



## 4.4 BIOLOGICAL RESOURCES

| <i>Would the project:</i>  | Potentially Significant Impact | Less Than Significant Impact With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|--|--------------------------------|---|------------------------------|-----------|
| a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service? |                                | ✓   |                              |           |
| b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?   |                                | ✓   |                              |           |
| c. 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?   |                                | ✓   |                              |           |
| d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?   |                                | ✓   |                              |           |
| e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?  |                                |   | ✓                            |           |
| f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?   |                                |   |                              | ✓         |

This section is based on the *Long Beach Municipal Urban Stormwater Treatment (MUST) Facility Project Biological Resources Report* (Biological Report) prepared by Michael Baker International, Inc., dated April 2017 (refer to Appendix B, *Biological Report*).

- a) ***Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?***

***Less Than Significant Impact With Mitigation Incorporated.*** The proposed project would include construction of the MUST facility and associated conveyance facilities along the Los Angeles River, a channelized flood control waterway, from State Route 91 (SR-91) to the Golden Shore RV Resort. The project site has been previously disturbed and is located within an urbanized area. According to the Biological Report, the project site includes developed and disturbed habitat, as well as disturbed and restored coastal sage scrub. The disturbed and restored coastal sage scrub is limited to portions of Segment 5 of the conveyance facilities, refer to Exhibit 2-3.

Based on the literature/records search performed as part of the Biological Report, 15 special-status plant species and 20 special-status wildlife species are known to occur within a five-mile radius of the project site. Each of these species were documented by the literature/records search as having a low potential or are not expected to occur



within the survey area. Based on the field review performed as part of the Biological Report, no special-status plant or wildlife species were observed within the study area.

No endangered, rare, threatened, or special status plant species (or associated habitats) or wildlife species are known to occur within the boundaries of the project site. Project implementation would not result in a substantial adverse effect, either directly or through habitat modifications, on any sensitive species. The restored coastal sage scrub located within the survey area for Segment 5 is not expected to be affected by the proposed project. While a minor amount of disturbed habitat and ornamental landscaping may be affected, impacts to sensitive biological resources are not anticipated given the disturbed nature of the project site.

Since the proposed project may result in the removal of disturbed habitat and ornamental vegetation in various locations of the project site, the proposed project could result in potential impacts to nesting birds protected by the Migratory Bird Treaty Act (MBTA). The MBTA prohibits activities that result in the direct take (defined as killing or possession) of a migratory bird. The proposed project has the potential to impact nesting birds if construction activities occur during the nesting season. However, Mitigation Measure BIO-1 has been provided to reduce impacts in this regard to less than significant levels.

**Mitigation Measures:**

BIO-1 If ground-disturbing activities or removal of any trees, shrubs, or any other potential nesting habitat are scheduled within the avian nesting season (nesting season generally extend from January 1 - August 31), a pre-construction clearance survey for nesting birds shall be conducted twice per week during the three weeks prior to the scheduled vegetation clearance.

The biologist conducting the clearance survey shall document the negative results if no active bird nests are observed on the project site or within the vicinity during the clearance survey with a brief letter report indicating that no impacts to active bird nests would occur before construction can proceed. If an active avian nest is discovered during the pre-construction clearance survey, construction activities shall stay outside of a 300-foot buffer around the active nest. For raptor species, this buffer shall be 500 feet. A biological monitor shall be present to delineate the boundaries of the buffer area and to monitor the active nest to ensure that nesting behavior is not adversely affected by the construction activity. Results of the pre-construction survey and any subsequent monitoring shall be provided to the California Department of Fish and Wildlife (CDFW) and other appropriate agencies.

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

**Less Than Significant Impact With Mitigation Incorporated.** No known riparian habitats are present on-site. Restored coastal sage scrub occurs along conveyance segment 5, and disturbed coastal sage scrub occurs in adjacent disturbed areas along segment 5. Based on the biological report, neither the restored nor disturbed coastal sage scrub would be affected by the project. However, there is a potential for impacts to migratory birds within existing vegetation that may be affected by the project and in the immediate area during project construction; refer to Response 4.4(a). Mitigation Measure BIO-1 has been included to ensure that any potential impacts to species in riparian habitat are less than significant.

**Mitigation Measures:** Refer to Mitigation Measure BIO-1.

**c) *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?***



**Less Than Significant Impact With Mitigation Incorporated.** There are no federally protected wetlands present on the project site, since the project site includes developed and disturbed habitat. However, there is a jurisdictional feature within the survey area consisting of a concrete-lined flood channel located within the northeastern portion of conveyance segment 5, in addition to the termini of numerous conveyance segments connecting to existing flood control facilities within the project area. These features are likely subject to the jurisdiction of the U.S. Army Corps of Engineers (Corps) pursuant to Section 404 of the Federal Clean Water Act, the CDFW pursuant to Section 1600 of the California Fish and Game Code, and Regional Water Quality Control Board (RWQCB) pursuant to CWA Section 401. As such, Mitigation Measure BIO-2 would be implemented to require preparation of a Jurisdictional Delineation during the final design phase to quantify impacts and also require the acquisition of regulatory permits from the Corps, CDFW, and RWQCB. Impacts to jurisdictional waters of the U.S. and State would be mitigated according to existing agency requirements, at a minimum 1:1 ratio to ensure adequate minimization of impacts. With implementation of Mitigation Measure BIO-2, impacts in this regard would be less than significant.

**Mitigation Measures:**

BIO-2 Prior to any construction activities affecting jurisdictional waters of the U.S. or State, the City of Long Beach shall conduct a jurisdictional delineation (JD) for the proposed project to quantify impacts to jurisdictional features, pursuant to Section 404 of the Federal Clean Water Act (CWA), Section 1600 of the California Fish and Game Code, and Section 401 of the CWA. Based on the results of the JD, the City of Long Beach shall consult with the U.S. Army Corps of Engineers, California Department of Fish and Wildlife, and Regional Water Quality Control Board to obtain regulatory permits, as necessary based on project impacts. In consultation with the regulatory agencies, compensatory mitigation for jurisdictional impacts shall be provided at a minimum 1:1 ratio, or as directed in accordance with existing agency requirements.

d) ***Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?***

**Less Than Significant Impact With Mitigation Incorporated.** The proposed MUST facility and associated conveyance facilities would be constructed on previously disturbed and developed areas that primarily consist of disturbed habitat and ornamental landscaped features. The project site is surrounded by urban uses; therefore, the site does not function as a wildlife movement corridor. Therefore, impacts to wildlife corridors or linkages are anticipated to be less than significant. However, vegetation within and adjacent to the project site has the potential to provide favorable conditions for avian nesting. Mitigation Measure BIO-1 has been included to ensure that any potential impacts to wildlife species (i.e., nesting migratory birds) are less than significant.

**Mitigation Measures:** Refer to Mitigation Measure BIO-1.

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

**Less Than Significant Impact.** Vegetation removal associated with the proposed project is anticipated to be limited primarily to removal of ornamental trees and landscaping on-site for the purpose of constructing the MUST and associated conveyance facilities. Chapter 14.28 of the LBMC contains regulations on tree and shrub planting, removal, and maintenance, including the protection of all trees located along the street, alley, court, or other public place during construction activities. Any removal of trees or shrubs within City streets as required for project construction would be performed consistent with the LBMC. Thus, with implementation of Chapter 14.28 of the LBMC impacts to local policies protecting biological resources would be less than significant.

**Mitigation Measures:** No mitigation is required.



- f) **Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?**

**No Impact.** According to the U.S. Fish and Wildlife Service's *HCP/NCCP Planning Areas in Southern California Map*<sup>1</sup> and *California Regional Conservation Plans Map*<sup>2</sup> the proposed project site is neither located within Natural Community Conservation Plan (NCCP) nor Habitat Conservation Plan (HCP). As such, there would be no impact in this regard.

**Mitigation Measures:** No mitigation is required.

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<sup>1</sup> U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, *HCP/NCCP Planning Areas in Southern California*, October 2008.

<sup>2</sup> California Department of Fish and Wildlife, *California Regional Conservation Plans Map*, August 2015.