Attachment A

VIP 215 Biological Resources Clarification Memorandum

ESA

To: **Michael Houlihan, Environmental Science Associates**
From: **Thomas J. McGill, Ph.D., ELMT Consulting**
Date: **August 6, 2020**
Subject: **Clarification of ELMT's Veterans Industrial Park 215 Biological Assessment Report**
Project: **Veterans Industrial Park 215 Project**

1, 2. The last paragraph on page 14, in *Section 4.3.4Birds,* of ELMT's ELMT's Veterans Industrial Park 215 Biological Assessment Reports (October 2019) reads:

> One burrowing owl was flushed from the southeast corner of the project site into the adjacent airfield to the northeast. Additional owls were observed perching on the eastern boundary fence and foraging over the site but flushed back onto airfield property to the east to nest burrows. Ground squirrel burrows were identified on the project site along the eastern boundary that were suitable for burrowing owls, however, none of these burrows were used by burrowing owls. Minimal burrowing owl sign (whitewash) was observed at a single burrow in the southeastern portion of the site; however, burrowing owls were not observed using this site for nesting.

Although suitable burrows, (e.g., ground squirrel burrows greater than 4 inches in diameter), were present on the project site, burrow owl sign was not observed, and nesting was not occurring in any of these burrows. As noted in the above report, one burrowing owl was observed onsite during the October 21, 2015 initial site visit. It was unclear at the time whether the observed owl was nesting on the site or just foraging over the area. As a result, a focused survey was conducted on the project site in 2018 which found that no burrowing owls were nesting on the project site (ELMT Consulting. 2018, Focused Burrowing Owl Surveys for Veterans Industrial Park). No burrowing owls were observed on site and no burrowing owl nests were discussed onsite during this survey. However, burrowing owls were occasionally observed perching on the chain link fence found along the eastern boundary and are assumed to be foraging on the project site. It should be noted that red-tailed hawks, which prey on burrowing owls, also occasionally perch on this same fence, limiting its use by burrowing owls. From these observations, it is apparent that the burrowing owl observed just within the southeast corner of the site in 2015 was a foraging owl that was feeding on its catch and not a nesting owl. The observed small patch of whitewash in 2015 was either from the owl observed in 2015 or from another raptor species. All subsequent incidental observations of burrowing owls in 2018 and 2019 were of owls on the eastern fence that flushed back to the east on MARB property.

The 2018 Burrowing Owl Focused survey was only conducted on the project site. The offsite drainage project site, just off the southeast corner of the project site, was not walked during the survey. However, observations of the offsite area have been made using binoculars but no owls have been observed in the drainage project area. During a call with Chris Wagner, Natural

Resources Specialist at March Air Reserve Base (MARB), on July 24, 2020, Ms. Wagner confirmed that MARB conducts an annual survey of burrowing owls, which would include the area between the airfield and the project site (Personal Communications. 2020. Chris Wagner. MARB). Ms. Wagner indicated that a 2019 survey identified several occupied nests in 2019 including this area. However, fewer occupied nests were observed in 2020. The 2020 data confirm ELMT's observations of absence proximate to the proposed offsite drainage improvements on MARB. Also, the EIR requires a preconstruction clearance survey for burrowing owl, see BIO-1 below, should include the offsite drainage project area.

3. Based on data gathered by the MARB in 2019, no Stephen's Kangaroo Rat (*Dipodomys stephensi;* SKR) occur on the main base property east of I-215 but instead are only located on base property west of the freeway (Personal Communication. 2020, Chris Wagner, Natural Resources Specialist, MARB. July). Development of the project site will have no impacts on SKR.

4. Biological inventories conducted by ELMT Consulting (ELMT Consulting. 2016, Veterans Industrial Park 215 Biological Assessment, April) and by MARB in 2019 (Personal Communication 2020, Chris Wagner, Natural Resources Specialist, MARB, July) did not identify any vernal pools on the project site. The two general classes of soils are needed for the formation of vernal pools: clay soils and Traver-Domino Willow association soils. Neither of these classes of soils are not present on the project site. Without the appropriate soils to create the impermeable restrictive layer, none of the special-status wildlife species associated with vernal pools, i.e., fairy shrimp, can occur on the project site. Development of the project site will have no impact on vernal pools/fairy shrimp.

5. The following proposed mitigation measure, a burrowing owl clearance survey, will ensure that burrowing owls have not begun nesting on the project site or in the near vicinity of the offsite drainage system and that there will be no direct impacts by site development to burrow owls.

   BIO-1: Prior to the issuance of grading permits and/or an action that would result in disturbance of the onsite or offsite project areas (whichever occurs first and including but not limited to disking and demolition activities), the applicant shall submit to the satisfaction of the March JPA, evidence that pre-construction surveys for BUOW have been completed. The project areas include the approximately 142.5-acre project site and the four offsite improvement areas (Van Buren Boulevard north of the onsite area, Western Way north of Nandina Avenue to the onsite portion of the project, Western Way south of Nandina Avenue to Harley Knox Boulevard, and the drainage on MARB).

   For the onsite area and the offsite Van Buren Boulevard improvement which are located within the March JPA jurisdiction and not within the MSHCP and the offsite drainage which is located within MARB and not within the MSHCP, pre-construction surveys shall be required in accordance with protocols established by CDFW in the CDFG 2012 Staff Report on Burrowing Owl Mitigation before the start of grading activities to confirm the absence of BUOW from the proposed improvement area as well as the buffer area identified within the CDFW protocol. These preconstruction clearance surveys include: (1) first survey within 14 days of ground disturbance and (2) second survey within 24 hours prior to ground disturbing activities.

For the offsite improvement areas along Western Way between the onsite portion of the project to Harley Knox Boulevard, pre-construction surveys shall be required in accordance with the protocols established within the MSHCP which includes the first survey within 30 days of ground disturbance and the second survey within 24 hours prior to ground disturbing activities. Although the Western Way offsite improvement areas are located within the MSHCP, the project applicant will conduct the preconstruction surveys in accordance with the slightly more restrictive protocols established by CDFW in the CDFW 2012 Staff Report on Burrowing Owl Mitigation before the start of grading activities to confirm the absence of BUOW from the proposed improvement areas as well as the buffer area identified within the CDFW protocol. These preconstruction clearance surveys include: (1) first survey within 14 days of ground disturbance and (2) second survey within 24 hours prior to ground disturbing activities.

If any of the preconstruction surveys determine BUOW to be present, protective measures, including active or passive relocation, shall be developed in consultation with CDFW to ensure compliance with the Migratory Bird Treaty Act and other applicable CDFW Code requirements and include but are not limited to the following:

- Occupied BUOW shall not be disturbed during nesting season unless a qualified biologist verifies through non-invasive methods that either (1) the birds have not begun egg-laying or incubation or (2) that juveniles from the occupied burrows are foraging independently and are capable of an independent survival flight.

- A burrowing owl relocation plan shall be prepared that recommends methods needed to relocate the burrowing owls from the onsite and/or offsite project areas and provide measures that will be implemented for the maintenance, monitoring, and reporting of the relocated burrowing owls to increase chances of survivorship and better ensure compliance with CDFW guidelines. This plan shall be implemented during the non-breeding season, and prior to seasonal rains to promote the best outcome for conservation of the burrowing owl.

- In addition to the above, the applicant can choose to conduct additional BUOW surveys in advance of the prescribed pre-construction survey(s) protocol established by CDFW in order to assess the presence/absence of BUOW on the project site. Surveys conducted earlier than the prescribed pre-construction surveys per CDFW guidelines, would allow the applicant to start early consultation with CDFW regarding BUOW relocation (assuming BUOW are present within the onsite and/or offsite project areas) well in advance of project construction activities. However, early surveys and consultation with CDFW does not eliminate the need to conduct pre-construction clearance surveys in accordance with CDFW guidelines. As stated above, two pre-construction clearance surveys shall be conducted (first survey within 14 days of ground disturbance and a second survey within 24 hours prior to ground disturbing activities) to document the continued absence of burrowing owl from the onsite and offsite project areas as well as the buffer areas. If construction is delayed or suspended for more than 30 days after the clearance survey, the onsite and offsite project areas as well as the buffer areas shall be resurveyed.

All protective measures, including relocation, shall be reviewed and approved by the CDFW prior to the initiating any ground disturbing activities.

Please do not hesitate to contact Tom McGill at (951) 285-6014 or tmcgill@elmtconsulting.com or Travis McGill at (909) 816-1646 or travismcgill@elmtconsulting.com should you have any questions.

Sincerely,

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