

**Focused Survey for Desert Tortoise,  
Habitat Assessment for Western Burrowing Owl, and  
General Biological Resource Assessment for a  
5-acre± Site (APN 0597-021-08) in the Town of Yucca Valley  
San Bernardino County, California**

(U.S. Geological Survey 7.5' Yucca Valley North Quadrangle,  
T. 1 N, R. 5 E, S ½ of SW ¼ of Section 14, S.B.B.&M.)

**Job#:** 11-002

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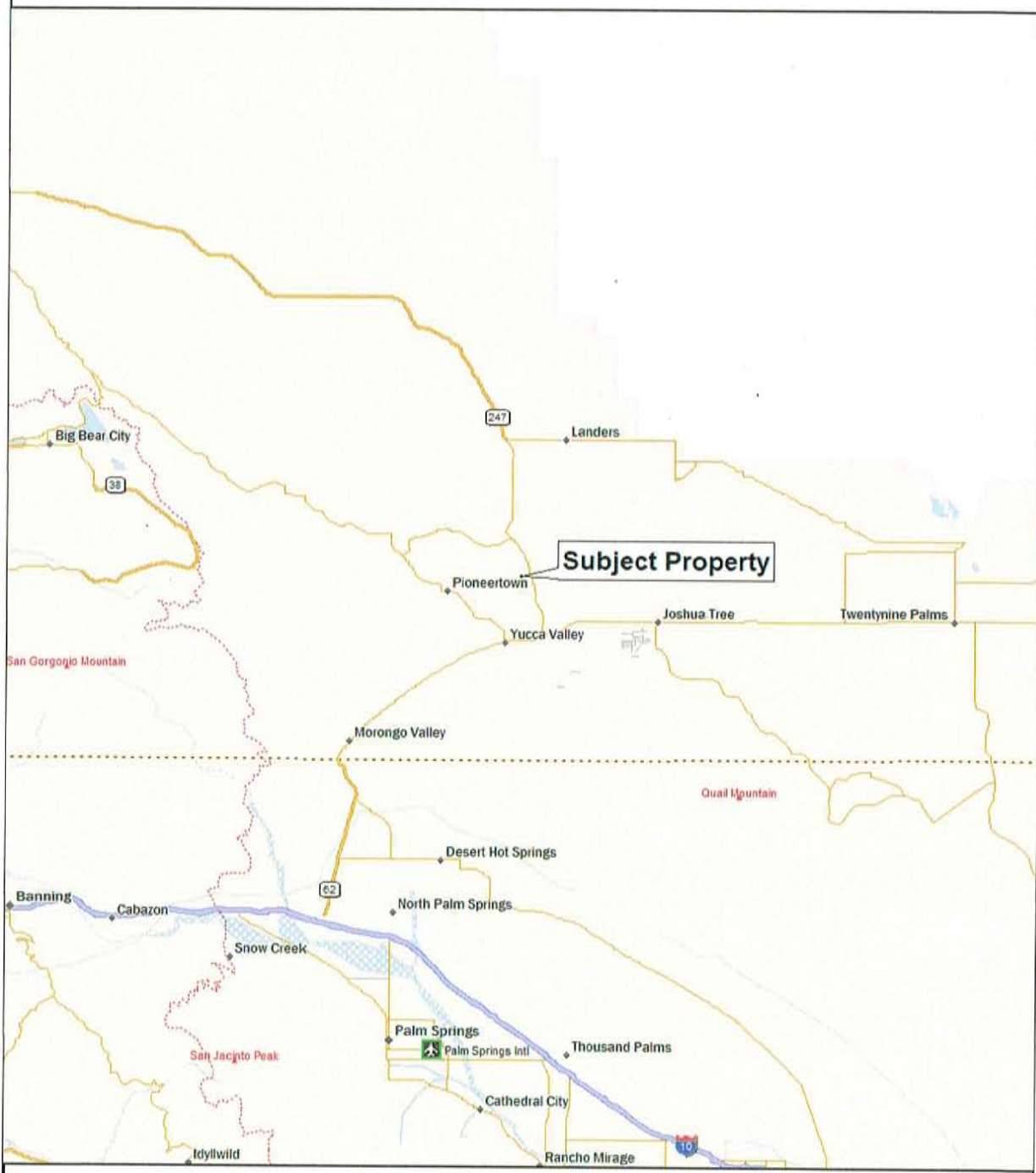
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I hereby certify that the statements furnished herein, including attached exhibits, present the data and information required for this biological evaluation, and that the facts, statements, and information presented are true and correct to the best 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.

Author and Field Investigator: Edward L. LaRue, Jr./Sharon E. Dougherty

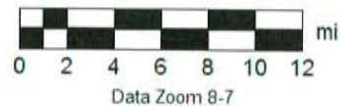
# Figure 1. APN 0597-021-08: Vicinity Map



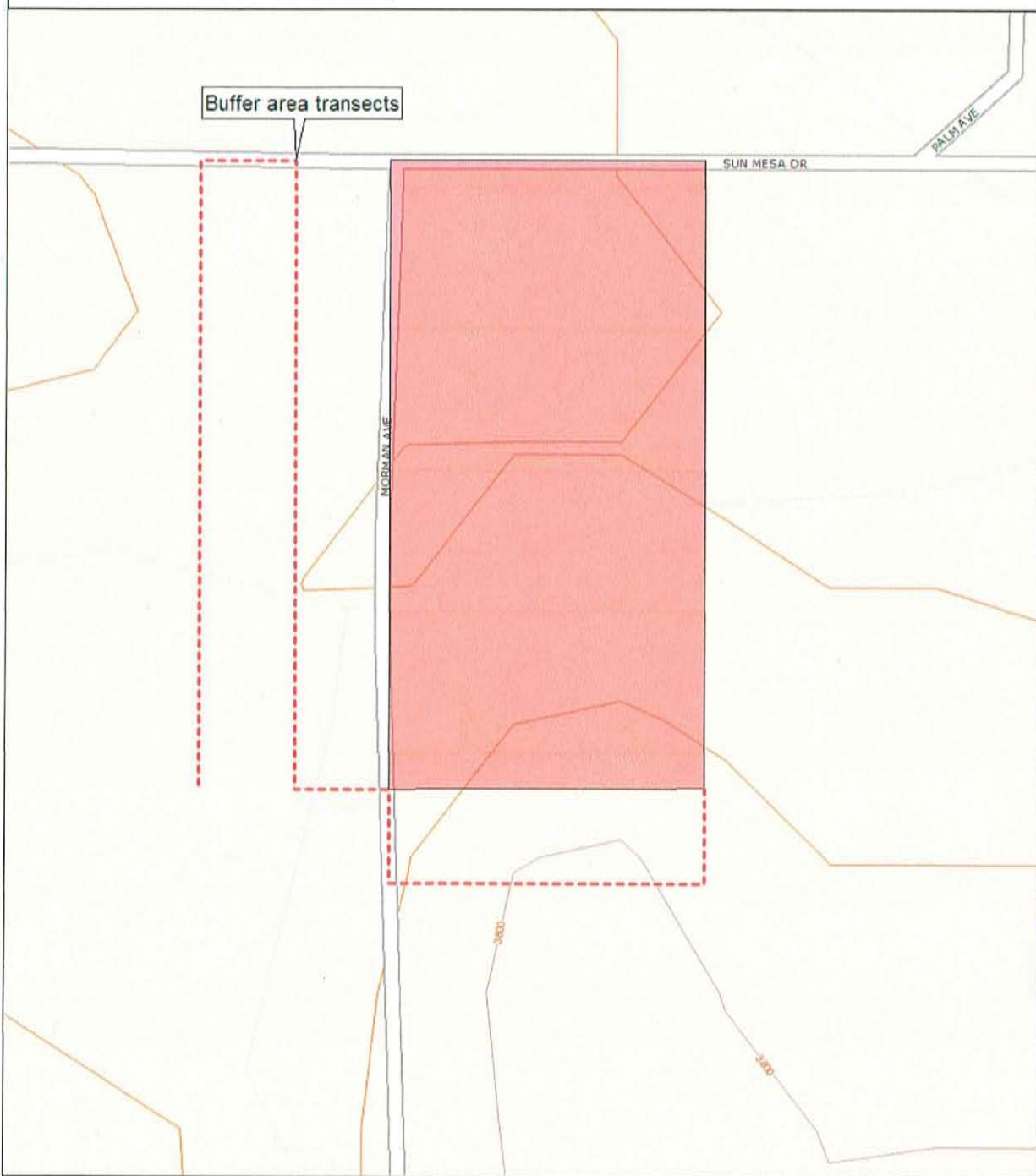
Map produced by Circle Mountain Biological Consultants, April 2011



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**Figure 2. APN 0597-021-08: Site Map with Transect Locations**



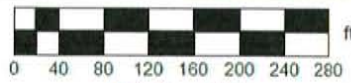
**Map produced by Circle Mountain Biological Consultants, April 2011**



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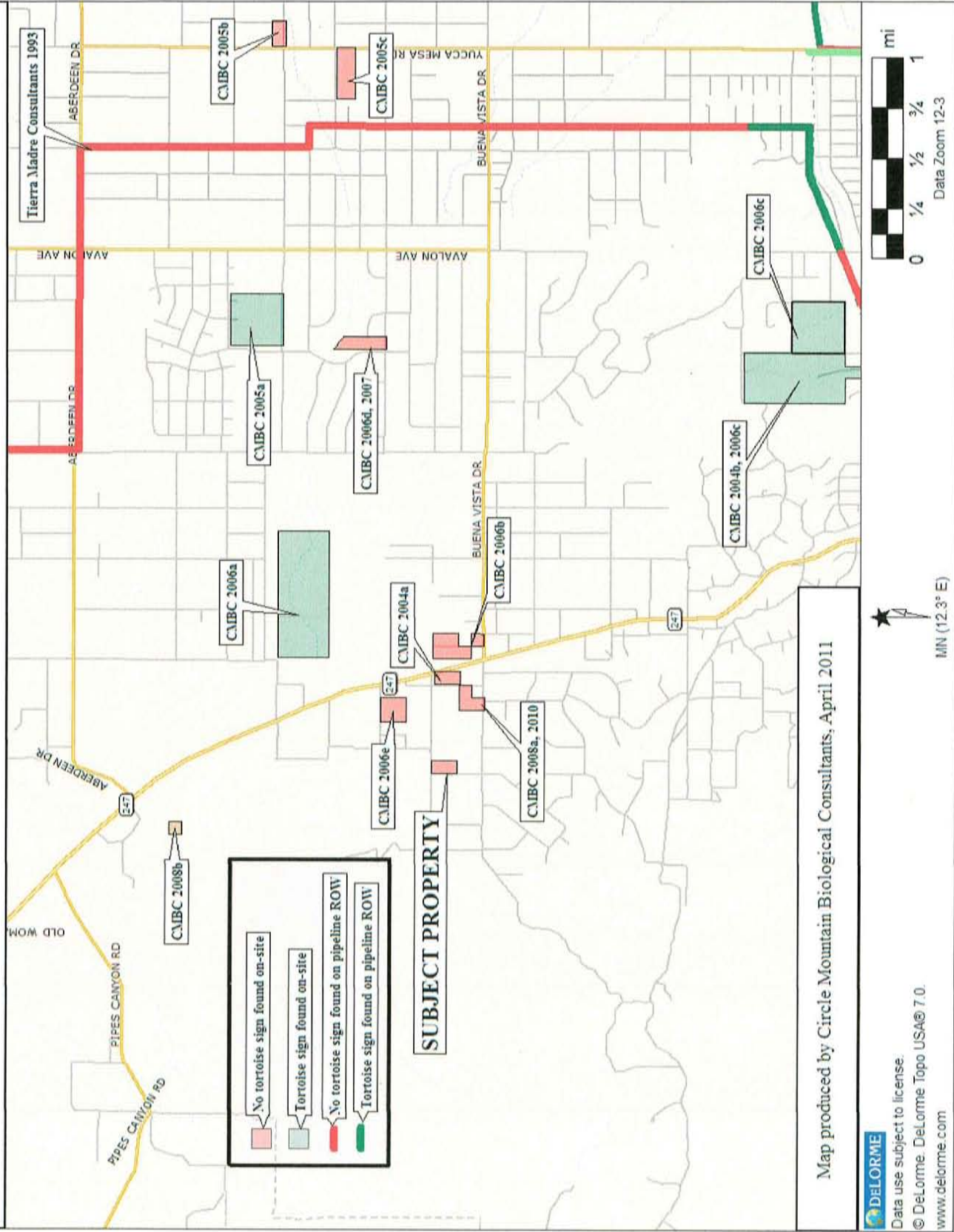


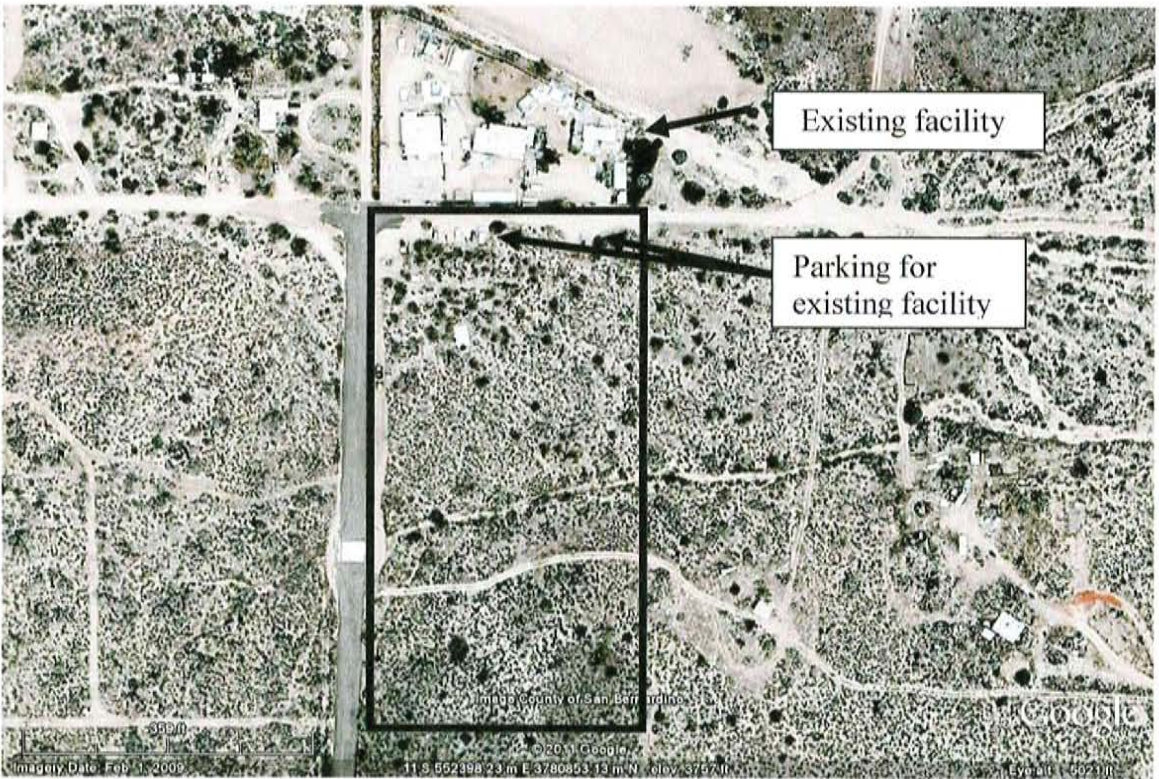
MN (12.3° E)



Data Zoom 16-7

Figure 3. Results of 15 Tortoise Surveys on 13 Sites





**Figure 4. Aerial Photos of APN 0597-021-08** (source: ©2011 Google™ Earth)

## Executive Summary

Circle Mountain Biological Consultants, Inc. (CMBC) was contacted by Robert Kirschmann on behalf of the Town of Yucca Valley (Proponent) to perform a focused survey for desert tortoise (*Gopherus agassizii*), habitat assessment for western burrowing owl (*Athene cunicularia*), and a general biological resource assessment on a 5-acre± site located in the Town of Yucca Valley, San Bernardino County, California (see Figures 1 and 2).

APN 0597-021-08 is a 5-acre± site located about ½ mile west of Highway 247 in the northern part of Yucca Valley (see Figures 1 and 2). The legal description for the subject property is Township 1 North, Range 5 East, the southern ½ of southwestern ¼ of Section 14, S.B.B.&M. The Proponent plans to build a new animal shelter on the site. An existing facility is located immediately north of the site.

For a total of 2¼ hours, between 1430 and 1645 on 11 March 2011, Edward LaRue of CMBC surveyed the site and adjacent areas as described herein. This entailed a survey of 21 transects, spaced at 30-foot intervals and oriented in an east-west direction throughout the 5-acre± parcel. As depicted in Figure 2, zone of influence transects for detection of tortoise sign and burrowing owls were surveyed at 100 feet (30m) to the south, and at 100 feet and 200 feet to the west. Additional buffer area surveys could not be completed due to existing development and fencing in adjacent areas.

Based on DeLorme Topo USA© 7.0 software, elevations on the subject property range from approximately 3,792 feet (1,156 meters) at the southern boundary down to 3,756 feet (1,145 meters) at the center of the eastern boundary. Terrain is relatively flat to the north, with a low point at the wash, a USGS-designated blue line stream, passing roughly east to west through the center of the site. The southern part of the site is made up of a hillside with rock outcrops. Soils vary from sandy loam and gravel on the northern part of the site, to gravel and cobbles on the rocky southern hillside.

The 57 plant species identified during the survey are listed in Appendix A. The plant community found on the site is best described as Joshua tree woodland, with an understory of brush and grasses. The one reptile, 17 bird, and 9 mammal species identified during the survey are listed in Appendix B.

No tortoise sign was found either on-site or in adjacent areas during this focused, protocol survey (U.S. Fish and Wildlife Service 1992, 2009) for the species. Based on the absence of desert tortoise sign on the subject property, in adjacent areas, and reported from the region (see Figure 3), CMBC concludes that the desert tortoise is absent from the subject property and adjacent survey areas. Also, there is little likelihood of wild tortoises entering the site from adjacent areas, either to pass through the site or establish residency, since the closest site where desert tortoise has been detected in the area is about 2 ½ miles to the east, on the other side of Old Woman Springs Road.

Those special-status species either identified during the current survey or for which suitable habitats are present include LeConte's thrasher, loggerhead shrike, burrowing owl, northern harrier, and prairie falcon. Approximately five acres of foraging habitat for these species would be lost from development of the site. There is potential for loggerhead shrike and LeConte's thrasher 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.

While no evidence of burrowing owl was found during the survey, there is potential for the species to move onto the site from adjacent areas. An additional focused survey for burrowing owl may be necessary within 30 days prior to initiating ground disturbing activities on the site.

It is prudent to consult with the U.S. Fish and Wildlife Service and the California Department of Fish and Game (CDFG), to ensure that these agencies are in agreement with CMBC's conclusions and recommendations.

Impacts to washes, such as spoil deposition or alteration, are regulated by the CDFG. Impacts to the wash on-site will likely require a 1601-03 Streambed Alteration Agreement from CDFG. At the time of this writing, CDFG biologist, Ms. Becky Jones is the appropriate contact. Her office phone number is (661) 285-5867.

Joshua trees, Mojave yucca, catclaw acacia, silver cholla, hedgehog cactus, pencil cholla, and beavertail cactus are plants found on-site that may be subject to pertinent Town, County and State development codes for protected desert plants.

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**1.0. Introduction**

1.1. Purpose and Need for Study. Circle Mountain Biological Consultants, Inc. (CMBC) was contacted by Robert Kirschmann on behalf of the Town of Yucca Valley (Proponent) to perform a focused survey for desert tortoise (*Gopherus agassizii*), habitat assessment for western burrowing owl (*Athene cunicularia*), and a general biological resource assessment on a 5-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 and Mohave ground squirrel habitat assessments, 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 0597-021-08 is a 5-acre± site located about ½ mile west of Highway 247 in the northern part of Yucca Valley (see Figures 1 and 2). The legal description for the subject property is Township 1 North, Range 5 East, the southern ½ of southwestern ¼ of Section 14, S.B.B.&M. The Proponent plans to build a new animal shelter on the site. An existing facility is located immediately north of 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 1993 and 2011, CMBC has completed approximately 255 focused desert 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 site, are 15 focused tortoise surveys completed on 12 sites within approximately 2.5 miles between 1993 and 2010, 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. For **desert tortoises**, 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 if neither tortoises nor sign are encountered during *action area* surveys and the project, or any portion of project, is  $\leq 0.8$  km<sup>2</sup> (200 acres) or linear, three additional 30-foot (9 meters) belt transects at 655-foot (200 meters), 1,310-foot (400 meters), and 1,970-foot (600 meters) intervals parallel to and/or encircling the project perimeter should be surveyed. For this project, peripheral areas were precluded due to existing development in the area.

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 5-acre site.

Like the USFWS 1992 protocol 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. On 24 December 2009, in an email from Ray Bransfield of the Ventura Field Office of the USFWS to LaRue, Mr. Bransfield provided input, excerpted as follows:

*... we [USFWS] have NO REQUIREMENT [Bransfield's emphasis] for people to survey during April-May and September-October. First, we cannot make anyone survey at any specific time because we do not have the legal authority to do so ... That information is very important for larger projects, so we'd really like to see surveys done during that window for those ... for smaller projects where few tortoises would be affected, just knowing whether they are present or not is usually sufficient to allow us to make decisions about whether consultation or incidental take permits are necessary ... you also know that we [USFWS] have accepted the results of surveys you [CMBC] have conducted at all times of the year.*

Being conducted on 11 March 2011, this survey was performed outside the recommended survey period for detection of desert tortoise. In a recent evaluation of 235 tortoise surveys in the Morongo Basin, performed throughout the year, over a 21-year period, CMBC clearly demonstrated that tortoise sign is detectable year round (Circle Mountain Biological Consultants, Inc. 2010; study available upon request). CMBC provides the above correspondence and evaluation as evidence that we are able to detect tortoise sign throughout the year and not just during the *recommended* April-May and September-October time frames.

For **western burrowing owl**, the CDFG (1995) survey protocol recommends transects be surveyed at 100-foot (30-meter) intervals throughout a given site with five transects spaced at 100-foot intervals surveyed in adjacent areas in potential habitat (i.e., excluding areas substantially developed for commercial, residential, industrial, etc. 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 wasn't, it would then have been necessary to perform breeding owl surveys during the spring and summer as outlined in CDFG (2007). With its narrower transect intervals, the tortoise survey was sufficient to cover the site for burrowing owl.

For a total of 2¼ hours, between 1430 and 1645 on 11 March 2011, Edward LaRue of CMBC surveyed the site and adjacent areas as described herein. This entailed a survey of 21 transects, spaced at 30-foot intervals and oriented in an east-west direction throughout the 5-acre± parcel. As depicted in Figure 2, zone of influence transects for detection of tortoise sign and burrowing owls were surveyed at 100 feet (30m) to the south, and at 100 feet and 200 feet to the west. Additional buffer area surveys could not be completed due to existing development and fencing in adjacent areas. Copies of CMBC's data sheet completed in the field are included in this report (see Appendix C).

As transects were surveyed, LaRue kept tallies of observable human disturbances encountered on each of the 21 transects. The results of this method provide *encounter rates* for observable human disturbances. For example, two roads observed on each of 21 transects would yield a tally of 42 roads (i.e., two roads encountered 21 times). Habitat quality, adjacent land uses, and this disturbance information are discussed below in Section 3.2 relative to the potential occurrence of 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. Zone of influence transects could not be completed due to existing development and fencing. The survey was sufficiently early in the season that fewer annual plants and reptile species were detected than would have been observed during the same amount of effort later in the spring. None of these limitations significantly affected the results and conclusions given herein.

Weather conditions at the beginning of the survey included a temperature [measured approximately 2.5 inches (5 centimeters) above the ground] of 78°F, with 60% high, thin cloud cover, and average winds of 1.0 miles per hour and gusts up to 7.9 miles per hour out of the southwest, as measured by a hand-held Kestrel® weather and wind speed meter. Weather conditions at the end of the survey included a temperature of 83°F, with 60% cloud cover, and average winds of 1.3 miles per hour and gusts up to 5.6 miles per hour out of the south.

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® hand-held, global positioning system (GPS) unit was used to survey straight transects and record Universal Transverse Mercator (UTM) coordinates (North American Datum – NAD 27) 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 6. ©2007 Google™ 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® 7.0 software, elevations on the subject property range from approximately 3,792 feet (1,156 meters) at the southern boundary, down to 3,756 feet (1,145 meters) at the center of the eastern boundary. Terrain is relatively flat to the north, with a low point at the wash, a USGS-designated blue line stream, passing roughly east to west through the center of the site. The southern part of the site is made up of a hillside with rock outcrops. Soils vary from sandy loam and gravel on the northern part of the site, to gravel and cobbles on the rocky southern hillside.

3.1.1. *Common Flora.* The 57 plant species identified during the survey are listed in Appendix A. The plant community found on the site is best described as Joshua tree woodland, with an understory of brush and grasses. Dominant perennial plants include Joshua trees (*Yucca brevifolia*), creosote bush (*Larrea tridentata*), blackbush (*Coleogone ramosissima*), and big galleta grass (*Pleuraphis rigida*). Other perennials found on the site include, catclaw acacia (*Acacia greggii*), paperbag bush (*Salazaria mexicana*), four-winged saltbush (*Atriplex canescens*), winter fat (*Krascheninnikovia lanata*), Nevada joint-fir (*Ephedra nevadensis*), desert goldenhead (*Acamptopappus sphaerocephalus*), Cooper's goldenbush (*Ericameria cooperi* var. *cooperi*), burrobrush (*Ambrosia dumosa*), Mojave horsebrush (*Tetradymia stenolepis*), desert aster (*Xylorhiza tortifolia*), and Mojave yucca (*Yucca schidigera*). Several cactus species were found on the site, and include hedgehog cactus (*Echinocereus engelmannii*), beavertail cactus (*Opuntia basilaris*), silver cholla (*O. echinocarpa*), and pencil cholla (*O. ramosissima*).

A number of perennial species were closely associated with the wash found on the site. These include cheesebush (*Hymenoclea salsola*), Cooper's dyssodia (*Dyssodia cooperi*), California buckwheat (*Eriogonum fasciculatum*), spiny hop-sage (*Grayia spinosa*), and desert almond (*Prunus fasciculatus*).

Several of the annual plants found on the site are disturbance-adapted natives, such as annual bur-sage (*Ambrosia acanthicarpa*) and fiddleneck (*Amsinckia tessellata*). Others are invasive exotic species, such as cheatgrass (*Bromus tectorum*), red brome (*B. madritensis* ssp. *rubens*), split-grass (*Schismus* sp.), Russian thistle (*Salsola tragus*), and red-stemmed filaree (*Erodium cicutarium*). Some native wildflowers were beginning to germinate and flower, including snake's-head (*Malacothrix coulteri*), milk aster (*Stephanomeria exigua*), baby blue-eyes (*Nemophila menziesii*), and lomatium (*Lomatium mohavense*).

3.1.2. *Common Fauna.* The one reptile, 17 bird, and 9 mammal species identified during the survey are listed in Appendix B. Only one reptile, the side-blotched lizard (*Uta stansburiana*) was observed on the site.

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.).

Birds observed on the site were mostly typical of semi-urban areas of the western Mojave Desert and foothill areas, and included Gambel's quail (*Callipepla gambelii*), mourning dove (*Zenaida macroura*), greater roadrunner (*Geococcyx californianus*), scrub jay (*Aphelocoma coerulescens*), cactus wren (*Campylorhynchus brunneicapillus*), phainopepla (*Phainopepla nitens*), house finch (*Carpodacus mexicanus*), black-throated sparrow (*Amphispiza bilineata*), and white-crowned sparrow (*Zonotrichia leucophrys*). Several species were indicative of the disturbed nature of the site and surrounding development, e.g., rock dove or pigeon (*Columba livia*), Eurasian collared-dove (*Streptopelia decaocto*) (an exotic species recently expanding its population throughout southern California), common raven (*Corvus corax*), European starling (*Sturnus vulgaris*), house sparrow (*Passer domesticus*), and northern mockingbird (*Mimus polyglottos*).

The nine mammals detected on the site are also typical Mohave Desert species. They include black-tailed hare or jackrabbit (*Lepus californicus*), Audubon cottontail (*Sylvilagus audubonii*), California ground squirrel (*Otospermophilus beecheyi*), antelope ground squirrel (*Ammospermophilus leucurus*), Botta pocket gopher (*Thomomys bottae*), kangaroo rat (*Dipodomys* sp.), desert wood rat (*Neotoma lepida*), coyote (*Canis latrans*), and bobcat (*Lynx rufus*).

### 3.2. Uncommon Biological Resources.

3.2.1. *Desert Tortoise.* No tortoise sign was found either on-site or in adjacent areas during this focused, protocol survey (U.S. Fish and Wildlife Service 1992, 2009) for the species. Based on the absence of desert tortoise sign on the subject property, in adjacent areas, and reported from the region (see Figure 3), CMBC concludes that the desert tortoise is absent from the subject property and adjacent survey areas. Also, there is little likelihood of wild tortoises entering the site from adjacent areas, either to pass through the site or establish residency, since the closest site where desert tortoise has been detected in the area is about 2 ½ miles to the east, on the other side of Old Woman Springs Road.

Encounter rates for observable human disturbances included (in descending order of prevalence) include off-highway vehicle tracks, which were too numerous to count in some areas, dumping (30 instances noted), dog sign (25 instances noted), and roads (four instances noted). In addition, several furrows were noted on the western boundary of the site, possibly from a fuel break. (See Exhibit 3.) These extended south as far as the base of the rocky hillside, but no further. Areas along Sun Mesa Road on the northern edge of the site are barren of vegetation and have been used as a parking area for the existing animal shelter on the north side of the road. An old concrete pad and foundation were found at the northwest corner of the site.

Since 1989, CMBC has performed approximately 255 focused tortoise surveys, on more than 300 sites, encompassing more than 10,000 acres located in the Morongo Basin, between Yucca Valley and Twentynine Palms. As depicted in Figure 3, twelve of these sites have been surveyed within approximately 2½ miles of the subject property. Tortoise sign has been found on four of these sites, the closest of which is about ¾ mile to the northwest, past Old Woman Springs Road (State Highway 247). This road, which is a major local highway, probably constitutes a barrier to the movement of tortoises.

The County (2004) requires that habitat categories designated by the U.S. Bureau of Land Management (1989) be identified in all 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 adoption of the West Mojave Plan (U.S. Bureau of Land Management 2005), 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 (U.S. Bureau of Land Management 2005). The nearest such areas are the Pinto Mountain Critical Habitat Unit and Desert Wildlife Management Area, which are located approximately 25 miles east of the site.

3.2.2. *Other Special Status Species.* U.S. Fish and Wildlife Service (2002), California Department of Fish and Game (2009a, 2010), and California Native Plant Society (CNPS 2010) 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. Each of the bird species discussed below is considered a Bird of Conservation Concern by the USFWS (2002) and a Bird Species of Special Concern by the CDFG (2009a).

**LeConte’s thrasher** (*Toxostoma lecontei*) has been observed 0.7 miles to the northeast (Circle Mountain Biological Consultants 2006a) and 2.0 miles to the northeast (Circle Mountain Biological Consultants 2005a). Suitable habitat for foraging and nesting is present on the site, and the species could occur.

**Loggerhead shrike** (*Lanius ludovicianus*) has been observed 0.2 miles to the northeast (Circle Mountain Biological Consultants 2006d) 0.7 miles to the northeast (Circle Mountain Biological Consultants 2006a), 2.0 miles to the east and northeast, respectively (Circle Mountain Biological Consultants 2006e and 2005a), and 3.6 miles to the east-northeast (Circle Mountain Biological Consultants 2006a). Suitable habitat for foraging and nesting is present on the site, and the species could occur.

**Burrowing owl** (*Athene cunicularis*) has been observed 2.3 miles to the southeast (Circle Mountain Biological Consultants 2006c). No evidence of burrowing owl was found during the current survey. However, suitable habitat for foraging and nesting is present on the site, and the species could move onto the site in the future.

**Northern harrier** (*Circus cyaneus*) has been observed 2.3 miles to the southeast (Circle Mountain Biological Consultants 2006c) and 3.3 miles to the east-northeast (Circle Mountain Biological Consultants 2005c). Suitable habitat for foraging is present on the site, and the species could occur, but would not be expected to nest.

**Prairie falcon** (*Falco mexicanus*) has been observed 2.3 miles to the southeast (Circle Mountain Biological Consultants 2006c). Suitable foraging habitat is present on the site, and the species could hunt on the site, but this species typically nests on large, inaccessible cliffs, and it would not be expected to nest on-site.

3.3. Other Protected Biological Resources. Stream courses provide relatively important resources to animals and plants. In dry years, and particularly during prolonged drought, annual plants may only germinate in the vicinity of washes where the water table is relatively near the surface. Perennial shrubs adjacent to washes are often the only plants that produce flowers and fruit, which in turn are important to insects and the avian predators that feed on them. Shrubs also tend to be somewhat taller and denser alongside washes, which provides cover for medium and larger sized animals that may use them as travel corridors. Biodiversity is generally enhanced by washes, and there are often both annual and perennial plants that are either restricted to or mostly associated with wash margins. There are both anecdotal accounts and published literature on washes being important to tortoises, which use them as travel corridors and access to nearby annual forage.

The wash on the site is a blue line stream. Several plant species occur predominantly in the wash, such as cheesebush and desert almond. As discussed in Section 4.0, CDFG regulates impacts to washes, and likely has jurisdiction over the wash found on-site.

At the Town level, the following information is taken from an undated brochure: *Town of Yucca Valley, Before You Remove Native Vegetation, What You Need To Know About "Protected Native Plants."* The Town maintains a development code that contains specific regulations with respect to desert native plant protection. 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, Mojave yucca, catclaw acacia, silver cholla, hedgehog cactus, pencil cholla, and beavertail cactus are the plant species included in one or both of the above lists that were observed on the subject property.

#### **4.0. Conclusions and Recommendations**

4.1. Impacts to the 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 11 March 2011, 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 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 April 2009 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.

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

4.2.1 *Other Special Status Species.* Those special-status species either identified during the current survey or for which suitable habitats are present include LeConte's thrasher, loggerhead shrike, burrowing owl, northern harrier, and prairie falcon. Approximately five acres of foraging habitat for these species would be lost from development of the site. There is potential for loggerhead shrike and LeConte's thrasher 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.

While no evidence of burrowing owl was found during the survey, there is potential for the species to move onto the site from adjacent areas. An additional focused survey for burrowing owl may be necessary within 30 days prior to initiating ground disturbing activities on the site.

4.2.2. *Other Protected Biological Resources.* Impacts to washes, such as spoil deposition or alteration, are regulated by the CDFG. Impacts to the wash on-site will likely require a 1601-03 Streambed Alteration Agreement from CDFG. At the time of this writing, CDFG biologist, Ms. Becky Jones is the appropriate contact. Her office phone number is (661) 285-5867.

It is beyond the scope of this focused desert 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). Joshua trees, Mojave yucca, catclaw acacia, silver cholla, hedgehog cactus, pencil cholla, and beavertail cactus are species found on-site that may be subject to pertinent development codes.

It is prudent to consult with the U.S. Fish and Wildlife Service and the California Department of Fish and Game, to ensure that these agencies are in agreement with CMBC's conclusions and recommendations.

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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.

### CONIFERAE

#### **Cupressaceae**

*Juniperus californica*

### GNETAE

#### **Ephedraceae**

*Ephedra nevadensis*

### ANGIOSPERMAE: DICOTYLEDONES

#### **Apiaceae**

*Lomatium mohavense*

#### **Asteraceae**

*Acamptopappus sphaerocephalus*

*Ambrosia acanthicarpa*

*Ambrosia dumosa*

*Dyssodia cooperi*

*Ericameria cooperi* var. *cooperi*

*Gutierrezia sarothrae*

*Hymenoclea salsola*

*Malacothrix coulteri*

*Stephanomeria exigua*

*Stephanomeria pauciflora*

*Tetradymia stenolepis*

*Xylorhiza (Machaeranthera) tortifolia*

#### **Boraginaceae**

*Amsinckia tessellata*

*Pectocarya heterocarpa*

#### **Cactaceae**

*Echinocereus engelmannii*

*Opuntia basilaris*

*Opuntia echinocarpa*

*Opuntia ramosissima*

### CONE-BEARING PLANTS

#### **Cypress family**

California juniper (SC)

### GNETAE

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

Nevada joint-fir

### DICOT FLOWERING PLANTS

#### **Carrot family**

Lomatium

#### **Sunflower family**

Desert goldenhead

Annual bur-sage

Burrobush

Cooper's dyssodia

Cooper's goldenbush

Matchweed

Cheesebush

Snake's-head

Milk aster

Desert milk aster

Mohave horsebrush

Desert aster

#### **Borage family**

Fiddleneck

Combseed

#### **Cactus family**

Hedgehog cactus (SC)

Beavertail cactus (SC)

Silver cholla (SC)

Pencil cholla (SC)

**Capparaceae**

+*Isomerus arborea*

**Chenopodiaceae**

*Atriplex canescens*

*Grayia spinosa*

*Krascheninnikovia (Eurotia) lanata*

\**Salsola tragus*

**Fabaceae**

*Acacia greggii*

*Lotus strigosus*

*Lupinus* sp.

+*Senna (Cassia) armata*

**Geraneaceae**

\**Erodium cicutarium*

**Hydrophyllaceae**

*Nemophila menziesii*

**Lamiaceae**

*Salazaria mexicana*

**Malvaceae**

*Sphaeralcea ambigua*

**Nyctaginaceae**

*Mirabilis bigelovii*

**Polemoniaceae**

*Eriastrum* c.f. *densifolium*

*Eriastrum* c.f. *sapphirinum*

**Polygonaceae**

+*Eriogonum davidsonii*

*Eriogonum fasciculatum*

*Eriogonum inflatum*

*Eriogonum maculatum*

*Eriogonum viridescens*

**Rosaceae**

*Coleogyne ramosissima*

*Prunus fasciculatus*

**Caper family**

Bladderpod

**Goosefoot family**

Four-winged saltbush

Spiny hop-sage

Winter fat

Russian thistle

**Pea family**

Catclaw acacia (SC)

Interior lotus

Lupine

Senna

**Geranium family**

Red-stemmed filaree

**Water-leaf family**

Baby blue eyes

**Mint family**

Paper-bag bush

**Mallow family**

Desert mallow

**Four o'clock family**

Desert wishbone plant

**Phlox family**

Woolly star

Woolly star

**Buckwheat family**

Davidson buckwheat

California buckwheat

Desert trumpet

Spotted buckwheat

Buckwheat

**Rose family**

Blackbush

Desert almond



**Solanaceae**

+*Datura wrightii* (*meteloides*)  
*Lycium andersonii*  
*Lycium cooperi*

**Viscaceae**

*Phorodendron californicum*

**Zygophyllaceae**

*Larrea tridentata*

## ANGIOSPERMAE: MONOCOTYLEDONES

**Amaryllidaceae**

*Dichelostemma pulchellum*

**Liliaceae**

*Yucca brevifolia*  
*Yucca schidigera*

**Poaceae**

\**Bromus madritensis* ssp. *rubens*  
 \**Bromus tectorum*  
*Pleuraphis (Hilaria) rigida*  
 \**Schismus* sp.

\* - 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).

**Nightshade family**

Jimsonweed  
 Anderson's box-thorn  
 Peach thorn

**Mistletoe family**

Mesquite mistletoe

**Caltrop family**

Creosote bush

## MONOCOT FLOWERING PLANTS

**Amaryllis family**

Blue dicks

**Lily family**

Joshua tree (SC)  
 Mojave yucca (SC)

**Grass family**

Red brome  
 Cheat grass  
 Big galleta  
 Split-grass

## 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**

*Uta stansburiana*

### AVES

#### **Phasianidae**

*Callipepla gambelii*

#### **Columbidae**

*Columba livia*

*Streptopelia decaocto*

*Zenaida macroura*

#### **Cuculidae**

*Geococcyx californianus*

#### **Corvidae**

*Aphelocoma coerulescens*

*Corvus corax*

#### **Remizidae**

*Auriparus flavipes*

#### **Troglodytidae**

*Campylorhynchus brunneicapillus*

#### **Mimidae**

*Mimus polyglottos*

#### **Ptilonotidae**

*Phainopepla nitens*

#### **Sturnidae**

*Sturnus vulgaris*

#### **Emberizidae**

*Amphispiza bilineata*

*Zonotrichia leucophrys*

*Euphagus cyanocephalus*

### REPTILES

#### **Iguanids**

Side-blotched lizard

### BIRDS

#### **Grouse and quail**

Gambel's quail

#### **Pigeons and doves**

Rock dove

Eurasian collared-dove

Mourning dove

#### **Cuckoos**

Greater roadrunner

#### **Crows and jays**

Scrub jay

Common raven

#### **Verdins**

Verdin

#### **Wrens**

Cactus wren

#### **Mockingbirds and thrashers**

Northern mockingbird

#### **Silky flycatchers**

Phainopepla

#### **Starlings**

European starling

#### **Sparrows, warblers, tanagers**

Black-throated sparrow

White-crowned sparrow

Brewer's blackbird

**Fringillidae***Carpodacus mexicanus***Passeridae***Passer domesticus*

## MAMMALIA

**Leporidae***Lepus californicus**Sylvilagus audubonii***Sciuridae***Otospermophilus beecheyi**Ammospermophilus leucurus***Geomyidae***Thomomys bottae***Heteromyidae***Dipodomys* sp.**Cricetidae***Neotoma lepida***Canidae***Canis latrans***Felidae***Lynx rufus***Finches**

House finch

**Weavers**

House sparrow

## 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

**Rats and mice**

Desert wood rat

**Foxes, wolves and coyotes**

Coyote

**Cats**

Bobcat

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.

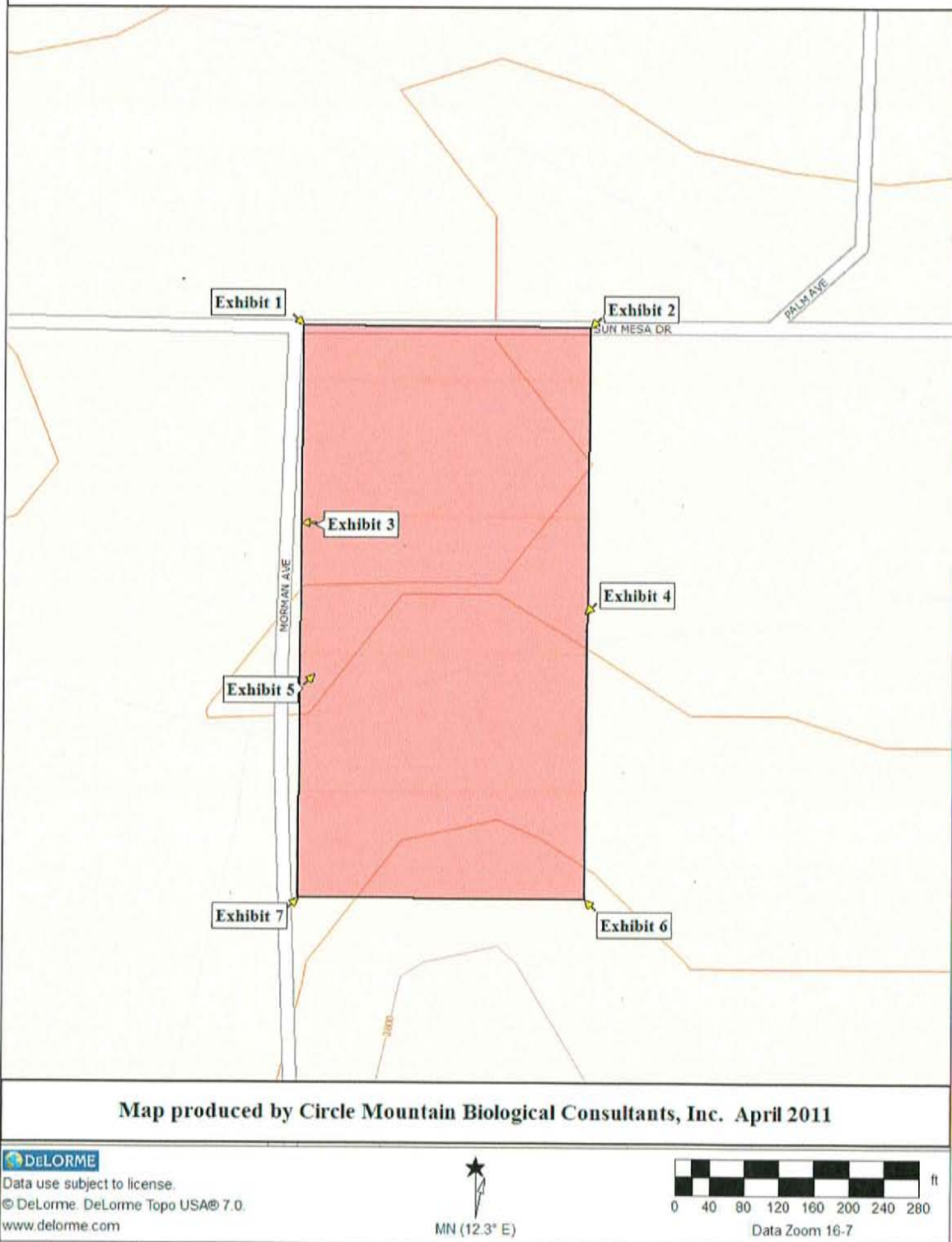
### **Appendix C. Field Data Sheets Completed on 11 March 2011**

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 are copies of the data sheets completed by Ed LaRue on 11 March 2011.

JOB #/NAME		DATE	DRIVE TIME		MILES	FIELD TIME		SURVEYORS			
Yucca Valley Animal Shelter		11/11/2011	TO	FROM	20mi.	BEGIN	END	Ed Lore			
WEATHER CONDITIONS (Start/End)			UTM (NAD 83) (circle starting corner)								
TEMP: 78°F WIND X: 1.0 ↑ 7.9 NSE W CLOUD: 60%			NE →		NW → E		SE →		SW →		
TEMP: 23°F WIND X: 1.3 ↑ 5.6 NSE W CLOUD: 60%			2415		552 315		2415		2315		
			0920		378 0920		0920		0920		
PERENNIAL PLANTS			ANNUAL PLANTS			BIRDS		HERP	MAM		
- Lar Tri	Ech Eng	Yucca	Broice	Malak	ZofJ		moo	BTSP	EBLA	KROT	Both AUG
- Yuc Bee	Ar: Dief	Atr Can	Enc Cr	Cuscuth	Er: Dav		2000	GRRR		CAAs	
Lyc Co	Mir: So	Stel Pa	Bro Med	Nem: MA			GRAN	SCSA		BTAA	Wash
Salm	Xyl: Ter	Opul: S	Er: Vir	Lyp: sp			EMSP			Bab: W	
Hym: Sil	Jun: Cal	Spa: Amb	Amb: Ars	Pec: Hel			EUST			Aud: J	
Acac: Yuc	Lyc: And	Amb: Rem	Zof: I	Sch: sp	Lot: Str		Wof: I			Cap: te	
Mir: MAb	Opul: Zm		Sen: Dry	Am: ius			BRBB	Photographs			
- Pin: Big	but: Sar	W: Wash	Isa: Arb	St: Ke			EUCO	1	NW → SE		
- Cal: Cam	Pin: Pas	(W)	Dist: Wri	Er: Mac			WCSP	2	NE → SW		
Opul: Eb	tara: Spi	(W)		Er: (Per)	Er: iastem		PHAN	35 IN	2315/0851		Washed Area
Aras: Sp	Er: Fas	(W)		Er: (Sep)			VERD	4 E → W	2414/0820		Wash
Krab: Ia	Op: Co	(W)		Sa: Tia	(W)		CAMR (nest)	5 W → E	2320/0798		Wash
Eph: Mal	Hym: Sil	(W)		Die: Fu			CORA	6	SE → NW		
Kt: Ste	Er: Co			Lam: Ath			Nomo	7	SW → NE		
OBSERVABLE HUMAN DISTURBANCES											
#	East	North	OHV	Road	Dog	Dump	S Gun	Rifle	Target	Ad. Fed	Recent Furrows
1	2315	0920	19	:	4	1					Recent parking area for existing shelter
2	2415	0910	17	:	2	1					
3	2315	0900	1		1	5					
4	2415	0890			1	1					
5	2315	0880	12			2					← NW corner
6	2415	0870	13		x						
7	2315	0860	1		1	1					
8	2415	0850	13								
9	2315	0840									
10	2415	0830									
11	2315	0820	1								
12	2415	0810			1						
13	2315	0800			1						
14	2415	0790			1						
15	2315	0780									
16	2415	0770									
17	2315	0760	1								
18	2415	0750									
19	2315	0740									
20	2415	0730									
21	2315	0720									
200mS	2315	0620	(Can't go S to 0520 due to base)								
200mW	2115	0720									

Appendix D. Photographic Exhibits

Figure 5. APN 0597-021-08: Locations of Photographic Exhibits



Locations of the seven photographic exhibits on the next four pages are depicted in Figure 5.



**Exhibit 1.** APN 0597-021-08: View from the northwestern corner of the parcel, facing southeast, showing existing use of the northern edge of the parcel for parking (see Figure 5 for locations and directions of photographs).



**Exhibit 2.** APN 0597-021-08: View from the northeastern corner of the parcel, facing southwest.



**Exhibit 3.** APN 0597-021-08: View from the bladed area on the western edge of the parcel, facing north.



**Exhibit 4.** APN 0597-021-08: View of the wash, from the eastern boundary, facing west





**Exhibit 5.** APN 0597-021-08: View of the wash from the western boundary, facing east.



**Exhibit 6.** APN 0597-021-08: View from the southeast corner of the parcel, facing northwest.



**Exhibit 7.** APN 0597-021-08: View from the southwest corner of the parcel, facing northeast.