

## 3.5 Biological Resources

This section identifies the biological and aquatic jurisdictional resources that may be impacted by the proposed Brawley Solar Energy Project. The following identifies the existing biological and jurisdictional resources in the project area, analyzes potential impacts of the proposed project, and recommends mitigation measures to avoid or reduce potential impacts of the proposed project. The information for this section is summarized from the *Biological Technical Report for the Brawley Solar Project* prepared by Chambers Group Inc. (Appendix D of this EIR)

As part of the *Biological Resources Technical Report*, Chambers Group Inc. conducted a literature review, desktop survey, and biological reconnaissance survey of the project site to document the existing biological resources, to assess the habitat for its potential to support sensitive plant and wildlife species, and to determine the potential impacts of the projects on biological resources.

For the purposes of this EIR, the term project survey area refers to the project site’s boundaries, the area immediately along the proposed gen-tie line along Andre Road, and a portion of the existing North Brawley Geothermal Power Plant substation where the gen-tie line would interconnect.

### 3.5.1 Existing Conditions

#### Vegetation Communities and Land Cover Types

Nine vegetation communities were observed within the project survey area. The acreage of each vegetation community and land cover type within the project survey area is summarized in Table 3.5-1 and depicted in Figure 3.5-1. The majority of vegetation communities and land cover types mapped within the project survey area consisted of agriculture and bare ground.

**Table 3.5-1. Vegetation Communities or Land Cover Types within the Project Survey Area**

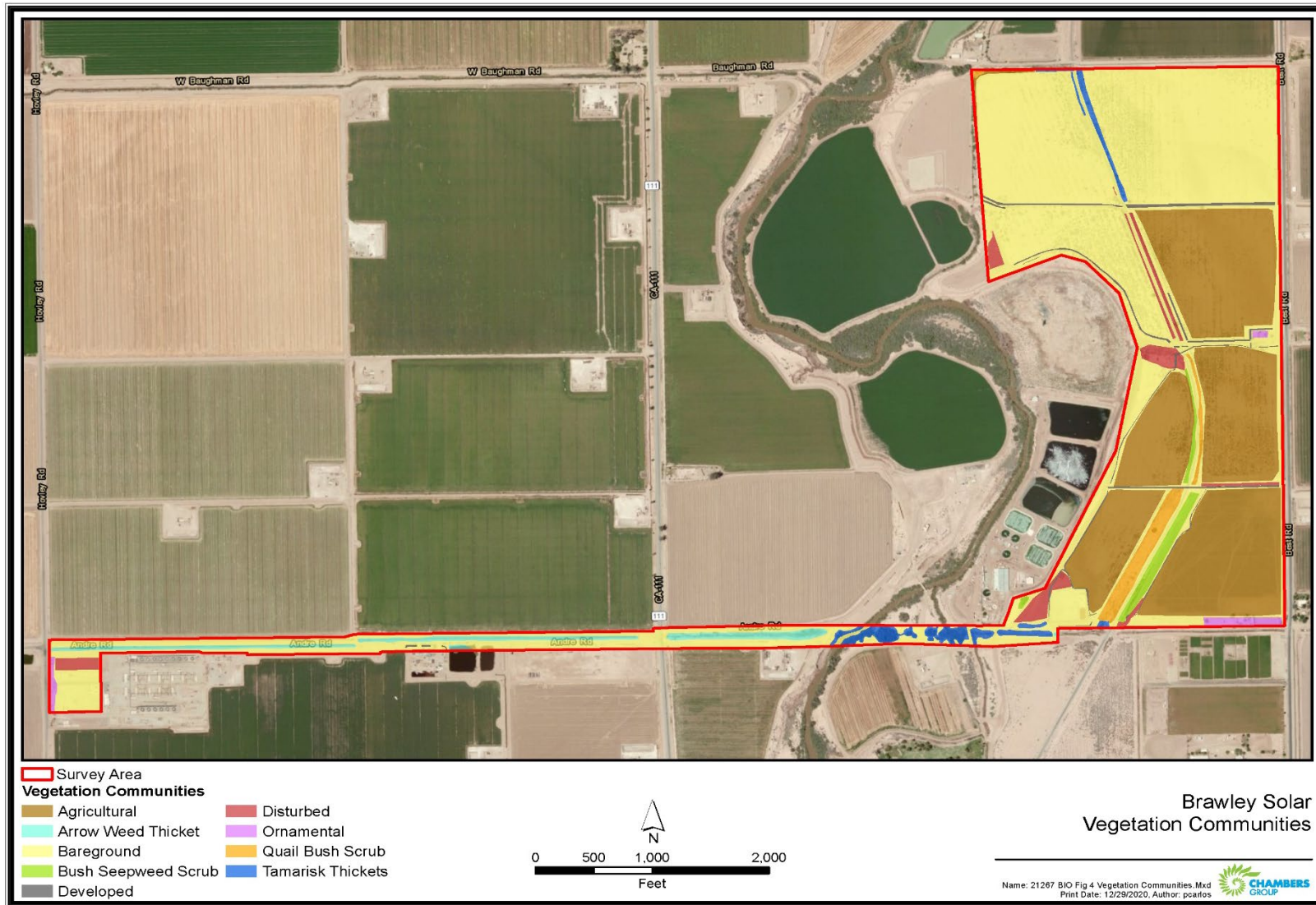
Vegetation Community or Land Cover Type	Acres within Project Survey Area <sup>a</sup>
Quail Bush Scrub*	4.86
Agricultural	91.96
Bare Ground	148.07
Developed	4.40
Disturbed	6.38
Bush Seepweed Scrub*	3.52
Arrow Weed Thickets*	6.23
Ornamental	1.87
Tamarisk Thickets	5.16
<b>Project Survey Area Total</b>	<b>272.45</b>

Source: Appendix D of this EIR

<sup>a</sup> Vegetation and land cover type acreages are rounded to the nearest hundredth acre.

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Figure 3.5-1. Vegetation Communities and Land Cover Types in the Project Survey Area



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Detailed descriptions of the applicable vegetation communities and land cover types occurring within the project survey area are described below.

#### **QUAIL BUSH SCRUB**

Quail bush scrub is dominated by quail bush with scattered bush seepweed (*Sueda nigra*) present in areas where the habitat gently slopes into more alkaline soils. The shrub layer is thick and continuous with a nonexistent herbaceous layer. Stands occur in areas where less alkaline or saline soils are present, favoring clay soils and more consistent topography where water does not accumulate easily. Plant species observed within the project site included bush seepweed, big saltbush, and spiny chlorocantha (*Chloracantha spinosa*).

#### **AGRICULTURAL**

Large swaths of the project site consist of plots of agricultural fields that are no longer in use. Bermuda grass (*Cynodon dactylon*) is found in these areas with alfalfa (*Medicago sativa*) seedlings in lower numbers. Agricultural fields are similar to Bare Ground habitat where areas have higher water permeability and higher fossorial rodent habitat potential.

Mexican palo verde are planted along the outside of several agriculture fields to serve as wind breaks for agricultural purposes and are considered agricultural habitat. Trees are mature, averaging 15 meters in height and are continuously planted alongside the agricultural fields. Isolated honey mesquite (*Prosopis glandulosa*) shrubs were also observed along the northwestern portion of the project site along the tree line. Other plant species observed within the project site included alfalfa (*Medicago sativa*), Mexican palo verde, big saltbush, and tamarisk.

#### **BARE GROUND**

Bare Ground areas are generally devoid of vegetation but do not contain any form of pavement. Bare Ground has higher water permeability and higher fossorial rodent habitat potential. Bare Ground is present throughout the entire project site, with small patches between agricultural land and long swaths that include dirt access roads that receive very little use. Isolated alfalfa was the only vegetation observed in these areas.

#### **DEVELOPED**

Developed areas are areas that have been altered by humans and now display man-made structures such as urban areas, houses, paved roads, buildings, parks, and other maintained areas.

#### **DISTURBED**

Disturbed areas generally have altered topography and soils due to man-made reasons, usually pertaining to development or agricultural purposes. Any shrubs in the shrub canopy are isolated, and the herbaceous layer is sparse to intermittent with pockets of advantageous non-native species that spread from a singular location. Species observed included Bermuda grass (*Cynodon dactylon*), Mediterranean schismus (*Schismus barbatus*), and lamb's quarters (*Chenopodium album*).

#### **BUSH SEEPWEED SCRUB**

Bush seepweed is dominant in the shrub canopy with scattered quail bush present. The shrub layer is intermittent to continuous with an herbaceous layer that is very sparse. Stands occur in gently sloping plains bordering agricultural fields or irrigation ditches and areas with disturbed hydrology due to man-

made alteration. Soils are deep and saline or alkaline. Species observed within the project site included bush seepweed and big saltbush.

#### ARROYO WEED THICKETS

The shrub canopy is intermittent to continuous with shrubs reaching 2 to 3 meters in height. Vegetation is dominated by arrow weed and extends along the water feature, occasionally extending over the bank and into the access road. The herbaceous layer is open and intermittent, existing in between stands of cattail and arrow weed. The habitat exists in irrigation ditches consisting of soils that are sandy and loamy where water is permeable. Plant species observed included arrow weed, tamarisk, cattail, big saltbush, saltgrass (*Distichlis spicata*), and salt heliotrope (*Heliotropium curassavicum*).

#### ORNAMENTAL

Ornamental Landscaping includes areas where the vegetation is dominated by non-native horticultural plants. Typically, the species composition consists of introduced trees, shrubs, flowers, and turf grass.

#### TAMARISK THICKETS

Tamarisk dominates the tree canopy and is thick and continuous. This non-native shrub layer is sparse with isolated quail bush present, while the herbaceous layer contains very little vegetation. Trees average 15 meters in height and exist in irrigation ditches or on the upper banks along water features. Species observed within the project site included tamarisk and big saltbush.

### Sensitive Natural Communities

Quailbush scrub, bush seepweed scrub, and arrow weed thickets occur within the project survey area and are considered sensitive natural communities by CDFW (CDFW 2021).

### Special-Status Species

#### *Literature Review*

Prior to conducting field surveys, a literature search was conducted to identify special-status plant and animal species with potential to occur within the project survey area. Special-status plants and animal species were evaluated for their potential to occur within the project survey area where impacts could potentially occur.

Using information from the literature review and observations in the field, a list of special-status plant and animal species that have potential to occur within the project survey area was generated. For the purposes of this assessment, special-status species are defined as plants or animals that:

- have been designated as either rare, threatened, or endangered by CDFW, CNPS, or the USFWS, and/or are protected under either the federal or California ESAs;
- are candidate species being considered or proposed for listing under these same acts;
- are fully protected by the California FGC Sections 3511, 4700, 5050, or 5515; and
- are of expressed concern to resource and regulatory agencies or local jurisdictions.

#### *Biological Reconnaissance Survey*

Chambers Group biologists conducted the general reconnaissance survey within the project site to identify the potential for occurrence of sensitive species, vegetation communities, or habitats that could

support sensitive wildlife species, including those identified in the literature review. The survey was conducted on foot throughout the project site between on October 22, 2020 to identify the potential for occurrence of sensitive species, vegetation communities, or habitats that could support sensitive wildlife species. Plant and wildlife species, including any special-status species that were observed during the survey, were recorded (see Appendix D of this EIR).

*Potential for Occurrence Determinations*

Special-status species reported for the region in the literature review or for which suitable habitat occurs on the BSAs were assessed for their potential to occur based on the following guidelines listed in Table 3.5-2.

**Table 3.5-2. Criteria for Evaluating Sensitive Species Potential for Occurrence**

Potential for Occurrence	Criteria
<b>Absent:</b>	Species is restricted to habitats or environmental conditions that do not occur within the project site. Additionally, if the survey was conducted within the blooming period of the species and appropriate habitat was observed in the surrounding area but the species was not observed within the Project impact area, it was considered absent.
<b>Low:</b>	Historical records for this species do not exist within the immediate vicinity (approximately 5 miles) of the project site, and/or habitats or environmental conditions needed to support the species are of poor quality.
<b>Moderate:</b>	Either a historical record exists of the species within the immediate vicinity of the project site (approximately 3 miles) and marginal habitat exists on the project site, or the habitat requirements or environmental conditions associated with the species occur within the project site, but no historical records exist within 5 miles of the Project site.
<b>High:</b>	Both a historical record exists of the species within the project site or its immediate vicinity (approximately 1 mile), and the habitat requirements and environmental conditions associated with the species occur within the project site.
<b>Present:</b>	Species was detected within the project site at the time of the survey.

Source: Appendix D of this EIR

*Plant Species*

Numerous special-status plant species have been recorded within project site, according to the CNDDDB and CNPSEI. Special-status plant species identified in the literature review, and their potential to occur within the project site are discussed below.

Available records resulted in a list of five federally and/or state listed threatened and endangered or rare sensitive plant species that may potentially occur within the project site. After the literature review and the reconnaissance-level survey, it was determined that one species had a low potential to occur; and four of these species are considered Absent from the project site due to lack of suitable habitat.

The following four plant species are considered **absent** from the project site due to lack of suitable habitat:

- gravel milk-vetch (*Astragalus sabulorum*)
- Munz’s cholla (*Cylindropuntia munzii*)
- glandular ditaxis (*Ditaxis claryana*)
- Thurber’s pilostyles (*Pilostyles thurberi*)

The following species that is considered to have a **low potential** to be observed in the project site due to lack of suitable habitat includes:

- **Abram's spurge (*Euphorbia abramsiana*)**. Abram's spurge is an annual herb in the spurge family that mostly exists in Sonoran or Mojave Desert habitats, favoring sandy flats where water is permeable. Although the habitats available at the project site are not typically where this plant would grow, it has the low potential to occur in fields, irrigation ditches, and other disturbed areas that all exist within the project site. In addition, this species was positively identified less than 2 miles from the project site. This identification, however, was made before 1940 and the population is presumed to be extirpated due to agricultural and residential development.

### *Wildlife Species*

A database search resulted in a list of 23 federally and/or state listed endangered or threatened, Species of Concern, or otherwise sensitive wildlife species that may potentially occur within the project site. After a literature review and the assessment of the various habitat types within the project site, it was determined that 17 sensitive wildlife species were considered absent from the project site, three species have a low potential to occur, two species have a high potential to occur, and one species was present within the project site. Factors used to determine potential for occurrence included the quality of habitat and the location of prior CNDDDB records of occurrence.

The following 17 wildlife species are considered **absent** from the project site due to lack of suitable habitat present on the project site:

- American badger (*Taxidea taxus*)
- black skimmer (*Rynchops niger*)
- California black rail (*Laterallus jamaicensis coturniculus*)
- Colorado Desert fringe-toed lizard (*Uma notata*)
- crissal thrasher (*Toxostoma crissale*)
- desert pupfish (*Cyprinodon macularius*)
- Gila woodpecker (*Melanerpes uropygialis*)
- gull-billed tern (*Gelochelidon nilotica*)
- Le Conte's thrasher (*Toxostoma lecontei*)
- lowland leopard frog (*Lithobates yavapaiensis*)
- Palm Springs pocket mouse (*Perognathus longimembris bangsi*)
- razorback sucker (*Xyrauchen texanus*)
- Sonoran Desert toad (*Incilius alvarius*)
- western snowy plover (*Charadrius alexandrinus nivosus*)
- yellow warbler (*Setophaga petechia*)
- Yuma hispid cotton rat (*Sigmodon hispidus eremicus*)
- Yuma Ridgway's rail (*Rallus obsoletus yumanensis*)



The analysis of the CNDDDB search and field survey resulted in three species with a **low** potential to occur on the project site due to low quality habitat:

- flat-tailed horned lizard (*Phrynosoma mcallii*)
- short-eared owl (*Asio flammeus*)
- western yellow bat (*Lasiurus xanthinus*)

The analysis of the CNDDDB search and field survey resulted in two species with a **high** potential to occur on the project site. These species are described below:

- **Burrowing owl.** The burrowing owl (BUOW) is a California Species of Special Concern. The burrowing owl breeds in open plains from western Canada and the western United States, Mexico through Central America, and into South America to Argentina. This species inhabits dry, open, native or non-native grasslands, deserts, and other arid environments with low-growing and low-density vegetation. It may occupy golf courses, cemeteries, road rights-of-way, airstrips, abandoned buildings, irrigation ditches, and vacant lots with holes or cracks suitable for use as burrows. Burrowing owls typically use burrows made by mammals such as California ground squirrels (*Otospermophilus beecheyi*), foxes, or badgers. When burrows are scarce, the burrowing owl may use man-made structures such as openings beneath cement or asphalt pavement, pipes, culverts, and nest boxes. High quality habitat exists within the project site. In addition, burrowing owl have recently been recorded within 0.14 mile of the project site. Therefore, this species has a high potential to occur within the project site.
- **Mountain plover.** The mountain plover (wintering) is a California Species of Special Concern and a federally Proposed Threatened Species. This species breeds from the prairie and sagebrush country of north-central Montana, eastern Wyoming, and the area around southeastern Colorado. It winters from central California along the southern border southward to northern Mexico. Common wintering habitats consist of dry, barren ground, smooth dirt fields, agricultural fields, and shortgrass prairies. This species tends to form small flocks in the winter. It is one of the few shorebird species that prefers habitats away from water. The project site contains suitable habitat of moderate to high quality. In addition, mountain plover have been recorded to occur within 1 mile of the project site. Therefore, this species has a high potential to occur with the project site.

One species was **present** within and directly adjacent to the project site during the survey. In addition, this species has been recorded to nest within and surrounding the project site. This species is described below:

- **Loggerhead shrike.** The loggerhead shrike (nesting) is a California Species of Special Concern. Habitats may include oak savannas, open chaparral, desert washes, juniper woodlands, Joshua tree woodlands, and other semi-open areas. It can occupy a variety of semi-open habitats with scattered trees, large shrubs, utility poles, and other structures that serve as lookout posts while searching for potential prey. Loggerhead shrikes prefer dense, thorny shrubs and trees, brush piles, and tumbleweeds for nesting. During the survey, one individual was observed just outside the northwest boundary of the project site, and an additional individual was observed within the southwest portion of the project site. In addition, suitable nesting and foraging habitat is present within and directly adjacent to the project site.

## Aquatic Resources

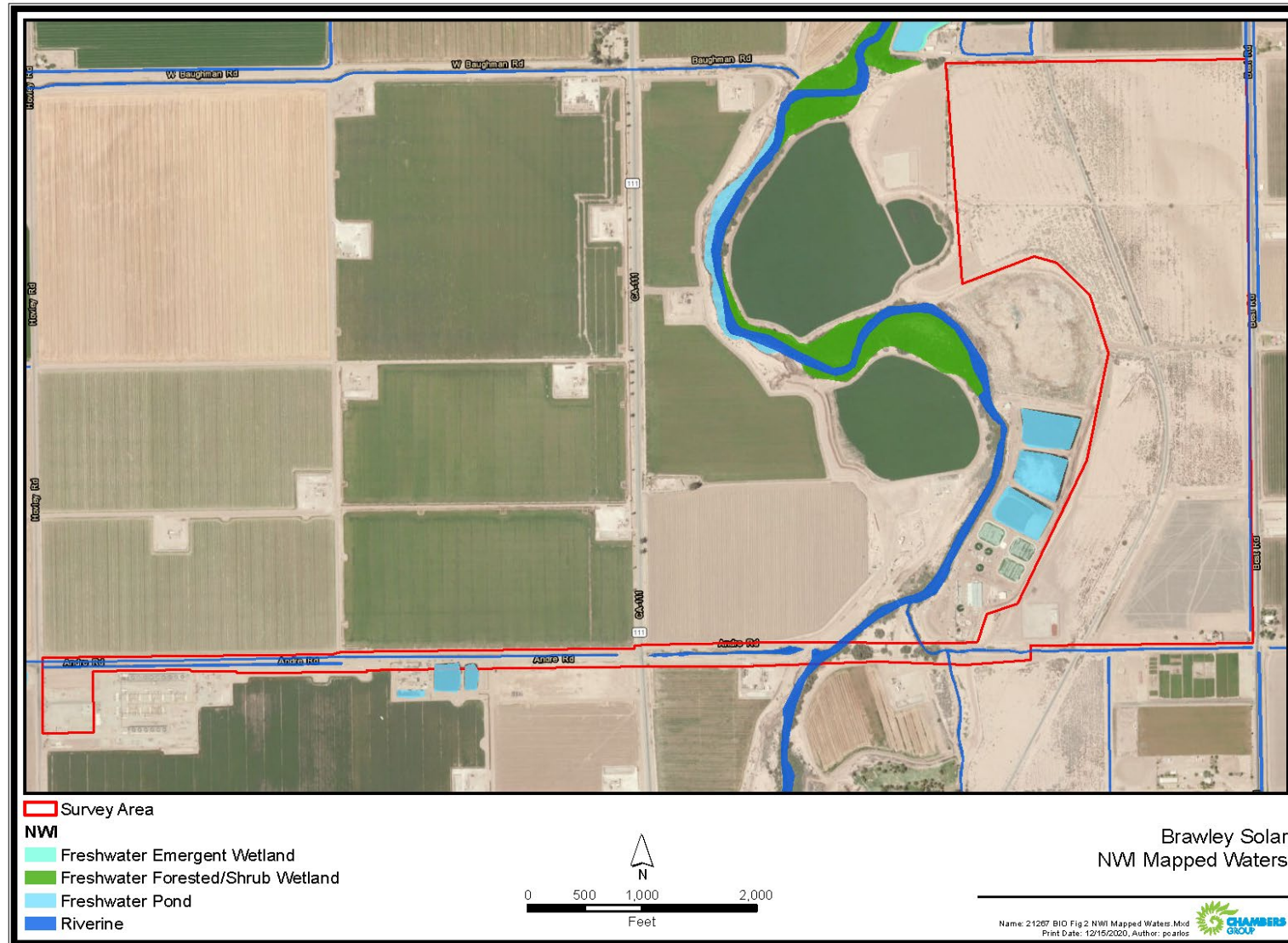
A general assessment of jurisdictional waters regulated by the Porter-Cologne Water Quality Act, California Fish and Game Code Sections 1600 and 1602, United States Army Corps of Engineers (USACE), and California Regional Water Quality Control Board (RWQCB) was conducted for the project site. The assessment was conducted by a desktop survey through the USGS National Hydrography Dataset for hydrological connectivity.

The western portion of the project site is located within the New River watershed (Hydrologic Unit Code [HUC-10] 1810020411) and within the Federal Emergency Management Agency (FEMA) 100-year flood zone. The New River watershed at the project site is bordered to the south by Imperial Valley, to the west by the Vallecito Mountains, to the north by the Salton Sea, and to the east by the Chocolate Mountains. The New River is the major water source for the watershed, which drains into the Salton Sea. Along its watercourse, several tributaries, including mostly agricultural drains and canals discharge into the New River.

The eastern portion of the project site is located within the Alamo River watershed (HUC-10 1810020408) and is within the FEMA 100-year flood zone. The Alamo River is the major water source for the watershed, which also drains into the Salton Sea. The primary tributaries to the Alamo River are agricultural drains and canals. Both rivers are known to be heavily polluted with agricultural and bacterial toxins.

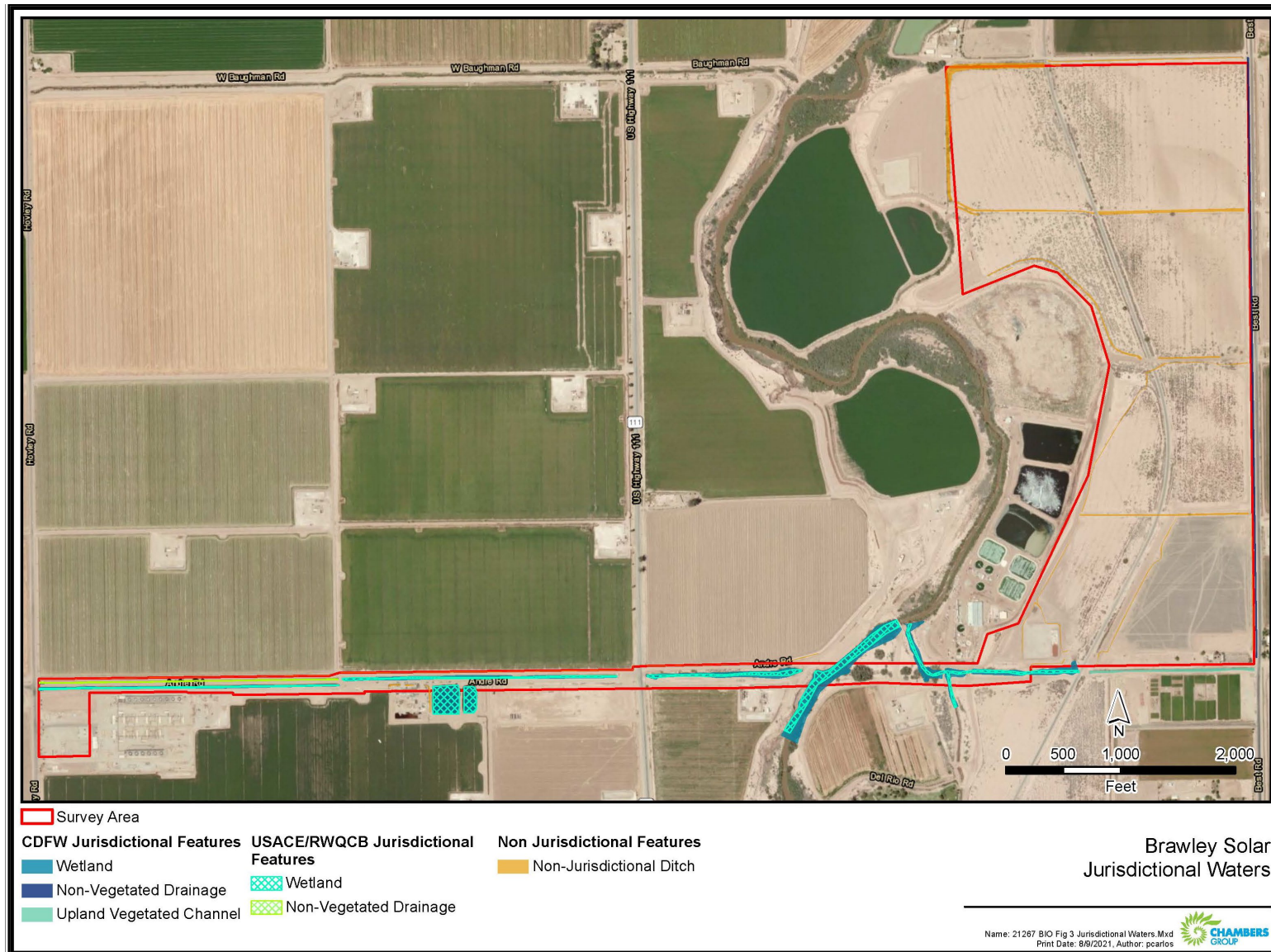
Several jurisdictional and non-jurisdictional features were observed within the project survey area. The New River, a National Wetlands Inventory (NWI) mapped blue line, flows through the middle portion of the project survey area (Figure 3.5-2). In addition, several NWI mapped blue line canals, drains, and ditches owned by IID flow along the borders of the project survey area. The locations of the features observed during the field survey are shown in Figure 3.5-3.

Figure 3.5-2. NWI Mapped Waters in Project Survey Area



Source: Appendix D of this EIR

Figure 3.5-3. Jurisdictional Waters in the Project Survey Area



Source: Appendix D of this EIR

## WETLAND FEATURES

**Feature 1 (IID “Spruce Three Drain”).** This feature occurs along the proposed gen-tie line located in the southwest portion of the project site along Andre Road. The Spruce Three drain is a mapped NWI stream (Riverine Intermittent Stream Bed, Seasonally Flooded, Excavated). The drainage is man-made and receives flow from surface runoff from Andre Road and surrounding agricultural fields. Bank-to-bank measurements ranged from 13 to 80 feet.

Ordinary High Water Mark (OHWM) measurements ranged from 6 to 40 feet. The drain flows into the project site from the west at Hovley Road along the south side of Andre Road, flows east for approximately 0.50 mile and crosses under Andre Road to the north side of the road, and appears to continue to flow eastward until it empties into the New River, which terminates at the Salton Sea. The feature is lined with riparian vegetation dominated by arrow weed (*Pluchea sericea*) a Facultative Wetland (FACW) species, meaning one that usually occurs in wetlands but is also found in non-wetlands.

**Feature 2.** This feature occurs along the gen-tie line portion of the project site, on the north side of Andre Road. Feature 2 is a man-made, unvegetated cement-lined ditch. Bank-to-bank measured 10 feet; the OHWM measured 4 feet. The feature flows into the project site from the west for approximately 0.50 mile, where it appears to connect to the Spruce Three Drain. Feature 2 receives flow from road runoff and agricultural runoff from the surrounding agricultural fields.

**Feature 3 (New River).** This feature flows through the eastern portion of the gen-tie line. The New River is an NWI mapped blueline wetland riverine system (Riverine Lower Perennial, Unconsolidated Bottom Wetland, Permanently Flooded). Bank-to-bank-measurements ranged from 110 to 170 feet. OHWM measurements ranged from 42 to 107 feet. The river flows south to north from Mexico and terminates in the Salton Sea. Within the project site, the vegetation along the banks of the river consists completely of tamarisk (*Tamarix* spp.) a Facultative (FAC) species, one that is equally likely to occur in wetlands or non-wetlands.

**Feature 4 (IID “Livesly Drain”).** This feature occurs east of the New River in the eastern portion of the gen-tie line. The Livesly Drain is a NWI mapped blueline stream. This feature is man-made and receives flow from agricultural runoff. The Livesly Drain flows into the project site from the east, turns north, and exits into the New River. Bank-to-bank measurements ranged from 20 to 120 feet. The OHWM measurements ranged from 13 to 20 feet. The portion of the drainage within the project site is composed completely of tamarisk.

**Feature 5 (IID “Oakley Canal”).** This feature occurs just south of the Livesly Drain. The Oakley Canal is a NWI mapped blueline stream (Riverine Intermittent Stream Bed, Seasonally Flooded, Excavated). Feature 5 is man-made and receives flow from agricultural runoff. The Oakley Canal flows south to north and empties into the Livesly Canal. Bank-to-bank measurements ranged from 25 feet to 48 feet. OHWM measured 15 feet. The vegetation along the banks of Feature 5 consists primarily of tamarisk.

**Feature 6 (IID “Best Canal”).** This feature occurs along the eastern border of the project site on the west side of N Best Avenue. The canal is a NWI mapped blueline stream (Riverine Intermittent Stream Bed, Seasonally Flooded, Excavated) that receives flow from agricultural and road run-off. Bank-to-bank the canal measured 15 feet; OHWM measured 5 feet. The canal is unvegetated throughout the project site and flows south to north, exits the project site, turns west and eventually empties into the New River.

**Feature 7.** This feature occurs in the southeast portion of the project site on the south side of Andre Road along the gen-tie line. Feature 7 consists of two man-made detention ponds with riparian vegetation and are mapped NWI wetlands (Palustrine Unconsolidated Bottom Wetland, Permanently Flooded, Excavated). The vegetation within Feature 7 is dominated by tamarisk and cattail (*Typha* spp.), an Obligate (OBL) species, one that almost always occurs naturally in wetlands. In addition, arrow weed and big saltbush (*Atriplex lentiformis*), also known as quail bush, a FAC species, were observed.

#### MANMADE FEATURES

Several man-made unvegetated ditches were observed throughout the project site. When a field is irrigated, water is allowed to flow through smaller man-made earthen or concrete-lined ditches (typically referred to as a “head ditch”), which distributes the water evenly across the field. At the opposite, lower elevation side of the field, excess water is collected into another ditch (typically referred to as a “tail ditch”).

The ditches present on the project site are both earthen and concrete-lined and are frequently rebuilt when the fields are plowed and disked. These ditches occur primarily along the edges of the agricultural fields and across portions of the fields. None of these ditches connect directly to a major feature, and most terminate at small, man-made detention areas. Therefore, these features are not considered jurisdictional under CDFW, RWQCB, or USACE.

The Imperial County Fire Department (ICFD) Fire Prevention Bureau requires two points of emergency access for the project along the west side of the railroad tracks. One access route may be extended from the main access road located off N Best Avenue utilizing an existing access road that crosses over a concrete lined channel and a second access route is proposed to be constructed in the northwest portion of the project site crossing over a non-jurisdictional irrigation ditch. Vegetation within this feature comprised of quail bush, and non-native Mexican palo verde (*Parkinsonia aculeata*) and tamarisk.

#### Wildlife Movement Corridors, Linkages, and Significant Ecological Areas

The concept of habitat corridors addresses the linkage between large blocks of habitat that allow the safe movement of mammals and other wildlife species from one habitat area to another. The definition of a corridor is varied, but corridors may include such areas as greenbelts, refuge systems, underpasses, and biogeographic land bridges, for example. In general, a corridor is described as a linear habitat, embedded in a dissimilar matrix, which connects two or more large blocks of habitat. Wildlife movement corridors are critical for the survivorship of ecological systems for several reasons. Corridors can connect water, food, and cover sources, spatially linking these three resources with wildlife in different areas. In addition, wildlife movement between habitat areas provides for the potential of genetic exchange between wildlife species populations, thereby maintaining genetic variability and adaptability to maximize the success of wildlife responses to changing environmental conditions. This is especially critical for small populations subject to loss of variability from genetic drift and effects of inbreeding. Naturally, the nature of corridor use and wildlife movement patterns varies greatly among species.

#### Habitat Conservation Plans

The project site is located within the designated boundaries of the Desert Renewable Energy Natural Community Conservation Plan & Habitat Conservation Plan (NCCP/HCP). However, the project is not located within or adjacent to an Area of Critical Environmental Concern.

## 3.5.2 Regulatory Setting

This section identifies and summarizes federal, state, and local laws, policies, and regulations that are applicable to the proposed projects.

### Federal

#### *Bald and Golden Eagle Protection Act of 1940*

The Bald Eagle Protection Act of 1940 protects bald eagle (*Haliaeetus leucocephalus*) and golden eagle (*Aquila chrysaetos*) by prohibiting the taking, possession, and commerce of such birds and establishes civil penalties for violation of this Act. ‘Take’ is defined as “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb.” ‘Disturb’ is defined as “to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available: (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior” (72 *Federal Register* [FR] 31132; 50 CFR 22.3). All activities that may disturb or incidentally take an eagle or its nest as a result of an otherwise legal activity must be permitted by the USFWS under this Act.

#### *Federal Endangered Species Act*

The Federal Endangered Species Act (ESA) protects federally listed threatened and endangered species and their habitats from unlawful take and ensures that federal actions do not jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Under the ESA, “take” is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The U.S. Fish and Wildlife Service (USFWS) regulations define harm to mean “an act which actually kills or injures wildlife” (50 CFR 17.3).

#### *Migratory Bird Treaty Act*

The Migratory Bird Treaty Act (MBTA) prohibits the kill or transport of native migratory birds, or any part, nest, or egg of any such bird unless allowed by another regulation adopted in accordance with the MBTA. The prohibition applies to birds included in the respective international conventions between the U.S. and Great Britain, the U.S. and Mexico, the U.S. and Japan, and the U.S. and Russia. Disturbances that cause nest abandonment and/or loss of reproductive effort or the loss of habitats upon which these birds depend may be a violation of the MBTA. As authorized by the MBTA, the USFWS issues permits to qualified applicants for the following types of activities: falconry, raptor propagation, scientific collecting, special purposes (rehabilitation, education, migratory game bird propagation, and salvage), take of depredating birds, taxidermy, and waterfowl sale and disposal. The regulations governing migratory bird permits can be found in 50 CFR Part 13 General Permit Procedures and 50 CFR Part 21 Migratory Bird Permits. The State of California has incorporated the protection of birds of prey in Sections 3800, 3513, and 3503.5 of the California Fish and Game Code.

#### *Section 404 Permit (Clean Water Act)*

The purpose of the Clean Water Act (CWA) is to “restore and maintain the chemical, physical, and biological integrity of the nation’s waters.” Section 404 of the CWA prohibits the discharge of dredge and fill material into waters of the U.S., including wetlands, without a permit from the U.S. Army Corps of Engineers (USACE). Activities regulated under this program include fills for development, water

resource projects (e.g., dams and levees), infrastructure development (e.g., highways and airports), and conversion of wetlands to uplands for farming and forestry. Either an individual 404b permit or authorization to use an existing USACE Nationwide Permit will need to be obtained if any portion of the construction requires fill into a river, stream, or stream bed that has been determined to be a jurisdictional waterway.

## State

### *California Endangered Species Act*

Provisions of CESA protect state-listed threatened and endangered species. The California Department of Fish and Wildlife (CDFW) regulates activities that may result in “take” of individuals (“take” means “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”). Habitat degradation or modification is not expressly included in the definition of “take” under the California Fish and Game Code (FGC). Additionally, California FGC contains lists of vertebrate species designated as “fully protected” (California FGC Sections 3511 [birds], 4700 [mammals], 5050 [reptiles and amphibians], 5515 [fish]). Such species may not be taken or possessed.

In addition to state-listed species, CDFW has also produced a list of Species of Special Concern to serve as a “watch list.” Species on this list are of limited distribution or the extent of their habitats has been reduced substantially such that threats to their populations may be imminent. Species of Special Concern may receive special attention during environmental review, but they do not have statutory protection.

Birds of prey are protected in California under California FGC. Section 3503.5 states it is “unlawful to take, possess, or destroy any birds of prey (in the order Falconiformes or Strigiformes) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this Code or any regulation adopted pursuant thereto.” Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings or otherwise lead to nest abandonment.

### *California Fish and Game Code Section 1600 et. seq (as amended)*

The California FGC Section 1600 et. seq. requires that a Notification of Lake or Streambed Alteration be submitted to CDFW for “any activity that may substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake.” The CDFW reviews the proposed actions and, if necessary, submits to the Applicant a proposal for measures to protect affected fish and wildlife resources. The final proposal that is mutually agreed upon by CDFW and the Applicant is the Streambed Alteration Agreement (SAA). Often, projects that require an SAA also require a permit from the USACE under Section 404 of the CWA. In these instances, the conditions of the Section 404 permit and the SAA may overlap.

### *California Fish and Game Code Sections 3503, 3503.5, and 3513*

Under Sections 3503, 3503.5, and 3513 of the California FGC, activities that would result in the taking, possessing, or destroying of any birds-of-prey, taking or possessing of any migratory nongame bird as designated by the MBTA, or the taking, possessing, or needlessly destroying of the nest or eggs of any raptors or non-game birds protected by the MBTA, or the taking of any non-game bird pursuant to FGC Section 3800 are prohibited. Additionally, the state further protects certain species of fish, mammals, amphibians and reptiles, birds, and mammals through CDFW’s Fully Protected Animals which prohibits any take or possession of classified species.



### *California Fish and Game Code Sections 1900-1913 (Native Plant Protection Act)*

California's Native Plant Protection Act prohibits the taking, possessing, or sale within the state of any plant listed by CDFW as rare, threatened, or endangered. This allows CDFW to salvage listed plant species that would otherwise be destroyed.

### *Porter-Cologne Water Quality Control Act*

Under the Porter-Cologne Water Quality Control Act, all projects proposing to discharge waste that could affect waters of the State must file a waste discharge report with the appropriate regional board. The project falls under the jurisdiction of the Colorado River RWQCB.

### *California Environmental Quality Act*

Title 14 CCR, Section 15380 requires the identification of endangered, rare, or threatened species or subspecies of animals or plants that may be impacted by a project. If any such species are found, appropriate measures should be identified to avoid, minimize, or mitigate the potential effects of projects.

## Local

### *Imperial County General Plan*

The Conservation and Open Space Element of the Imperial County General Plan provides detailed plans and measures for the preservation and management of biological and cultural resources, soils, minerals, energy, regional aesthetics, air quality, and open space. The purpose of this element is to recognize that natural resources must be maintained for their ecological value for the direct benefit to the public and to protect open space for the preservation of natural resources, the managed production of resources, outdoor recreation, and for public health and safety. In addition, the purpose of this element is to promote the protection, maintenance, and use of the County's natural resources with particular emphasis on scarce resources, and to prevent wasteful exploitation, destruction, and neglect of the state's natural resources. Table 3.5-3 analyzes the consistency of the project with specific policies contained in the Imperial County General Plan associated with biological resources.

**Table 3.5-3. Project Consistency with General Plan Goals and Policies**

General Plan Policies	Consistency with General Plan	Analysis
<p><b>Conservation and Open Space Element - Open Space and Recreation Conservation</b></p> <p><b>Policy No. 2</b> - The County shall participate in conducting detailed investigations into the significance, location, extent, and condition of natural resources in the County.</p> <p><b>Program:</b> Notify any agency responsible for protecting plant and wildlife before approving a project which would impact a rare, sensitive, or unique plant or wildlife habitat.</p>	Consistent	<p>A biological assessment has been conducted at the project site to evaluate the proposed project's potential impacts on biological resources. Implementation of the proposed project has the potential to impact special-status wildlife species, including burrowing owl, mountain plover, and loggerhead shrike.</p> <p>Applicable agencies responsible for protecting plants and wildlife will be notified of the proposed projects and provided an opportunity to comment on this EIR prior to the County's consideration of any approvals for the project. As described in Chapter 2, Project Description, implementation of the project would require the approval of a CUP, General Plan Amendment, and Zone Change by the County to allow for the construction and operation of the project.</p>
<p><i>Conservation of Environmental Resources for Future Generations</i></p> <p><b>Goal 1</b> - Environmental resources shall be conserved for future generations by minimizing environmental impacts in all land use decisions and educating the public on their value.</p> <p><b>Objective 1.6</b> - Promote the conservation of ecological sites and preservation of cultural resource sites through scientific investigation and public education.</p>	Consistent	<p>A biological assessment has been conducted at the project site to evaluate the project's potential impacts on biological resources. Implementation of the proposed project has the potential to impact special-status wildlife species, including burrowing owl, mountain plover, and loggerhead shrike. However, with implementation of mitigation (Mitigation Measures BIO-1 through BIO-4), the project would not result in residual significant or unmitigable impacts on biological resources.</p>

Source: County of Imperial 1993

### 3.5.3 Impacts and Mitigation Measures

This section presents the significance criteria used for considering the respective project's impacts on biological resources, the methodology employed for the evaluation, an impact evaluation, and mitigation requirements, if necessary.

#### Thresholds of Significance

Based on CEQA Guidelines Appendix G, project impacts related to biological resources are considered significant if any of the following occur:

- Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS
- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS

- Have a substantial adverse effect on state or federally-protected wetlands (including but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means
- Interfere substantially with the movement of any native resident or migratory fish and wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance
- Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan

## Methodology

This analysis evaluates the potential for the project, as described in Chapter 2, Project Description, to interact with local biological resources on the project site. Based on the extent of these interactions, this analysis considers whether these conditions would result in an exceedance of one or more of the applied significance criteria as identified above.

A biological resources technical report was prepared for the project. The information obtained from the sources was reviewed and summarized to present the existing conditions and to identify potential environmental impacts, based on the significance criteria presented in this section. Impacts associated with biological resources that could result from project construction and operational activities were evaluated qualitatively based on-site conditions; expected construction practices; and materials, locations, and duration of project construction and related activities.

## Impact Analysis

***Impact 3.5-1 Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS?***

### Construction

#### SPECIAL-STATUS PLANTS

One plant species, Abram's spurge, has a low potential to occur on the project site. However, the project site has low quality habitat for this species and this plant species has not been recorded within 3 miles of the project site in the last 25 years. Therefore, no impacts to these species are anticipated to occur due to project related construction activities.

#### SPECIAL-STATUS WILDLIFE

Three species have a low potential to occur (flat-tailed horned lizard, short-eared owl, and western yellow bat), two species have a high potential to occur (BUOW and mountain plover), and one species (loggerhead shrike) was present within the project site. During the site reconnaissance, two loggerhead shrikes were observed within the project site.

Flat-tailed horned lizard, short-eared owl, and western yellow bat have a low potential to occur on the project site. However, low quality habitat for these species occurs within the project site and none of these species have been recorded within the project site within the last 25 years. Therefore, no impacts to these species are anticipated to occur as a result of project activities.

Burrowing owl and mountain plover are considered to have a high potential to occur within the project site. Two loggerhead shrikes were observed within the project site. Direct impacts to these species that could occur include injury, mortality, nest failures, and loss of young. Indirect impacts include loss of nesting and foraging habitat, increase in anthropogenic effects (i.e., noise levels, introduction of invasive and nonnative species, increase in human activity, increase in dust). Implementation of Mitigation Measures BIO-1, BIO-2, BIO-3, and BIO-4 would reduce potential impacts to a level less than significant. Mitigation Measure BIO-1 requires implementation of general impact avoidance and minimization measures during construction such as designating a Project Biologist to oversee compliance with protective measures for biological resources, delineating construction zones, and working and traveling only in designated work areas and access roads. Mitigation Measure BIO-2 requires that all construction personnel to complete a Worker Environmental Awareness Program prior to the start of construction. Mitigation Measure BIO-3 requires pre-construction surveys for burrowing owl. If burrowing owl is identified during the breeding season (February 1 through August 31), then an appropriate buffer will be established by the biological monitor in accordance with the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012). Construction within the buffer will be avoided until a qualified biologist determines that burrowing owl is no longer present or until young have fledged. Mitigation Measure BIO-4 required a pre-construction nesting bird survey to be conducted by a qualified avian biologist to ensure that active bird nests, including those for the loggerhead shrike and mountain plover will not be disturbed or destroyed.

### Operation

All electrical components on the project site shall be either undergrounded or protected so that there will be no exposure to wildlife and therefore no potential for electrocution. Additionally, based on the Avian Powerline Interaction Committee's (APLIC) 1996 report on power line electrocution in the U.S., avian electrocution risk is highest along distribution lines (generally less than 69 kV) where the distance between energized phases, ground wires, transformers, and other components of an electrical distribution system are less than the length or skin-to-skin contact distance of birds. The distance between energized components along transmission lines (>69 kV) is generally insufficient to present avian electrocution risk. Therefore, no impact to avian is anticipated to occur due to electrocution along the proposed gen-tie line.

### *Mitigation Measure(s)*

**BIO-1**      **General Impact Avoidance and Minimization Measures.** The following measures will be applicable throughout the life of the project:

- To reduce the potential indirect impact on migratory birds, bats and raptors, the project will comply with the APLIC 2012 Guidelines for overhead utilities, as appropriate, to minimize avian collisions with transmission facilities (APLIC 2012)
- All electrical components on the project site shall be either undergrounded or protected so that there will be no exposure to wildlife and therefore no potential for electrocution.

- The project proponent shall designate a Project Biologist who shall be responsible for overseeing compliance with protective measures for the biological resources during vegetation clearing and work activities within and adjacent to areas of native habitat. The Project Biologist will be familiar with the local habitats, plants, and wildlife. The Project Biologist will also maintain communications with the Contractor to ensure that issues relating to biological resources are appropriately and lawfully managed and monitor construction. The Project Biologist will monitor activities within construction areas during critical times, such as vegetation removal, the implementation of Best Management Practices (BMP), and installation of security fencing to protect native species. The Project Biologist will ensure that all wildlife and regulatory agency permit requirements, conservation measures, and general avoidance and minimization measures are properly implemented and followed.
- The boundaries of all areas to be newly disturbed (including solar facility areas, staging areas, access roads, and sites for temporary placement of construction materials and spoils) will be delineated with stakes and flagging prior to disturbance. All disturbances, vehicles, and equipment will be confined to the flagged areas.
- No potential wildlife entrapments (e.g., trenches, bores) will be left uncovered overnight. Any uncovered pitfalls will be excavated to 3:1 slopes at the ends to provide wildlife escape ramps. Alternatively, man-made ramps may be installed. Covered pitfalls will be covered completely to prevent access by small mammals or reptiles.
- To avoid wildlife entrapment (including birds), all pipes or other construction materials or supplies will be covered or capped in storage or laydown area, and at the end of each work day in construction, quarrying and processing/handling areas. No pipes or tubing of sizes or inside diameters ranging from 1 to 10 inches will be left open either temporarily or permanently.
- No anticoagulant rodenticides, such as Warfarin and related compounds (indandiones and hydroxycoumarins), may be used within the project site, on off-site project facilities and activities, or in support of any other project activities.
- Avoid wildlife attractants. All trash and food-related waste shall be placed in self-closing containers and removed regularly from the site to prevent overflow. Workers shall not feed wildlife. Water applied to dirt roads and construction areas for dust abatement shall use the minimal amount needed to meet safety and air quality standards to prevent the formation of puddles, which could attract wildlife. Pooled rainwater or floodwater within retention basins will be removed to avoid attracting wildlife to the active work areas.
- To minimize the likelihood for vehicle strikes on wildlife, speed limits will not exceed 15 miles per hour when driving on access roads. All vehicles required for O&M must remain on designated access/maintenance roads.
- Avoid night-time construction lighting or if nighttime construction cannot be avoided use shielded directional lighting pointed downward and towards the interior of the

project site, thereby avoiding illumination of adjacent natural areas and the night sky.

- All construction equipment used for the project will be equipped with properly operating and maintained mufflers.
- Hazardous materials and equipment stored overnight, including small amounts of fuel to refuel hand-held equipment, will be stored within secondary containment when within 50 feet of open water to the fullest extent practicable. Secondary containment will consist of a ring of sand bags around each piece of stored equipment/structure. A plastic tarp/visqueen lining with no seams shall be placed under the equipment and over the edges of the sandbags, or a plastic hazardous materials secondary containment unit shall be utilized by the Contractor.
- The Contractor will be required to conduct vehicle refueling in upland areas where fuel cannot enter waters of the U.S. and in areas that do not have potential to support federally threatened or endangered species. Any fuel containers, repair materials, including creosote-treated wood, and/or stockpiled material that is left on site overnight, will be secured in secondary containment within the work area and staging/assembly area and covered with plastic at the end of each work day.
- In the event that no activity is to occur in the work area for the weekend and/or a period of time greater than 48 hours, the Contractor will ensure that all portable fuel containers are removed from the project site.
- All equipment will be maintained in accordance with manufacturer's recommendations and requirements.
- Equipment and containers will be inspected daily for leaks. Should a leak occur, contaminated soils and surfaces will be cleaned up and disposed of following the guidelines identified in the Stormwater Pollution Prevention Plan or equivalent, Materials Safety Data Sheets, and any specifications required by other permits issued for the project.
- The Contractor will utilize off-site maintenance and repair shops as much as possible for maintenance and repair of equipment.
- If maintenance of equipment must occur onsite, fuel/oil pans, absorbent pads, or appropriate containment will be used to capture spills/leaks within all areas. Where feasible, maintenance of equipment will occur in upland areas where fuel cannot enter waters of the U.S. and in areas that do not have potential to support federally threatened or endangered species.
- Appropriate BMPs will be used by the Contractor to control erosion and sedimentation and to capture debris and contaminants from bridge construction to prevent their deposition in waterways. No sediment or debris will be allowed to enter the creek or other drainages. All debris from construction of the bridge will be contained so that it does not fall into channel. Appropriate BMPs will be used by the Contractor during construction to limit the spread of resuspended sediment and to contain debris.

- Erosion and sediment control devices used for the proposed project, including fiber rolls and bonded fiber matrix, will be made from biodegradable materials such as jute, with no plastic mesh, to avoid creating a wildlife entanglement hazard.
- Firearms, open fires, and pets would be prohibited at all work locations and access roads. Smoking would be prohibited along the project alignment.
- Cross-country vehicle and equipment use outside of approved designated work areas and access roads shall be prohibited to prevent unnecessary ground and vegetation disturbance.
- Any injured or dead wildlife encountered during project-related activities shall be reported to the project biologist, biological monitor, CDFW, or a CDFW-approved veterinary facility as soon as possible to report the observation and determine the best course of action. For special-status species, the Project Biologist shall notify the County, USFWS, and/or CDFW, as appropriate, within 24 hours of the discovery.
- Stockpiling of material will be allowed only within established work areas.
- Actively manage the spread of noxious weeds
- The ground beneath all parked equipment and vehicles shall be inspected for wildlife before moving.

## **BIO-2**

**Worker Environmental Awareness Program.** Prior to project construction, a Worker Environmental Awareness Program shall be developed and implemented by a qualified biologist and shall be available in both English and Spanish. Handouts summarizing potential impacts to special-status biological resources and the potential penalties for impacts to these resources shall be provided to all construction personnel. At a minimum, the education program shall including the following:

- the purpose for resource protection;
- a description of special-status species including representative photographs and general ecology;
- occurrences of USACE, RWQCB, and CDFW regulated features in the project survey area;
- regulatory framework for biological resource protection and consequences if violated
- sensitivity of the species to human activities;
- avoidance and minimization measures designed to reduce the impacts to special-status biological resources
- environmentally responsible construction practices;
- reporting requirements;
- the protocol to resolve conflicts that may arise at any time during the construction process; and

- workers sign acknowledgement form indicating that the Environmental Awareness Training and Education Program that has been completed and would be kept on record.

#### **BIO-3**

**Burrowing Owl Avoidance and Minimization.** Take avoidance (pre-construction) surveys for burrowing owl shall be completed prior to project construction. Surveys shall be conducted as detailed within Appendix D of the Staff Report on Burrowing Owl Mitigation (California Department of Fish and Game [CDFG] 2012). If burrowing owl is not detected, construction may proceed.

- If burrowing owl is identified during the non-breeding season (September 1 through January 31), then a 50-meter buffer will be established by the biological monitor. Construction within the buffer will be avoided until a qualified biologist determines that burrowing owl is no longer present or until a CDFW-approved exclusion plan has been implemented. The buffer distance may be reduced if noise attenuation buffers such as hay bales are placed between the occupied burrow and construction activities.
- If burrowing owl is identified during the breeding season (February 1 through August 31), then an appropriate buffer will be established by the biological monitor in accordance with the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012). Construction within the buffer will be avoided until a qualified biologist determines that burrowing owl is no longer present or until young have fledged. The buffer distance may be reduced in consultation with CDFW if noise attenuation buffers such as hay bales are placed between the occupied burrow and construction activities.

#### **BIO-4**

**Pre-Construction Nesting Bird Survey.** If construction or other project activities are scheduled to occur during the bird breeding season (typically February 1 through August 31 for raptors and March 15 through August 31 for the majority of migratory bird species), a pre-construction nesting-bird survey shall be conducted by a qualified avian biologist to ensure that active bird nests, including those for the loggerhead shrike and mountain plover will not be disturbed or destroyed.

The survey shall be completed no more than three days prior to initial ground disturbance. The nesting-bird survey shall include the project site and adjacent areas where project activities have the potential to affect active nests, either directly or indirectly due to construction activity or noise. If an active nest is identified, the biologist shall establish an appropriately sized disturbance-limit buffer around the nest using flagging or staking. Construction activities shall not occur within any disturbance-limit buffer zones until the nest is deemed inactive by the qualified biologist. If construction activities cease for a period of greater than three days during the bird breeding season, a pre-construction nesting bird survey shall be conducted prior to the commencement of activities.

Final construction buffers or setback distances shall be determined by the qualified biologist in coordination with USFWS and CDFW on a case-by-case basis, depending on the species, season in which disturbance shall occur, the type of disturbance, and other factors that could influence susceptibility to disturbance (e.g., topography, vegetation, existing disturbance levels, etc.).



*Significance After Mitigation*

The proposed project has the potential to impact special-status wildlife species during construction. However, implementation of Mitigation Measures BIO-1 through BIO-4 would reduce potential impacts to a level less than significant.

***Impact 3.5-2 Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS?***

Quailbush scrub, bush seepweed scrub, and arrow weed thickets occur within the project survey area and are considered sensitive natural communities by CDFW (CDFW 2021). The proposed project has been designed to avoid these sensitive natural communities. Access routes would be constructed in an area that will avoid or minimize impacts to native vegetation found within the irrigation ditch, and flagging and/or staking would be used to clearly define the work area boundaries to avoid impacts to adjacent native communities. Therefore, the proposed project would have no impact on sensitive natural communities.

*Mitigation Measure(s)*

No mitigation is required.

***Impact 3.5-3 Would the project have a substantial adverse effect on state or federally-protected wetlands (including but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filing, hydrological interruption, or other means?***

As shown in Figure 3.5-2 and Figure 3.5-3, several jurisdictional features were observed within the project site. The New River, a NWI mapped blueline, flows through the middle portion of the project site. In addition, several NWI mapped blueline canals, drains, and ditches owned by IID flow along the borders of the project site. However, the proposed project has been designed to avoid impacts to waters of the State and waters of the U.S. As shown on the Site Plan (Figure 2-3), project components would not be sited on the project site where aquatic resources are present.

The emergency access route from the northwest portion of the project site will be designed to cross a non-jurisdictional agricultural ditch. Potential access route options include converting a non-vegetated portion of an open cement culvert to a corrugated metal pipe (CMP) or a closed concrete pipe of similar size and establishing an access road above the pipe. Native quail bush and non-native tamarisk and Mexican palo verde are located within the irrigation ditch. However, the access routes would be constructed in an area that will avoid impacts to native vegetation found within the irrigation ditch. Therefore, implementation of the project would result in no impact on state or federally protected aquatic resources.

*Mitigation Measure(s)*

No mitigation is required.

***Impact 3.5-4 Would the project interfere substantially with the movement of any native resident or migratory fish and wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?***

The project site does not function as a wildlife corridor. The project site is located adjacent to areas containing existing disturbances (i.e., roads, railroad tracks, and active agricultural land). The majority of the project site does not contain suitable vegetation or cover to support wildlife movement and are nestled between agricultural and development; therefore, wildlife movement opportunities connecting the project site to large, undeveloped natural areas is limited. The proposed project is not expected to significantly impact wildlife movement through the project vicinity and a less than significant impact would occur.

*Mitigation Measure(s)*

No mitigation is required.

***Impact 3.5-5 Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?***

The proposed project consists of the construction and operation of a solar energy facility, BESS, and associated electrical transmission lines. Development of the solar facility would be subject to the County's zoning ordinance.

The project is located on 5 privately owned legal parcels zoned General Agricultural with Geothermal Overlay (A-2-G). Pursuant to Title 9, Division 5, Chapter 8 (County of Imperial 2019a), the following uses are permitted in the A-2 zone subject to approval of a CUP from Imperial County: solar energy electrical generator, battery storage facility, electrical substations, communication towers, and facilities for the transmission of electrical energy.

As demonstrated in Table 3.5-3 and discussed further in Section 3.11 Land Use Planning, with approval of a CUP, General Plan Amendment, and Zone Change, the project would be consistent with Imperial County General Plan, and with biological resources policies contained therein. Therefore, implementation of the proposed project would not result in a significant impact associated the project's potential to conflict with local policies protecting biological resources.

*Mitigation Measure(s)*

No mitigation is required.

***Impact 3.5-6 Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?***

The project site is located within the designated boundaries of the Desert Renewable Energy Natural Community Conservation Plan & Habitat Conservation Plan (NCCP/HCP). However, the project is not located within or adjacent to an Area of Critical Environmental Concern. Implementation of the proposed project would result in no impact associated with the potential to conflict with local conservation plans. No impact would occur.

*Mitigation Measure(s)*

No mitigation is required.

### 3.5.4 Decommissioning/Restoration and Residual Impacts

#### Decommissioning/Restoration

If at the end of the PPA term, no contract extension is available for a power purchaser, no other buyer of the energy emerges, or there is no further funding of the project, the project will be decommissioned and dismantled. Project decommissioning activities will require construction vehicles to drive across the solar facility, transmission line, and access roads. Concrete footings, foundations, and pads would be removed using heavy equipment and recycled at an off-site location. All remaining components would be removed, and all disturbed areas would be reclaimed and recontoured. Similar to project construction, decommissioning activities have the potential to directly impact special-status species. This is a potentially significant impact; however, implementation of Mitigation Measures BIO-1 through BIO-4 at the time of decommissioning would reduce impacts to a level less than significant.

#### Residual

The proposed project would not impact sensitive vegetation communities, state or federally-protected wetlands, would not conflict with any local policies or ordinances protecting biological resources and would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

With the implementation of Mitigation Measures BIO-1 through BIO-4, potential impacts to special-status species, including BOUW, mountain plover, and loggerhead shrike would be reduced to a level less than significant. Therefore, the project would not result in residual significant and unmitigable impacts related to biological resources.

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