

4.6 BIOLOGICAL RESOURCES

4.6.1 INTRODUCTION

Appendix G of the California Environmental Quality Act (CEQA) Guidelines requires that biological resources issues be evaluated as part of the environmental documentation process. This section summarizes the *Sunset Ridge Park Project Biological Technical Report* (Biological Technical Report), prepared by BonTerra Consulting and dated September 23, 2009. The 27.26-acre Project site covered in the Biological Technical Report includes the proposed park, the access road to the park, the off-site stockpile locations, and the off-site haul route. The Biological Technical Report is included in its entirety in Appendix E of this Environmental Impact Report (EIR).

4.6.2 REGULATORY SETTING

This section contains a discussion of the applicable laws, ordinances, regulations, and standards that govern biological resources and that must be adhered to prior to and during construction of the proposed Project and during ongoing park operations.

Federal

Federal Endangered Species Act (16 United States Code [USC] 153 et seq.)

The Federal Endangered Species Act (FESA) of 1973 provides for (1) the conservation of plant and animal species that are listed by the federal government as “Endangered” or “Threatened” with extinction throughout all or a significant portion of their range and (2) the conservation of the ecosystems on which they depend. The FESA is implemented by enforcing Sections 7 and 9 of the Act. A federally listed species is protected from unauthorized “take” pursuant to Section 9 of the FESA. “Take”, as defined by the FESA, means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or to attempt to engage in any such conduct. All persons are presently prohibited from taking a federally listed species unless and until (1) the appropriate Section 10(a) permit has been issued by the U.S. Fish and Wildlife Service (USFWS) or (2) an incidental Take Statement is obtained as a result of formal consultation between a federal agency and the USFWS pursuant to Section 7 of the FESA and the implementing regulations that pertain to it (50 *Code of Federal Regulations [CFR]* 402). “Person” is defined in the FESA as an individual, corporation, partnership, trust, association, or any private entity; any officer, employee, agent, department or instrumental of the federal government; any State, Municipality, or political subdivision of the State; or any other entity subject to the jurisdiction of the U.S. The Project Applicant is a “person” for purposes of the FESA.

Sections 404 and 401 of the Clean Water Act of 1972 (33 USC 1251 et seq.)

Section 404 of the Clean Water Act (CWA) regulates the discharge of dredged or fill material into “Waters of the U.S.”, including wetlands. The U.S. Army Corps of Engineers (USACE) is the designated regulatory agency responsible for administering the 404 permit program and for making jurisdictional determinations. This permitting authority applies to all “Waters of the U.S.” where the material has the effect of (1) replacing any portion of a “Waters of the U.S.” with dry land or (2) changing the bottom elevation of any portion of “Waters of the U.S.”. These fill materials would include sand, rock, clay, construction debris, wood chips, and materials used to create any structure or infrastructure in “Waters of the U.S.”. Dredge and fill activities are typically associated with development projects; water-resource related projects; infrastructure development and wetland conversion to farming; forestry; and urban development.

Under CWA Section 401, an activity requiring a USACE Section 404 permit must obtain a State Water Quality Certification (or waiver thereof) to ensure that the activity will not violate established State water quality standards. The State Water Resources Control Board (SWRCB), in conjunction with the nine California Regional Water Quality Control Boards (RWQCBs), is responsible for administering the Section 401 water quality certification program.

Under Section 401 of the federal CWA, an activity involving discharge into a water body must obtain a federal permit and a State Water Quality Certification to ensure that the activity will not violate established water quality standards. The U.S. Environmental Protection Agency is the federal regulatory agency responsible for implementing the CWA. However, it is the SWRCB in conjunction with the nine RWQCBs who essentially has been delegated the responsibility to administer the water quality certification (401) program.

Migratory Bird Treaty Act of 1918 (16 USC 703–711)

The Migratory Bird Treaty Act (MBTA) of 1918, as amended in 1972, makes it unlawful, unless permitted by regulations, to “pursue; hunt; take; capture; kill; attempt to take, capture or kill; possess; offer for sale; sell; offer to purchase; purchase; deliver for shipment; ship; cause to be shipped; deliver for transportation; transport; cause to be transported; carry or cause to be carried by any means whatever; receive for shipment, transportation, or carriage; or export, at any time, or in any manner, any migratory bird for the protection of migratory birds or any part, nest, or egg of any such bird” (16 USC 703).

In 1972, the MBTA was amended to include protection for migratory birds of prey (e.g., raptors). Six families of raptors occurring in North America were included in the amendment: Accipitridae (kites, hawks, and eagles); Cathartidae (New World vultures); Falconidae (falcons and caracaras); Pandionidae (ospreys); Strigidae (typical owls); and Tytonidae (barn owls). The provisions of the 1972 amendment to the MBTA protect all species and subspecies of these families.

Bald and Golden Eagle Protection Act (16 USC 668)

This Act provides for the protection of the bald eagle and the golden eagle by prohibiting, except under certain specified conditions, the taking, possession, and commerce of such birds. The 1972 amendments increased penalties for violating provisions of the Act and strengthened other enforcement measures. A 1978 amendment authorizes the Secretary of the Interior to permit the taking of golden eagle nests that interfere with resource development or recovery operations. A 1994 Memorandum (59 Federal Resource 22953) on April 29, 1994, from President William J. Clinton to the heads of Executive Agencies and Departments sets out the policy concerning collection and distribution of eagle feathers for Native American religious purposes.

State

California Endangered Species Act (California Fish and Game Code Section 2050 et seq.)

Pursuant to the California Endangered Species Act (CESA) and Section 2081 of the *Fish and Game Code*, an incidental take permit from the California Department of Fish and Game (CDFG) is required for projects that could result in the take of a State-listed Threatened or Endangered species. Under the CESA, “take” is defined as an activity that would directly or indirectly kill an individual of a species, but the definition does not include “harm” or “harass”, as the federal act does. As a result, the threshold for a take under the CESA is higher than that

under the FESA. An incidental take permit authorized by the CDFG under Section 2081(b) of the *California Fish and Game Code* would be required where a project could result in the take of a State-listed Threatened or Endangered Species. The application for an incidental take permit under Section 2081(b) has a number of requirements, including the preparation of a conservation plan, generally referred to as a Habitat Conservation Plan.

The State of California considers an Endangered Species as one whose prospects of survival and reproduction are in immediate jeopardy; a Threatened Species as one present in such small numbers throughout its range that it is likely to become an Endangered Species in the near future in the absence of special protection or management; and a Rare Species as one present in such small numbers throughout its range that it may become Endangered if its present environment worsens. The Rare Species designation applies only to California native plants. The CESA authorizes the CDFG to issue permits authorizing incidental take of Threatened and Endangered Species. A California Species of Special Concern is an informal designation that the CDFG uses for some declining wildlife species that are not State candidates. This designation does not provide legal protection, but signifies that these species are recognized as special status by the CDFG.

California Environmental Quality Act (California Fish and Game Code Section 1802)

State law confers upon the CDFG the trustee responsibility and authority for the public trust resource of wildlife in California. The CDFG may play various roles during the CEQA process. By State law, the CDFG has jurisdiction over the conservation, protection, and management of the wildlife, native plants, and habitat necessary to maintain biologically sustainable populations. The CDFG shall consult with lead and responsible agencies and shall provide the requisite biological expertise to review and comment upon environmental documents and impacts arising from project activities.

As a trustee agency, the CDFG has jurisdiction over certain resources held in trust for the people of California. Trustee agencies are generally required to be notified of CEQA documents relevant to their jurisdiction, whether or not these agencies have actual permitting authority or approval power over aspects of the underlying project (CEQA Guidelines, Section 15386). The CDFG, as a trustee agency, must be notified of CEQA documents regarding projects involving fish and wildlife of the State, as well as Rare and Endangered native plants, wildlife areas, and ecological reserves. Although as a trustee agency the CDFG cannot approve or disapprove a project, lead and responsible agencies are required to consult with the CDFG. The CDFG, as the trustee agency for fish and wildlife resources, shall provide the requisite biological expertise to review and comment upon environmental documents and impacts arising from project activities and shall make recommendations regarding those resources held in trust for the people of California (*California Fish and Game Code*, §1802).

California Fish and Game Code (Sections 1600–1616)

All diversions, obstructions, or changes to the natural flow or bed, channel, or bank of any river, stream, or lake in California that supports wildlife resources and/or riparian vegetation are subject to CDFG regulations, pursuant to Section 1600 through Section 1603 of the *California Fish and Game Code*. Under Section 1602, it is unlawful for any person to substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake designated by the CDFG as waters within their jurisdiction, nor can a person use any material from the streambeds without first notifying the CDFG of such activity. For a project that may affect stream channels and/or riparian vegetation regulated under Sections 1600 through 1603, CDFG authorization is required in the form of a Streambed Alteration Agreement.

California Fish and Game Code (Sections 1900 et seq., or Native Plant Protection Act)

This section lists Threatened, Endangered, and Rare plants so designated by the California Fish and Game Commission.

California Fish and Game Code (Sections 3511, 4700, 5050, and 5515)

These sections provide a provision for the protection of bird, mammal, reptile, amphibian, and fish species that are “fully protected”. Fully protected animals may not be harmed, taken, or possessed.

California Fish and Game Code (Section 3503, 3503.5, and 3513)

This section states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto. Section 3503.5 explicitly provides protection for all birds-of-prey, including their eggs and nests. Section 3513 makes it unlawful to take or possess any migratory non-game bird as designated in the MBTA.

California Fish and Game Code (Title 14, California Code of Regulations, Sections 670.2 and 670.5)

These sections list animals designated as Threatened or Endangered in California. The CDFG designates species considered to be indicators of regional habitat changes, or candidate species for future State listing, as California Species of Special Concern.

California Porter-Cologne Water Quality Control Act

Pursuant to the California Porter-Cologne Water Quality Control Act, the SWRCB and the nine RWQCBs may require permits (“waste discharge requirements” [WDRs]) for the fill or alteration of “Waters of the State”. The term “Waters of the State” is defined as “any surface water or groundwater, including saline waters, within the boundaries of the state” (*California Water Code*, §13050[e]). Although “waste” is partially defined as any waste substance associated with human habitation, the SWRCB interprets this to include fill discharge into water bodies. The SWRCB and the RWQCBs have interpreted their authority to require WDRs to extend to any proposal to fill or alter “Waters of the State”, even if those same waters are not under USACE jurisdiction. Pursuant to this authority, the SWRCB and the RWQCBs may require the submission of a “report of waste discharge” under Water Code Section 13260, which is treated as an application for a WDR.

City of Newport Beach

General Plan Natural Resources Element

The Natural Resources Element of the *City of Newport Beach General Plan* includes goals and policies related to terrestrial and marine biological resources that are applicable to the proposed Project. These goals and policies are provided in Table 4.1-2 in Section 4.1, Land Use and Related Planning Programs, with a Project consistency analysis. The Project’s consistency with the City’s Coastal Land Use Plan and the California Coastal Act is evaluated in Tables 4.1-3 and 4.1-4, respectively, in Section 4.1.

4.6.3 EXISTING CONDITIONS

Vegetation Types

Eleven vegetation types and other areas occur on the Project site: southern coastal bluff scrub, Encelia scrub, Encelia scrub/ornamental, disturbed Encelia scrub, non-native grassland, ruderal, disturbed mule fat scrub/goldenbush scrub, willow scrub, ornamental, flood control channel, and disturbed. A general description of each of the vegetation types and other areas is included below, and a plant compendium is included in Table A-1 of Attachment A of the Biological Technical Report. Exhibit 4.6-1, Vegetation Types and Other Areas, presents the vegetation map of the Project site. The total acreage of each vegetation type is summarized in Table 4.6-1.

**TABLE 4.6-1
VEGETATION TYPES AND OTHER AREAS ON THE PROJECT SITE**

Vegetation Types and Other Areas	Existing (Acres)
Southern Coastal Bluff Scrub	1.15
Encelia Scrub	0.53
Encelia Scrub/Ornamental	0.21
Disturbed Encelia Scrub	3.64
Non-Native Grassland	6.58
Ruderal	7.75
Disturbed Mule Fat Scrub/Goldenbush Scrub	0.48
Willow Scrub	0.06
Ornamental	3.19
Flood Control Channel	0.49
Disturbed	3.18
Total	27.26

Southern Coastal Bluff Scrub

Southern coastal bluff scrub occurs in the central portion of the Project site. This vegetation type is dominated by bush sunflower (*Encelia californica*) and California buckwheat (*Eriogonum fasciculatum*), with scattered bladderpod (*Isomeris arborea*), coastal cholla (*Opuntia prolifera*), and coastal prickly pear (*Opuntia littoralis*).

Encelia Scrub

Encelia scrub occurs in patches along the southeastern edge of the Project site on the slope above West Coast Highway and Superior Avenue and in a patch in the center of the proposed access road right-of-way of the Project site. This vegetation type is dominated by bush sunflower with scattered California buckwheat.

Encelia Scrub/Ornamental

Encelia scrub/ornamental occurs in a patch at the southern end of the Project site on the slope above the intersection of West Coast Highway at Superior Avenue and in the proposed access road right-of-way of the Project site. This vegetation type is dominated by bush sunflower

intermixed with ornamental species including saltbush (*Atriplex* sp.), Sellow's pampas grass (*Cortaderia selloana*), and hottentot fig (*Carpobrotus edulis*).

Disturbed Encelia Scrub

Disturbed Encelia scrub occurs over the southern half of the lower terrace in the park portion of the Project site. This vegetation type is dominated by bush sunflower and deerweed (*Lotus scoparius*). The understory consists of non-native grasses and forbs, including black mustard (*Brassica nigra*), foxtail chess (*Bromus madritensis* ssp. *rubens*), Russian thistle (*Salsola tragus*), and tocalote (*Centaurea melitensis*). Shrub cover of this area is approximately 50 to 60 percent overall. It is disturbed due to the presence of high density, non-native weeds and periodic mowing.

Non-Native Grassland

Non-native grassland occurs in the northern part of the access road right-of-way portion of the Project site and in the stockpile locations and haul route. This vegetation type is dominated by a mix of non-native species including ripgut grass (*Bromus diandrus*), foxtail chess, black mustard, and tocalote.

Ruderal

Ruderal areas occur throughout the Project site and are dominated by black mustard and tocalote. They consist of areas that have been previously disturbed and now consist primarily of non-native vegetation that is well adapted to disturbed conditions and high nitrogen soils. The ruderal vegetation that covers most of the park portion of the Project site appears to be periodically mowed.

Disturbed Mule Fat Scrub/Goldenbush Scrub

Disturbed mule fat scrub/goldenbush scrub is located at the southwestern edge of the Project site. This vegetation type is co-dominated by mule fat (*Baccharis salicifolia*) and goldenbush (*Isocoma menziesii*). There is an understory of hottentot fig. It is disturbed because it contains a substantial component of non-native invasive species including hottentot fig, Sellow's pampas grass, and myoporum (*Myoporum laetum*).

Willow Scrub

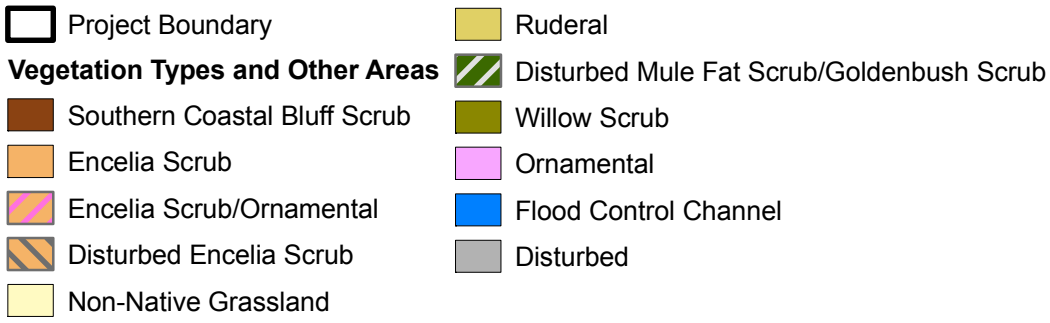
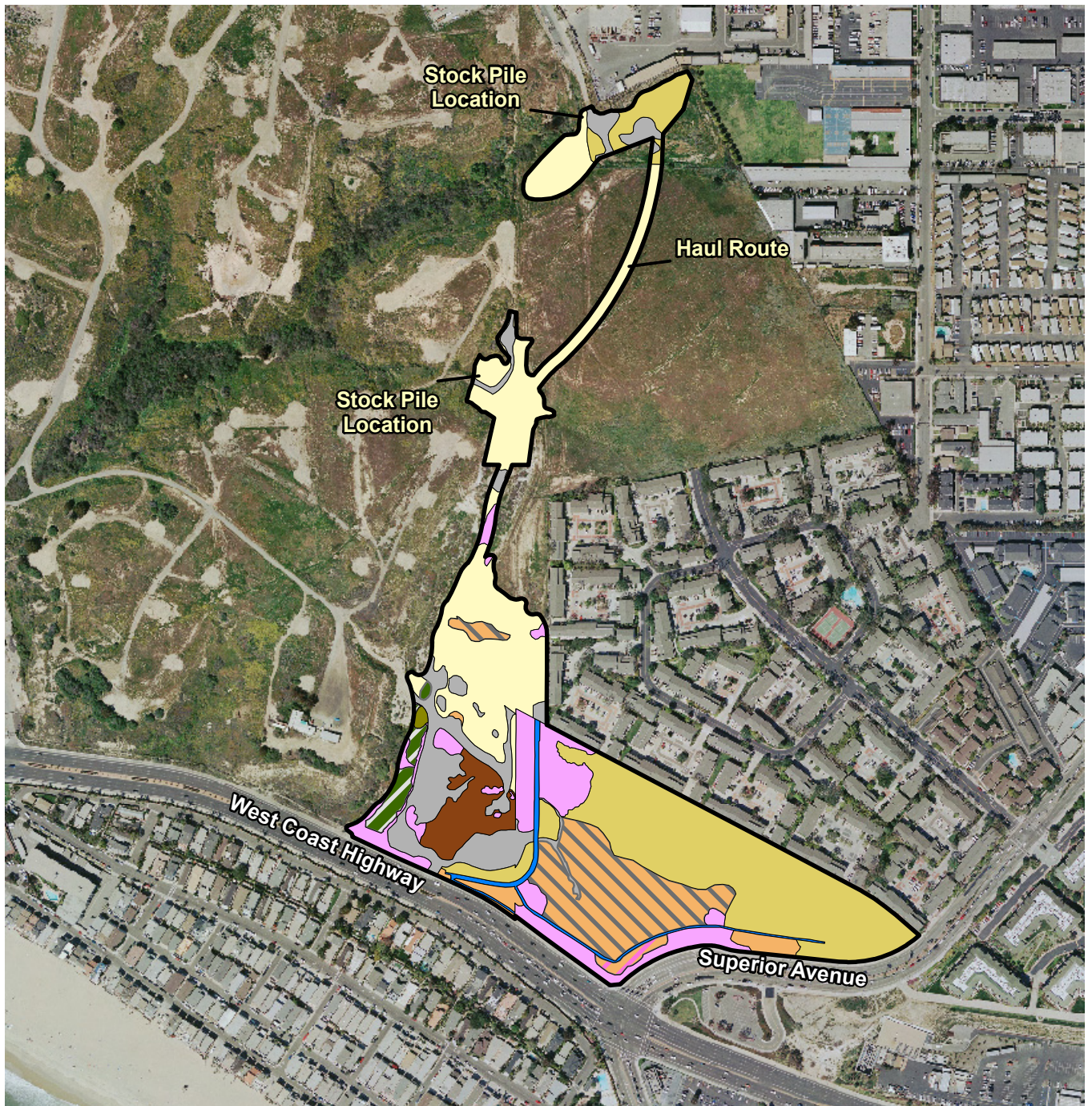
Willow scrub occurs along the western boundary of the Project site. This vegetation type is dominated by arroyo willow (*Salix lasiolepis*). Mule fat and an understory of hottentot fig are also present.

Ornamental

Ornamental areas are landscaped plantings of non-native species and occur throughout the Project site. This vegetation type is dominated by a mix of ornamental species, including hottentot fig, Sellow's pampas grass, myoporum, and castor bean (*Ricinus communis*).

Flood Control Channel

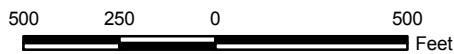
A flood control channel bisects the Project site. It is a concrete trapezoidal channel that conveys storm flows from a high density condominium development located to the north of the Project site and surface flows picked up by concrete V-ditches on site. This flood control channel then



Vegetation Types and Other Areas

Exhibit 4.6-1

Sunset Ridge Park EIR



conveys storm flows to the storm drain system located within West Coast Highway, which flows into the Semeniuk Slough and ultimately into the Santa Ana River near the Santa Ana River mouth and the Pacific Ocean. No surface water was observed within the concrete channel during the surveys.

Disturbed

Disturbed areas consist of unvegetated portions of the Project site, including dirt roads and cleared areas.

Wildlife

Wildlife species observed or expected to occur in each general vegetation type are discussed below. Any special status species mentioned below is discussed in greater detail in the “Special Status Wildlife” section. Species observed during all general and focused surveys are listed in Table A-2 of Attachment A of the Biological Technical Report located in Appendix E of this EIR.

Fish

Most creeks and waterways in Southern California are subject to periods of high water flow in winter and spring, and little to no flow during late summer and fall. There is only one drainage feature on the Project site: a concrete trapezoidal flood control channel that conveys storm flows from the Newport Crest Condominium development located immediately adjacent to and northeast of the Project site. This channel does not carry a permanent flow of water and no low flows or vegetation was present in this channel during the surveys which limits the potential for fish species to occur. Therefore, no fish species are expected to occur on the Project site.

Amphibians

Unlike terrestrial species, amphibians require moisture for at least a portion of their life cycle, and many require standing or flowing water for reproduction. These species are able to survive in dry areas by aestivating (i.e., remaining beneath the soil in burrows or under logs and leaf litter and emerging only when temperatures are low and humidity is high). Many of these species’ habitats are associated with water, and they emerge to breed once the rainy season begins. Soil moisture conditions can remain high throughout the year in some habitat types, depending on factors such as amount of vegetation cover, elevation, and slope aspect.

There is only one drainage feature on the Project site (the concrete trapezoidal flood control channel) in which water is expected to occur and only following storm events. This channel does not carry a permanent flow of water and no low flows or vegetation was present in this channel during the surveys which limits the potential for amphibian species to occur. Therefore, no amphibian species are expected to occur on the Project site.

Reptiles

Reptilian diversity and abundance typically varies with vegetation type and character. Many species prefer only one or two vegetation types; however, most species will forage in a variety of habitats. Most reptile species that occur in open areas use rodent burrows for cover, protection from predators, and refuge during extreme weather conditions.

Reptile species observed or expected to occur in most habitats on the Project site include western fence lizard (*Sceloporus occidentalis*), side-blotched lizard (*Uta stansburiana*), southern alligator lizard (*Elgaria multicarinata*), and gopher snake (*Pituophis catenifer*).

Birds

A variety of bird species are expected to be residents on the Project site and to use the habitats throughout the year. Other species are present only during certain seasons. For example, the white-crowned sparrow (*Zonotrichia leucophrys*) is expected to occur on the Project site during the winter season and will then migrate north in the spring to breed during the summer.

Sage scrub vegetation types on the Project site support an avifauna that is comprised of species adapted to the dense, low vegetation that typifies these areas. Although large numbers of individuals can often be found inhabiting this vegetation type, species diversity is usually low to moderate, depending on the season. A relatively high number of the birds breeding in the sage scrub vegetation type are permanent residents. Within the Project site, Anna's hummingbird (*Calypte anna*), Bewick's wren (*Thryomanes bewickii*), California towhee (*Pipilo crissalis*), and house finch (*Carpodacus mexicanus*) were found to be common. During winter months, the scrub vegetation type provides habitat for a number of species that migrate from breeding grounds further north. The white-crowned sparrow is expected to be common winter resident of this habitat on the Project site.

Grassland vegetation types support fewer bird species than most other vegetation types on the Project site. However, these areas do provide important habitat for a number of species. Mourning dove (*Zenaida macroura*), black phoebe (*Sayornis nigricans*), American crow (*Corvus brachyrhynchos*), northern mockingbird (*Mimus polyglottos*), and lesser goldfinch (*Carduelis psaltria*) are year-long residents in these areas. Migratory birds expected to use this vegetation type on the Project site either during the summer or winters include Say's phoebe (*Sayornis saya*) and western kingbird (*Tyrannus verticalis*).

The riparian vegetation types (disturbed mule fat scrub/goldenbush scrub and willow scrub) on the Project site provide resources for a variety of resident and migratory birds. Resident species observed or expected to occur include the song sparrow (*Melospiza melodia*) and bushtit (*Psaltriparus minimus*). Summer residents observed or expected to occur on the Project site include the ash-throated flycatcher (*Myiarchus cinerascens*), black-headed grosbeak (*Pheucticus melanocephalus*), and Bullock's oriole (*Icterus bullockii*).

The turkey vulture (*Cathartes aura*), a scavenger, was observed on the Project site. Raptors (birds of prey) observed on the Project site include Cooper's hawk (*Accipiter cooperii*), red-shouldered hawk (*Buteo lineatus*), red-tailed hawk (*Buteo jamaicensis*), and American kestrel (*Falco sparverius*).

Mammals

Rodents and other small mammals are expected to be among the most diverse and widespread mammals within the Project site. Deer mouse (*Peromyscus maniculatus*) is a common rodent that is expected throughout the Project site. California pocket mouse (*Chaetodipus californicus*) and cactus mouse (*Peromyscus eremicus*) prefer sage scrub vegetation types. California mouse (*Peromyscus californicus*) and woodrat (*Neotoma* sp.) typically occur in woodlands and riparian vegetation types. The open grassy areas on the Project site provide suitable habitat for the western harvest mouse (*Reithrodontomys megalotis*), Botta's pocket gopher (*Thomomys bottae*), and California ground squirrel (*Spermophilus beecheyi*).

Bats occur throughout most of Southern California and may use any portion of the Project site as foraging habitat. Most of the bats that could potentially occur on the Project site are inactive during the winter and, depending on the species, either hibernate or migrate. Several bat

species may occur on the Project site, including big brown bat (*Eptesicus fuscus*), California myotis (*Myotis californicus*), and western pipistrelle (*Pipistrellus hesperus*).

Carnivores are expected to be common throughout the Project site and include many predatory and omnivorous species. The coyote (*Canis latrans*) was observed and is expected to occur throughout the Project site. Other carnivores observed or expected on the Project site include the Virginia opossum (*Didelphis virginiana*) and common raccoon (*Procyon lotor*).

Open grassland vegetation types and the understory of scrub vegetation types provide excellent foraging habitat for herbivorous mammals. The desert cottontail (*Sylvilagus audubonii*), a common herbivore was observed during the field surveys on the Project site.

Wildlife Movement

Wildlife corridors link together areas of suitable wildlife habitat that are otherwise separated by rugged terrain, changes in vegetation, or human disturbance. The fragmentation of open space areas by urbanization creates isolated “islands” of wildlife habitat. In the absence of habitat linkages that allow movement to adjoining open space areas, various studies have concluded that some wildlife species, especially the larger and more mobile mammals, will not likely persist over time in fragmented or isolated habitat areas because they prohibit the infusion of new individuals and genetic information. (BonTerra Consulting 2009c). Corridors mitigate the effects of this fragmentation by (1) allowing animals to move between remaining habitats, thereby permitting depleted populations to be replenished and promoting genetic exchange; (2) providing escape routes from fire, predators and human disturbances, thus reducing the risk that catastrophic events such as fire or disease will result in population or local species extinction; and (3) serving as travel routes for individual animals as they move in their home ranges in search of food, water, mates, and other necessary resources (BonTerra Consulting 2009c).

Wildlife movement activities usually fall into one of three movement categories: (1) dispersal (e.g., juvenile animals from natal areas or individuals extending range distributions); (2) seasonal migration; and (3) movements related to home range activities (e.g., foraging for food or water, defending territories, or searching for mates, breeding areas, or cover). A number of terms such as “wildlife corridor”, “travel route”, “habitat linkage”, and “wildlife crossing” have been used in various wildlife movement studies to refer to areas where wildlife move from one area to another. Definitions of terms and a more detailed discussion of wildlife movement can be found in the Biological Technical Report located in Appendix E of this EIR.

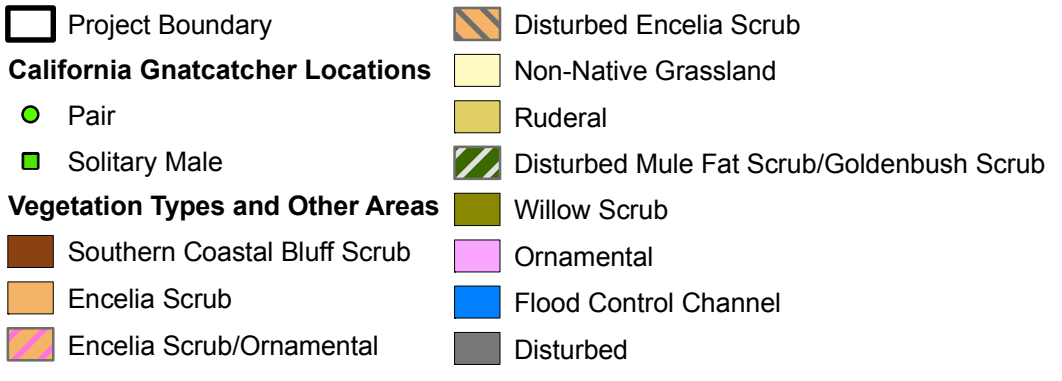
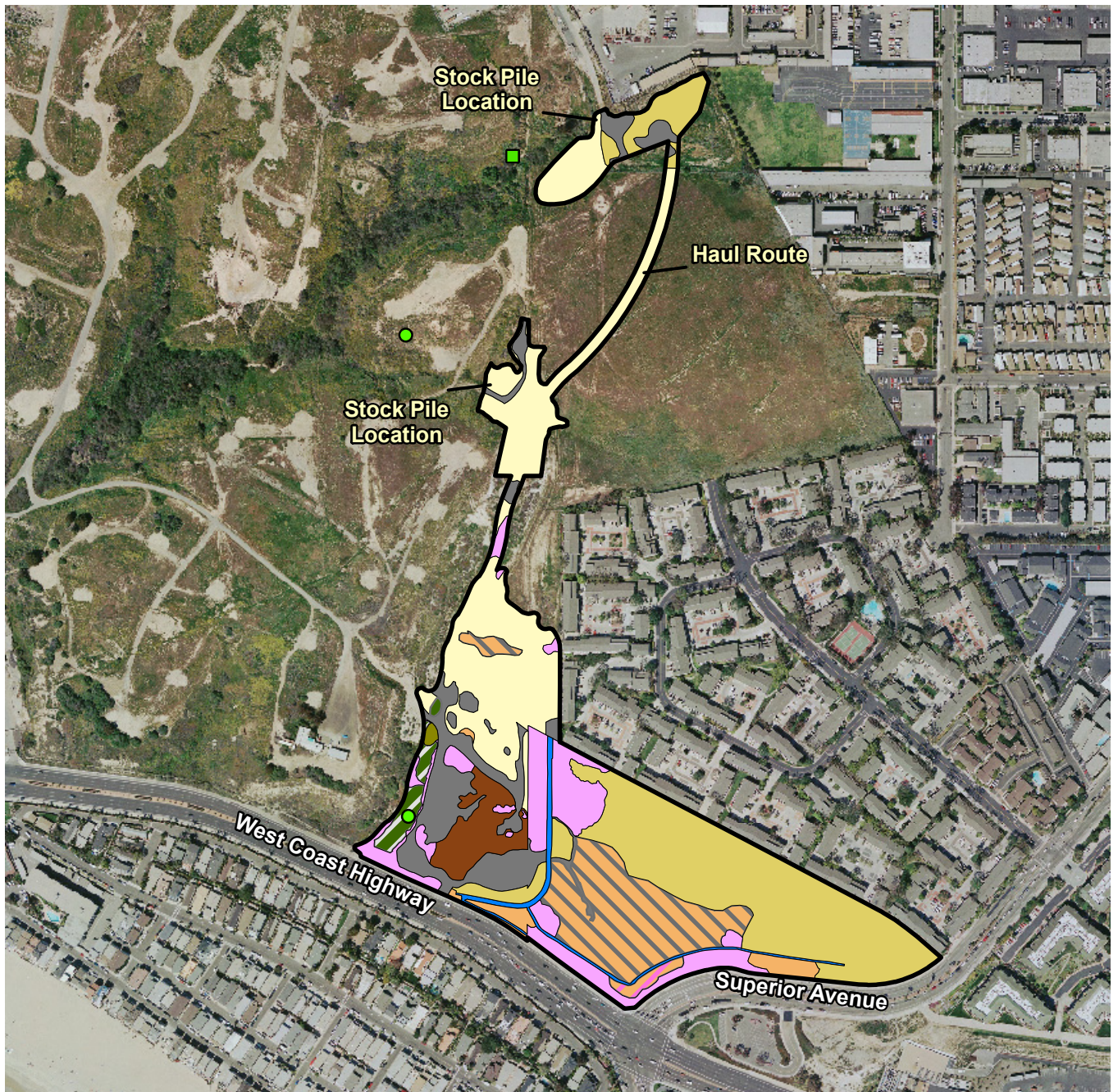
The Project site is located within an area that is largely constrained by urban development. The Project site is contiguous to urban land uses on the north, south, and east with currently undeveloped property (oil fields) to the west. The site is located at the southern end of a large area of open space at the mouth of the Santa Ana River. Newport Bay Ecological Reserve is located approximately 2.5 miles southeast of the Project site, and the Bolsa Chica Ecological Reserve is located approximately 5.5 miles northwest of the Project site; however, dense urban development (including along the shoreline) separates the Project site from both of the Reserves. Birds, bats, and urban-tolerant wildlife species (e.g., coyotes, opossums, and raccoons) would be able to move through the urban areas from the Reserves to the Project site. However, most terrestrial wildlife species would not be able to move from Newport Bay and the Bolsa Chica Ecological Reserve, through the urban matrix, and to the Project site. Regional movement through the Project site would not occur because much of the Project site borders existing development. However, local wildlife movement may occur between the open space in Newport Banning Ranch and the Project site.

Special Status Biological Resources

The following section addresses special status biological resources observed, reported, or that have the potential to occur on the Project site. These resources include plant and wildlife species that have been afforded special status and/or recognition by federal and State resource agencies, as well as private conservation organizations. Exhibit 4.6-2, Special Status Biological Resources, depicts the special status biological resources on the Project site.

In general, the principal reason an individual taxon (i.e., species, subspecies, or variety) is given such recognition is the documented or perceived decline or limitations of its population size, geographic range, and/or distribution resulting in most cases from habitat loss. Table 4.6-2, Special Status Plant Species Known to Occur in the Project Vicinity, and Table 4.6-3, Special Status Wildlife Species Known to Occur in the Project Vicinity, provide a summary of each special status plant and wildlife species known to occur in the Project region, and include information on the status, likelihood for occurrence, and definitions for the various status designations. In addition, special status biological resources include vegetation types and habitats that are either unique, of relatively limited distribution in the region, or of particularly high wildlife value. These resources have been defined by federal, State, and local government conservation programs. Sources used to determine the special status of biological resources are listed below.

- **Plants** – California Native Plant Society’s (CNPS) Electronic Inventory of Rare and Endangered Vascular Plants of California; the California Natural Diversity Database (CNDDDB); various USFWS Federal Register notices regarding listing status of plant species; and the CDFG’s *List of Special Vascular Plants, Bryophytes, and Lichens*. (see BonTerra Consulting 2009c for more information).
- **Wildlife** – California Wildlife Habitat Relationships Database System; the CNDDDB; various USFWS Federal Register notices regarding listing status of wildlife species; and the CDFG’s List of Special Animals. (See BonTerra Consulting 2009c for more information).
- **Habitats** – the CNDDDB (See BonTerra Consulting 2009c for more information).

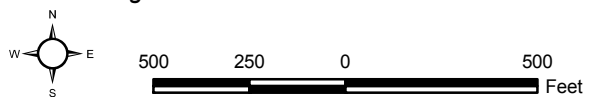


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Special Status Biological Resources

Exhibit 4.6-2

Sunset Ridge Park EIR



**TABLE 4.6-2
SPECIAL STATUS PLANT SPECIES KNOWN TO OCCUR
IN THE PROJECT VICINITY**

Species	Status			Results
	USFWS	CDFG	CNPS	
<i>Abronia villosa</i> var. <i>aurita</i> chaparral sand-verbena	-	-	1B.1	Limited suitable habitat; not observed during focused surveys.
<i>Aphanisma blitoides</i> aphanisma	-	-	1B.2	Limited suitable habitat; not observed during focused surveys.
<i>Astragalus pycnostachyus</i> var. <i>lanosissimus</i> Ventura marsh milk-vetch	FE	SE	1B.1	No suitable habitat; not observed during focused surveys.
<i>Atriplex coulteri</i> Coulter's saltbush	-	-	1B.2	Limited suitable habitat; not observed during focused surveys.
<i>Atriplex pacifica</i> South Coast saltscale	-	-	1B.2	Limited suitable habitat; not observed during focused surveys.
<i>Atriplex parishii</i> Parish's brittle scale	-	-	1B.1	Limited suitable habitat; not observed during focused surveys.
<i>Atriplex serenana</i> var. <i> davidsonii</i> Davidson's saltscale	-	-	1B.2	Limited suitable habitat; not observed during focused surveys.
<i>Bergerocactus emoryi</i> golden-spined cereus	-	-	2.2	Outside known range; not observed during focused surveys.
<i>Calandrinia maritima</i> seaside calandrinia	-	-	4.2	Limited suitable habitat; not observed during focused surveys.
<i>Calochortus catalinae</i> Catalina mariposa lily	-	-	4.2	Limited suitable habitat; not observed during focused surveys.
<i>Calochortus weedii</i> var. <i>intermedius</i> intermediate mariposa lily	-	-	1B.2	Limited suitable habitat; not observed during focused surveys.
<i>Calystegia sepium</i> ssp. <i>binghamiae</i> Santa Barbara morning-glory	-	-	1A	No suitable habitat; not observed during focused surveys.
<i>Centromadia [Hemizonia] parryi</i> ssp. <i>australis</i> southern tarplant	-	-	1B.1	Suitable habitat; not observed during focused surveys.
<i>Chaenactis glabriuscula</i> var. <i>orcuttiana</i> Orcutt's pincushion	-	-	1B.1	No suitable habitat; not observed during focused surveys.
<i>Chorizanthe parryi</i> var. <i>fernandina</i> San Fernando Valley spineflower	FC	SE	1B.1	No suitable habitat; not observed during focused surveys.
<i>Comarostaphylis diversifolia</i> ssp. <i>diversifolia</i> summer holly	-	-	1B.2	No suitable habitat; not observed during focused surveys.
<i>Cordylanthus maritimus</i> ssp. <i>maritimus</i> salt marsh bird's-beak	FE	SE	1B.2	No suitable habitat; not observed during focused surveys.
<i>Dichondra occidentalis</i> western dichondra	-	-	4.2	Limited suitable habitat; not observed during focused surveys.
<i>Dudleya blochmaniae</i> ssp. <i>blochmaniae</i> Blochman's dudleya	-	-	1B.1	No suitable habitat; not observed during focused surveys.
<i>Dudleya cymosa</i> ssp. <i>ovatifolia</i> Santa Monica dudleya	FT	-	1B.2	No suitable habitat; not observed during focused surveys.
<i>Dudleya multicaulis</i> many-stemmed dudleya	-	-	1B.2	No suitable habitat; not observed during focused surveys.
<i>Dudleya stolonifera</i> Laguna Beach dudleya	FT	ST	1B.1	No suitable habitat; not observed during focused surveys.

**TABLE 4.6-2 (Continued)
SPECIAL STATUS PLANT SPECIES KNOWN TO OCCUR
IN THE PROJECT VICINITY**

Species	Status			Results
	USFWS	CDFG	CNPS	
<i>Euphorbia misera</i> cliff spurge	-	-	2.2	Limited suitable habitat; not observed during focused surveys.
<i>Harpagonella palmeri</i> Palmer's grapplinghook	-	-	4.2	No suitable habitat; not observed during focused surveys.
<i>Helianthus nuttallii</i> ssp. <i>parishii</i> Los Angeles sunflower	-	-	1A	No suitable habitat; not observed during focused surveys.
<i>Hordeum intercedens</i> vernal barley	-	-	3.2	Limited suitable habitat; not observed during focused surveys.
<i>Horkelia cuneata</i> ssp. <i>puberula</i> mesa horkelia	-	-	1B.1	No suitable habitat; not observed during focused surveys.
<i>Isocoma menziesii</i> var. <i>decumbens</i> decumbent goldenbush	-	-	1B.2	Limited suitable habitat; not observed during focused surveys.
<i>Juncus acutus</i> ssp. <i>leopoldii</i> southwestern spiny rush	-	-	4.2	No suitable habitat; not observed during focused surveys.
<i>Lasthenia glabrata</i> ssp. <i>coulteri</i> Coulter's goldfields	-	-	1B.1	Limited suitable habitat; not observed during focused surveys.
<i>Lepidium virginicum</i> var. <i>robinsonii</i> Robinson's pepper-grass	-	-	1B.2	Limited suitable habitat; not observed during focused surveys.
<i>Lycium brevipes</i> var. <i>hassei</i> Santa Catalina Island desert-thorn	-	-	1B.1	Outside known range; not observed during focused surveys.
<i>Lycium californicum</i> California box-thorn	-	-	4.2	Suitable habitat; observed during focused surveys.
<i>Nama stenocarpum</i> mud nama	-	-	2.2	No suitable habitat; not observed during focused surveys.
<i>Nasturtium gambelii</i> Gambel's water cress	FE	ST	1B.1	No suitable habitat; not observed during focused surveys.
<i>Navarretia prostrata</i> prostrate vernal pool navarretia	-	-	1B.1	No suitable habitat; not observed during focused surveys.
<i>Nemacaulis denudata</i> var. <i>denudata</i> coast woolly-heads	-	-	1B.2	No suitable habitat; not observed during focused surveys.
<i>Pentachaeta aurea</i> ssp. <i>allenii</i> Allen's pentachaeta	-	-	1B.1	Limited suitable habitat; not observed during focused surveys.
<i>Perideridia gairdneri</i> ssp. <i>gairdneri</i> Gairdner's yampah	-	-	4.2	No suitable habitat; not observed during focused surveys.
<i>Quercus dumosa</i> Nuttall's scrub oak	-	-	1B.1	No suitable habitat; not observed during focused surveys.
<i>Sagittaria sanfordii</i> Sanford's arrowhead	-	-	1B.2	No suitable habitat; not observed during focused surveys.
<i>Senecio aphanactis</i> chaparral ragwort	-	-	2.2	No suitable habitat; not observed during focused surveys.
<i>Suada esteroa</i> estuary seablite	-	-	1B.2	No suitable habitat; not observed during focused surveys.
<i>Symphotrichum defoliatum</i> San Bernardino aster	-	-	1B.2	No suitable habitat; not observed during focused surveys.
<i>Verbesina dissita</i> big-leaved crownbeard	FT	ST	1B.1	No suitable habitat; not observed during focused surveys.

**TABLE 4.6-2 (Continued)
SPECIAL STATUS PLANT SPECIES KNOWN TO OCCUR
IN THE PROJECT VICINITY**

Species	Status			Results
	USFWS	CDFG	CNPS	
LEGEND:				
Federal (USFWS)		State (CDFG)		
FE	Endangered	SE	Endangered	
FT	Threatened	ST	Threatened	
FC	Federal Candidate			
California Native Plant Society (CNPS) List Categories				
List 1A	Plants Presumed Extinct in California			
List 1B	Plants Rare, Threatened, or Endangered in California and Elsewhere			
List 2	Plants Rare, Threatened, or Endangered in California But More Common Elsewhere			
List 3	Plants About Which We Need More Information – A Review List			
List 4	Plants of Limited Distribution – A Watch List			
California Native Plant Society (CNPS) Threat Code Extensions				
None	Plants lacking any threat information			
.1	Seriously Endangered in California (over 80% of occurrences threatened; high degree and immediacy of threat)			
.2	Fairly Endangered in California (20–80% of occurrences threatened)			

**TABLE 4.6-3
SPECIAL STATUS WILDLIFE SPECIES KNOWN TO OCCUR
IN THE PROJECT VICINITY**

Species	Status		Likelihood of Occurrence
	USFWS	CDFG	
Invertebrates			
<i>Branchinecta sandiegonensis</i> San Diego fairy shrimp	FE	–	No suitable habitat; not expected to occur.
<i>Streptocephalus woottoni</i> Riverside fairy shrimp	FE	–	No suitable habitat; not expected to occur.
Fish			
<i>Eucyclogobius newberryi</i> tidewater goby	FE	SSC	No suitable habitat; not expected to occur.
Amphibians			
<i>Spea hammondi</i> western spadefoot	–	SSC	No suitable habitat; not expected to occur.
<i>Anaxyrus californicus</i> arroyo toad	FE	SSC	No suitable habitat; not expected to occur.
Reptiles			
<i>Actinemys marmorata pallida</i> southwestern pond turtle	–	SSC	No suitable habitat; not expected to occur.
<i>Phrynosoma coronatum</i> (blainvillii population) coast (San Diego) horned lizard	–	SSC	Limited potentially suitable habitat; not expected to occur due to high level of disturbance on site.
<i>Aspidoscelis hyperythra</i> orange-throated whiptail	–	SSC	Limited potentially suitable habitat; not expected to occur due to high level of disturbance on site.
<i>Anniella pulchra pulchra</i> silvery legless lizard	–	SSC	Potentially suitable habitat; may occur.
<i>Salvadora hexalepis virgultea</i> coast patch-nosed snake	–	SSC	Limited potentially suitable habitat; not expected to occur due to high level of disturbance on site.

TABLE 4.6-3 (Continued)
SPECIAL STATUS WILDLIFE SPECIES KNOWN TO OCCUR
IN THE PROJECT VICINITY

Species	Status		Likelihood of Occurrence
	USFWS	CDFG	
<i>Thamnophis hammondi</i> two-striped garter snake	–	SSC	No suitable habitat; not expected to occur.
<i>Crotalus ruber ruber</i> northern red-diamond rattlesnake	–	SSC	Suitable habitat but outside known range; not expected to occur.
Birds			
<i>Pelecanus occidentalis californicus</i> California brown pelican	FE ^{1,2}	SE ^{1,2}	No suitable foraging, roosting, or nesting habitat; not expected to occur for foraging, roosting, or nesting.
<i>Ixobrychus exilis</i> least bittern	–	SSC ⁴	No suitable foraging or nesting habitat; not expected to occur for foraging or nesting.
<i>Accipiter cooperii</i> Cooper's hawk	–	WL ⁴	Observed foraging; suitable foraging habitat. No suitable nesting habitat; not expected to occur for nesting.
<i>Accipiter striatus</i> sharp-shinned hawk	–	WL ⁴	May occur for foraging; suitable foraging habitat. Outside known breeding range; not expected to occur for nesting.
<i>Aquila chrysaetos</i> golden eagle	–	WL, FP ^{4,5}	Potentially suitable foraging habitat but not suitable nesting habitat; not expected to occur for nesting or foraging as this raptor is very rare in coastal lowlands of the region.
<i>Buteo regalis</i> ferruginous hawk	–	WL ⁵	Suitable foraging habitat; may occur for foraging. Outside known breeding range; not expected to occur for nesting.
<i>Buteo swainsoni</i> Swainson's hawk	–	ST ⁴	Potentially suitable foraging habitat but outside known breeding range; not expected to occur except as a very rare migrant.
<i>Circus cyaneus</i> northern harrier	–	SSC ⁴	Suitable foraging habitat; may occur for foraging. Potentially suitable nesting habitat; not expected to nest due to high level of disturbance on site.
<i>Elanus leucurus</i> white-tailed kite	–	FP ⁴	Suitable foraging habitat; may occur for foraging. No suitable nesting habitat; not expected to occur for nesting.
<i>Haliaeetus leucocephalus</i> bald eagle	–	SE, FP ^{4,5}	No suitable foraging or nesting habitat; not expected to occur for foraging or nesting.
<i>Pandion haliaetus</i> osprey	–	WL ⁴	No suitable foraging or nesting habitat; not expected to occur for foraging or nesting.
<i>Falco columbarius</i> merlin	–	WL ⁵	Limited suitable foraging habitat; may occur for foraging. Outside known breeding range; not expected to occur for nesting.
<i>Falco mexicanus</i> prairie falcon	–	WL ⁴	Suitable foraging habitat; may occur for foraging. No suitable nesting habitat; not expected to occur for nesting.
<i>Falco peregrinus anatum</i> American peregrine falcon	–	SE, FP ⁴	Suitable foraging habitat; may occur for foraging. No suitable nesting habitat; not expected to occur for nesting.
<i>Laterallus jamaicensis coturniculus</i> California black rail	–	ST, FP	No suitable habitat; not expected to occur.
<i>Rallus longirostris levipes</i> Light-footed clapper rail	FE	SE, FP	No suitable habitat; not expected to occur.

**TABLE 4.6-3 (Continued)
SPECIAL STATUS WILDLIFE SPECIES KNOWN TO OCCUR
IN THE PROJECT VICINITY**

Species	Status		Likelihood of Occurrence
	USFWS	CDFG	
<i>Charadrius alexandrinus nivosus</i> western snowy plover	FT ^{4,6}	SSC ^{4,7}	No suitable foraging or nesting habitat; not expected to occur for foraging or nesting.
<i>Numenius americanus</i> long-billed curlew	–	WL ⁴	Potentially suitable foraging habitat; may occur for foraging. Outside known breeding range; not expected to occur for nesting.
<i>Rynchops niger</i> black skimmer	–	SSC ¹	No suitable foraging or nesting habitat; not expected to occur for foraging or nesting.
<i>Sternula antillarum browni</i> California least tern	FE ¹	SE, FP ¹	No suitable foraging or nesting habitat; not expected to occur for foraging or nesting.
<i>Thalasseus elegans</i> elegant tern	–	WL ¹	No suitable foraging or nesting habitat; not expected to occur for foraging or nesting.
<i>Coccyzus americanus occidentalis</i> western yellow-billed cuckoo	FC	SE ⁴	No suitable foraging or nesting habitat; not expected to occur for foraging or nesting.
<i>Asio flammeus</i> short-eared owl	–	SSC ⁴	Potentially suitable foraging habitat but not suitable nesting habitat; may occur for foraging but not for nesting.
<i>Asio otus</i> long-eared owl	–	SSC ⁴	Limited suitable foraging habitat; limited potential to occur for foraging. No suitable nesting habitat; not expected to occur for nesting.
<i>Athene cunicularia</i> burrowing owl	–	SSC ⁸	Limited suitable foraging and nesting habitat. Not observed during winter 2008/2009 or spring/summer 2009 focused surveys; not expected to nest due to high level of disturbance on Project site but may occur occasionally as migrant or rare winter visitor.
<i>Chaetura vauxi</i> Vaux's swift	–	SSC ⁴	Outside known breeding range; not expected to occur for nesting. Expected to occur over the Project site during spring and fall migration.
<i>Cypseloides niger</i> black swift	–	SSC ⁴	Outside known breeding range; not expected to occur for nesting. Only occurs in coastal lowlands of the region as very rare migrant.
<i>Empidonax traillii extimus</i> southwestern willow flycatcher	FE ⁴	SE ⁴	No suitable foraging or nesting habitat; not expected to occur for foraging or nesting.
<i>Lanius ludovicianus</i> loggerhead shrike	–	SSC ⁴	Suitable foraging and nesting habitat; may occur for foraging and nesting.
<i>Vireo bellii pusillus</i> least Bell's vireo	FE ⁴	SE ⁴	No suitable breeding habitat; not expected to occur.
<i>Eremophila alpestris actia</i> California horned lark	–	WL	Suitable foraging and nesting habitat; may occur as migrant or winter visitor but not expected to nest due level of disturbance on site.
<i>Progne subis</i> purple martin	–	SSC ⁴	Outside known breeding range; not expected to occur for nesting. Only occurs in coastal lowlands of the region as very rare migrant.
<i>Riparia riparia</i> bank swallow	–	ST ⁴	Outside known breeding range; not expected to occur for nesting. Only occurs in coastal lowlands of the region as very rare migrant.
<i>Campylorhynchus brunneicapillus sandiegensis</i> coastal cactus wren	–	SSC ⁹	No suitable habitat; not expected to occur.

**TABLE 4.6-3 (Continued)
SPECIAL STATUS WILDLIFE SPECIES KNOWN TO OCCUR
IN THE PROJECT VICINITY**

Species	Status		Likelihood of Occurrence
	USFWS	CDFG	
<i>Polioptila californica californica</i> coastal California gnatcatcher	FT	SSC	Limited suitable habitat. Observed during 2009 focused surveys.
<i>Dendroica petechia brewsteri</i> yellow warbler	–	SSC ⁴	No suitable nesting habitat; not expected to occur for nesting but migrants are expected to occur.
<i>Icteria virens</i> yellow-breasted chat	–	SSC ⁴	No suitable nesting habitat; not expected to occur for nesting but migrants may occur.
<i>Aimophila ruficeps canescens</i> southern California rufous-crowned sparrow	–	WL	Potentially suitable habitat; not observed during surveys and not expected to occur as Project site is outside the known range for this species.
<i>Ammodramus savannarum</i> grasshopper sparrow	–	SSC ⁴	Potentially suitable foraging and nesting habitat; not expected to occur due to high level of disturbance on the site.
<i>Amphispiza belli belli</i> Bell's sage sparrow	–	WL ⁴	Potentially suitable habitat; not observed during surveys and not expected to occur as Project site is outside known range for this species.
<i>Passerculus sandwichensis beldingi</i> Belding's savannah sparrow	–	SE	No suitable habitat; not expected to occur.
<i>Passerculus sandwichensis rostratus</i> large-billed savannah sparrow	–	SSC ⁵	No suitable foraging habitat and outside known breeding range; not expected to occur for foraging or nesting.
<i>Agelaius tricolor</i> tricolored blackbird	–	SSC ¹	Potentially suitable foraging but no suitable nesting habitat; not expected to occur as Project site is not near any known nesting colonies.
Mammals			
<i>Sorex ornatus salicornicus</i> southern California saltmarsh shrew	–	SSC	No suitable habitat; not expected to occur.
<i>Antrozous pallidus</i> pallid bat	–	SSC	Potentially suitable foraging habitat but no suitable roosting habitat; may occur for foraging but not for roosting.
<i>Corynorhinus townsendii</i> Townsend's big-eared bat	–	SSC	Potentially suitable foraging habitat but no suitable roosting habitat; not expected to occur due to lack of potential roost sites in coastal lowlands of the region and the high level of disturbance on the Project site.
<i>Lasiurus xanthinus</i> western yellow bat	–	SSC ¹⁰	Potentially suitable foraging habitat but no suitable roosting habitat; may occur for foraging but not for roosting.
<i>Eumops perotis californicus</i> western mastiff bat	–	SSC	Potentially suitable foraging habitat but no suitable roosting habitat; not expected to occur due to lack of potential roost side in coastal lowlands of the region and high level of disturbance on the Project site.
<i>Nyctinomops ferrosaccus</i> pocketed free-tailed bat	–	SSC	Potentially suitable foraging and limited suitable roosting habitat; may occur for foraging and roosting.
<i>Nyctinomops macrotis</i> big free-tailed bat	–	SSC	Potentially suitable foraging and limited suitable roosting habitat; may occur for foraging and roosting.
<i>Perognathus longimembris pacificus</i> Pacific pocket mouse	FE	SSC	Limited suitable habitat but not detected during regional trapping effort; not expected to occur.

**TABLE 4.6-3 (Continued)
SPECIAL STATUS WILDLIFE SPECIES KNOWN TO OCCUR
IN THE PROJECT VICINITY**

Species	Status		Likelihood of Occurrence
	USFWS	CDFG	
<i>Microtus californicus stephensi</i> south coast marsh vole	–	SSC	No suitable habitat; not expected to occur.
<i>Neotoma lepida intermedia</i> San Diego desert woodrat	–	SSC	Potentially suitable habitat; may occur.
<i>Onychomys torridus ramona</i> southern grasshopper mouse	–	SSC	Potentially suitable habitat; may occur.
<i>Taxidea taxus</i> American badger	–	SSC	Potentially suitable habitat; not expected to occur due to high level of disturbance on the Project site and this species' general absence from urban habitats in the region.

LEGEND:

Federal (USFWS)		State (CDFG)	
FE	Endangered	SE	Endangered
FT	Threatened	ST	Threatened
FC	Candidate	SSC	Species of Special Concern
		WL	Watch List
		FP	Fully Protected

¹ Designation refers to nesting colony
² Designation refers to communal roosts
³ Designation refers to rookery site
⁴ Designation refers to nesting individuals
⁵ Designation refers to wintering individuals
⁶ Designation refers to Pacific coastal population only
⁷ Designation refers to coastal and interior populations
⁸ Designation refers to burrow sites; wintering observations not considered special status for Orange County
⁹ Designation refers to San Diego and Orange counties only
¹⁰ Designation based on the draft updated mammalian species of special concern report
¹¹ Designation refers to the full species

Definitions of Special Status Biological Resources

A **federally Endangered species** is one facing extinction throughout all or a significant portion of its geographic range. A **federally Threatened species** is one likely to become Endangered within the foreseeable future throughout all or a significant portion of its range. The presence of any federally Threatened or Endangered species on a Project site generally imposes severe constraints on development, particularly if development would result in “take” of the species or its habitat. The term “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to engage in such conduct. “Harm” in this sense can include any disturbance of species’ habitats during any portion of its life history.

Proposed species or **Candidate species** are those officially proposed by the USFWS for addition to the federal Threatened and Endangered species list. Because proposed species may soon be listed as Threatened or Endangered, these species could become listed prior to or during implementation of a proposed development project.

The State of California considers an **Endangered species** to be one whose prospects of survival and reproduction are in immediate jeopardy, a **Threatened species** as one present in such small numbers throughout its range that it is likely to become an Endangered species in the near future in the absence of special protection or management, and a **Rare species** as one present in such small numbers throughout its range that it may become Endangered if its

present environment worsens. “Rare species” only applies to California native plants. State Threatened and Endangered species are fully protected against take unless an incidental take permit is obtained from the wildlife agencies.

California Species of Special Concern is an informal designation used by the CDFG for some declining wildlife species that are not State Candidates for listing. This designation does not provide legal protection, but signifies that these species are recognized as special status by the CDFG. Recently, the CDFG downlisted several species from Species of Special Concern to the **Watch List**. Although not considered special status, Watch List species are tracked by the CNDDDB.

Species that are **California Fully Protected** and **Protected** include those protected by special legislation for various reasons, such as the mountain lion (*Puma [Felis] concolor*) and white-tailed kite (*Elanus leucurus*). Fully Protected species may not be taken or possessed at any time. California Protected species include those species that may not be taken or possessed at any time except under special permit from the CDFG issued pursuant to Sections 650 and 670.7 of the *California Code of Regulations*, or Section 2081 of the *California Fish and Game Code*.

A species that is considered a **Special Animal** is one that is tracked by the CNDDDB. Species of **Local Concern** are those that have no official status with the resource agencies, but are being watched because either there is a unique population in the region or the species is declining in the region.

The CNPS is a local resource conservation organization that has developed an inventory of California’s special status plant species (BonTerra Consulting 2009c). This inventory is a summary of information on the distribution, rarity, and endangerment of California’s vascular plants, and is comprised of four lists. The CNPS **List 1A** includes plant species that are presumed extinct in California because they have not been seen in the wild for many years. The CNPS considers **List 1B** plants as Rare, Threatened, or Endangered throughout their range. **List 2** plant species are considered Rare, Threatened, or Endangered in California but more common in other states. **List 3** is a “review” list of plants for which more information is needed, and **List 4** is a “watch” list of plants that have limited distribution. The CNPS also assigns a threat code extension to the List categories (BonTerra Consulting 2009c). An extension of **.1** is assigned to plants that are considered to be “seriously endangered” in California with over 80 percent of the occurrences threatened or with a high degree and immediacy of threat. Extension **.2** indicates the plant is “fairly endangered” in California (between 20 and 80 percent of the occurrences threatened). Extension **.3** is assigned to plants that are considered “not very endangered” in California with less than 20 percent of occurrences threatened. The absence of a threat code extension indicates plants lacking any threat information.

Special Status Vegetation Types

In addition to providing an inventory of special status plant and wildlife species, the CNDDDB also provides an inventory of vegetation types that are considered special status by the State and federal resource agencies, academic institutions, and various conservation groups (such as the CNPS). Determination of the sensitivity level is based on the Nature Conservancy Heritage Program Status Ranks that rank both species and vegetation types on a global and statewide basis according to the number and size of remaining occurrences and recognized threats (e.g., proposed developments, habitat degradation, and non-native species invasion). Special status vegetation types on the Project site are shown on Exhibit 4.6-2, Special Status Biological

Resources. All of the vegetation types below are considered a high priority for preservation by agencies and conservation groups.

Coastal Sage Scrub

Coastal sage scrub has declined by approximately 70 to 90 percent in its historic range in California (BonTerra Consulting 2009c). It has largely been lost to land use changes in Southern California basins and foothills. It also supports many special status plant and wildlife species. The ecological function in Southern California's remaining coastal sage scrub is threatened by habitat fragmentation, invasive non-native species, livestock grazing, off-highway vehicles, altered fire regime, and perhaps air pollution (BonTerra Consulting 2009c). Coastal sage scrub vegetation types on the Project site that meet the definition above include southern coastal bluff scrub and areas of Encelia scrub that are adjacent to other areas of high to moderate biological value. These special status vegetation types total 1.42 acres. The 3.64 acres of disturbed Encelia scrub is regularly mowed for fuel modification and weed abatement purposes and contains a high percentage of non-native weeds; therefore, it is not considered special status. In addition, two small areas of scrub (0.26 acre of Encelia scrub and .21 acre of Encelia scrub/ornamental) are not considered special status because of their fragmentation from high value areas, presence of invasive non-native species, maintenance of concrete v-ditch under the shrubs, presence of trash, and proximity to high foot/bicycle, and vehicle traffic.

Riparian

Riparian vegetation occurs along perennial or intermittent drainages that typically are subject to seasonal flooding. Most natural riparian vegetation in Southern California has been lost or degraded by land use conversions to agricultural, urban, and recreational uses; channelization for flood control; sand and gravel mining; groundwater pumping; water impoundments; and various other changes. It is estimated that as much as 95 to 97 percent of historic riparian habitats in Southern California have been lost (BonTerra Consulting 2009c). Riparian habitats are biologically productive as well as diverse, and are the exclusive habitat of several special status species. Thus, several riparian vegetation types are ranked as special status by the CDFG. The riparian vegetation type that is considered "rare and worthy of consideration" and occurs on the Project site is willow scrub.

This vegetation type may require a Streambed Alteration Agreement under Section 1600 et seq. of the *California Fish and Game Code*. It should be noted that the acreage of vegetation mapped often exceeds the amount of jurisdictional areas on the Project site because these areas are delineated with different methods. Vegetation mapping is conducted using aerial photographs and general field surveys, while very detailed measurements are taken for jurisdictional delineations. Therefore, permitting for projects is always based on the results of the jurisdictional delineation.

Natural Communities Conservation Plan

On August 30, 1991, the California Fish and Game Commission considered a petition in support of listing the coastal California gnatcatcher (*Polioptila californica californica*) as a State Endangered species. The Commission decided not to list the coastal California gnatcatcher in favor of pursuing preparation of a Natural Community Conservation Plan (NCCP) program, as proposed by Assembly Bill 2172 (AB 2172/Natural Communities Conservation Planning Act). AB 2172 authorizes the CDFG to enter into agreements with any person for the purpose of preparing and implementing NCCPs and preparing guidelines for development and implementation of NCCPs. AB 2172 also permits NCCPs to be prepared by local, State, or

federal agencies independently or in cooperation with other persons, and requires the CDFG to be compensated for costs incurred in preparing and implementing NCCPs.

The purpose of the NCCP program is to provide regional or area-wide protection and to promote perpetuation of natural wildlife diversity while allowing compatible and appropriate development and growth. AB 2172 was designed in response to the fact that individual species protection under the CESA and the FESA is costly and historically ineffective as a mechanism for protection from or the prevention of extinction of plant and wildlife species, and that a habitat-based, multi-species, or ecosystem-driven preservation approach has a greater potential for long-term success. The focus of the NCCP program represents a dramatic shift from “individual species” to “habitat” preservation.

On March 25, 1993, the U.S. Department of the Interior listed the coastal California gnatcatcher as a Threatened species and adopted a special rule in accordance with Section 4(d) of FESA that authorized landowners and local jurisdictions to voluntarily participate in the State of California NCCP Act of 1992.

Since that time, the County of Orange—in conjunction with the State and federal resource agencies, local jurisdictions, utility companies, the Transportation Corridor Agencies, and major private landowners—has prepared the NCCP/Habitat Conservation Plan (HCP) for the Central/Coastal Subregion (approved on July 10, 1996). These plans are intended to ensure the long-term survival of the coastal California gnatcatcher and other special status coastal sage scrub-dependent plant and wildlife species in accordance with State-sanctioned NCCP program guidelines. The Project site occurs within the Central/Coastal Subregion.

Implementation of the NCCP/HCP began when the Central/Coastal Subregional NCCP/HCP program was completed and approved in 1996. The USFWS monitors the plan to ensure the success of the implementation program. The design of the Central/Coastal NCCP/HCP Subregion was intended to preserve the most biologically rich areas within the subregion while identifying areas suitable for development.

Existing Use Areas are portions of the Central/Coastal Subregion owned by non-participating landowners and public agencies and subject to the provisions of Chapter 4.4.1 of the NCCP/HCP. Existing Use Areas comprise areas with important populations of Identified Species but which are geographically removed from the Reserve System (i.e., these areas exist as “islands” of Identified Species populations) such that they do not provide primary connectivity functions. These areas include existing open space maintained by community and homeowner associations, other privately owned lands, and some public parklands. The provisions governing Existing Use Areas apply only to existing natural habitat areas within the designated Existing Use Areas. The NCCP/HCP does not authorize Incidental Take within the Existing Use Areas; such activities must be submitted to the USFWS for review and approval, consistent with existing federal law and the provisions of Section 7.3 of the NCCP/HCP and the Implementation Agreement (IA). The Project site occurs within the Santa Ana River Mouth Existing Use Area. This area has been designated as an Existing Use Area because “it provides existing gnatcatcher habitat; it is located adjacent to Talbert Nature Preserve and has significant potential to contribute to the long-term biological function of the Reserve System; and it would be inappropriate to authorize Incidental Take of what could be a significant population of coastal California gnatcatcher without being able to review available biological data” (BonTerra Consulting 2009c).

Jurisdictional Waters of the United States

The USACE takes jurisdiction over areas considered “Waters of the U.S.” and wetlands. Jurisdictional waters are typically defined by the ordinary high water mark and other specific criteria. Wetlands, a subset of jurisdictional waters, are defined as those that possess the following three parameters: (1) hydrology that provides permanent or periodic inundation by groundwater or surface water; (2) hydric soils; and (3) hydrophytic vegetation. The RWQCB jurisdictional boundaries are defined as those determined for the USACE under “Waters of the U.S.”. However, the RWQCB takes jurisdiction over both connected and isolated waters. CDFG jurisdictional limits are similar to those of USACE jurisdiction, but include riparian habitat supported by a river, stream, or lake regardless of the presence or absence of hydric soils and saturated soil conditions. The limits of CDFG jurisdiction are often defined by riparian vegetation. A jurisdictional delineation to determine the extent of USACE and CDFG jurisdictional areas on the Project site was conducted in 2009. The results of the delineation are included in the Biological Technical Report (Appendix E). Based on field observations and data collection, no non-wetland “Waters of the U.S.” and no resources under the jurisdiction of the RWQCB occur on the Project site. In addition, no wetlands defined by the California Coastal Act occur on the Project site. A total of 0.44 acre of CDFG jurisdiction occurs on the Project site. Exhibit 4.6-3, CDFG Jurisdictional Resources, shows the location of CDFG jurisdiction on the Project site.

Special Status Plant Species

California box-thorn (*Lycium californicum*), a CNPS List 4.2 species, was the only special status plant species found on the Project site. List 4 species are relatively common throughout California. This species was detected during 2009 focused surveys of the Project site in the southern coastal bluff scrub located in the central, preserved portion of the Project site.

Special Status Wildlife Species

San Diego Fairy Shrimp

San Diego fairy shrimp (*Branchinecta sandiegonensis*) and Riverside fairy shrimp (*Streptocephalus woottoni*) are not expected to occur on the Project site due to lack of suitable habitat. The Project site is located outside of designated critical habitat areas for these species.

Fish

Tidewater goby (*Eucyclogobius newberryi*) is not expected to occur on the Project site due to lack of suitable habitat. The Project site is located outside of designated critical habitat areas for this species.

Amphibians

Western spadefoot (*Spea hammondi*) and arroyo toad (*Anaxyrus californicus*) are not expected to occur on the Project site due to lack of suitable habitat. The Project site is located outside of designated critical habitat areas for the arroyo toad.

Reptiles

Southwestern pond turtle (*Actinemys marmorata pallida*), coast (San Diego) horned lizard (*Phrynosoma coronatum* [blainvillii population]), orange-throated whiptail (*Aspidoscelis hyperythra*), coast patch-nosed snake (*Salvadora hexalepis virgultea*), two-striped garter snake

(*Thamnophis hammondi*), and northern red-diamond rattlesnake (*Crotalus ruber ruber*) are not expected to occur on the Project site due to lack of suitable habitat and high level of disturbance.

The silvery legless lizard (*Anniella pulchra pulchra*) was identified with potential to occur on the Project site. Although this species was not observed during the surveys, it may occur on the Project site.

Birds

Of the Threatened and Endangered bird species known to occur in the Project region, only one species has the potential to occur on the Project site: coastal California gnatcatcher. Focused surveys for this species were conducted in 2009 and this species was observed. The California gnatcatcher has been observed on the Newport Banning Ranch property (including the area proposed for the access road for the Park) over several years (BonTerra Consulting 2009c). The Project site is within designated critical habitat for this species.

Five special status bird species with potential to occur on the Project site for some part of the year are not federally or State-listed (Table 4.6-3). However, these species are not expected to nest on the Project site either because they nest outside the Project region, the Project site lacks suitable nesting habitat, or the level of disturbance is too high.

The burrowing owl (*Athene cunicularia*) is not currently expected to occur on the Project site because it was not observed during focused surveys conducted in 2008/2009. However, limited suitable habitat for this species occurs on the Project site, and this species may occur occasionally as a migrant or rare winter visitor.

The loggerhead shrike (*Lanius ludovicianus*) has the potential to occur on the Project site. Although this species was not observed on the Project site during the surveys, it may occur on the Project site.

Several raptor species have potential to occur on the Project site (Table 4.6-3). These species were either observed or have potential to occur on the Project site for foraging. None of these species have the potential to nest on the Project site.

Mammals

Four special status bat species have the potential to occur on the Project site (Table 4.6-3). Two of these species, pocketed free-tailed bat (*Nyctinomops fermorosaccus*) and big free-tailed bat (*Nyctinomops macrotis*), also have a limited potential to roost on the Project site.

Two special status mammal species have potential to occur on the Project site (Table 4.6-3). The San Diego desert woodrat (*Neotoma lepida intermedia*) and southern grasshopper mouse (*Onychomys torridus ramona*) may occur on the Project site due to the presence of suitable habitat.

4.6.4 METHODOLOGY

General biological surveys of the Project site were conducted by BonTerra Consulting from 2008 to 2009. Additional focused surveys were also conducted in spring and summer of 2009.



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CDFG Jurisdictional Resources

Sunset Ridge Park EIR

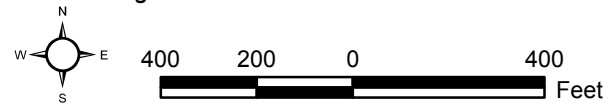


Exhibit 4.6-3

Bonterra
CONSULTING

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Vegetation Mapping and Plant Surveys

A literature search was conducted to identify special status plants, wildlife, and habitats known to occur in the vicinity of the Project site. Sources reviewed include the CNPS Electronic Inventory of Rare and Endangered Vascular Plants of California (CNPS 2009), the CDFG's CNDDDB (CDFG 2009a), and a compendium of special status species published by the USFWS and the CDFG.

Vegetation mapping and general plant surveys were conducted on December 19, 2008. In addition, the Project site required expansion due to project design changes to incorporate the fill sites (stockpile locations and haul route) on the adjacent Newport Banning Ranch property. This small additional area along the northern portion of the Project site was mapped on July 29, 2009. The purpose of the surveys was to describe the vegetation present on the Project site and evaluate the potential of the habitats to support special status species. All plant species observed were recorded in field notes and are listed in Table A-1 in Attachment A of the Biological Technical Report (Appendix E of this EIR).

Focused spring botanical surveys were conducted on the Project site on April 27 and June 30, 2009, to evaluate the presence or absence of special status species. Prior to the surveys, known reference populations of focus species were visited to ensure the surveys were appropriately timed. During the surveys, all areas of the Project site containing native habitats potentially suitable for special status plant species having the potential to occur on the Project site, as determined in previous biological surveys and by assessing soil maps, were sampled using meandering transects. Field notes were taken during the surveys. If found, the location of each population of special status species observed were mapped using a Global Positioning System (GPS) unit, and voucher specimens were collected and deposited in an appropriate herbarium to ensure accuracy in the identification. Results of the plant surveys are included in the Biological Technical Report (Appendix E).

Wildlife Surveys

The most recent general surveys for amphibians, reptiles, birds, and mammals were conducted simultaneously with vegetation mapping and focused surveys in 2008 and 2009. During the surveys, each habitat type was evaluated for its potential to support special status species that are known to occur or that are expected to occur in the region. Active searches for reptiles and amphibians included lifting, overturning, and carefully replacing rocks and debris. Birds were identified by visual and auditory recognition. Surveys for mammals were conducted during the day and included searching for and identifying diagnostic sign, including scat, footprints, scratch-outs, dust bowls, burrows, and trails. No mammal trapping was conducted because it was not considered warranted (i.e., there are no Threatened or Endangered mammals expected to occur on the Project site). All wildlife species observed during all survey efforts were recorded in field notes and are listed in Table A-2 of Attachment A of the Biological Technical Report (Appendix E).

In addition to the general wildlife surveys, focused surveys were conducted on the Project site for the burrowing owl and coastal California gnatcatcher. Results of the surveys are included in Attachments C and D of the Biological Technical Report.

4.6.5 PROJECT DESIGN FEATURES AND STANDARD CONDITIONS

No Project Design Features or standard conditions have been identified.

4.6.6 THRESHOLDS OF SIGNIFICANCE

The following significance criteria are derived from Appendix G of the State CEQA Guidelines. The Project would result in a significant impact related to biological resources if it would:

- Threshold 4.6-1** 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.
- Threshold 4.6-2** 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 Game or US Fish and Wildlife Service.
- Threshold 4.6-3** Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.
- Threshold 4.6-4** Interfere substantially with the movement of any native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.
- Threshold 4.6-5** Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.
- Threshold 4.6-6** Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

In addition, current regulatory guidelines for the protection of biological resources, including wetlands and other “Waters of the U.S.”, fisheries habitats, tree resources, and species of special concern identify thresholds of significance for biological resources. Generally, a finding of significance under CEQA is made if a project would result in substantial impacts to species or communities of special concern, including federally or State-listed species. In the absence of regulatory thresholds, impacts are determined based on whether an action would (1) substantially diminish population numbers of a species or distribution of a habitat type within the region or (2) eliminate the function and/or value of a biological resource in the region. Both the resource itself and how that resource fits into a regional context must be considered to evaluate whether an impact on biological resources would result in a “substantial adverse effect”. The proposed Project’s regional setting includes the Central/Coastal NCCP/HCP Subregion. This subregion is bound by the State Route 55 and State Route 91 freeways to the north; the Santa Ana River and Pacific Ocean to the west; El Toro Road and Interstate 5 (I-5) to the east; and the Pacific Ocean to the south.

4.6.7 ENVIRONMENTAL IMPACTS

- Threshold 4.6-1** *Would the project 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?

Implementation of the proposed Project could potentially result in impacts on special status plant and wildlife species if they occur on the Project site. Potential impacts on these species were evaluated by determining the impacts on habitat that the species is known or expected to occupy and their known or expected occurrence based on the results of focused survey efforts.

Special Status Plants

California boxthorn, a CNPS List 4.2 species, was observed in the southern coastal bluff scrub located in the central, preserved portion of the Project site. Impacts on this species would be considered adverse but less than significant due to the low status of this species and the relative abundance throughout its range.

Impact Summary: ***Less Than Significant.*** The Project would not have a substantial adverse effect on any special status plant species.

General Habitat Loss and Wildlife Loss

Construction of the proposed Project would result in the loss of approximately 5.06 acres of native habitat that provides nesting, foraging, roosting, and denning opportunities for a variety of wildlife species. In addition, implementation of the proposed Project would result in the loss of approximately 20.28 acre of non-native habitats (non-native grassland, ruderal, ornamental, flood control channel, and disturbed) that provide lower-quality wildlife habitat. However, these non-native habitats may provide limited nesting, foraging, roosting, and denning opportunities for some species.

Removing or altering habitats on the Project site would result in the loss of small mammals, reptiles, amphibians, and other slow-moving animals that live in the proposed Project's direct impact area. More mobile wildlife species that are now using the Project site would be forced to move into the remaining areas of open space, which would consequently increase competition for available resources in those areas. This situation would result in the loss of individuals that cannot successfully compete.

The loss of native and non-native habitats that provide wildlife habitat is considered an adverse impact. However, the loss of habitat would not be expected to reduce wildlife populations below self-sustaining levels in the region. Therefore, this impact would be considered adverse, but less than significant.

Vegetation on the Project site could support nesting birds. Impacts to migratory nesting birds are prohibited under the MBTA. In addition, common raptor species such as red-tailed hawk have potential to nest on the Project site. Should an active raptor nest (common or special status species) be found on the Project site, the loss of the nest would be considered a violation of *California Fish and Game Code* Sections 3503, 3503.5, and 3513. The loss of any active nesting bird/raptor nest occurring on the Project site would be considered significant. Impacts on nesting birds/raptors would be reduced to less than significant levels with implementation of Mitigation Measures (MM) 4.6-1 and 4.6-2.

Special Status Wildlife

Special status invertebrates, fish, or amphibians are not expected to occur on the Project site due to lack of suitable habitat. Therefore, there would be no impact on these species, and no mitigation would be required.

Only the silvery legless lizard has the potential to occur on the Project site. Due to the limited amount of habitat loss relative to the availability of habitat for this species in the region, impacts on this species would be considered adverse, but less than significant; no mitigation would be required.

Twenty-five special status bird species are not expected to occur on the Project site. Therefore, there would be no impact on these species, and no mitigation would be required. These species are California brown pelican, least bittern, golden eagle, Swainson's hawk, bald eagle, osprey, California black rail, light-footed clapper rail, western snowy plover, black skimmer, California least tern, elegant tern, western yellow-billed cuckoo, black swift, southwestern willow flycatcher, least Bell's vireo, purple martin, bank swallow, coastal cactus wren, Southern California rufous-crowned sparrow, grasshopper sparrow, Bell's sage sparrow, Belding's savannah sparrow, large-billed savannah sparrow, and tricolored blackbird.

Five special status bird species have potential to occur on the Project site for some part of the year due to the presence of suitable habitat: long-billed curlew, Vaux's swift, California horned lark, yellow warbler, and yellow-breasted chat. However, these species are not expected to nest on the Project site either because they nest outside the Project region, the Project site lacks suitable nesting habitat, or the level of disturbance on the Project site is too high. Since these species are not expected to nest on the Project site, Project implementation would not result in the loss of nesting habitat. The minor loss of potential foraging habitat for these species is not considered significant because the loss would not substantially affect these species. Therefore, no mitigation would be required.

The proposed Project would result in the loss of suitable foraging habitat for a variety of raptor species including Cooper's hawk, sharp-shinned hawk, ferruginous hawk, northern harrier, white-tailed kite, merlin, prairie falcon, American peregrine falcon, short-eared owl, and long-eared owl. Of these species, only the American peregrine falcon is State-listed as Endangered. Impacts on foraging habitat for these species would be considered adverse, but would not be expected to appreciably affect the overall population of these species given the amount of potentially suitable foraging habitat in the immediate vicinity. Therefore, impacts on these species would be considered adverse, but less than significant; no mitigation would be required.

The burrowing owl is not currently expected to occur on the Project site because it was not observed during focused surveys conducted in 2008/2009. However, limited suitable habitat for this species occurs on the Project site, and this species may occur occasionally as a migrant or rare winter visitor. If this species returns to the site, impacts on burrowing owls would be considered significant because the loss of a wintering/migrant population in the coastal area of Orange County would substantially affect the local population. Implementation of MM 4.6-2 would reduce the potential impacts on this species to less than significant levels.

The loggerhead shrike has the potential to occur on the Project site. Due to the limited amount of habitat loss relative to the availability of habitat for this species in the region, impacts on this species would be considered adverse but less than significant; no mitigation would be required.

A total of one territory of the federally Threatened coastal California gnatcatcher was observed during the 2009 focused surveys (Exhibit 4.6-2). The Project is expected to impact a total of 0.68 acre (0.14 acre southern coastal bluff scrub, 0.48 acre disturbed mule fat scrub/goldenbush scrub¹, and 0.06 acre willow scrub²) of habitat for this species. The Encelia scrub, Encelia scrub/ornamental, and disturbed Encelia scrub on the Project site would not be considered utilized by the gnatcatcher due to the periodic mowing and traffic/pedestrian edge effects in this area. Although this species is covered by the NCCP/HCP, the Project site is located within an Existing Use Area, and the NCCP/HCP does not authorize Incidental Take as a result of the conversion of coastal California gnatcatcher-occupied habitat in Existing Use Areas. The impact on this species would be considered significant. Implementation of MM 4.6-3 and 4.6-4 would reduce this impact to a less than significant level.

The Southern California saltmarsh shrew, Townsend's big-eared bat, western mastiff bat, Pacific pocket mouse, south coast marsh vole, and American badger are not expected to occur on the Project site due to a lack of suitable habitat and/or high level of disturbance on the Project site. Therefore, there would be no impact on these species, and no mitigation would be required.

The San Diego desert woodrat and southern grasshopper mouse have the potential to occur on the Project site. Due to the limited amount of habitat loss relative to the availability of habitat for these species in the region, impacts on these species would be considered adverse but less than significant, and no mitigation would be required.

Several bat species have the potential to forage on the Project site: pallid bat, western yellow bat, pocketed free-tailed bat, and big free-tailed bat. The pocketed free-tailed bat and big free-tailed bat also have a limited potential to roost on the Project site. Due to the limited amount of habitat loss relative to the availability of habitat for these species in the region, impacts on these species would be considered adverse but less than significant, and no mitigation would be required.

Impact Summary: *Less Than Significant With Mitigation.* This impact would be mitigated to a level considered less than significant with implementation of MMs 4.6-1 through 4.6-4.

Threshold 4.6.2 *Would the project 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 Game or US Fish and Wildlife Service?*

Implementation of the proposed Project would impact approximately 25.34 acres of native and non-native vegetation types and other areas. The impact areas for the proposed Project are shown in Exhibit 4.6-4, Project Impacts, and impact acreages are provided in Table 4.6-4, Vegetation Types and Other Areas Impacted by the Proposed Project. In summary, a total of 0.41 acre of coastal sage scrub and 0.06 acre of riparian vegetation (i.e., the area mapped as willow scrub) types would be removed through construction impacts. Impacts on sage scrub vegetation types are significant due to the ongoing loss of this vegetation type in Southern California and the potential for this habitat to support special status species. Impacts on riparian vegetation types would also be considered significant due to the limited distribution of these

¹ The disturbed mule fat scrub/goldenbush scrub vegetation type is included with the gnatcatcher impacts due to this area being occupied by the coastal California gnatcatcher.

² The willow scrub vegetation type is included with the gnatcatcher impacts due to this area being occupied by the coastal California gnatcatcher.

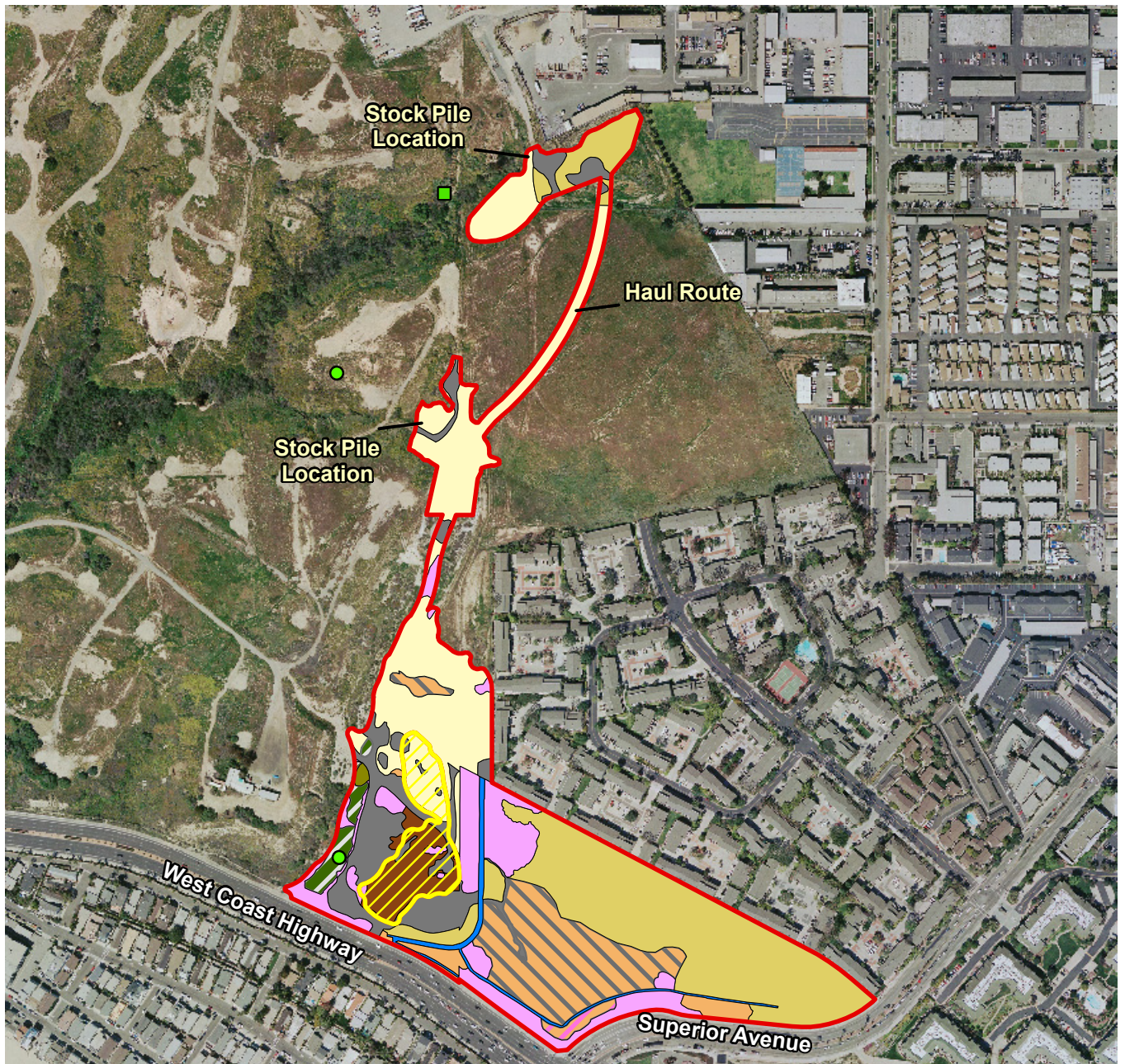
vegetation types in California. Implementation of MM 4.6-4 and MM 4.6-5 would reduce these impacts to a less than significant level. In addition, the City would be required to follow the construction minimization measures listed in MM 4.6-3.

The proposed Project would impact approximately 0.26 acre of Encelia scrub, 0.21 acre of Encelia scrub/ornamental, 3.64 acres of disturbed Encelia scrub, 6.03 acres of non-native grassland, 7.75 acres of ruderal vegetation, 3.13 acres of ornamental vegetation, and 0.49 acre of flood control channel. The proposed Project would also impact 2.88 acres of disturbed areas. The disturbed Encelia scrub is regularly mowed for fuel modification and weed abatement purposes and contains a high percentage of non-native weeds. In addition, two small areas of scrub are not considered special status because of their fragmentation from high value areas, presence of invasive non-native species, maintenance of concrete v-ditch under the shrubs, presence of trash, and proximity to high foot/bicycle, and vehicle traffic. Therefore, these areas are not considered special status as they are not expected to support gnatcatchers during the nesting season. These areas generally have low biological value because they are composed of unvegetated areas or are vegetated with non-native species and subject to significant disturbance. These areas generally provide limited habitat for native plant and wildlife species although they may occasionally be used by native species. Therefore, impacts on these areas would not be considered significant, and no mitigation would be required.

**TABLE 4.6-4
VEGETATION TYPES AND OTHER AREAS IMPACTED
BY THE PROJECT**

Vegetation Types and Other Areas	Existing (Acres)	Impact (Acres)
Southern Coastal Bluff Scrub	1.15	0.14
Encelia Scrub	0.53	0.53
Encelia Scrub/Ornamental	0.21	0.21
Disturbed Encelia Scrub	3.64	3.64
Non-Native Grassland	6.58	6.03
Ruderal	7.75	7.75
Disturbed Mule Fat Scrub/Goldenbush Scrub	0.48	0.48
Willow Scrub	0.06	0.06
Ornamental	3.19	3.13
Flood Control Channel	0.49	0.49
Disturbed	3.18	2.88
Total	27.26	25.34

Impact Summary: *Less Than Significant With Mitigation.* Grading activities could impact riparian habitat and sensitive natural communities (coastal sage scrub). This impact would be reduced to a level considered less than significant with implementation of MM 4.6-4 and MM 4.6-5.

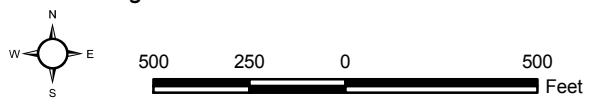


California Gnatcatcher Locations		Disturbed Encelia Scrub
Pair	Non-Native Grassland	Ruderal
Solitary Male	Disturbed Mule Fat Scrub/Goldenbush Scrub	Willow Scrub
Project Impacts	Ornamental	Flood Control Channel
Outside Area of Impact	Southern Coastal Bluff Scrub	Encelia Scrub
Vegetation Types and Other Areas	Encelia Scrub/Ornamental	Disturbed

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Project Impacts
Sunset Ridge Park EIR

Exhibit 4.6-4



Threshold 4.7-3 *Would the project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?*

No federally protected wetlands as defined by Section 404 of the Clean Water Act are present on the Project site. The USACE has determined that no resources under the jurisdiction of the USACE occur within the limits of disturbance of the proposed Project. Also, no isolated resources occur within the Project site. Since the RWQCB jurisdictional boundaries are defined as those determined by the USACE under “Waters of the U.S.”, including isolated waters, no connected or isolated non-wetlands waters occur within the Project site or limits of Project disturbance. Based on current Project design plans, the Project would not impact resources under the jurisdiction of the USACE or the RWQCB.

Only areas under the jurisdiction of the CDFG are present on the Project site. A total of 0.44 acre of streambed under the jurisdiction of the CDFG would be impacted by the proposed Project. The impact on CDFG jurisdictional areas would be considered significant. Implementation of MM 4.6-6 would reduce impacts to less than significant levels.

Impact Summary: *Less Than Significant With Mitigation.* Grading activities could impact areas under the jurisdiction of the CDFG. This impact would be less than significant with implementation of MM 4.6-6.

Threshold 4.6-4 *Would the project interfere substantially with the movement of any native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

The proposed Project is located at the southeastern end of a large area of open space. Wildlife movement opportunities in this area are already constrained by the extensive urbanization in the Project vicinity. Therefore, implementation of the proposed Project would not impact regional wildlife movement or result in fragmentation of habitat. Therefore, impacts on wildlife movement would be considered less than significant, and no mitigation would be required.

Impact Summary: *Less than Significant.* The proposed Project would not interfere with the movement of any native resident or migratory wildlife corridors, or impede the use of native nursery sites.

Threshold 4.6-5 *Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?*

Tables 4.1-2, 4.1-3, and 4.1-4 in Section 4.1, Land Use and Planning, address the Project’s consistency with applicable goals and policies of the City’s General Plan and Coastal Land Use Plan and the California Coastal Act.

Impact Summary: *Less Than Significant.* As identified in these tables, the proposed Project would not conflict with any goals or policies of the *City of Newport Beach General Plan* or Local Coastal Plan, or the California Coastal Act.

Threshold 4.6-6 **Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?**

The Project site occurs within the Santa Ana River Mouth Existing Use Area of the Central/Coastal Subregion NCCP/HCP. Existing Use Areas are comprised of areas with important populations of Identified Species but which are geographically removed from the Reserve System. The NCCP/HCP does not authorize Incidental Take within the Existing Use Areas; such activities must be submitted to the USFWS for review and approval, consistent with existing federal law. The Project would not conflict with the provisions of an adopted HCP/ NCCP because it does not impact areas identified as part of the Central/Coastal Subregion Reserve System nor does it utilize the Take allocations associated with projects in the Subregion that are outside the Existing Use Areas.

Impact Summary: No impact would occur.

4.6.8 CUMULATIVE IMPACTS

Projects included in the study area for biological resources concentrated on larger projects in the City that would impact native terrestrial habitat types; these projects included the proposed City Hall and Park Development, and the ongoing development of Newport Coast and Newport Ridge buildout. The Orange County Central/Coastal Subregion NCCP/HCP was also evaluated because of its important role in mitigating cumulative impacts through the preservation and management of open space or a region-wide and ecosystem based program.

The proposed City Hall and Park Development project site, Newport Coast, Newport Ridge build-out, and the Project site are all located within the boundaries of the NCCP/HCP coastal subregion. The NCCP/HCP was developed to take a broad-based ecosystem approach to planning for the protection and management of coastally occurring wildlife and plant communities. This program anticipated and planned for impacts to native habitats and associated wildlife in the coastal subregion with a corresponding reserve system that permanently preserved coastal lands biologically important to the area. Conservation biologists and regional planners have determined that ecosystem based programs, such as the NCCP, are the most appropriate way to evaluate and mitigate for potential cumulative impacts resulting from multiple projects impacting biological resources in a given region.

The cumulative impacts from implementation of the proposed City Hall and Park Development project as well as completion of the buildout of Newport Coast and Newport Ridge are mitigated through the City's participation in the Central/Coastal Subregion NCCP/HCP process and adherence to required minimization measures for each of these projects.

As previously addressed, the Project site occurs within the Santa Ana River Mouth Existing Use Area of the Central/Coastal Subregion NCCP/HCP. Existing Use Areas are comprised of areas with important populations of Identified Species but which are geographically removed from the Reserve System. The Project site does not occur within the Reserve System; however, it does contain significant biological resources (coastal California gnatcatcher) which require mitigation according to federal law.

When viewed collectively, these projects would not result in cumulative impacts to biological resources because (1) none of the projects are located in the Central/Coastal Subregion Reserve System, (2) three of the projects are participants in the Central/Coastal Subregion NCCP/HCP, with the allotted take authority, (3) significant native habitat has already been

conserved in Orange County, (4) each project has mitigated its potential impacts to biological resources consistent with State and federal law, (5) the quantity of native habitat on the Project site that would be impacted is not cumulatively significant.

4.6.9 MITIGATION PROGRAM

Mitigation Measures

MM 4.6-1 Project-related activities likely to have the potential to disturb suitable bird nesting habitat shall be prohibited from February 15 through August 31, unless a Project Biologist acceptable to the City of Newport Beach surveys the Project area prior to disturbance to confirm the absence of active nests. Disturbance shall be defined as any activity that physically removes and/or damages vegetation or habitat or any action that may cause disruption of nesting behavior such as loud noise from equipment and/or artificial night lighting. Surveys shall be conducted weekly, beginning no earlier than 30 days and ending no later than 3 days prior to the commencement of disturbance. If an active nest is discovered, disturbance within a particular buffer shall be prohibited until nesting is complete; the buffer distance shall be determined by the Biologist in consideration of species sensitivity and existing nest site conditions. Limits of avoidance shall be demarcated with flagging or fencing. The Biologist shall record the results of the recommended protective measures described above and shall submit a memo summarizing any nest avoidance measures to the City of Newport Beach to document compliance with applicable State and federal laws pertaining to the protection of native birds.

Similarly, for preserved vegetation that occurs within 50 to 100 feet of construction activities, if construction is occurring during the nesting season, preserved vegetation shall be surveyed for the presence of nesting birds.

MM 4.6-2 To the maximum extent practicable, habitats that provide potential nest sites for raptors/burrowing owls shall be removed from September 1 through January 31. If Project construction activities are initiated during the raptor/burrowing owl nesting season (February 1 to August 31), a nesting raptor/burrow survey shall be conducted. Seven days prior to the onset of construction activities, a qualified Biologist shall survey within the limits of the proposed Project disturbance area for the presence of any active raptor nests/burrows (common or special status). Any nest/burrow found during survey efforts shall be mapped on the construction plans. If no active nests/burrows are found, no further mitigation would be required, and survey results shall be provided to the CDFG.

If nesting activity is present, the active site shall be protected until nesting activity has ended to ensure compliance with Section 3503.5 of the *California Fish and Game Code*. To protect any nest/burrow site, the following restrictions on construction are required between February 1 and August 31 (or until nests/burrows are no longer active, as determined by a qualified Biologist): (1) Clearing limits shall be established a minimum of 300 feet in any direction from any occupied nest/burrow and (2) access and surveying shall be restricted within 200 feet of any occupied nest/burrow. Any encroachment into the 300- and/or 200-foot buffer area(s) around the known nest/burrow shall only be allowed if a qualified Biologist determines that the proposed activity shall not disturb the nest occupants. During the non-nesting season, proposed work

activities can occur only if a qualified Biologist has determined that fledglings have left the nest/burrow.

If an active nest/burrow is observed during the non-nesting season, a qualified Biologist shall monitor the nest site; when the raptor/owl is away from the nest, the Biologist shall flush any raptors to open space areas or exclude the owl from the burrow and then remove the burrow so the owl cannot return.

MM 4.6-3 The NCCP/HCP does not authorize Incidental Take resulting from the conversion of habitat occupied by coastal California gnatcatchers in Existing Use Areas. Consistent with FESA processes, the City has two options to mitigate for the impacts to the coastal California gnatcatcher:

- a. On-site avoidance of habitat that would constitute Incidental Take of gnatcatcher habitat or
- b. Mitigation of Incidental Take through a Section 7 or Section 10 process.

In addition, the following construction-related minimization measures shall be required:

1. All activities involving the removal of gnatcatcher/coastal sage scrub habitat shall be prohibited during the breeding and nesting season (February 15 to July 15) unless otherwise directed by the USFWS.
2. The use of any large construction equipment during site grading shall be prohibited within 200 feet of an active gnatcatcher nest during the breeding and nesting season of these species (February 15 to July 15) unless otherwise directed by the USFWS.
3. All areas containing habitat suitable for occupation by the gnatcatcher adjacent to the impact area shall be delineated by the use of orange snow fencing or the use of lath and ropes/flagging.
4. All grubbing operations shall be monitored by a qualified Biologist. The monitoring Biologist shall ensure that only the amount of coastal sage scrub habitat approved for removal by the USFWS will be removed.
5. The monitoring Biologist shall flush gnatcatchers from occupied habitat areas immediately prior to brush-clearing and earth-moving activities. It shall be the responsibility of the monitoring Biologist to assure that gnatcatchers shall not be directly impacted by brush-clearing and earth-moving equipment in a manner that also allows for construction activities on a timely basis.
6. If construction occurs during the nesting season, a summary of construction monitoring activities shall be provided to the USFWS and the CDFG following completion of construction.
7. Following the completion of initial clearing activities, all areas of coastal sage scrub habitat to be avoided by construction equipment and personnel shall be marked with temporary fencing or other appropriate markers clearly visible to construction personnel. No construction access,

parking, or storage of equipment shall be permitted within such marked areas.

MM 4.6-4 Implementation of the Project would result in the loss of 0.41 acre of coastal sage scrub habitat. Permanent impacts on coastal sage scrub vegetation shall be mitigated at a two to one (2:1) ratio on the Project site or in suitable off-site locations in the Newport Beach/Costa Mesa area. A 2:1 ratio for mitigation is appropriate for the habitat impacted which is non-typical for gnatcatchers and subject to degradation by invasive, non-native species. A coastal sage scrub restoration plan shall be prepared by the City prior grading activities. The City shall be responsible for implementing the restoration plan. Restoration shall consist of seeding and planting of containers of appropriate coastal sage scrub species and cactus cuttings. The restoration areas shall be maintained and monitored by the City until the success criteria documented in the restoration plan have been met.

The restoration plan shall contain the following items.

1. **Responsibilities and qualifications of the personnel to implement and supervise the plan.** The responsibilities of the landowner, specialists, and maintenance personnel that shall supervise and implement the plan shall be specified.
2. **Site selection.** The site shall be located in a dedicated open space area and shall be contiguous with other natural open space areas.
3. **Site preparation and planting implementation,** including protection of existing native species; trash and weed removal; native species salvage and reuse (i.e., duff); soil treatments (i.e., imprinting, decompacting); erosion control measures (i.e., rice or willow wattles); and seed mix application.
4. **Schedule.** Establishment of restoration/revegetation sites shall be conducted between October and January 30. Seeding and planting of container plants shall take place immediately after preparation of the restoration sites.
5. **Maintenance plan/guidelines.** The maintenance plan shall include weed control; herbivory control; trash removal; irrigation system maintenance; maintenance training; and replacement planting.
6. **Monitoring Plan.** The monitoring plan shall be conducted for three years, depending upon the performance of the mitigation site, and shall include qualitative monitoring (i.e., photographs and general observations); quantitative monitoring (i.e., randomly placed transects); performance criteria; and monthly reports for the first year, bimonthly reports thereafter, and annual reports for all three years.
7. **Long-term preservation.** Long-term preservation of the site shall be outlined in the conceptual mitigation plan to ensure the mitigation site is not impacted by future development. A conservation easement and a performance bond shall be secured prior to implementation of the site.

8. **Identification of performance standards for the revegetation of coastal sage scrub.** Restoration shall be considered successful at three years if the percent cover and species diversity of the restored and/or created habitat areas are similar to percent cover and species diversity of adjacent existing habitats, as determined by quantitative testing of existing, restored, and created habitat areas.

In addition, earth-moving equipment shall avoid maneuvering in areas outside the identified limits of grading in order to avoid disturbing open space areas that would remain undeveloped. Prior to grading, the natural open space limits shall be marked by the Construction Supervisor and the Project Biologist. These limits shall be identified on the grading plan. No earth-moving equipment shall be allowed within the open space areas.

MM 4.6-5

Implementation of the Project would result in the loss of 0.06 acre of riparian habitat. Prior to the final submittal of a permit application for a CDFG permit agreement, the City shall develop a riparian restoration and enhancement plan for the CDFG. The objective of the plan shall be to ensure no net loss of habitat values as a result of Project activities. This may include preservation, restoration, and enhancement within and off the Project site. The mitigation ratio shall be negotiated with the resource agencies, but shall be no less than 1:1 to ensure no net loss of habitat. The City shall implement the mitigation plan as approved by the resource agencies and according to guidelines and performance standards. Prior to implementation, a detailed riparian restoration and enhancement plan shall be developed and shall contain the following items:

1. **Responsibilities and qualifications of the personnel to implement and supervise the plan.** The responsibilities of the City, specialists, and maintenance personnel that will supervise and implement the plan shall be specified.
2. **Site selection.** Site selection for restoration and enhancement mitigation shall be determined in coordination with the City and resource agencies. The mitigation site(s) shall be located within the Project site in a dedicated open space area or on land that shall be dedicated and/or purchased off site.
3. **Site preparation and planting implementation.** The site preparation shall include protection of existing native species; trash and weed removal; native species salvage and reuse (i.e., duff); soil treatments (i.e., imprinting, decompacting); temporary irrigation installation; erosion control measures (i.e., rice or willow wattles); seed mix application; and container species.
4. **Schedule.** A schedule, which includes planting to occur in late fall and early winter (between October and January 30) shall be developed.
5. **Maintenance plan/guidelines.** The maintenance plan shall include weed control; herbivory control; trash removal; irrigation system maintenance; maintenance training; and replacement planting.

6. **Monitoring Plan.** The site shall be monitored and maintained for three years to ensure successful establishment of riparian habitat within the restored and created areas. The monitoring plan shall include qualitative monitoring (i.e., photographs and general observations); quantitative monitoring (i.e., randomly placed transects); performance criteria as approved by the resource agencies; and monthly reports for the first year, bimonthly reports thereafter, and annual reports for all three years.
7. **Long-Term Preservation.** Long-term preservation of the site shall also be outlined in the restoration and enhancement plan to ensure the mitigation site is not impacted by future development.

MM 4.6-6 A Jurisdictional Delineation Report shall be submitted to each regulatory agency (i.e., the USACE, the CDFG, and the RWQCB) with a request for their concurrence. To facilitate this concurrence, the City shall coordinate and participate in a "Pre-Application Field Meeting" with the USACE, the CDFG, and the RWQCB. The meeting shall be scheduled prior to the submittal of permit applications. The meeting shall review (1) the Project; (2) the impacts that would result from Project implementation; and (3) the proposed mitigation. The intent of this meeting is to obtain a formal Jurisdictional Determination by the USACE and the CDFG.

Upon receipt of the Jurisdictional Determination, the City shall submit to the CDFG the required permit applications required for direct or indirect impacts on areas within this agency's jurisdiction. The City shall be obligated to those mitigation measures required by the resource agency relative to impacts on CDFG jurisdiction. Mitigation shall include, but is not limited to, an in-lieu fee and/or avoidance, enhancement, or replacement of in-kind biological value.

4.6.10 LEVEL OF SIGNIFICANCE AFTER MITIGATION

With implementation of the mitigation program, potential impacts to biological resources would be reduced to a level considered less than significant.