured slopes on 13.1 acres (Parcels A, B, and C) southwest of the future intersection of Lone Star Road and Zinser Road. Compared to the prior 2018 entitlement, natural open space conservation on the site would increase by approximately 8.0 acres. The Project's internal street pattern would match the existing grid pattern of the surrounding area within the Otay Subregional Plan Area.

Agency Approving Project: County of San Diego

County Contact Person: Gregory Mattson, Project Manager or Mark Slovick, Deputy Director

Date Form Completed: May 1, 2024

This is to advise that the County of San Diego Board of Supervisors has approved the above described project on November 18, 2020 and has made the following determinations:

1. The project ☐ will ☒ will not have a significant effect on the environment.
2. ☐ An Environmental Impact Report was prepared and certified for this project pursuant to the provisions of the CEQA.
☐ A Negative Declaration or Mitigated Negative Declaration was adopted for this project pursuant to the provisions of the CEQA.
☒ An Addendum to a previously certified Environmental Impact Report, or to a previously adopted Negative Declaration or Mitigated Negative Declaration, was prepared and considered for this project pursuant to the provisions of CEQA.
3. Mitigation measures ☒ were ☐ were not made a condition of the approval of the project.
4. A Mitigation reporting or monitoring plan ☒ was ☐ was not adopted for this project.

The following determinations are only required for projects with Environmental Impact Reports:

5. A Statement of Overriding Considerations ☐ was ☒ was not adopted for this project.
6. Findings ☒ were ☐ were not made pursuant to the provisions of State CEQA Guidelines Section 15091.

Project status under Fish and Wildlife Code Section 711.4 (Department of Fish and Wildlife Fees):

- ☐ Certificate of Fee Exemption (attached)
☒ Proof of Payment of Fees (attached)

The Environmental Impact Report or Negative Declaration with any comments and responses and record of project approval may be examined at the County of San Diego, Planning & Development Services, Project Processing Counter, 5510 Overland Avenue, Suite 110, San Diego, California.

Date received for filing and posting at OPR: _____

Signature:  Telephone: (619) 895-7177

Name (Print): Greg Mattson Title: Contract Project Manager

This notice must be filed with the Recorder/County Clerk within five working days after project approval by the decision-making body. The Recorder/County Clerk must post this notice within 24 hours of receipt and for a period of not less than 30 days. At the termination of the posting period, the Recorder/County Clerk must return this notice to the Department address listed above along with evidence of the posting period. The originating Department must then retain the returned notice for a period of not less than twelve months. Reference: CEQA Guidelines Section 15075 or 15094.