

**Focused Survey for Agassiz's Desert Tortoise,  
Habitat Evaluation for Burrowing Owl, and  
General Biological Resource Assessment for a  
2.66-acre± Site (APN 0601-611-15) in the Town of Yucca Valley  
San Bernardino County, California**

(U.S. Geological Survey 7.5' Yucca Valley North quadrangle, Township 1 North, Range  
6 East, a portion of the Northeast ¼ of Section 31, S.B.B.&M.)

**Job#:** 12-019

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I hereby certify that the statements furnished herein, including attached exhibits, present the data and information required for this biological evaluation, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief. Field work conducted for this assessment was performed by me or under my direct supervision. I certify that I have not signed a nondisclosure or consultant confidentiality agreement with the project applicant or applicant's representative and that I have no financial interest in the project.

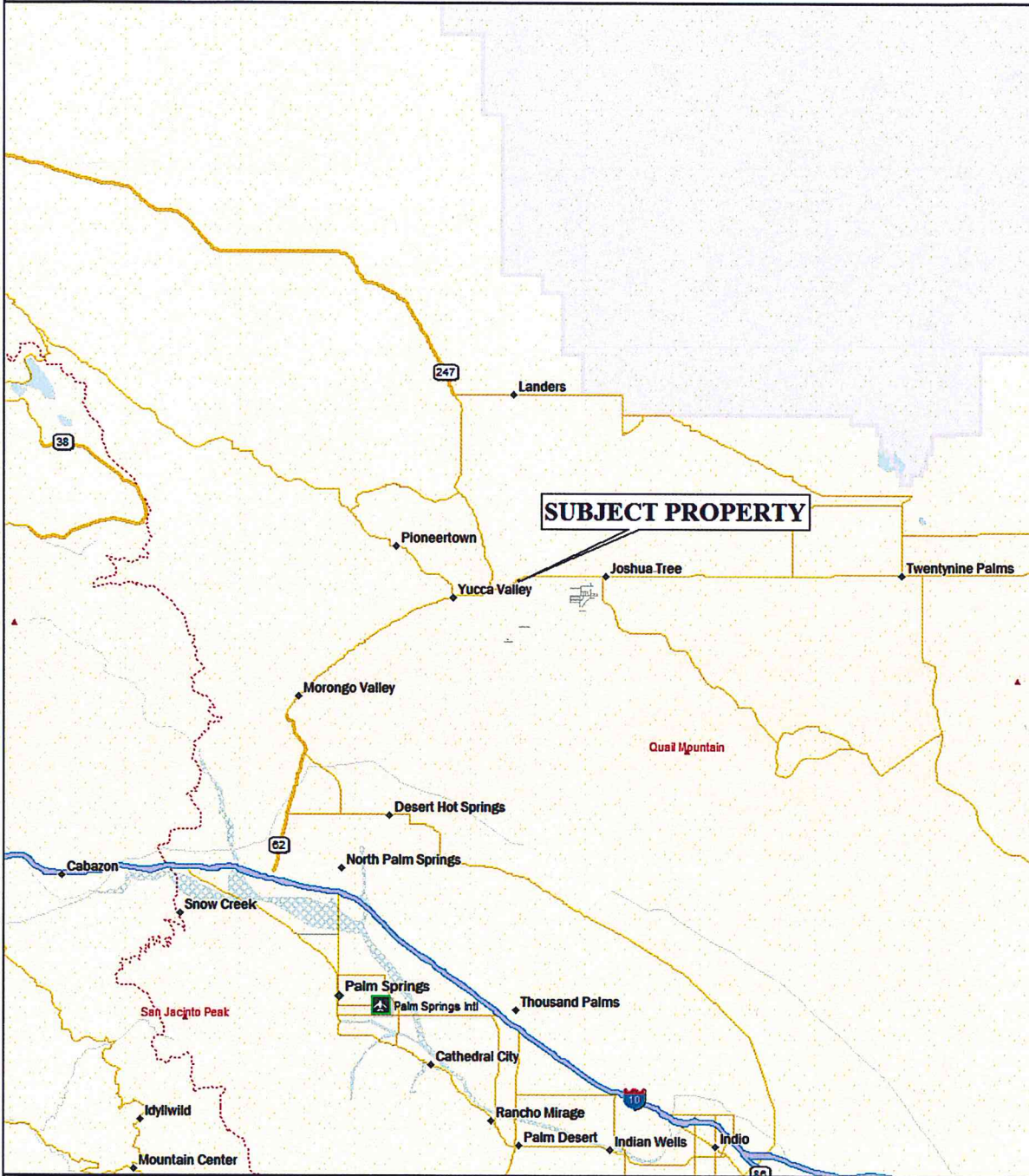


Circle Mountain Biological Consultants, Inc.

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November 2012

# Figure 1. APN 0601-611-15: Vicinity Map



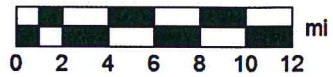
Map produced by Circle Mountain Biological Consultants, Inc., 9 November 2012



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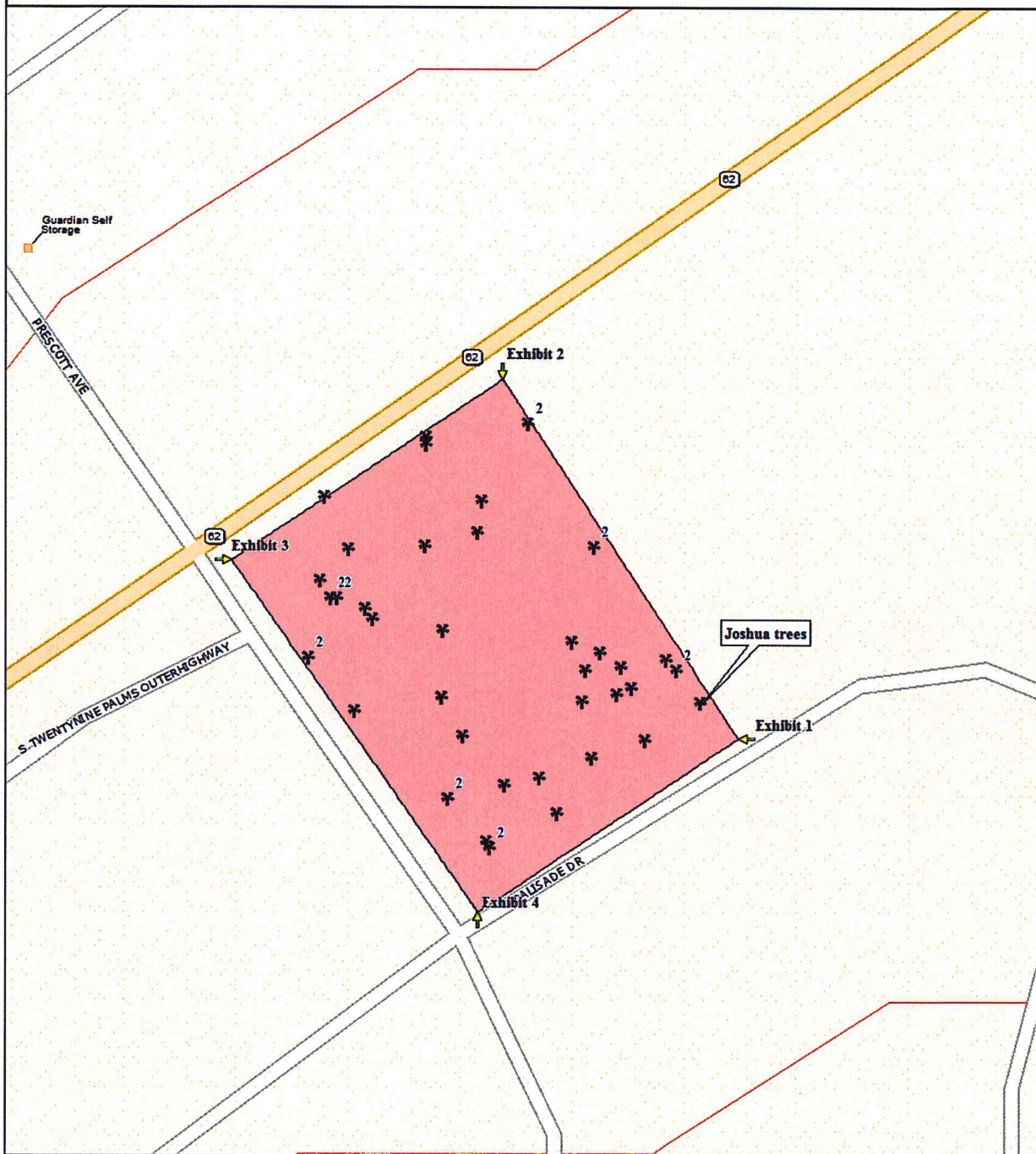


MN (12.1° E)



Data Zoom 8-7

## Figure 2. APN 0601-611-15: Site Map



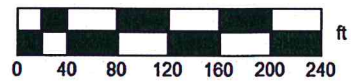
Map produced by Circle Mountain Biological Consultants, Inc., 7 November 2012



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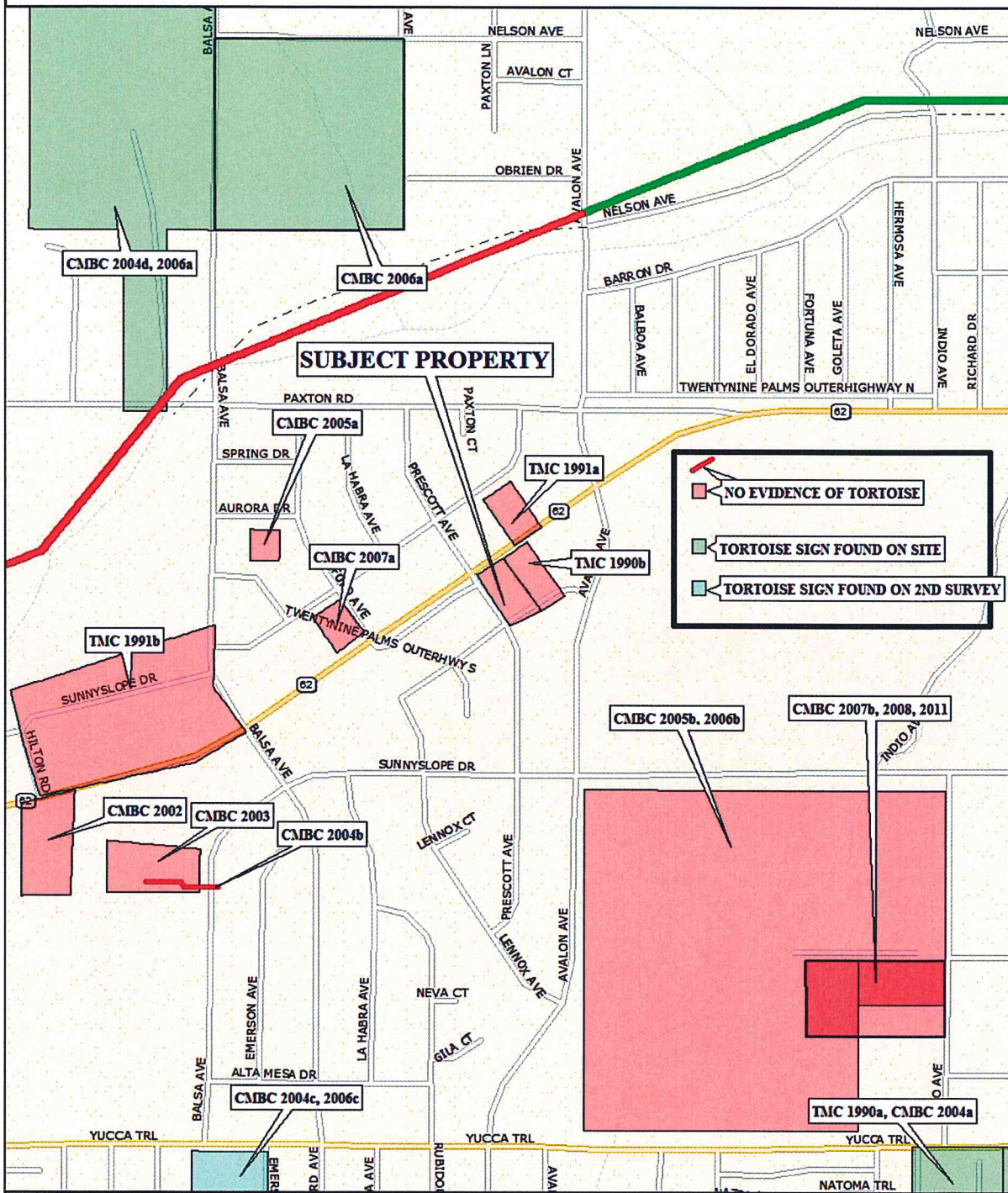


MN (12.1° E)



Data Zoom 17-0

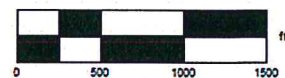
**Figure 3. Results of 19 Tortoise Surveys in the Area between 1990 and 2012**



Map produced by Circle Mountain Biological Consultants, Inc., 9 November 2012



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Data Zoom 14-1



Figure 4. APN 0601-611-15: Aerial Photograph (©2012GoogleTM Earth)

## Executive Summary

Circle Mountain Biological Consultants, Inc. (CMBC) was retained G & L Yucca Valley, LLC (Proponent) to perform a focused survey for Agassiz's desert tortoise (*Gopherus agassizii*), habitat assessment for burrowing owl (*Athene cunicularia*), and a general biological resource assessment on a property located in the Town of Yucca Valley, San Bernardino County, California. APN 0601-611-15 is a 2.66-acre± site located on the northeast side of Prescott Avenue, between Twentynine Palms Highway to the northwest, and Palisade Drive to the southeast. The legal description for the subject property is Township 1 North, Range 6 East, a portion of the northeast ¼ of Section 31, S.B.B.&M. The Proponent plans to develop a retail shopping center and parking on the site.

For a total of 1.0 hours on 6 November 2012, Sharon Dougherty of CMBC surveyed the site and adjacent areas as described herein. This entailed a survey of 12 transects, spaced at 30-foot intervals and oriented in a northwest-southeast direction throughout the 2.66-acre± parcel. No zone of influence transects were surveyed for detection of tortoise sign and burrowing owls, since the site is surrounded on four sides by existing residential and commercial development. No blue-line streams, washes, or drainages are present on the site.

The plant community on the site is best described as Joshua Tree series under the system devised by Sawyer and Keeler-Wolf (1995) for the California Native Plant Society. At least 45 Joshua trees are scattered among shrubs, including desert tea, Nevada joint-fir, creosote bush, Anderson's box thorn, peach thorn, desert senna, and others. Few annual plants were detectable at the time of surveys, and these were non-native weedy species or disturbance-adapted natives. Two reptile, two bird, and six mammal species were identified during the survey. The number of wildlife species detected is small, probably due to several factors including the season of surveys (fall), the brevity of the survey period (one hour), and the disturbed nature of the site. Species detected were typical of a semi-urban area of the Mojave Desert.

No tortoise sign was found either on-site or in adjacent areas during this focused, protocol survey (U.S. Fish and Wildlife Service 1992, 2010) for the species. Based on the absence of tortoise sign on the subject property, in adjacent areas, and reported from the region, CMBC concludes that the Agassiz's desert tortoise is absent from the subject property and adjacent survey areas. Also, there is no likelihood of wild tortoises entering the site from adjacent areas, either to pass through the site or establish residency.

No special status species were detected during surveys. Based on the field survey and habitat assessment, CMBC concludes that none of the following special status species reported from the region will be adversely affected by site development: burrowing owl, Le Conte's thrasher, northern harrier, and Little San Bernardino Mountains linanthus. As such, no adverse impacts have been identified and no mitigation measures are recommended for these species.

Those species either identified during the current survey or for which suitable habitats are present include loggerhead shrike, prairie falcon (foraging), and Cooper's hawk (foraging). There is potential for loggerhead shrike to nest on-site. Loss of eggs or young could occur if development of the site occurs during the nesting season and involves removal of trees or shrubs. Site development during fall and winter months, between August and February, would avoid impacts to any of these birds that may be nesting. Alternatively, a survey for nesting birds, carried out prior to construction, may be appropriate.

The Town may require a Desert Native Plant Assessment to identify the numbers and locations of protected plants to be in compliance with the Town ordinance, County Plant Protection Ordinance, and/or California Native Plant Protection Act (County of San Bernardino 2006). The 45 Joshua trees, plus silver cholla, and beavertail cactus found on-site may be subject to pertinent development codes.

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**1.0. Introduction**

1.1. Purpose and Need for Study. Circle Mountain Biological Consultants, Inc. (CMBC) was contacted by Jacki Burton of N|V|5 on behalf of G & L Yucca Valley, LLC (Proponent) to perform a focused survey for Agassiz's desert tortoise (*Gopherus agassizii*), habitat assessment for burrowing owl (*Athene cunicularia*), and a general biological resource assessment on a 2.66-acre± site located in the Town of Yucca Valley, San Bernardino County, California (see Figures 1 and 2). Given the location of the site within San Bernardino County and because the Town does not have specified guidelines for report preparation, this report has been prepared according to County of San Bernardino's *Report Protocol for Biological Assessment Reports* (County of San Bernardino 2006).

As the California Environmental Quality Act (CEQA) Lead Agency, the Town of Yucca Valley Planning Department (Town) is required to complete an initial study to determine if site development will result in any adverse impacts to rare biological resources. The information may also be useful to federal and State regulatory agencies, including U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG), respectively, if the Lead Agency asks them to assess impacts associated with proposed development.

Results of CMBC's focused tortoise survey, burrowing owl habitat assessment, and general biological resource assessment are intended to provide sufficient baseline information to these agencies to determine if impacts will occur and to identify mitigation measures, if any, to offset those impacts.

1.2. Project Description. APN 0601-611-15 is a 2.66-acre± site located on the northeast side of Prescott Avenue, between Twentynine Palms Highway to the northwest, and Palisade Drive to the southeast (see Figures 1 and 2). The legal description for the subject property is Township 1 North, Range 6 East, a portion of the northeast ¼ of Section 31, S.B.B.&M. The Proponent plans to develop a retail shopping center and parking on the site.

**2.0. Methods**

2.1. Literature Review. CMBC consulted materials included in our library to determine the nearest locations of special status plant and animal species that have been reported from the vicinity of the subject property. Between 1989 (Tierra Madre Consultants, Inc. 1989) and the present 2012 study, CMBC personnel have completed approximately 265 focused tortoise surveys in the Morongo Basin area, between Morongo Valley to the west and Twentynine Palms to the east.



Of particular relevance given their proximity to the subject property are 18 focused tortoise surveys completed on 14 sites, located immediately adjacent to the site and out to approximately one mile of the parcel. These surveys were carried out between 1990 (Tierra Madre Consultants 1990) and 2011 (Circle Mountain Biological Consultants, Inc. 2011), which, along with the subject property, are mapped in Figure 3. These and other materials used in the completion of this report are listed in Section 5.0, below.

## 2.2. Field Survey.

2.2.1. *Survey and Habitat Assessment Protocols.* For **Agassiz's desert tortoise**, CMBC generally followed the survey protocol first identified by the USFWS (1992) and recently revised (USFWS 2010) for their detection. USFWS (2010) protocol recommends that transects be surveyed at 10-meter (30-foot) intervals throughout all portions of a given parcel. If neither tortoises nor sign are encountered during *action area* surveys and the project, or any portion of project, is  $\leq 0.8 \text{ km}^2$  (200 acres) or linear, three additional belt transects should be surveyed at 200-meter (655-foot), 400-meter (1,310-foot), and 600-meter (1,970-foot) intervals parallel to and/or encircling the project perimeter.

The *action area* is defined by regulation as all areas to be affected directly or indirectly and not merely the immediate area involved in the action (50 CFR §402.02). For this site, the action area is considered the project site, given the proximity of existing development.

Like the USFWS 1992 and 2009 protocols that recommended seasonal restrictions for completing tortoise surveys, the USFWS 2010 protocol recommends that tortoise surveys should occur in the April-to-May and September-to-October time frames, with a few exceptions. Importantly, the 2010 protocol revised the 2009 version to indicate that sites *less than 40 acres* may be surveyed for tortoises year-round. As such, since this site is 2.66 acres, this survey conforms to the current protocol.

For **burrowing owl**, the CDFG (2012c) survey protocol recommends transects be surveyed at 30-meter intervals throughout a given site, with five additional transects surveyed at 30-meter intervals out to 150 meters in adjacent areas in potential habitat (i.e., excluding areas substantially developed for commercial, residential, and/or industrial purposes). Importantly, this methodology is considered a formal *habitat assessment* for presence of burrowing owls, which can be conducted any time of the year. Had burrowing owl sign been found, which it was not, it would then have been necessary to perform breeding burrowing owl surveys during the spring and summer as outlined in CDFG (2012c). With its narrower transect intervals, the tortoise survey was sufficient to cover the site for burrowing owl.

2.2.2. *Field Survey Methods.* For a total of 1.0 hours, between 1345 and 1445 on 6 November 2012, Sharon Dougherty of CMBC surveyed the site and adjacent areas as described herein. This entailed a survey of 12 transects, spaced at 30-foot intervals and oriented in a northwest-southeast direction throughout the 2.66-acre $\pm$  parcel.

No zone of influence transects were surveyed for detection of tortoise sign and burrowing owls, since the site is surrounded on four sides by existing residential and commercial development. Copies of CMBC's data sheet completed in the field and USFWS' (2010) pre-project survey data sheet are included in this report (see Appendix C).

As transects were surveyed, Dougherty kept tallies of observable human disturbances encountered on each of the 12 transects. The results of this method provide *encounter rates* for observable human disturbances. For example, two foot paths observed on each of 12 transects would yield a tally of 24 foot paths (i.e., two roads encountered 12 times). Habitat quality, adjacent land uses, and this disturbance information are discussed below in Section 3.2 relative to the potential occurrence of Agassiz's desert tortoise and other special status species on and adjacent to the subject property.

San Bernardino County (2006) also requires that any survey limitations be identified. The survey was sufficiently late in the season that fewer annual plants and reptile species were detected than would have been observed during the same amount of effort in the spring. In addition, the short survey period (one hour) and time of day (early afternoon) may have reduced the number of bird species observed. These limitations did not significantly affect the results and conclusions given herein.

Weather conditions at the beginning of the survey included a temperature [measured approximately 5 centimeters (2.5 inches) above the ground] of 91°F, with 0% cloud cover, and average winds of 2.6 miles per hour and gusts up to 6.0 miles per hour out of the northeast, as measured by a hand-held Kestrel<sup>®</sup> weather and wind speed meter. Weather conditions at the end of the survey included a temperature of 89°F, with 0% cloud cover, and average winds of 2.0 miles per hour and gusts up to 2.6 miles per hour out of the east.

All plant and animal species identified during the survey were recorded in field notes and are listed in Appendices A and B, respectively. A Garmin<sup>®</sup> hand-held, global positioning system (GPS) unit was used to survey straight transects and record Universal Transverse Mercator (UTM) coordinates (North American Datum – NAD 83) for property boundaries and other pertinent information (Appendix C). A digital camera was used to take representative photographs (Appendix D), with locations and directions of exhibits shown in Figure 5. ©2012 Google<sup>™</sup> Earth was accessed via the internet to provide recent aerial photographs of the subject property and surrounding areas (Figure 4).

### **3.0. Results**

3.1. Common Biological Resources. The common plant and animal species identified during the survey are influenced by multiple factors such as elevation, topography, soil substrates, and adjacent land uses. Based on DeLorme Topo USA<sup>®</sup> 7.0 software, elevations on the subject property range from approximately 985 meters (3,232 feet) at the southeast corner down to 983 meters (3,225 feet) at the northwest corner. Terrain is relatively flat. Soils are sandy loam. No USGS-designated blue-line streams occur on-site.

3.1.1. *Common Flora.* The 22 plant species identified during the survey are listed in Appendix A. The plant community on the site is best described as Joshua Tree series under the system devised by Sawyer and Keeler-Wolf (1995) for the California Native Plant Society. At least 45 Joshua trees (*Yucca brevifolia*) are scattered among shrubs, including desert tea (*Ephedra californica*), Nevada joint-fir (*E. nevadensis*), creosote bush (*Larrea tridentata*), Anderson's box thorn (*Lycium andersonii*), peach thorn (*L. cooperii*), desert senna (*Senna armata*), and others. Few annual plants were detectable at the time of surveys, and these were non-native weedy species, such as Saharan mustard (*Brassica tournefortii*), Russian thistle (*Salsola tragus*), split-grass (*Schismus* sp.), and cheat grass (*Bromus tectorum*), or disturbance-adapted natives, i.e., annual bur-sage (*Ambrosia acanthicarpa*).

3.1.2. *Common Fauna.* The 2 reptile, 2 bird, and 6 mammal species identified during the survey are listed in Appendix B. The number of species detected is small, probably due to several factors including the season of surveys (fall), the brevity of the survey period (one hour), and the disturbed nature of the site. Species detected were typical of a semi-urban area of the Mojave Desert, and included sagebrush lizard (*Sceloporus graciosus*), side-blotched lizard (*Uta stansburiana*), rock dove (*Columba livia*), cactus wren (*Campylorhynchus brunneicapillus*), California ground squirrel (*Otospermophilus beecheyi*), coyote (*Canis latrans*), Audubon cottontail (*Sylvilagus audubonii*), black-tailed hare (*Lepus californicus*), kangaroo rat (*Dipodomys* sp.), antelope ground squirrel (*Ammospermophilus leucurus*), and botta pocket gopher (*Thomomys bottae*).

Other locally common reptile species that may occur include zebra-tailed lizard (*Callisaurus draconoides*), long-nosed leopard lizard (*Gambelia wislizenii*), desert horned lizard (*Phrynosoma platyrhinos*), desert night lizard (*Xantusia vigilis*), red racer (*Masticophis flagellum*), glossy snake (*Arizona elegans*), gopher snake (*Pituophis melanoleucus*), long-nosed snake (*Rhinocheilus lecontei*), and various rattlesnake species (*Crotalus* spp.).

## 3.2. Uncommon Biological Resources.

3.2.1. *Agassiz's Desert Tortoise.* A significant paper was published in June 2011 (Murphy et al. 2011) whereby the "desert tortoise" of the Mojave Desert was split into two species, including *G. agassizii*, referred to as "Agassiz's desert tortoise," and a newly described species, *G. morafkai*, referred to as "Morafka's desert tortoise," which occurs in the Sonoran Desert. According to Murphy et al. (2011), "...this action reduces the distribution of *G. agassizii* to only 30% of its former range. This reduction has important implications for the conservation and protection of *G. agassizii*, which may deserve a higher level of protection." Agassiz's desert tortoise is the threatened species that occurs in the region surrounding the subject property.

No tortoise sign was found either on-site or in adjacent areas during this focused, protocol survey (U.S. Fish and Wildlife Service 1992, 2010) for the species. Based on the absence of tortoise sign on the subject property, in adjacent areas, and reported from the region (see Figure 3), CMBC concludes that the Agassiz's desert tortoise is absent from the subject property and adjacent survey areas. Also, there is no likelihood of wild tortoises entering the site from adjacent areas, either to pass through the site or establish residency.

Encounter rates for observable human disturbances included 16 instances of footpaths, and 10 OHV tracks, most of which appear to be made by construction equipment from the adjacent property to the northeast. The site is surrounded by commercial and residential development, and footpaths crisscross the site. No evidence of dumping was observed, although litter and windblown trash are present throughout the site.

Since 1989, CMBC staff have performed approximately 265 focused tortoise surveys, on more than 200 sites, encompassing more than 10,000 acres located in the Morongo Basin, between Yucca Valley and Twentynine Palms. As depicted in Figure 3, 18 of these sites have been surveyed within approximately one mile of the subject property. Of these, all but four have shown no evidence of desert tortoise.

About 0.5 mile to the northeast, a 140-acre parcel was surveyed by CMBC in 2006. Ninety acres of the same site was surveyed in 2004. Two desert tortoises and other sign were found on the site. A 9-acre parcel located about 0.8 miles to the south-southwest was surveyed by CMBC in 2004 and 2006. No sign was found during the 2004 survey, but numerous burrows and scat were present on the site in 2006. At another site, approximately 0.9 miles southeast of the subject property, Edward LaRue surveyed 5 acres (Tierra Madre Consultants 1990a) and found tortoise sign. The same property was surveyed by CMBC in 2004 (Circle Mountain Biological Consultants, Inc. 2004a) as part of a 525-acre site, and again found evidence of desert tortoise. In each of these cases, the properties on which tortoise sign was found are separated from the subject property by barriers to tortoise movement, including residential and commercial development, streets and highways, and flood control channels.

The County (2004) requires that habitat categories designated by the U.S. Bureau of Land Management (1989) be identified in all Agassiz's desert tortoise technical reports. Although habitat categories apply only to public lands administered by the BLM, regulatory agencies typically determine habitat compensation ratios based on the nearest BLM habitat categories (Desert Tortoise Compensation Team 1991). With the formulation of the West Mojave Plan (U.S. Bureau of Land Management 2005) and its formal adoption through a Record of Decision (U.S. Bureau of Land Management 2006), all lands that are outside Desert Wildlife Management Areas, including the subject property, are characterized as Category 3 Habitat, which is the lowest priority management area for viable populations of the desert tortoise.

The site is not found within desert tortoise critical habitat, which was designated in 1994 (U.S. Fish and Wildlife Service 1994a) nor is it within a Desert Wildlife Management Area as recommended in the Desert Tortoise (Mojave Population) Recovery Plan (U.S. Fish and Wildlife Service 1994b) and formally adopted in March 2006 as a result of the West Mojave Plan Record of Decision (U.S. Bureau of Land Management 2006). The nearest such areas are the Pinto Mountain Critical Habitat Unit and Desert Wildlife Management Area, which are located approximately 20 miles east of the site.

3.2.2. *Other Special Status Species.* U.S. Fish and Wildlife Service (2008), California Department of Fish and Game (2011, 2012a, 2012b), and California Native Plant Society (CNPS 2012) maintain lists of animals and/or plants considered rare, threatened, or endangered, which are collectively referred to as “special status species.” No special status species were detected on-site during the current survey. Each of the bird species discussed below is considered a Bird of Conservation Concern by the USFWS (2008) and a Bird Species of Special Concern by the CDFG (2011).

The survey was structured, in part, to detect evidence of **western burrowing owl**. No diagnostic burrowing owl sign was found and the species is presumed to be absent from the subject property. No records of the species were found within a mile of the subject property. Vegetation on the property is considered too dense for the species.

**Loggerhead shrike** (*Lanius ludovicianus*) has been observed about 0.5 miles to the northwest (Circle Mountain Biological Consultants, Inc. 2004c and 2006a) and approximately 0.9 miles southwest of the subject property (Circle Mountain Biological Consultants, Inc. 2004a). This species could possibly nest and forage on the subject property, since habitat is suitable.

**Cooper’s hawk** (*Accipiter cooperii*) has been observed 0.3 miles southeast (Circle Mountain Biological Consultants 2004d), and 0.6 miles southeast of the subject property (Circle Mountain Biological Consultants 2007b, 2008, 2010). The species could potentially forage over the property, but would be unlikely to nest.

**Northern harrier** (*Circus cyaneus*) has been observed 1.1 miles north-northeast (Circle Mountain Biological Consultants, Inc. 2004c). Vegetation on the site is too dense to allow for the species to forage, and northern harriers are not expected to occur on the subject property.

**Prairie falcon** (*Falco mexicanus*) has been observed about 0.5 miles to the northwest (Circle Mountain Biological Consultants, Inc. 2006a) and 0.4 miles to the west (Tierra Madre Consultants 1991b). Prairie falcons could possibly forage on the site, but suitable nesting habitat is not present.

**LeConte’s thrasher** (*Toxostoma lecontei*) was detected by CMBC on a 525-acre site to the southeast (Circle Mountain Biological Consultants 2004a). This species is typically found in open desert, often near washes. It would not be expected to occur on the subject property.

A population of about 70 **Little San Bernardino Mountains linanthus** (*Linanthus maculatus*) was found by CMBC on a five acre site approximately 0.6 miles to the southeast (Circle Mountain Biological Consultants, Inc. 2010). This species is a California Native Plant Society (CNPS) List 1B.2 species, considered fairly endangered in California by CNPS. Habitat for this species (i.e., sandy benches along washes) is absent from the subject property.

3.3. Other Protected Biological Resources. There are no blueline streams or washes on the subject property.

At the Town level, the following information is taken from an undated brochure, entitled *Town of Yucca Valley, Before You Remove Native Vegetation, What You Need To Know About "Protected Native Plants."* This brochure reiterates regulations for protecting a variety of native plants indentified in Town Ordinance No. 140 of 2003. Compliance with the Native Plant Protection and Management ordinance helps promote the continued health of the Town's abundant and diverse plant resources by not allowing the indiscriminate removal, and to further promote the protection of native plants and their relationship to the identity of the Town.

Regulated Desert Native Plants include:

- All species of genus *Prosopis* (mesquites): stems 2" & greater in diameter or 6' or greater in height.
- Creosote rings (10' or greater in diameter).
- All species of yuccas, including those commonly found in Yucca Valley:
  - Mojave yucca (*Yucca shidigeria*)
  - Chaparral yucca (*Yucca whipplei*)
  - Joshua trees (*Yucca brevifolia*)
- California juniper (*Juniperus californica*)
- Desert willow (*Chilopsis linearis*)
- Piñon pine (*Pinus monophylla*)
- Palo verde (*Cercidium* sp.)
- Manzanita (*Arcostaphylos* sp.)
- Additional plants protected or regulated by the California Desert Native Plants Act.

At the State level, the 1998 Food and Agricultural Code, Division 23: California Desert Native Plants, Chapter 3: Regulated Native Plants, Section 80073 states: The following native plants, or any parts thereof, may not be harvested except under a permit issued by the commissioner or the sheriff of the county in which the native plants are growing:

- (a) All species of the family Agavaceae (century plants, nolinias, yuccas).
- (b) All species of the family Cactaceae (cacti), except for the plants listed in subdivisions (b) and (c) of Section 80072 (i.e., saguaro and barrel cacti), which may be harvested under a permit obtained pursuant to that section.
- (c) All species of the family Fouquieriaceae (ocotillo, candlewood).
- (d) All species of the genus *Prosopis* (mesquites).

- (e) All species of the genus *Cercidium* (palo verdes).
- (f) *Acacia greggii* (catclaw acacia).
- (g) *Atriplex hymenelytra* (desert holly).
- (h) *Dalea (Psoralea) spinosa* (smoke tree).
- (i) *Olneya tesota* (desert ironwood), including both dead and live desert ironwood.

Joshua trees, silver cholla, and beavertail cactus are the plant species included in one or both of the above lists that were observed on the subject property. Forty-five Joshua trees were found on the site. Table 1, below, lists UTM coordinates and estimated heights of the trees. Most of the trees appeared to be very healthy.

Table 1. Joshua Trees on Subject Property

Number of trees at location	UTM (NAD 83) Easting	UTM (NAD 83) Northing	Estimated Height(s)	Comments
1	556405	3776887	20'	
2	556398	3776896	12', 15'	
2	556355	3776966	18', 3'	Larger tree leaning
2	556374	3776931	15', 15'	
1	556395	3776899	12'	
1	556385	3776891	10'	
1	556382	3776897	12'	
1	556326	3776962	10'	
1	556342	3776944	15'	Leaning
1	556368	3776904	15'	
1	556376	3776901	10'	
1	556372	3776896	15'	
1	556381	3776889	18'	
1	556389	3776876	18'	Horizontal
1	5563871	3776887	2'	
1	556341	3776935	5'	
1	556326	3776960	9'	
1	556374	3776871	13'	
1	556376	3776931	15'	
1	556297	3776945	15'	
1	556331	3776907	12'	
1	556359	3776865	7'	
1	556364	3776855	16'	
1	556349	3776863	14'	Horizontal
1	556367	3776877	12'	
1	556336	3776882	20'	
1	556331	3776888	15'	
1	556304	3776930	10'	Mostly dead
1	556296	3776921	7'	
2	556299	3776916	7', 1.5'	
2	556301	3776916	11', 1'	
1	556309	3776913	14'	
1	556311	3776910	12'	Double trunk
1	556344	3776847	18'	
2	556345	3776845	18', 7'	
1	556306	3776884	24'	
1	556333	3776859	12', 18'	
1	556293	3776899	9', 1'	

## 4.0. Conclusions and Recommendations

4.1. Impacts to the Agassiz's Desert Tortoise and Proposed Mitigation. Based on the absence of tortoise sign on-site and in adjacent areas, and available information reviewed for this habitat assessment, CMBC concludes that tortoises are absent from the subject property. As such, no impacts are anticipated and no mitigation measures are recommended.

According to USFWS (2010) pre-project survey protocol the results of this survey will remain valid for the period of one year, or until 6 November 2013, after which time, if the site has not been developed in the interim, another survey may be required to determine the presence or absence of tortoises on-site. Additionally, the Town typically requires that a given site be resurveyed within 30 days of ground disturbance to ensure that a tortoise has not established residency since the last survey (personal communication from Robert Kirschmann, Associate Planner to LaRue on 31 October 2007).

Regardless of survey results and conclusions given herein, tortoises are protected by applicable State and federal laws, including the California Endangered Species Act and Federal Endangered Species Act, respectively. As such, if a tortoise is found on-site at the time of construction, all activities likely to affect that animal(s) should cease and the Town contacted to determine appropriate steps.

Importantly, nothing given in this report, including recommended mitigation measures, is intended to authorize the incidental take of Agassiz's desert tortoises during site development. Such authorization must come from the appropriate regulatory agencies, including California Department of Fish and Game (i.e., authorization under section 2081 of the Fish and Game Code) and U.S. Fish and Wildlife Service [i.e., authorization under section 10(a)(1)(B) of the Federal Endangered Species Act].

Finally, it has been CMBC's policy since 1994 to NOT submit technical reports to either the USFWS or the CDFG unless asked to do so by the Proponent. However, the Proponent is advised of the following two conditions identified in January 2010 in the USFWS' revised pre-project survey protocol and assumes responsibility for implementing (or not) these recommendations:

- Occurrence of either live tortoises or tortoise sign (burrows, scats, and carcasses) in the action area indicated desert tortoise presence and therefore requires formal consultation with USFWS.
- If neither tortoises nor tortoise sign are encountered during the action area surveys, as well as project perimeter surveys where appropriate, please contact your local [Ventura] USFWS office. Informal consultation with the USFWS may be required even though no desert tortoises or sign are found during surveys.
- Please submit a copy of the original data sheets with results of the survey to the local USFWS office within 30 days of survey completion.



#### 4.2. Impacts to Other Biological Resources and Proposed Mitigation.

4.2.1 *Other Special Status Species.* Based on the field survey and habitat assessment, CMBC concludes that none of the following special status species reported from the region will be adversely affected by site development: burrowing owl, Le Conte's thrasher, northern harrier, and Little San Bernardino Mountains linanthus. As such, no adverse impacts have been identified and no mitigation measures are recommended for these species.

Those species either identified during the current survey or for which suitable habitats are present include loggerhead shrike, prairie falcon (foraging), and Cooper's hawk (foraging). There is potential for loggerhead shrike to nest on-site. Loss of eggs or young could occur if development of the site occurs during the nesting season and involves removal of trees or shrubs. Such impacts would constitute a violation of the Migratory Bird Treaty Act of 1918 as amended (MBTA), but could be avoided by timing construction outside of the nesting season. Site development during fall and winter months, between August and February, would avoid impacts to any of these birds that may be nesting. Alternatively, a survey for nesting birds, carried out prior to construction, may be appropriate.

4.2.2. *Other Protected Biological Resources.* Impacts to washes, such as spoil deposition or alteration, are regulated by the CDFG. No blueline streams, washes, or drainages are present on the site.

It is beyond the scope of this focused tortoise survey and general biological resource assessment to provide necessary baseline data and a proposed program to minimize and mitigate impacts to protected native desert plants. The Town may require a Desert Native Plant Assessment to identify the numbers and locations of protected plants to be in compliance with the Town ordinance, County Plant Protection Ordinance, and/or California Native Plant Protection Act (County of San Bernardino 2006). The 45 Joshua trees, plus silver cholla, and beavertail cactus found on-site may be subject to pertinent development codes.

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## Appendix A. Plant Species Detected

The following plant species were identified on-site or in adjacent areas (i.e., signified by “+”) during the general biological inventory described in this report. Those plant species that are protected by pertinent Town, County, and/or State ordinances are signified by “(SC)” following the common name.

### GNETAE

#### **Ephedraceae**

*Ephedra californica*

*Ephedra nevadensis*

### ANGIOSPERMAE: DICOTYLEDONES

#### **Asteraceae**

*Acamptopappus sphaerocephalus*

*Ambrosia acanthicarpa*

*Ambrosia (Hymenoclea) salsola*

#### **Brassicaceae**

\**Brassica tournefortii*

#### **Cactaceae**

*Cylindropuntia (Opuntia) echinocarpa*

*Opuntia basilaris*

#### **Chenopodiaceae**

\**Salsola tragus*

#### **Cucurbitaceae**

*Cucurbita palmata*

#### **Euphorbiaceae**

*Croton californicus*

#### **Fabaceae**

*Senna (Cassia) armata*

#### **Polygonaceae**

*Eriogonum inflatum*

*Eriogonum nidularium*

*Eriogonum plumatella*

#### **Solanaceae**

*Lycium andersonii*

### GNETAE

#### **Joint-fir family**

Desert tea

Nevada joint-fir

### DICOT FLOWERING PLANTS

#### **Sunflower family**

Desert goldenhead

Annual bur-sage

Cheesebush

#### **Mustard family**

Saharan mustard

#### **Cactus family**

Silver cholla (SC)

Beavertail cactus (SC)

#### **Goosefoot family**

Russian thistle

#### **Gourd family**

Coyote gourd

#### **Spurge family**

Croton

#### **Pea family**

Senna

#### **Buckwheat family**

Desert trumpet

Whiskbroom

Yucca buckwheat

#### **Nightshade family**

Anderson's box-thorn

*Lycium cooperi*

Peach thorn

**Zygophyllaceae**

*Larrea tridentata*

**Caltrop family**

Creosote bush

ANGIOSPERMAE: MONOCOTYLEDONES

MONOCOT FLOWERING PLANTS

**Liliaceae**

*Yucca brevifolia*

**Lily family**

Joshua tree (SC)

**Poaceae**

\**Bromus tectorum*

*Pleuraphis (Hilaria) rigida*

\**Schismus* sp.

**Grass family**

Cheat grass

Big galleta

Split-grass

\* - indicates a non-native (introduced) species.

c.f. - compares favorably to a given species when the actual species is unknown.

Some species may not have been detected because of the seasonal nature of their occurrence. Common names are taken from Beauchamp (1986), Hickman (1993), Jaeger (1969), and Munz (1974).



## Appendix B. Animal Species Detected

The following animal species were detected during the general biological inventory described in this report. Special status animal species are signified by “(SC)” following the common names.

### REPTILIA

#### **Iguanidae**

*Sceloporus graciosus*

*Uta stansburiana*

### AVES

#### **Columbidae**

*Columba livia*

#### **Troglodytidae**

*Campylorhynchus brunneicapillus*

### MAMMALIA

#### **Leporidae**

*Lepus californicus*

*Sylvilagus audubonii*

#### **Sciuridae**

*Otospermophilus beecheyi*

*Ammospermophilus leucurus*

#### **Geomyidae**

*Thomomys bottae*

#### **Heteromyidae**

*Dipodomys* sp.

#### **Canidae**

*Canis latrans*

### REPTILES

#### **Iguanids**

Sagebrush lizard

Common side-blotched lizard

### BIRDS

#### **Pigeons and doves**

Rock dove

#### **Wrens**

Cactus wren

### MAMMALS

#### **Hares and rabbits**

Black-tailed hare

Audubon cottontail

#### **Squirrels**

California ground squirrel

Antelope ground squirrel

#### **Pocket gophers**

Botta pocket gopher

#### **Pocket mice**

Kangaroo rat

#### **Foxes, wolves and coyotes**

Coyote

Nomenclature follows Stebbins, *A Field Guide to Western Reptiles and Amphibians* (2003), third edition; Sibley, National Audubon Society, the *Sibley Guide to Birds* (2000), first edition; and Ingles, *Mammals of the Pacific States* (1965), second edition.

### **Appendix C. Field Data Sheets Completed on 6 November 2012**

The USFWS and County have recently required consultants to include copies of the data collected in the field from which the results and conclusions given in this report are derived. As such, following this page is a copy of the data sheet completed by Sharon Dougherty on 6 November 2012.

JOB #/NAME		DATE	DRIVE TIME		MILES	FIELD TIME		SURVEYORS		
12-019		11-6-12	TO	FROM		BEGIN	END	SD		
Prescott						1345	1445			
WEATHER CONDITIONS (Start/End)										
TEMP: 91°F WIND X: 2.6 ↑ 6.0 NSEW CLOUD: 0%					M (NAD 83) (circle starting corner)					
					NE→	NW→	SE→	SW→		
TEMP: 89°F WIND X: 2.0 ↑ 3.1 NSEW CLOUD: 0%					556344	556272	556415	556337		
					3776980	3776928	3776883	3776832		
PERENNIAL PLANTS			ANNUAL PLANTS			BIRDS	HERP	MAM		
Yuc bre	Lyc coo		Ambaca			RODO	SALI	CAGS		
Opuech	Cro cal		Bra tou			CAWR (nest)	SBLI	COY		
Lyc and	Sen arm		Sch sp.					AUCOT		
Lar tri			Bro tel					KRAT		
Eph cal			Sal tra					BOTT		
Hym sal								AGS		
Eri ply						Photographs				
Ple rig						11 SE → NE				
Opue bas						12 NE → SW				
Eri inf						13 NW → SE				
Eph nev						14 SW → NE				
Aca sph										
Eri dav										
Cuc pal										
OBSERVABLE HUMAN DISTURBANCES										
T#	East	North	OHV	Road paths	Dog	Damp	SGm	Rifle	Target	Yucca brevifolia
1	-6410	-6883	L				Yucca brevifolia	①	-6405	-6887 ±20'
2	-6399	-6975				①	-6349	-6863 ±4	②	-6398 -6896 ±12, ±15
3	-6399	-6875	:			①	-6336	-6877 ±12	②	-6355 -6966 ±18 (diag), ±3
4	-6326	-6865	:			①	-6336	-6882 ±20	②	-6374 -6931 ±15, ±15
5	-6399	-6858	:			①	-6331	-6888 ±15	①	-6395 -6899 ±12
6	-6316	-6965	:			①	-6304	-6930 ±10	①	-6385 -6891 ±10
7	-6374	-6957	:			①	-6296	-6921 ±7	①	-6382 -6897 ±12
8	-6301	-6947	:			②	-6299	-6916 ±7 ±1.5	①	-6326 -6962 ±10
9	-6361	-6848	:			②	-6301	-6916 ±15 ±1	①	-6342 -6944 ±15 (diag)
10	-6288	-6939	:			①	-6309	-6913 ±14	①	-6368 -6904 ±15
11	-6343	-6938	:			①	-6311	-6910 ±12	①	-6376 -6901 ±10
12	-6279	-6928	:			①	-6344	-6947 ±18	①	-6372 -6896 ±15
						②	-6345	-6945 ±18 ±7	①	-6381 -6889 ±18
						①	-6306	-6884 ±24	①	-6389 -6876 ±18 (down)
						②	-6333	-6859 ±12 ±18	①	-6371 -6887 ±2
						②	-6293	-6899 ±9 ±1	①	-6341 -6935 ±5
									①	-6326 -6960 ±9
									①	-6374 -6871 ±13
									①	-6326 -6931 ±15
									①	6297 -6945 ±15
									①	-6331 -6907 ±12
									①	-6359 -6865 ±7
									①	-6364 -6855 ±16

## **Appendix D. Photographic Exhibits**

Locations of the 4 photographic exhibits on the next 2 pages are depicted in Figure 2.



**Exhibit 1.** APN 0601-611-15: View from the southeast corner of the parcel, facing west-northwest (see Figure 5 for locations and directions of photographs).



**Exhibit 2.** APN 0601-611-15: View from the northeast corner of the parcel, facing south-southeast.



**Exhibit 3.** APN 0601-611-15: View from the northwest corner of the parcel, facing east-southeast.



**Exhibit 4.** APN 0601-611-15: View from the southwest corner of the parcel, facing north-northeast.