4.2 BIOLOGICAL RESOURCES

This section provides a background discussion of the regulatory framework, the affected environment, and impacts to biological resources. The regulatory framework discussion focuses on the federal, State, and local regulations that apply to plants, animals and sensitive habitats. The affected environment discussion focuses on the topography and soils; general vegetation; general wildlife; sensitive biological resources; riparian habitat and sensitive natural communities; jurisdictional waters; and habitat connectivity and wildlife corridors. Information contained in this section is summarized from the Biological Technical Report (BTR) for the Energy Source Mineral Project Imperial County, California dated December 2020 (Appendix C of this EIR).

4.2.1 Existing Environmental Setting

Regional Setting

An extensive range of vegetation communities have been identified in the County, including native and nonnative communities on which sensitive and common plant and wildlife species are dependent. Native communities include wetland and riparian habitats within fresh and saltwater systems and high and low elevation woodland and scrub habitats, some with saline and alkali soil conditions. Nonnative communities include agriculture, annual grasslands, and tamarisk or salt cedar stands.

A number of sensitive vegetation communities, identified by the California Department of Fish and Wildlife (CDFW) and others as rare and worthy of consideration in California, occur in Imperial County. Of the total 2,942,080 acres in the County, approximately 215,220 acres include sensitive habitats. Sensitive vegetation and habitats are a conservation priority for local, State, and federal regulatory agencies because they have limited distribution and support a variety of sensitive plants and wildlife.

Several areas in Imperial County have been designated as environmentally sensitive areas by various public agencies or entities. These include US Fish & Wildlife Service (USFWS)-designated critical habitat, USFWS National Wildlife Refuges, Bureau of Land Management (BLM), National Landscape Conservation System (NLCS) lands, BLM Desert Wildlife Management Areas (DWMAs) and Areas of Critical Environmental Concern (ACECs), wilderness and wildlife areas, State parks, and other protective designations by federal and State agencies in the County. Many of these areas have development restrictions or prohibitions to facilitate conservation of biological resources or other sensitive resources.

A number of species listed or candidates for listing as endangered or threatened under the Endangered Species Act or California Endangered Species Act, or listed as rare under the California Native Plant Protection Act, have been recorded or potentially occur in Imperial County. Several California Species of Special Concern are of particular conservation focus within Imperial County including the burrowing owl and flat-tailed horned lizard. Approximately two-thirds of the burrowing owl population in California occurs in agricultural areas in the Imperial Valley. There are three regional populations of flat-tailed horned lizard in California; two of these (representing the majority of the range in the State) occur in Imperial County. These are on the west side of the Salton Sea/Imperial Valley and on the east side of the Imperial Valley; both populations extend south into Mexico.

Project Site

The Project site is approximately 3.8 miles southwest of the community of Niland on three parcels privately owned by HR1 in Imperial County, California. The Project is located within the U.S. Geological Survey (USGS) *Niland*, California 7.5-minute topographic quadrangle. The Project site is partially on the existing Hudson Ranch 1 Power Plant (HR1) site, while the remainder of the land has been used for laydown areas, storage areas, and stormwater management. The Project site is surrounded by open, vacant land. To the west of the Project site is IID-owned vacant marsh land adjoining the Salton Sea. To the north of the Project site is vacant land that is mostly used for duck hunting clubs and the location of the production and injection wells for HR1. To the south is vacant land that has never been in any production and is also the site of numerous "mud-pots." The Project site is relatively flat and the elevation is approximately 225 feet below mean sea level (bmsl).

According to the results from the USDA NRCS Web Soil Survey (USDA 2020), the Project Site is located in the Imperial Valley Area, CA683 part of the soil map. One soil type is known to occur within and/or adjacent to the site: Imperial Silty Clay complex. The parent material is clayey alluvium derived from mixed or clayey lacustrine deposits. The available water capacity is classified as moderate (approximately 8.3 inches) with a depth to the water table of more than 80 inches (USDA 2020).

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

4.2.2 Regulatory Setting

Federal

Federal Endangered Species Act

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

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) prohibits the kill or transport of native migratory birds, or any part, nest, or egg of any such bird unless allowed by another regulation adopted in accordance with the MBTA. The prohibition applies to birds included in the respective international conventions between the U.S. and Great Britain, the U.S. and Mexico, the U.S. and Japan, and the U.S. and Russia. Disturbances that cause nest abandonment and/or loss of reproductive effort or the loss of habitats upon which these birds depend may be a violation of the MBTA.

Bald and Golden Eagle Protection Act of 1940

The Bald Eagle Protection Act of 1940 protects bald eagle (Haliaeetus leucocephalus) and golden eagle (*Aquila chrysaetos*) by prohibiting the taking, possession, and commerce of such birds and establishes civil

penalties for violation of this Act. 'Take' is defined as "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb." 'Disturb' is defined as "to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available: (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior" (72 Federal Register [FR] 31132; 50 CFR 22.3). All activities that may disturb or incidentally take an eagle or its nest as a result of an otherwise legal activity must be permitted by the USFWS under this Act.

Section 404 Permit (Clean Water Act)

The Clean Water Act establishes a program to regulate the discharge of dredge and fill material into waters of the U.S., including wetlands. Activities regulated under this program include fills for development, water resource projects (e.g., dams and levees), infrastructure development (e.g., highways and airports), and conversion of wetlands to uplands for farming and forestry. Either an individual 404b permit or authorization to use an existing USACE Nationwide Permit will need to be obtained if any portion of the construction requires fill into a river, stream, or stream bed that has been determined to be a jurisdictional waterway.

State

California Endangered Species Act

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

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

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

California Fish and Game Code Section 1600 (as amended)

California Fish and Wildlife Code Section 1600 regulates activities that substantially divert or obstruct the natural flow of any river, stream, or lake or use materials from a streambed. This can include riparian habitat associated with watercourses.

California Fish and Game Codes 3503, 3503.5, and 3513

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

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

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

Porter-Cologne Water Quality Control Act

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

California Environmental Quality Act

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

Local

Imperial County General Plan

The Conservation and Open Space Element of the Imperial County General Plan provides detailed plans and measures for the preservation and management of biological and cultural resources, soils, minerals, energy, regional aesthetics, air quality, and open space (County 2016). The purpose of this element is to recognize that natural resources must be maintained for their ecological value for the direct benefit to the public and to protect open space for the preservation of natural resources, the managed production of resources, outdoor recreation, and for public health and safety. In addition, the purpose of this element is to promote the protection, maintenance, and use of the County's natural resources with particular emphasis on scarce resources, and to prevent wasteful exploitation, destruction, and neglect of the state's natural resources. Table 4.2-1 analyzes the consistency of the Project with specific policies contained in the Imperial County General Plan associated with biological resources.

Table 4.2-1: General Plan Consistency

General Plan Policies	Consistency with General Plan	Analysis
Conservation and Open Space Element		
Open Space and Recreation Conservation		
Policy No. 2 – The County shall participate in conducting detailed investigations into the significance, location, extent, and condition of natural resources in the County. Program – Notify any agency responsible for protecting plant and wildlife before approving a project which would impact a rare, sensitive, or unique plant or wildlife habitat	Consistent	A biological assessment has been conducted at the Project site to evaluate the Project's potential impacts on biological resources. Burrowing owl (California Species of Special Concern) was identified within the survey area. Applicable agencies responsible for protecting plants and wildlife will be notified of the Project and provided an opportunity to comment on this EIR prior to the County's consideration of any approvals for the Project.
Conservation of Environmental Resources for Future Generations		
Goal 1 – Environmental resources shall be conserved for future generations by minimizing environmental impacts in all land use decisions and educating the public on their value. Objective 1.6 – Promote the conservation of ecological sites and preservation of cultural resource sites through scientific investigation and public education.	Consistent	A biological assessment has been conducted at the Project site to evaluate the Project's potential impacts on biological resources. Burrowing owl (California Species of Special Concern) were identified within the survey area. With implementation of Mitigation Measures BIO-1 through BIO-5, the Project would not result in residual significant and unmitigable impacts on biological resources.

4.2.3 Thresholds of Significance

In order to assist in determining whether a project would have a significant effect on the environment, the County utilizes the State CEQA Guidelines Appendix G Guidelines. Appendix G states that a project may be deemed to have impacts to biological resources if it would:

Threshold 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?**

Threshold b) **Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?**

Threshold c) **Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?**

Threshold 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 native wildlife nursery sites?**

Threshold e) **Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?**

Threshold 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?**

Please refer to **Section 6.1: Effects Found Not to Be Significant** for an evaluation of those topics that were determined to be less than significant or have no impact and do not require further analysis in the EIR**.**

4.2.4 Methodology

Chambers Group, Inc. (Chambers Group) was retained by the County to conduct a literature review and reconnaissance-level survey for the Project, which includes the development of a commercial lithium hydroxide production plant. The survey identified vegetation communities, potential for the occurrence of sensitive species, or habitats that could support sensitive wildlife species. Detailed descriptions of the findings are provided below.

Literature Review

Prior to performing the field survey, existing documentation relevant to the Project site was reviewed. The most recent records of the California Natural Diversity Database (CNDDB) managed by CDFW (CDFW 2020), the U.S. Fish and Wildlife Service (USFWS) Critical Habitat Mapper (USFWS 2020), and the California Native Plant Society's Electronic Inventory (CNPSEI) of Rare and Endangered Vascular Plants of California (CNPS 2020) were reviewed for the following quadrangles containing and surrounding the Project site: *Niland, Obsidian Butte, Westmorland West, Westmorland East, West, Iris, Iris Wash, Wister*, and *Frink*, California U.S. Geological Survey (USGS) 7.5-minute quadrangles. These databases contain records of reported occurrences of federally or state listed endangered or threatened species, California Species of Concern (SSC), or otherwise sensitive species or habitats that may occur within or in the immediate vicinity of the Project site.

The following information was used to determine the significance of biological resources potentially occurring within the Project site as outlined in Table 4.2-2: Criteria for Evaluating Sensitive Species Potential for Occurrence (PFO).

Table 4.2-2: Criteria for Evaluating Sensitive Species Potential for Occurrence (PFO)

PFO	CRITERIA
Absent:	Species is restricted to habitats or environmental conditions that do not occur within the Project site. Additionally, if the survey was conducted within the blooming period of the species and appropriate habitat was observed in the surrounding area but the species was not observed within the Project impact area, it was considered absent.
Low:	Historical records for this species do not exist within the immediate vicinity (approximately 5 miles) of the Project site, and/or habitats or environmental conditions needed to support the species are of poor quality.

PFO	CRITERIA
Moderate:	Either a historical record exists of the species within the immediate vicinity of the Project site (approximately 3 miles) and marginal habitat exists on the Project site, or the habitat requirements or environmental conditions associated with the species occur within the Project site, but no historical records exist within 5 miles of the Project site.
High:	Both a historical record exists of the species within the Project site or its immediate vicinity (approximately 1 mile), and the habitat requirements and environmental conditions associated with the species occur within the Project site.
Present:	Species was detected within the Project site at the time of the survey.

* PFO: Potential for Occurrence

Sensitive Plants

Current database searches (CDFW 2020; CNPS 2020) resulted in a list of seven federally and/or state listed threatened and endangered or rare sensitive plant species that may potentially occur within the Project site. After the literature review and the reconnaissance-level survey were conducted, it was determined that all seven of these species are considered Absent from the Project site due to lack of suitable habitat. These seven species are listed with their California Rare Plant Rank (CRPR).[1]

- Harwood's milk-vetch (*Astragalus insularis* var. *harwoodii*) - CRPR 2B.2
- gravel milk-vetch (*Astragalus sabulonum*) – CRPR 2B.2
- Munz's cholla (*Cylindropuntia munzii*) – CRPR 1B.3
- glandular ditaxis (*Ditaxis claryana*) – CRPR 2B.2
- Orocopia sage (*Salvia greatae*) – CRPR 1B.3
- chaparral sand-verbena (*Abronia villosa* var *aurita*) – CRPR 1B.2
- Abram's spurge (*Chamaesyce abramisiana*) --CRPR 2B.2

Sensitive Wildlife

A current database search (CDFW 2020) resulted in a list of 27 federally listed threatened (FT), federally listed endangered (FE), state listed threatened (ST), and/or state listed endangered (SE), Species of Special Concern (SSC), or otherwise sensitive wildlife species that may potentially occur within the Project site. After a literature review and the assessment of the various habitat types within the Project site, it was determined that 26 sensitive wildlife species were considered absent from the Project site, and one species was present within the Project site. Factors used to determine potential for occurrence included the quality of habitat and the location of prior CNDDB records of occurrence.

The following 26 wildlife species are considered **absent** from the Project site due to lack of suitable habitat present on the Project site:

- American badger (*Taxidea taxus*)- SSC
- black skimmer (*Rynchops niger*) – SSC
- California black rail (*Laterallus jamaicensis coturniculus*) – **ST**

[1] Rare Plant Rank (CRPR) / CNPS: Rare Plant Rank 1B designates plants that are rare, threatened or endangered in California and elsewhere. Rare Plant Rank 2B designated plants that are rare, threatened or endangered in California but more common elsewhere. Threat extensions: 1- Seriously endangered in California; 2- Fairly endangered in California; 3- Not very endangered in California.

- Couch's spadefoot (*Scaphiopus couchii*) – SSC
- crissal thrasher (*Toxostoma crissale*) – SSC
- desert pupfish (*Cyprinodon macularius*) – **FE, SE**
- desert tortoise (*Gopherus agassizii*)- **FT, ST**
- flat-tailed horned lizard (*Phrynosoma mcallii*) -- SSC
- gull-billed tern (*Gelochelidon nilotica*) – SSC
- Le Conte's thrasher (*Toxostoma lecontei*) – SSC
- loggerhead shrike (*Lanius ludovicianus*) – SSC
- lowland leopard frog (*Lithobates yavapaiensis*) – SSC
- mountain plover (*Charadrius montanus*) – SSC
- pallid bat (*Antrozous pallidus*)- SSC
- pocketed free-tailed bat (*Nyctinomops femorosaccus*)- SSC
- short-eared owl (*Asio flammeus*) – SSC
- razorback sucker (*Xyrauchen texanus*) – **FE, SE**
- Sonoran Desert toad (*Incilius alvarius*) – SSC
- southwestern willow flycatcher (*Empidonax traillii extimus*)- **FE**, **SE**
- western snowy plover (*Charadrius alexandrinus nivosus*) – **FE**, SSC
- western mastiff bat (*Eumops perotis californicus*) - SSC
- western yellow bat (*Lasiurus xanthinus*) – SSC
- yellow warbler (*Setophaga petechia*) – SSC
- yellow-breasted chat (*Icteria virens*) – SSC
- Yuma hispid cotton rat (*Sigmodon hispidus eremicus*) – SSC
- Yuma Ridgway's rail (*Rallus obsoletus yumanensis*) – **FE, ST**

Of the 27 sensitive wildlife species identified in the literature review, it was determined that one sensitive wildlife species, the burrowing owl (*Athene cunicularia*; SSC), was **present** within the Project site.

Biological Reconnaissance-Level Survey

Chambers Group Biologists Heather Franklin and Jessica Calvillo conducted the general reconnaissance survey within the Project site to identify the potential for occurrence of sensitive species, vegetation communities, or habitats that could support sensitive wildlife species. The survey was conducted on foot throughout the Project site between 0930 and 1230 hours on October 30, 2020. Weather conditions during the survey included temperatures ranging from 64 to 79 degrees Fahrenheit, with zero percent cloud cover and no precipitation.

Vegetation

All plant species observed within the Project site were recorded. Vegetation communities within the Project site were identified, qualitatively described, and mapped onto a high-resolution imagery aerial photograph. Plant communities were determined in accordance with the *Manual of California Vegetation, Second Edition* (Sawyer et al. 2009). Plant nomenclature follows that of *The Jepson Manual* (Baldwin et al. 2012).

Two vegetation communities, Ruderal and Bare Ground, were observed within the Project site. A map showing the vegetation communities observed within the Project site is provided in Figure 2 of Appendix C, and the communities are described below.

Ruderal: Areas classified as Ruderal tend to be dominated by pioneering species that readily colonize disturbed ground and that are typically found in temporary, often frequently disturbed habitats (Barbour et al. 1999). The soils in ruderal areas are typically characterized as compacted or frequently disturbed. Often, Ruderal areas are dominated by species of the Tamarix, Brassica, Malva, Salsola, Eremocarpus, Amaranthus, and Atriplex genera.

Ruderal vegetation occurs in the disturbed southern portion of the Project site that was previously used as a duck hunting club. Vegetation found on site typical of this vegetation included scattered iodine bush (*Allenrolfea occidentalis*) with a few scattered Mediterranean tamarisk (*Tamarix ramosissima*).

Bare Ground: Bare Ground (BG) areas are generally devoid of vegetation but do not contain any form of pavement. BG has higher water permeability and higher fossorial rodent habitat potential. BG is present throughout the entire Project site, with large, uninterrupted expanses in the eastern portion of the Project site. Scattered, dead Mediterranean tamarisk seedlings were the only vegetation observed in these areas.

No sensitive plant species were observed during the survey effort. After the literature review, the assessment of the various habitat types in the Project site, and the reconnaissance survey were conducted, it was determined that no rare plant species have a potential to occur within the Project site.

Wildlife

All wildlife and wildlife signs observed and detected, including tracks, scat, carcasses, burrows, excavations, and vocalizations, were recorded. Additional survey time was spent in those habitats most likely to be utilized by wildlife (native vegetation, wildlife trails, etc.) or in habitats with the potential to support state and/or federally listed or otherwise sensitive species. Notes were made on the general habitat types, species observed, and the conditions of the Project site. A total of 12 wildlife species were observed during the survey. Wildlife species observed or detected during the site survey were characteristic of the existing Project site conditions.

Of the 27 sensitive wildlife species identified in the literature review, it was determined that one sensitive wildlife species, the burrowing owl (*Athene cunicularia*; SSC), was present within and directly adjacent to the Project site during the survey. In addition, this species has been recorded to nest within and surrounding the Project site.

Burrowing owl – SSC

The burrowing owl (BUOW) is a California Species of Special Concern. The burrowing owl breeds in open plains from western Canada and the western United States, Mexico through Central America, and into South America to Argentina (Klute et al. 2003). This species inhabits dry, open, native or non-native grasslands, deserts, and other arid environments with low-growing and low-density vegetation (Ehrlich et al. 1988). It may occupy golf courses, cemeteries, road rights-of way, airstrips, abandoned buildings, irrigation ditches, and vacant lots with holes or cracks suitable for use as burrows (TLMA 2006). Burrowing owls typically use burrows made by mammals such as California ground squirrels (*Otospermophilus beecheyi*), foxes, or badgers (Trulio 1997). When

burrows are scarce, the burrowing owl may use man-made structures such as openings beneath cement or asphalt pavement, pipes, culverts, and nest boxes (TLMA 2006).

Approximately 10 artificial burrowing owl burrows are located within 130 feet west of the Project boundary. These burrows were installed as mitigation for other projects within the surrounding area. Several burrowing owls were observed utilizing the artificial burrows during the survey. In addition, one individual was observed foraging within the southwest portion of the Project site. The artificial burrows are outside the Project boundary.

Jurisdictional Waters

A general assessment of jurisdictional waters regulated by the United States Army Corps of Engineers (USACE), California Regional Water Quality Control Board (RWQCB), and CDFW was conducted for the Project area. Pursuant to Section 404 of the Clean Water Act, USACE regulates the discharge of dredged and/or fill material into waters of the United States. The State of California (State) regulates discharge of material into waters of the State pursuant to Section 401 of the Clean Water Act and the California Porter-Cologne Water Quality Control Act (California Water Code, Division 7, §13000 et seq.). Pursuant to Division 2, Chapter 6, Sections 1600-1602 of the California Fish and Game Code, CDFW regulates all diversions, obstructions, or changes to the natural flow or bed, channel, or bank of any river, stream, or lake which supports fish or wildlife. The assessment was conducted by a desktop survey through the USGS National Hydrography Dataset for hydrological connectivity.

No jurisdictional water features or wetlands were observed within the Project site. The Project site comprises uncultivated farmland, and portions of the site were previously used for duck ponds for a hunting club (historically flooded seasonally to attract waterfowl for hunting but abandoned in 2010) and were historically mapped as freshwater ponds. However, according to historic aerials, the area has not been flooded since 2009 and has been void of water for the past 11 years. In addition, the Project site is mostly lacking any vegetation, with sparse vegetation occurring throughout the southern portion. One man-made ditch is located in the northwest section of the Project site. The ditch comes off Davis Road, flows east, and empties into a small man-made detention area. The area appears to have been created to facilitate flow from Davis Road during rain events; however, the detention area does not connect to other drainages or canals. In addition, one culvert is located near the southwest section of the site. The culvert appears to direct flow into the site from the south; however, it appears to have been altered to stop flow, as no water was observed flowing into the area during the survey. The IID "N" drain with flowing water is located approximately 40 feet south of the Project site boundary on the north side of Schrimpf Road and is not connected to any water features on the Project site.

4.2.5 Project Impact Analysis

Threshold 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 Game or U.S. Fish and Wildlife Service?**

As previously mentioned, no special status plant species have potential to occur within the Project site. However, one special status wildlife species, the burrowing owl, does have the potential to occur. The burrowing owl is a California SSC. Approximately 10 artificial burrowing owl burrows are located within 130 feet west of the Project boundary and were installed as mitigation for other projects in the

surrounding area. One burrowing owl was observed foraging within the southwest portion of the Project site during the biological reconnaissance-level survey. The artificial burrows are outside the Project boundary and will be avoided during construction activities; nonetheless, the potential for impacts to the burrowing owl during construction and operation of the Project may exist. Mitigation Measure BIO-1 would ensure that occupied burrows will be avoided during nesting season. Mitigation Measures BIO-2 and BIO-3 would require preconstruction surveys to look for burrowing owls prior to ground disturbance and, if any are found, would require a Burrowing Owl Mitigation Plan be prepared by a qualified biologist. Mitigation Measures BIO-4 and BIO-5 would ensure that no construction would occur near burrows; and, if burrow relocation is required, it will be done in accordance with the CDFW Staff Report on Burrowing Owl Mitigation Guidelines. With implementation of Mitigation Measures BIO-1 through BIO-5, impacts to burrowing owls would be less than significant.

Additionally, no jurisdictional water features or wetlands were observed within the Project site. As previously mentioned, the IID "N" drain with flowing water is located approximately 40 feet south of the Project site boundary on the north side of Schrimpf Road. However, the drain is not connected to any water features on the Project site, and impacts can be avoided during work activities with the use of best management practices (BMPs) including straw wattle and silt fencing. No impacts to jurisdictional waters/wetlands are anticipated; therefore, a USACE 404 permit, State 401 certification, or State Streambed Alteration Agreement will not be required for Project authorization.

Threshold 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 native wildlife nursery sites?**

The Project site is directly adjacent to the HR1 facility but is generally surrounded by vacant, undeveloped lands and agricultural lands to the north, south, east, and west. The Project site is not situated within a known migratory wildlife corridor or nursery site. Following construction of the Project, ground-dwelling wildlife will continue to be able to move locally through the area using the surrounding agricultural lands, undeveloped lands, and margins of the nearby irrigation canals. Additionally, no construction activities would occur within IID canals, drains, or ditches. Implementation of the Project would not result in a significant impact resulting from interference with the movement of any native resident or migratory fish or wildlife species.

4.2.6 Cumulative Impacts

Cumulative impacts are defined in CEQA as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts" (CEQA Guidelines Section 15355). Stated in another way, "a cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing relating impacts" (CEQA Guidelines Section 15130 [a][1]).

Implementation of the Project in combination with other proposed, approved, and reasonably foreseeable projects in the region could have cumulative impacts on the special status species burrowing owl. However, impacts associated with the Project and burrowing owls would be reduced to less than significant with implementation of Mitigation Measures BIO-1 through BIO-5. Related projects would similarly undergo CEQA review, and determinations regarding the significance of impacts of the related projects on biological resources would be made on a case-by-case basis. If necessary, the applicants of the related projects would be required to implement appropriate mitigation measures. Therefore,

implementation of related projects and other anticipated growth in Imperial County would not combine with the Proposed Project to result in cumulatively considerable impacts on biological resources.

4.2.7 Mitigation Measures

In order to minimize potential impacts to burrowing owl, the following mitigation measures outlined in the 2010 Hudson Ranch II Environmental Impact Report (EIR; County 2012) should be implemented prior to and during construction activities:

- BIO-1: The Applicant shall ensure that prior to and during construction, onsite occupied burrows shall be avoided during nesting season (February 1 through August 31).
- BIO-2: The Applicant shall conduct a preconstruction survey within 30 days of ground-breaking activities to identify any burrowing owls on site.
- BIO-3: If burrowing owls are found within the Project site, a Burrowing Owl Mitigation Plan must be prepared by a qualified biologist and approved by CDFW prior to any ground-disturbing activities.
- BIO-4: The construction or site manager shall ensure that no construction occurs within 250 feet of the artificial burrows or other active or occupied burrows unless active or occupied burrows are sheltered with hay bales and monitored by a qualified biologist; if this is done, work may occur within 20 feet of active or occupied burrows. If qualified biologists observe burrowing owls' agitation, work in the vicinity will stop. Additional shelter materials can be added until burrowing owls remain calm during construction activities.
- BIO-5: If passive relocation is required, it shall be done by a qualified biologist from September 1 to January 31 and will follow the CDFW Staff Report on Burrowing Owl Mitigation Guidelines (CDFW 2012).

4.2.8 Level of Significance After Mitigation

With the implementation of Mitigation Measures BIO-1 through BIO-5, the Project would ensure potential impacts related to special status species, including burrowing owl, would remain less than significant.