

3.3 - Biological Resources

3.3.1 - Introduction

This section describes the existing biological setting and potential effects from the implementation of the Community Plan within the plan area and its surroundings. A reconnaissance-level survey was conducted by a FirstCarbon Solutions biologist/regulatory specialist on April 18, 2013. The survey was intended to identify the general biological resources within the plan area. Information was also reviewed from the United States Fish and Wildlife Service (USFWS) species list and from query results from the California Natural Diversity Database (CNDDDB) and California Native Plant Society (CNPS). All observations and conclusions from the reconnaissance level survey and database searches are contained in this EIR section. Supporting information is provided in Appendix C.

3.3.2 - Environmental Setting

Habitat

A majority of the Community Plan area is heavily developed and is classified as “urban.” Plant species within urban habitats are mostly or entirely non-native horticultural species commonly used in landscaping, including grasses, ornamental shrubs, and shade trees. Non-native species selected for landscapes tend to have low drought tolerance and require frequent supplemental summer watering. Common landscaping trees observed included Colorado spruce (*Picea pungens*), unknown pine species (*Pinus* sp.), coast redwood (*Sequoia sempervirens*), Peruvian pepper tree (*Scinus molle*), liquid amber (*Liquidamber styraciflua*), Canary Island date palm (*Phoenix canariensis*), river red gum (*Eucalyptus camaldulensis*), Oregon ash (*Fraxinus latifolia*), olive (*Olea europaea*), London plane tree (*Platanus acerifolia*), Fremont cottonwood (*Populus fremontii*), and myoporum (*Myoporum laetum*). Landscaping shrubs observed included New Zealand hebe (*Hebe speciosa*), Japanese privet (*Lingustrum japonicum*), lily of the Nile (*Agapanthus africanus*), rose (*Rosa* sp.), blackwood acacia (*Acacia melanoxylon*), and India hawthorne (*Rhaphiolepis indica*). Within the plan area, landscaped areas occur largely in small patches in parking lots, adjacent to buildings, along streets, and within medians. The largest landscaped area is associated with the Tesla Motors facility.

Undeveloped areas within the plan area are largely composed of non-native grasslands. These areas are dominated by non-native grasses and forbs. Dominant species include slender oat grass (*Avena barbata*), ripgut brome (*Bromus diandrus*), soft brome (*Bromus hordeaceus*), leporinum barley (*Hordeum murinum* ssp. *leporinum*), Italian rye grass (*Lolium perenne* ssp. *multiflorum*), bulbous canary grass (*Phalaris aquatica*), common fiddleneck (*Amisnckia menziesii* var. *intermedia*), Italian thistle (*Carduus pycnocephalus*), field mustard (*Brassica rapa*), and wild radish (*Raphanus sativus*). Some of the non-native grasslands areas, such as the fields southeast of South Grimmer Boulevard and Fremont Boulevard, were observed to have been mowed and baled for hay production.

A small portion of the project site, north of the Tesla Motors plant and south of the non-native grasslands, and south of South Grimmer Boulevard consists of coyote brush scrub. The coyote scrub area is dominated by coyote brush (*Baccharis pilularis*), and surrounded by non-native grassland. The scrub area is linear and extends along the ridge from the railroad tracks west of Lopes Court, and further extends west to Kato Road.

Wildlife

Wildlife within the plan area is typical of urbanized areas that include landscaping trees and undeveloped lots. Wildlife observed within the plan area during the reconnaissance level survey includes mallard (*Anas platyrhynchos*), red-tailed hawk (*Buteo jamaicensis*), rock pigeon (*Columba livia*), mourning dove (*Zenaida macroura*), black phoebe (*Sayornis nigricans*), American crow (*Corvus brachyrhynchos*), northern mockingbird (*Mimus polyglottos*), white-crowned sparrow (*Zonotrichia leucophrys*), house finch (*Carpodacus mexicanus*), black-tailed jackrabbit (*Lepus californicus*), California ground squirrel (*Otospermophilus beecheyi*), Botta's pocket gopher (*Thomomys bottae*), and feral domestic cat (*Felis catus*).

Special-Status Species

Special-status species are those animal and plant species that, in the judgment of the resource agencies, trustee agencies, and certain non-governmental organizations, warrant special consideration in the California Environmental Quality Act (CEQA) process. This includes the following:

- Officially designated “threatened,” “endangered,” or “candidate” species federally listed by the USFWS and protected under the Federal Endangered Species Act.
- Officially designated “rare,” “threatened,” “endangered,” or “candidate” species state-listed by the California Department of Fish and Wildlife (CDFW) and protected under the California Endangered Species Act. CDFW also maintains a list of “Fully Protected” species as well as “California Species of Special Concern” that are also generally treated as special-status species under CEQA.
- Species considered rare, threatened, or endangered under the conditions of Section 15380 of the CEQA Guidelines, such as plant species identified on lists 1A, 1B, and 2 in the CNPS Inventory of Rare and Endangered Vascular Plants of California, which may include species not found on either state or federal endangered species list.
- Other species considered sensitive, such as birds protected under the Migratory Bird Treaty Act (MBTA), which includes most native birds. A species may also be designated as special concern at the local level.

The habitat mapping and field survey were reviewed for potential habitat for the special-status species identified from literature and database searches. A species is determined to have the potential to occur on the project site if its documented geographical range from the literature and database searches includes the vicinity of the project site and if suitable habitat for the species was identified within or near the project site. The methodology for database searches is discussed more fully below.

Sensitive Plant Species

No sensitive plant species were observed on the project site during the reconnaissance-level survey, likely due to the regular urban disturbances. Based on the vegetation communities and conditions present, no sensitive plant species previously recorded within five miles of the project site have the potential to occur onsite. The complete CNDDB list of sensitive plant species, recorded within the Niles

and Milpitas topographic quadrangles evaluated for their potential to occur on the project site, is included in Appendix C. Recorded occurrences of special-status plant species are shown in Exhibit 3.3-1.

Sensitive Wildlife Species

Recorded occurrences of special-status wildlife species within five miles of the project site are shown in Exhibit 3.3-1, and the complete CNDDDB list of sensitive wildlife species, recorded within the Niles and Milpitas topographic quadrangles evaluated for their potential to occur on the project site, is included in Appendix C. Following the reconnaissance level survey, one special-status wildlife species, the burrowing owl (*Athene cunicularia*), a California Species of Concern, has the potential to occur within the plan area. Burrowing owls prefer open habitats such as grasslands, deserts, golf courses, and agricultural areas where suitable burrows are present. Burrowing owls prefer California ground squirrel burrows, but will also use fox, coyote, and rabbit burrows, as well as manmade culverts and debris piles. The non-native grassland areas within the plan area contain mostly tall grasses and forbs such as field mustard. While burrowing owls do not forage in areas with tall vegetation, non-native grassland areas that have been mowed or disked may provide suitable habitat for burrowing owls.

Nesting Birds

Landscaped areas within the plan area provide suitable nesting habitat for a number of common tree-nesting avian species. Although not considered natural nesting habitat, the utility poles within the plan area provide suitable nesting habitat for larger avian species such as American crow (*Corvus brachyrhynchos*). Therefore, the proposed project may result in potential impacts to avian species, if construction activities take place during the general avian nesting season from February through August.

Waterways

There are two creeks that cross the plan area: Agua Caliente in the south and an unnamed creek in the north. Within the Community Plan area, the creeks are channelized and primarily earthen-lined. The majority of the Community Plan area is located within the Laguna Creek Watershed, and only a small area adjacent to Mission Boulevard drains into the Agua Fria and Scott Creeks Watershed.

In addition to the two creeks, there is a man-made drainage channel located south of the Tesla Motors plant that ultimately drains into the San Francisco Bay. There was no evidence of any tidal influence or tidal marsh species observed within this channel. All other drainage facilities consist of inlets and underground piping that are part of the Alameda County Flood Control and Water Conservation District municipal storm drain system.

Wildlife Movement Corridors

Wildlife corridors provide connectivity between habitat areas, enhancing species richness and diversity. Wildlife movement includes migration (usually one way per season), inter-population movement (i.e., long-term genetic flow) and small travel pathways (i.e., daily movement corridors within an animal's territory). While small travel pathways usually facilitate movement for daily home range activities, such as foraging or escape from predators, they also provide connection between

outlying populations and the main corridor, permitting an increase in gene flow among populations. These linkages among habitats can extend for miles and occur on a large scale throughout the greater region. Habitat linkages facilitate movement between populations located in discrete local populations within larger habitat areas. Impacts from development, such as habitat fragmentation or isolation as well as the creation of impassable barriers can cause a significant impact to wildlife corridors.

There is a potential for wildlife movement along the drainage channels within the plan area. The majority of the channels within the plan area are man-made concrete channels with little habitat value. There is a portion of the channel south of the Tesla Motors plant that is partially vegetated and has some habitat value. Any movement of fish or other aquatic wildlife would most likely occur during high flow periods associated with winter storms. There was no evidence of any tidal influence or any tidal marsh species observed within the channel.

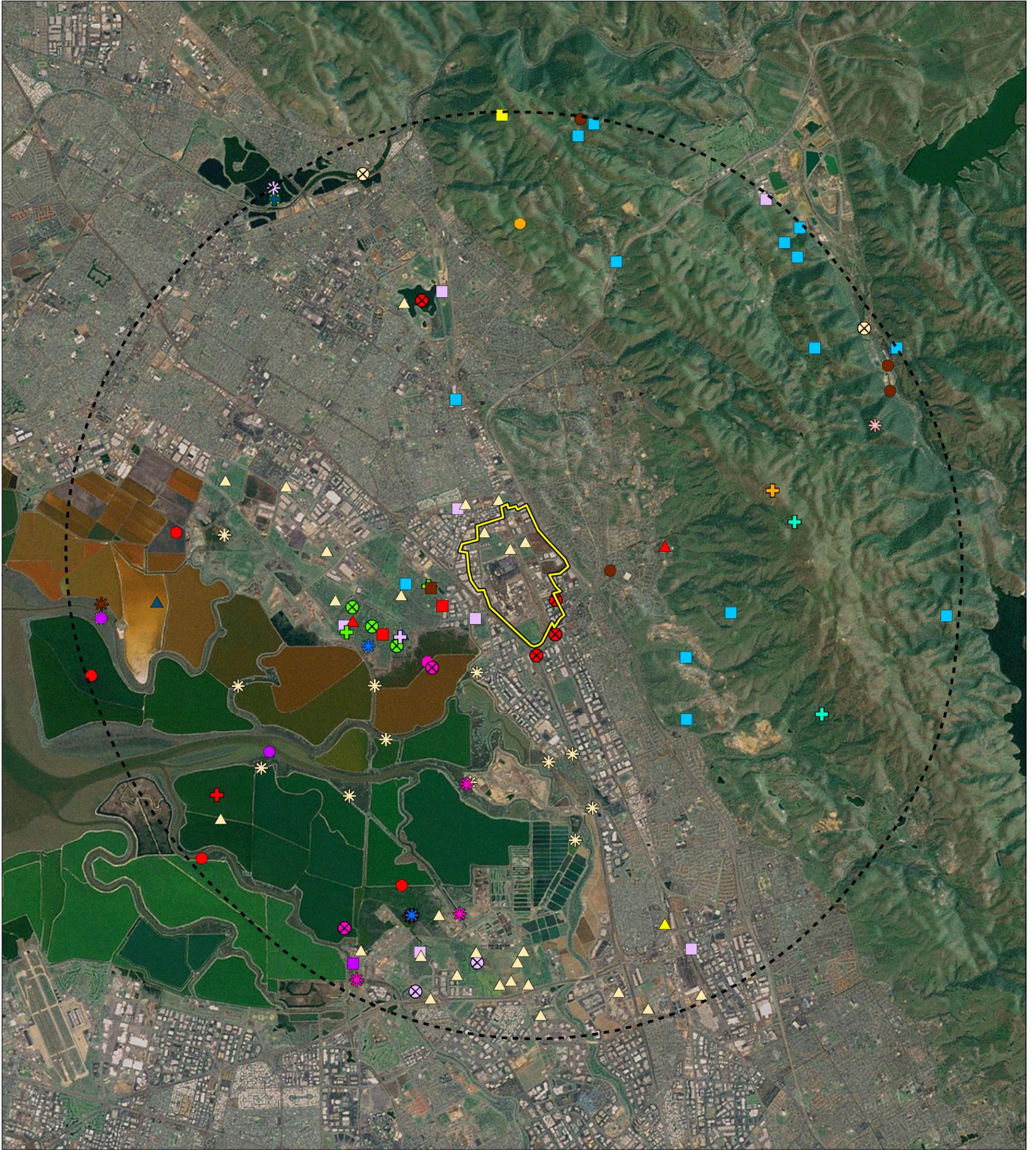
3.3.3 - Regulatory Framework

Endangered Species Act

The federal Endangered Species Act (ESA) of 1973 establishes a framework for protecting and facilitating the recovery of threatened and endangered populations of animal and plant species. Under the act, the Secretary of the Interior is required to list species of animals and plants that are both threatened and endangered, a task that is delegated to the USFWS and the National Marine Fisheries Service (NMFS). A species can become threatened or endangered as a result of the following factors:

- Present or threatened destruction
- Modification or curtailment of its habitat range
- Over-utilization for commercial recreation, scientific, or educational purposes
- Disease or predation
- Inadequacy of existing statutory mechanisms
- Other natural or man-made factors affecting its continued existence

Section 3 of the ESA defines an endangered species as any species or subspecies of fish, wildlife, or plants “in danger of extinction throughout all or a significant portion of its range.” A threatened species is defined as any species or subspecies “likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.” Designated endangered and threatened species, as listed through publication of a final rule in the Federal Register, are fully protected from a “take” without an incidental take permit administered by the USFWS under Section 10 of 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 (50 Code of Federal Regulations [CFR] 17.3). The term “harm” in the definition of take means an action that actually kills or injures wildlife. Such action may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3).



Source: ESRI Aerial Imagery. CNDDDB Data, July 2013.

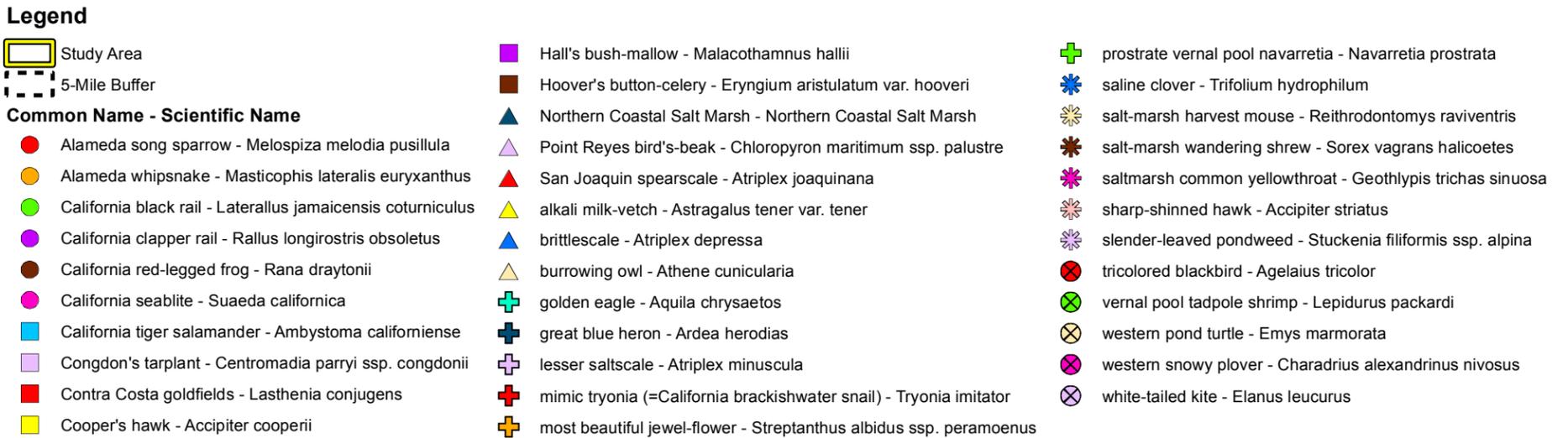
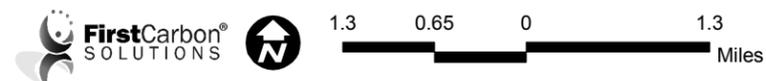


Exhibit 3.3-1
CNDDDB-Recorded Occurrences of
Special-Status Species within Five Miles of the Project Site



The term “harass” in the definition of take means an intentional or negligent act or omission that creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3). Proposed endangered or threatened species are those for which a proposed regulation, but not a final rule, has been published in the Federal Register.

Section 7 of the act requires that federal agencies ensure that their actions are not likely to jeopardize the continued existence of a listed species, or destroy or adversely modify its critical habitat. This obligation requires federal agencies to consult with the USFWS or the NMFS on any actions (issuing permits including Section 404 permits, issuing licenses, providing federal funding) that may affect listed species to ensure that reasonable and prudent measures will be undertaken to mitigate impacts on listed species. Consultation with USFWS or NMFS can be either formal or informal, depending on the likelihood of the action to adversely affect listed species or critical habitat. Once a formal consultation is initiated, USFWS or NMFS will issue a Biological Opinion (either a “jeopardy” or a “no jeopardy” opinion) indicating whether the proposed agency action will or will not jeopardize the continued existence of a listed species or result in the destruction or modification of its critical habitat. A permit cannot be issued for a project with a jeopardy opinion unless the project is redesigned to lessen impacts.

In the absence of any federal involvement, as in a privately funded project on private land with no federal permit, only Section 10(a) of the act can empower the USFWS or NMFS to authorize incidental take of a listed species provided a habitat conservation plan is developed. To qualify for a formal Section 10(a) permit, strict conditions must be met, including a lengthy procedure involving discussions with USFWS, NMFS, and local agencies; preparation of a habitat conservation plan; and a detailed Section 10(a) permit application.

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MTBA) of 1918 makes it unlawful to take (kill, harm, harass, etc.) any migratory bird listed in 50 CFR 10, including their nests, eggs, or products. The MTBA protects more than 800 species, including geese, ducks, shorebirds, raptors, songbirds, and many relatively common species, and it was originally drafted to put an end to the commercial trade in birds and their feathers that, by the early years of the 20th century, had wreaked havoc on the populations of many native bird species. The MTBA implements the United States’ commitment to four international conventions (with Canada, Japan, Mexico, and Russia) for the protection of a shared migratory bird resource. Each of the conventions protects selected species of birds that are common to all countries (i.e., they occur in all countries at some point during their annual life cycle). The act requires that the removal of any trees, shrubs, or any other potential nesting habitat be conducted outside the avian nesting season, which is generally between early February and late August.

State

California Endangered Species Act

Signed into law in 1984, the California Endangered Species Act declares that deserving plant or animal species will be given protection by the State because they are of ecological, educational, historical, recreational, aesthetic, economic, and scientific value to the people of the State. The act

established that it is State policy to conserve, protect, restore, and enhance endangered species and their habitats. Under State law, the California Fish and Game Commission may formally designate plant and animal species rare, threatened, or endangered by official listing. Listed species are generally given greater attention during the land use planning process by local governments, public agencies, and landowners than are species that have not been listed.

The California Endangered Species Act prohibits the take of any species that the California Fish and Game Commission determines to be an endangered species or a threatened species. The act defines a take as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” The CDFW enforces the act, which authorizes that take of a plant or wildlife species listed as endangered or threatened under the federal and state acts may occur pursuant to a federal incidental take permit issued in accordance with Section 10 of the federal Endangered Species Act, provided CDFW is notified and certifies that the incidental take statement or incidental take permit is consistent with California Endangered Species Act (Fish and Game Code Section 2080.1(a)).

The California Endangered Species Act emphasizes early consultation to avoid potential impacts to rare, endangered, and threatened species and to develop appropriate mitigation planning to offset project-caused losses of listed species populations and their essential habitats.

California Environmental Quality Act - Treatment of Listed Plant and Animal Species

Both the federal and state Endangered Species Acts protect only those species formally listed as threatened or endangered (or rare, in the case of the State list). CEQA Guidelines Section 15380, however, independently defines “endangered” species of plants, fish, or wildlife as those whose survival and reproduction in the wild are in immediate jeopardy, and “rare” species as those which are in such low numbers that they could become endangered if their environment worsens. Therefore, a project will normally have a significant effect on the environment if it will substantially affect a rare or endangered species or the habitat of the species. The significance of impacts to a species under CEQA must be based on analyzing actual rarity and threat of extinction despite legal status or lack thereof.

California Fish and Game Code

Sections 3503, 3503.5, and 3800 of the California Fish and Game Code prohibit the “take, possession, or destruction of birds, their nests or eggs.” Disturbance that causes nest abandonment and/or loss of reproductive effort (killing or abandonment of eggs or young) is considered a take.

Local

City of Fremont

General Plan

The City of Fremont General Plan sets forth the following goals and policies in the Conservation Element related to biological resources:

- Goal 7-1 and Policies 7.1-1, 7.1-2, and 7.1-8 call for maintaining a natural environment with protected habitat that enhances the biological value of the City, as well as protecting trees.
- Goal 7-2 and Policies 7.2-1, 7.2-3 promote protecting water resources that enhances the biological value of the City.

Municipal Code

Fremont Municipal Code Chapter 18.215 sets forth permitting requirements for tree removal activities within the City limits. Trees subject to permitting requirements include:

- A tree having a diameter at breast height of six inches or more and located on a vacant or underdeveloped lot;
- A tree having a diameter at breast height of six inches or more and located on a developed lot which is the subject of a contemplated or pending application for a development project;
- A native tree or tree of exceptional adaptability to the Fremont area having a diameter at breast height of 10 inches or more;
- A tree having a diameter at breast height of 18 inches or more;
- A tree that was required by the City to be planted or retained as mitigation for the removal of a tree;
- A tree planted or retained as a condition of any City-conferred development project approval, including approvals conferred prior to adoption of this chapter; or
- One of six or more trees of the same species that are located on the same lot and that each have six or more inches in diameter at breast height.

Applicants proposing tree removal activities are required to apply for a permit from the City. As part of the application, mitigation must be identified and must consist of one 24-inch box replacement tree for each tree removed (or a 15-gallon replacement tree for a single-family residential property per tree removed) or an in-lieu of fee to the City for an offsite replacement planting elsewhere.

3.3.4 - Methodology

As previously noted, a reconnaissance level survey was conducted by a FCS biologist/regulatory specialist on April 18, 2013. The survey was intended to identify the general biological resources within the plan area. Information was also reviewed from the USFWS species list and from query results from the CNDDDB and CNPS. All observations and conclusions from the reconnaissance level survey and database searches are contained in this EIR section. Supporting information is provided in Appendix C.

3.3.5 - Thresholds of Significance

According to Appendix G, Environmental Checklist, of the CEQA Guidelines, biological resources impacts resulting from the implementation of the proposed project would be considered significant if the project would:

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

- b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.
- c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.
- d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of wildlife nursery sites.
- e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.
- f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. (Refer to Section 7, Effects Found Not To Be Significant.)

3.3.6 - Project Impacts and Mitigation Measures

This section discusses potential impacts associated with the development of the project and provides mitigation measures where appropriate.

Special-Status Species

Impact BIO-1: Development and land use activities contemplated by the Warm Springs/South Fremont Community Plan may have an adverse effect on special-status wildlife species.

Impact Analysis

Special-status plant and wildlife species typically occur in undeveloped areas, although it is possible for them to occur within developed areas as well. The plan area contains suitable habitat for one special-status wildlife species and no suitable habitat for plant species.

Burrowing owl, a California Species of Concern, has a moderate potential to occur within the plan area. Burrowing owls prefer open habitats such as grasslands, deserts, golf courses, and agricultural areas where suitable burrows are present. Burrowing owls prefer California ground squirrel burrows, but will also use fox, coyote, and rabbit burrows, as well as man-made culverts and debris piles. The non-native grassland areas within the plan area contain mostly tall grasses and forbs such as field mustard. While burrowing owls do not forage in areas within tall vegetation, non-native grassland areas that have been mowed or disked provide suitable habitat for burrowing owls. Mitigation is proposed that would require compliance with the CDFW Guidelines for Burrowing Owl Mitigation prior to any ground-disturbing activities. The implementation of this mitigation measure would reduce impacts to less than significant.

Nesting birds protected by the MTBA may nest in mature trees. The plan area contains mature trees suitable for nesting birds protected by the MBTA. Implementation of the Community Plan may

include the removal of some of these trees and, therefore, could result in adverse impacts to nesting birds if nests are present. Mitigation is proposed that would require a pre-construction nesting bird survey to be performed prior to any vegetation removal or ground-disturbing activities during the nesting season, generally the period between February 1 and August 31. The implementation of this mitigation measure would reduce potential impacts to a level of less than significant. Vegetation removal that would occur outside of the nesting season, generally the period between September 1 and January 31, would not require mitigation.

Level of Significance Before Mitigation

Potentially significant impact.

Mitigation Measures

MM BIO-1a Prior to grading or any other ground disturbing activity, a qualified biologist shall conduct a survey for burrowing owls to determine if suitable burrows (greater than 3.5 inches diameter) are present in and adjacent to the area of ground disturbance. Surveys shall be conducted consistent with the procedures in outlined in the “California Department of Fish and Wildlife 2012 Staff Report on Burrowing Owl Mitigation.”

If burrowing owl(s) are observed onsite during the pre-construction clearance survey, consultation with CDFW shall occur to determine the next appropriate steps. Additional focused surveys may be warranted as determined by CDFW to determine the quantity and location of nesting/migrating burrowing owls. Areas currently occupied by burrowing owls shall be avoided for the duration of residing onsite and/or nesting period. If burrowing owls cannot be avoided by the proposed project, then additional measures such as passive relocation during the non-breeding season may be utilized to reduce any potential impacts. Burrow exclusion involves the installation of one-way doors in burrow openings during the non-breeding season to temporarily exclude burrowing owls, or permanently exclude burrowing owls and close burrows after verifying burrows are empty by site monitoring and scoping. Existing or artificial burrows situated less than 75 meters from the project site is the ideal scenario for successful passive relocation. Additional factors for successful passive relocation are included in the California Department of Fish and Wildlife 2012 Staff Report on Burrowing Owl Mitigation. When a qualified biologist is able to determine that burrowing owls are no longer occupying the project site and passive relocation deemed successful, construction activities may continue.

MM BIO-1b Prior to any tree or vegetation removal during the nesting season (February 1 through August 31), a qualified biologist shall conduct a nesting bird survey to identify any potential nesting activity. If passerine birds are found to be nesting, or there is evidence of nesting behavior within 250 feet of the impact area, the biologist shall determine an appropriate buffer that shall be required around the nests. No vegetation removal or ground disturbance would occur within this buffer. For raptor species—birds of prey such as hawks and owls—this buffer would

generally be 500 feet. A qualified biologist shall monitor the nests closely until it is determined that the nests are no longer active, at which time construction activities may commence within the buffer area. Construction activity may encroach into the buffer area at the discretion of the biological monitor. Tree or vegetation removal activities that occur outside of the nesting season (September 1 through January 31) are not subject to the requirements of this mitigation measure.

Level of Significance After Mitigation

Less than significant impact.

Sensitive Natural Communities/Riparian Habitat

Impact BIO-2: Development and land use activities contemplated by the Warm Springs/South Fremont Community Plan would not have an adverse effect on sensitive natural communities or riparian habitat.

Impact Analysis

The drainage channel located south of the Tesla Motors plant within the plan area ultimately drains into the San Francisco Bay. There was no evidence of any tidal influence or tidal marsh species observed within this channel. All other drainage facilities consist of inlets and underground piping that are part of the City’s municipal storm drain system. The Community Plan would not disrupt the ephemeral drainage or reduce public access. As such, impacts to such habitats would be considered less than significant.

Level of Significance Before Mitigation

Less than significant impact.

Mitigation Measures

No mitigation is necessary.

Level of Significance After Mitigation

Less than significant impact.

Wetlands

Impact BIO-3: Development and land use activities contemplated by the Warm Springs/South Fremont Community Plan would not have an adverse effect on wetland resources.

Impact Analysis

The plan area consists of urban, built-up land uses, and disturbed undeveloped properties; it does not contain any wetland habitat or other sensitive natural communities. This condition precludes the possibility of adverse impacts to these resources. No impact would occur.

Level of Significance Before Mitigation

No impact.

Mitigation Measures

No mitigation is necessary.

Level of Significance After Mitigation

No impact.

Wildlife Movement

Impact BIO-4: Development and land use activities contemplated by the Warm Springs/South Fremont Community Plan would not substantially interfere with wildlife movement.

Impact Analysis

There is potential for wildlife movement along the drainage channels within the plan area. While development within the plan area would have local effects on the dispersal and movement of some wildlife species, the majority of the channels within the plan area are man-made concrete channels with little habitat value. A portion of the channel south of the Tesla Motors plant is vegetated and has some habitat value. Any movement of fish or other aquatic wildlife would most likely occur during high flow periods associated with winter storms. There was no evidence of any tidal influence or any tidal marsh species observed within the channel. The Community Plan would not disrupt the ephemeral drainage; therefore, the Community Plan would not result in significant impacts to wildlife corridors or severely constrain important regional movements by any particular species.

Level of Significance Before Mitigation

Less than significant impact.

Mitigation Measures

No mitigation is necessary.

Level of Significance After Mitigation

Less than significant impact.

Local Policies or Ordinances Protecting Biological Resources

Impact BIO-5: Development and land use activities contemplated by the Community Plan would not conflict with local policies or ordinances protecting biological resources.

Impact Analysis

Buildout of the Community Plan would result in development activities that may involve removal of trees subject to the City's Tree Preservation Ordinance. As set forth in Fremont Municipal Code Chapter 18.215, applicants proposing tree removal activities are required to apply for a permit from the City. As part of the application, mitigation must be identified and must consist of one 24-inch box replacement tree for each tree removed (or a 15-gallon replacement tree for a single-family residential property for each tree removed) or an in-lieu of fee to the City for an offsite replacement planting elsewhere. Compliance with the City's Tree Preservation Ordinance would be required for future development projects and would mitigate impacts resulting from tree removal. Thus, impacts would be less than significant.

Note that General Plan consistency is evaluated in Section 3.8, Land Use.

In summary, the proposed project would be consistent with all applicable General Plan and Municipal Code policies related to biological resources. Impacts would be less than significant.

Level of Significance Before Mitigation

Less than significant impact.

Mitigation Measures

No mitigation is necessary.

Level of Significance After Mitigation

Less than significant impact.