

## 4.3 BIOLOGICAL RESOURCES

This section evaluates the potential for implementation of the Palm/Industrial Distribution Center Project (“proposed project”) to have substantial adverse impacts on biological resources, including sensitive plants, animals, and habitats.

Data used to prepare this section were obtained primarily from the Biological Technical Report and protocol survey reports prepared for the proposed project (available as Appendix D1) and gnatcatcher survey and kangaroo rat trapping reports by LSA (Appendices D2 and D3, respectively). Atkins acknowledges that these may need to be repeated, but are considering the 2007/2008 results (negative findings) valid for this EIR. Therefore, no performance standard mitigation measures are included requiring that USFWS protocol surveys (not pre-construction surveys) be repeated. Full bibliographic entries for all referenced materials and communication are provided in Section 4.3.9 (References).

No comment letters related to biological resources were received in response to the notice of preparation (NOP) circulated on August 3, 2007, for the proposed project.

### 4.3.1 Environmental Setting

#### ■ Regional Location

The project site is contained within the United States Geological Survey (USGS) 7.5-minute series topographical map for San Bernardino North. The project site is located in the City of San Bernardino (City), San Bernardino County (County), California (state).

The approximately 38.4-acre project site is located adjacent (south) of Interstate 215 (I-215), and approximately 3 miles east of Interstate 15 (I-15). Specifically, the project site is situated on the northeast corner of the intersection of Palm Avenue and Industrial Parkway.

#### ■ Site Characteristics

The project site is currently vacant. The project site has two defining hill features within its boundaries that occupy approximately 35 percent of the property. The project site supports the California sagebrush-California buckwheat series vegetation community. The flat terrain of the project site is located between 1,640 and 1,680 feet above sea level (ASL), with the larger of the two hill features reaching 1,805 feet ASL. The majority of the flat terrain has been disked, with California sagebrush-California buckwheat series vegetation communities on the northern and eastern portion of the project site. An ephemeral wash enters the project site from under I-215, at the northwest corner of the property, and travels in a southeasterly direction (through the center of the project site), eventually dissipating at the western base of the larger of the two hill features.

## ■ Adjacent Land Uses

The project site is bordered by I-215 to the north, Palm Avenue to the west, Industrial Parkway to the south, and undeveloped property to the east. The project site and adjacent areas to the south and east are zoned Industrial. To the north is I-215, and the area to the west is zoned Commercial.

### 4.3.2 Research Methodology

#### ■ Literature Survey

A literature survey was conducted as part of the *Biological Technical Report* for the proposed project.

Information on occurrences of special-status species in the vicinity of the project site was obtained from searching databases and lists of California Department of Fish and Game's (CDFG) California Natural Diversity Database (CNDDDB April 2011) for the USGS 7.5-minute San Bernardino North, San Bernardino South, Lake Arrowhead, Silverwood Lake, Devore, Fontana, Butler Peak, Harrison Mountain, and Redlands quadrangles. Information on the status of special-status plant and wildlife species potentially occurring within the project site was also obtained from the CDFG's Special Vascular Plants, Bryophytes, and Lichens List (April 2011 update), the CDFG's List of State and Federally Listed Endangered and Threatened Animals of California (January 2011), and the CDFG's list of Special Animals (January 2011). This search range encompasses a sufficient distance to accommodate for regional habitat diversity and to overcome the limitations of the CNDDDB. The CNDDDB is based on reports of actual occurrences and does not constitute an exhaustive inventory of every resource.

Additionally, background information on biological resources was derived from the Preliminary Descriptions of the Terrestrial Natural Communities of California (Holland 1986), A Manual of California Vegetation (Sawyer and Keeler-Wolf 2009), the Jepson Manual of Higher Plants of California (Hickman 1993), and Trees and Shrubs of California (Stuart and Sawyer 2001). Blooming periods were taken from the California Native Plant Society (CNPS) Electronic Inventory (CNPSEI) of Rare and Endangered Vascular Plants of California. Based upon the results of the literature review and record searches, a list of special-status plant and animal species and habitats with the potential to occur within the project site was developed for verification in the field (see Appendix A [Special-Status Wildlife & Plant Species Potentially Occurring within the Study Area] of Appendix D1 to this EIR).

#### ■ Field Surveys

Field surveys were conducted in August 2007 as part of the Biological Technical Report prepared for the proposed project. In addition, field surveys were conducted on September 30, 2010 to ensure that the existing conditions on the site have not changed since 2007, and the biological information used for this EIR is current.

## Plant Survey

A botanical survey was performed on August 2, 2007. This survey included an assessment of vegetation types and plant communities occurring within the project site, as well as a search for wetland indicator plant species and an assessment of habitat that could potentially support special status plant species. Plant species were identified in the field or collected for future identification. Plants were identified using keys in Hickman (1993) and Stuart and Sawyer (2001) for scientific and common names. Plant species observed within the project site are listed in Appendix B (Wildlife & Plant Species Observed within the Study Area) of Appendix D1 to this EIR.

## Wildlife Survey

Wildlife surveys were conducted on August 2, 2007, from 0830 to 1400, and September 30, 2010, from 0900 to 1430. These surveys covered the morning active period, when opportunities for detecting wildlife species are greatest. The survey included active searches for reptiles, which involved lifting, overturning, and carefully replacing rocks and debris and observing reptile activity on dirt areas. Birds were identified by standard visual and auditory recognition, and the presence of nests or other evidence of breeding activity was noted. Surveying for mammals included searching for and identifying diagnostic sign, including scat, footprints, scratch-outs, dusting bowls, burrows, and trails. Wildlife species observed within the project site are listed in Appendix B of Appendix D1.

### 4.3.3 On-Site Biological Resources

#### ■ Vegetation Communities

A total of forty-seven plant species were observed within the project site, and are listed in Appendix B of Appendix D1. Vegetation within the approximately 38.4-acre project site is mostly limited to those species associated with the coastal sage scrub vegetative community, as much of the project site has been diced or disturbed (ruderal). A couple of western sycamore (*Platanus racemosa*) and Southern California black walnut (*Juglans californica* var. *californica*) trees were observed within the project site. While such trees are normally associated with riparian type vegetative communities, these trees were isolated incidences of riparian vegetation, and are linked to the ephemeral wash that travels through the middle of the project site in a southeasterly direction. A description of the vegetation communities located within the project site is provided below. These vegetation communities are delineated in Figure 4.3-1 (Vegetation Communities).

#### **California Sagebrush-California Buckwheat Series (i.e., Coastal Sage Scrub) (20.91 acres)**

This vegetation community was the dominant vegetative cover found on hillslopes and hilltops throughout the project site. California sagebrush (*Artemisia californica*) and California buckwheat (*Eriogonum fasciculatum*) were the dominant soft-woody subshrubs observed in terms of their overall frequency, density, and distribution throughout the site. Less frequently encountered subdominant shrub species included chamise (*Adenostoma fasciculatum*), black sage (*Salvia mellifera*), white sage (*Salvia apiana*),

scrub oak (*Quercus berberidifolia*), holly-leaved cherry (*Prunus ilicifolia* ssp. *ilicifolia*), holly-leaved redberry (*Rhamnus ilicifolia*), yerba santa (*Eriodictyon* sp.), skunkbush (*Rhus trilobata*), interior goldenbush (*Ericameria linearifolia*), wedgeleaf ceanothus (*Ceanothus cuneatus*), and saw-toothed goldenbush (*Hazardia squarrosa* var. *grindelioides*). Southern California black walnut, blue elderberry (*Sambucus mexicana*), and poison oak (*Toxicodendron diversilobum*) were infrequent, and restricted to north-facing slopes throughout the site. A colony of chaparral yucca (*Yucca whipplei*) was observed growing on a south-facing rocky outcropping near Industrial Parkway.

Due to the presence of exposed bedrock and shallow soils in many areas, an herbaceous understory was largely absent. Native herbaceous vascular plant species observed included giant rye (*Leymus condensatus*), California croton (*Croton californicus*), deerweed (*Lotus scoparius*), Bailey's buckwheat (*Eriogonum baileyi*), and Brewer's fleabane (*Erigeron breweri*); nonnative herbaceous vascular plant species observed included black mustard (*Brassica nigra*), white horehound (*Marrubium vulgare*), tocalote (*Centaurea melitensis*), and yellow star-thistle (*Centaurea solstitialis*).

### **Disced (13.79 acres)**

Disced areas at the project site were devoid of vegetative cover at the time of the August 2, 2007 and September 30, 2010, field surveys.

### **Ruderal (3.15 acres)**

Ruderal (i.e., disturbed) plant communities are typically dominated (although not exclusively) by nonnative, short-lived annual and biennial plant species that are adapted to periodic disturbance regimes (e.g., disking, mowing, spraying). This vegetation community type was found primarily along the edges of recently graded or disked areas. Plant species observed included black mustard, white horehound, tocalote, California croton, fiddleneck, rip-gut brome (*Bromus diandrus*), soft chess (*Bromus hordeaceus*), foxtail chess (*Bromus madritensis* ssp. *rubens*), Jimson weed (*Datura stramonium*), Russian thistle (*Salsola tragus*), filaree (*Erodium* sp.), telegraph weed (*Heterotheca grandiflora*), and annual sunflower (*Helianthus annuus*).

### **Ephemeral Wash (0.51 acre)**

An ephemeral wash enters the project site at the northwest corner of the property, and travels in a southeasterly direction (through the center of the project site), eventually dissipating at the western base of the larger of the two hill features located within the property. A small portion of the ephemeral wash also branches out in an easterly direction along the northern boundary of the project site, dissipating well before the eastern boundary of the property. These features are isolated, and exhibit no connectivity to any other drainageway outside of the project site. The ephemeral wash located within the project site intercepts discharges from along I-215 and its on and off ramps (located adjacent to the project site), and Palm Avenue, during heavy precipitation events. Due to a high percentage of sand and gravel alluvium throughout the soil profile, soils drain quickly, and do not support a prevalence of hydrophytic (i.e., water-loving) plant species. Many of the same plant species found within the California sagebrush-California buckwheat series were also dominant throughout the scoured bed of the wash including



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Figure 4.3-1  
Vegetation Communities



California buckwheat, California sagebrush, California croton, deerweed, rip-gut brome, and black mustard.

## ■ Wildlife

A total of nineteen wildlife species were recorded within the project site by direct observation, detection of vocalizations, or observation of sign. These species are listed in Appendix B of Appendix D1, and include twelve avian, three reptile, and four mammal species. Wildlife and wildlife signs (including tracks, scat, carcasses, burrows, nests, excavations, vocalizations, and observations) were noted and recorded on standardized data sheets.

### 4.3.4 Special-Status Biological Resources

The following subsection addresses special-status biological resources observed, reported, or having the potential to occur within 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 and special interest groups such as the CNPS (Lists 1A, 1B, and 2). In general, the principal reason an individual taxon (species, subspecies, or variety) is given such recognition is the documented or perceived decline or limitation of its population size or geographical extent and/or distribution, resulting in most cases from habitat loss. Appendix A of Appendix D1 lists special-status plants and animals known to occur within the region of the project site, along with their federal and state listing and potential for occurrence within the project site. In addition, special-status biological resources include vegetation types and habitats that are 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 in the “Literature Survey” subsection of Section 4.3.2 (Research Methodology).

The potential to occur within the project site was based on the following criteria:

- **Absent:** Species was not observed during focused surveys conducted at an appropriate time for identification of the species, or species is restricted to habitats that do not occur within the project site.
- **Low:** No records exist of the species occurring within the project site or its vicinity, or habitats needed to support the species are of poor quality.
- **Moderate:** A historical record exists of the species within the vicinity of the project site (approximately five miles) and/or the habitat requirements associated with the species occur within the project site.
- **High:** Both a historical record exists of the species within the project site or its immediate vicinity (approximately one mile) and the habitat requirements associated with the species occur within the project site.
- **Species Observed:** The species was observed within the project site at the time of the survey.

## ■ Federally and State-Listed Species

Based on the literature review, twenty-five federally and/or state listed threatened or endangered species were identified as potentially occurring within the project site, or reported by the CNDDDB as occurring within the USGS 7.5-minute quadrangle map for the San Bernardino North, and the eight surrounding quadrangles (see Appendix A of Appendix D1). Each of the state and/or federally listed species, and its probability of occurrence, is described in more detail in the species accounts that follow. As discussed below, a single state and/or federally listed species is considered to have a *moderate* or greater potential of occurrence within the project site.

No threatened or endangered species were observed within the project site during the 2007 general biological field surveys conducted as part of the Biological Technical Report, or during follow-up field survey in 2010. Due to the presence of potential habitat and location of the site within the current known range of the species, protocol-level surveys were conducted for the federally threatened coastal California gnatcatcher (*Poliioptila californica californica*) and federally endangered San Bernardino kangaroo rat (*Dipodomys merriami parvus*) in 2007 and 2008. Neither of these species were determined to be present within the project site during the protocol-level surveys.

### Wildlife

**Arroyo Toad (*Anaxyrus (=Bufo) californicus*).** The arroyo toad is listed as endangered by the United States Fish and Wildlife Service (USFWS). The arroyo toad is primarily nocturnal and prefers sandy, stable terraces along stream banks, with scattered shrubs and trees, such as mulefat and willow. When breeding, they prefer open pools with gravel or sandy bottoms found near large streams. Exposed pools that have little marginal woody vegetation and are shallow with a sand or gravel substrate and a low current velocity are strongly favored. The project site does not provide suitable habitat for the arroyo toad. In addition, the arroyo toad has not been observed within a five-mile radius of the project site. The arroyo toad is **absent** from the project site.

**California Red-legged Frog (*Rana draytonii*).** The California red-legged frog is listed as threatened by the USFWS. The California red-legged frog is usually found near sheltered ponds or other permanent water with extensive vegetation, and also seen during rains traveling over land between ponds or other waters. Historically found throughout the Central Valley and Sierra Nevada foothills, south to northern Baja California, the California red-legged frog is now found from Sonoma and Butte Counties south, to Riverside, but mainly in Monterey, San Luis Obispo, and Santa Barbara Counties. The project site does not provide suitable habitat for the California red-legged frog. In addition, the California red-legged frog has not been observed within a five-mile radius of the project site. The California red-legged frog is **absent** from the project site.

**Sierra Madre (=Mountain) Yellow-legged Frog (*Rana muscosa*).** The Sierra Madre yellow-legged frog is listed as endangered by the USFWS. Mountain yellow-legged frogs are diurnal, highly aquatic frogs, occupying rocky and shaded streams with cool waters originating from springs and snowmelt. The Sierra Madre yellow-legged frog feeds on small, streamside arthropods. The Sierra Madre yellow-legged frog does not occur in the smallest creeks. The coldest winter months are spent in hibernation, probably

under water or in crevices in the bank. Mountain yellow-legged frogs can be found in the San Gabriel Mountains, in the upper reaches of Prairie Creek/Vincent Gulch, Devil's Canyon, and Alder Creek/East Fork, on the East Fork of the San Gabriel River, and Little Rock Creek on the Mojave River, in City Creek in the San Bernardino Mountains and in Dark Canyon in the San Jacinto Mountains. The project site does not provide suitable habitat for the mountain yellow-legged frog. In addition, the Sierra Madre yellow-legged frog has not been observed within a five-mile radius of the project site. The Sierra Madre yellow-legged frog is **absent** from the project site.

**Western Yellow-billed Cuckoo (*Coccyzus americanus occidentalis*).** The western yellow-billed cuckoo is listed as a candidate by the USFWS, and is listed as endangered by the CDFG. In California, the western yellow-billed cuckoo requires dense, wide riparian woodlands, with well-developed understories for breeding. It occurs in densely foliated, deciduous trees and shrubs, especially willows that are required for roost sites. It is restricted when breeding to river bottoms and other mesic habitats where humidity is high and where the dense understory abuts slow-moving watercourses, backwaters, or seeps. Willow is almost always a dominant component of the vegetation. The project site does not provide suitable habitat for the western yellow-billed cuckoo. In addition, the western yellow-billed cuckoo has not been observed within a five-mile radius of the project site. The western yellow-billed cuckoo is **absent** from the project site.

**Southwestern Willow Flycatcher (*Empidonax traillii extimus*).** The southwestern willow flycatcher was recently delisted by the USFWS; however, it remains listed as endangered by the CDFG. The southwestern willow flycatcher is a late spring and summer breeding resident and migrates south for fall and winter. It inhabits riparian woodlands and thickets, associated with the presence of surface water and/or very moist soil conditions and understory vegetation. The project site does not provide suitable habitat for the southwestern willow flycatcher. In addition, the southwestern willow flycatcher has not been observed within a five-mile radius of the project site. The southwestern willow flycatcher is **absent** from the project site.

**Bald Eagle (*Haliaeetus leucocephalus*).** The bald eagle is listed as threatened by the USFWS, and is listed as endangered by the CDFG. The bald eagle requires old-growth and mature stands of coniferous or hardwood trees for perching, roosting, and nesting within 1 mile of water, where it may also spend winters along ocean shore, lake margins, and rivers. The bald eagle is extremely sensitive to human activity, and occurs most commonly in areas free of human disturbance. It can be a migratory bird but it also is not unheard of for a nesting pair to overwinter in its breeding area. The project site does not provide suitable habitat for the bald eagle. In addition, the bald eagle has not been recorded within a five-mile radius of the project site. The bald eagle is **absent** from the project site.

**Coastal California Gnatcatcher (*Poliottila californica californica*).** The coastal California gnatcatcher is listed as threatened by the USFWS. The coastal California gnatcatcher is an obligate resident of southern California coastal sage scrub communities near arid hillsides, mesas, and washes. The coastal California gnatcatcher will generally avoid steep slopes and dense vegetation for nesting. The project site does provide suitable habitat for the coastal California gnatcatcher. In addition, the coastal California gnatcatcher has been observed within a one-mile radius of the project site. Focused, protocol-level surveys were conducted for this species from September 2007 through January 2008 according to

the USFWS nonbreeding season protocol (see Appendix D1). No gnatcatchers were observed during the nine focused survey days. This species has a low potential to breed (nest) on the project site due to the relatively low quality and small size of the habitat in supporting a breeding territory; proximity to existing developments, fragmentation, and isolation of the habitat; and, negative findings during the 2007/2008 focused surveys. However, gnatcatchers could temporarily use the habitat on-site for foraging and during dispersal to and from better quality habitat in the local area. Therefore, although the coastal California gnatcatcher is not expected to breed onsite, this species has a **high** potential to use the habitat onsite for foraging and dispersal.

**Least Bell's Vireo (*Vireo bellii pusillus*).** The least Bell's vireo is listed as endangered by the USFWS, and is listed as endangered by the CDFG. The least Bell's vireo is a summer resident of cottonwood-willow forest, oak woodland, shrubby thickets, and dry washes. Although they have been documented in a variety of habitats, they are found almost exclusively in riparian woodlands. Currently, its breeding range is limited to southern California, with large populations in Riverside and San Diego counties and smaller populations in Santa Barbara, Ventura, and San Diego counties and in northern Baja California. The least Bell's vireo is also very sensitive to human-generated disturbance from sources such as noise from off-road vehicle use or continued human presence and nighttime lighting. The project site does not provide suitable habitat for the least Bell's vireo. In addition, the least Bell's vireo has not been observed within a five-mile radius of the project site. The least Bell's vireo is **absent** from the project site.

**Santa Ana sucker (*Catostomus santaanae*).** The Santa Ana sucker is listed as threatened by the USFWS. The Santa Ana Sucker is found in permanent streams, in water ranging in depth from a few centimeters to a meter or more. Preferred substrates are generally coarse, and consist of gravel, rubble, and boulders, with growths of filamentous algae, but occasionally they are found on sand/mud substrates. The Santa Ana Sucker appears to be most abundant where the water is cool, clean, and clear, although the species can tolerate seasonally turbid water. The Santa Ana sucker is intolerant of polluted or highly modified streams; consequently, the water quality must be maintained to provide breeding locations for this species. The project site does not provide suitable habitat for the Santa Ana sucker. In addition, the Santa Ana sucker has not been observed within a five-mile radius of the project site. The Santa Ana sucker is **absent** from the project site.

**Delhi Sands Flower-loving Fly (*Rhaphiomidas terminatus abdominalis*).** The Delhi sands flower-loving fly is listed as endangered by the USFWS. The Delhi sands flower-loving fly is found only in areas of the Delhi sands soil formation in southwestern San Bernardino and northwestern Riverside counties. The Delhi sands flower-loving fly requires fine, sandy soils, often with wholly or partly consolidated dunes and sparse vegetation. The project site does not provide suitable habitat for the Delhi sands flower-loving fly. In addition, the Delhi sands flower-loving fly has not been observed within a five-mile radius of the project site. The Delhi sands flower-loving fly is **absent** from the project site.

**San Bernardino Kangaroo Rat (*Dipodomys merriami parvus*).** The San Bernardino kangaroo rat is listed as endangered by the USFWS. The San Bernardino kangaroo rat prefers alluvial scrub/coastal sage scrub habitats, on gravelly and sandy soils adjoining river and stream terraces, and on alluvial fans. The San Bernardino kangaroo rat primarily feeds on seeds, often storing large quantities of food for future use. Green vegetation and insects are also important seasonal food sources. The San Bernardino

kangaroo rat is also known for its ability to live indefinitely without water, on a diet consisting mainly of dry seeds. This species has been reported within a one-mile radius of the project site. The project site provides marginal habitat for the San Bernardino kangaroo rat. The soils that occur on the site are not highly suitable for this species. In addition, the habitat is fragmented and isolated from better quality habitat in the local area that is known to be occupied by this species. Focused, protocol-level, live trapping surveys were conducted for this species in November 2007 according to USFWS protocol (see Appendix D1). No San Bernardino kangaroo rats were trapped during the focused surveys in 2007. Although marginal habitat remains and currently exists on the project site, this species has a low potential to disperse onto the site from adjacent habitats. Therefore, the San Bernardino kangaroo rat is presumed to be **absent** from the project site.

**Stephens' Kangaroo Rat (*Dipodomys stephensi*).** The Stephens' kangaroo rat is listed as endangered by the USFWS, and is listed as threatened by the CDFG. The Stephens' kangaroo rat occurs at elevations below 610 meters, in flat or gently rolling, often degraded, annual grassland. The Stephens' kangaroo rat eats seeds and is nocturnal. Trapping showed that it is associated with locations where grass cover and bare ground are abundant but where bush and rock are uncommon. The project site provides habitat unlikely to be inhabited by the Stephens' kangaroo rat. In addition, the Stephens' kangaroo rat has not been observed within a five-mile radius of the project site. The Stephens' kangaroo rat has a **low** potential of occurring within the project site due to the amount of bushes, shrubs and rocks on the site.

**Southern Rubber Boa (*Charina umbratica*).** The southern rubber boa is listed as threatened by the CDFG. Southern rubber boas are fossorial, or at least semi-fossorial. They are also nocturnal/crepuscular, and therefore are usually not active during the day, and prefer to hide underground or under pieces surface cover than bask in the open. Southern rubber boas can be found in San Bernardino, in a variety of montane forest habitats, in vicinity of streams or wet meadows. The southern rubber boa requires loose, moist soil for burrowing. The project site does not provide suitable habitat for the southern rubber boa. In addition, the southern rubber boa has not been observed within a five-mile radius of the project site. The southern rubber boa is **absent** from the project site.

## **Plants**

**Cushenbury Oxytheca (*Acanthoscyphus* [=*Oxytheca*] *parishii* var. *goodmaniana*).** The Cushenbury oxytheca is listed as endangered by the USFWS. Blooming May to October, the Cushenbury oxytheca is endemic to the San Bernardino Mountains, and is restricted to the dry carbonate slopes on the north side of the range, at elevations of 1,300 to 2,375 meters. The project site does not provide suitable habitat for the Cushenbury oxytheca, nor is the project site within the elevation range of the Cushenbury oxytheca. In addition, the Cushenbury oxytheca has not been observed within a five-mile radius of the project site. The Cushenbury oxytheca is **absent** from the project site.

**Marsh Sandwort (*Arenaria paludicola*).** The marsh sandwort is listed as endangered by the USFWS, and is listed as threatened by the CDFG. Marsh sandwort is a perennial herb in the pink family. It has rooting, trailing stems, and small white flowers which bloom from May to August. Historically, the marsh sandwort has occurred in swamps, freshwater marshes, and other wet areas, between 10 and 170 meters. The project site does not provide suitable habitat for the marsh sandwort. In addition, the marsh

sandwort has not been observed within a five-mile radius of the project site. The marsh sandwort is **absent** from the project site.

**Nevin's Barberry (*Berberis nevini*)**. The Nevin's barberry is listed as endangered by the USFWS, and is listed as endangered by the CDFG. The Nevin's barberry blooms from March to June and occurs in sandy or gravelly chaparral, cismontane woodland, coastal scrub, and riparian scrub. The Nevin's barberry native range currently extends from the foothills of the San Gabriel Mountains of Los Angeles County to near the foothills of the Peninsular Ranges of southwestern Riverside County, between 290 and 1575 meters. Although the coastal sage scrub habitat at the project site could provide potentially suitable habitat, this highly visible (1 to 4 meters tall) species would have been observed during the August 2, 2007, and September 30, 2010 field surveys. In addition, the Nevin's barberry has not been observed within a five-mile radius of the project site. The Nevin's barberry is **absent** from the project site.

**Thread-leaved Brodiaea (*Brodiaea filifolia*)**. The thread-leaved brodiaea is listed as endangered by the USFWS, and is listed as endangered by the CDFG. The thread-leaved brodiaea typically occurs on gentle hillsides, valleys, and floodplains in semi-alkaline mudflats, vernal pools, mesic southern needlegrass grassland, mixed native-nonnative grassland, and alkali grassland plant communities in association with clay, loamy sand, or alkaline silty-clay soils, blooming March to June. The thread-leaved brodiaea has been observed within a five-mile radius of the project site; however, the project site does not provide suitable habitat for the thread-leaved brodiaea. The thread-leaved brodiaea is **absent** from the project site.

**Salt Marsh Bird's Beak (*Cordylanthus maritimus* ssp. *maritimus*)**. The salt marsh bird's beak is listed as endangered by the USFWS, and is listed as endangered by the CDFG. The salt marsh bird's beak occurs in coastal dunes, coastal salt marshes, and swamps along coastal California south, to Baja. The salt marsh bird's beak blooms from May to October, and can be found at elevations of 0 to 30 meters. The salt marsh bird's beak has been observed within a five-mile radius of the project site; however, the project site does not provide suitable habitat for the salt marsh bird's beak. The salt marsh bird's beak is **absent** from the project site.

**Mojave Tarplant (*Deinandra mohavensis*)**. The Mojave tarplant is listed as endangered by the CDFG. The Mojave tarplant occurs on low sand bars in river beds, along stream channels or in ephemeral grassy areas in riparian scrub and chaparral, at elevations of 850 to 1,600 meters, blooming July to October. The Mojave tarplant is believed to be extirpated in San Bernardino County. The project site does not provide suitable habitat for the Mojave tarplant. In addition, the Mojave tarplant has not been observed within a five-mile radius of the project site. The Mojave tarplant is **absent** from the project site.

**Slender-horned Spineflower (*Dodecahema leptoceras*)**. The slender-horned spineflower is known to occur in alluvial fans, floodplains, stream terraces, washes, and associated benches, at elevations of 200 to 760 meters. The slender-horned spineflower grows in riverbed alluvium high in silt and low in nutrients and organic matter; in silt-filled, shallow depressions on relatively flat surfaces surrounded by scattered, river-rounded, cobble-sized rocks. These sediments are on stable surfaces, usually older than 100 years. The slender-horned spineflower is generally found in open areas among alluvial fan scrub, often

associated with other spineflower species, and in low density of exotic grasses and other introduced weedy species. The slender-horned spineflower has been observed within a five-mile radius of the project site; however, the project site does not provide suitable habitat for the slender-horned spineflower. The slender-horned spineflower is **absent** from the project site.

**Santa Ana River Woollystar (*Eriastrum densifolium* ssp. *sanctorum*).** The Santa Ana river woollystar is listed as endangered by the USFWS, and is listed as endangered by the CDFG. Blooming June to September, the Santa Ana river woollystar is found only within open washes and early-successional alluvial fan scrub, on open slopes above main watercourses on fluvial deposits where flooding and scouring occur at a frequency that allows the persistence of open shrublands. Suitable habitat is comprised of a patchy distribution of gravelly soils, sandy soils, rock mounds, and boulder fields, at elevations of 150 to 610 meters. Blooming June to September. The Santa Ana river woollystar has been observed within a one-mile radius of the project site; however, the project site does not provide suitable habitat for the Santa Ana river woollystar. The Santa Ana river woollystar is **absent** from the project site.

**Parish's Daisy (*Erigeron parishii*).** The Parish's daisy is listed as threatened by the USFWS. Blooming May to June, the Parish's daisy is endemic to southern California, and is restricted to the dry calcareous (primarily limestone) slopes of the San Bernardino Mountains, with a few collections from generally granitic areas at the east end of the San Bernardino Mountains and in the Little San Bernardino Mountains at elevations of 1,090 to 2,000 meters. The Parish's daisy appears to be most commonly found either along washes on the canyon bottoms or on loose alluvial deposits on adjacent benches. The project site does not provide suitable habitat for the Parish's daisy. In addition, the Parish's daisy has not been observed within a five-mile radius of the project site. The Parish's daisy is **absent** from the project site.

**Southern Mountain Buckwheat (*Eriogonum kennedyi* var. *austromontanum*).** The southern mountain buckwheat is listed as threatened by the USFWS. The southern mountain buckwheat is found in pebble (pavement) plain and lower montane coniferous forest, at elevations of 1,755 to 2,375 meters. Blooming July to September, the southern mountain buckwheat is rare, but occasionally locally common and known only in the Bear Valley area of the San Bernardino Mountains. The project site does not provide suitable habitat for the southern mountain buckwheat. In addition, the southern mountain buckwheat has not been observed within a five-mile radius of the project site. The southern mountain buckwheat is **absent** from the project site.

**Cushenbury Buckwheat (*Eriogonum ovalifolium* var. *vineum*).** The Cushenbury buckwheat is listed as endangered by the USFWS. Blooming May to August, the Cushenbury buckwheat is a low, densely matted perennial herb endemic to carbonate deposits on the north side (desert side) of the San Bernardino Mountains (Transverse Ranges) of San Bernardino County, between 1,400 and 2,400 meters in elevation. The project site does not provide suitable habitat for the Cushenbury buckwheat. In addition, the Cushenbury buckwheat has not been observed within a five-mile radius of the project site. The Cushenbury buckwheat is **absent** from the project site.

**Gambel's Watercress (*Nasturtium gambelii*).** The Gambel's watercress is listed as endangered by the USFWS, and is listed as threatened by the CDFG. The Gambel's watercress is classified as an obligate wetland plant, which means that it almost always (greater than 99 percent of the time), under natural conditions, occurs in wetlands. Blooming April to September, the Gambel's watercress occurs in freshwater or brackish marshes along the margins of lakes or along slow-moving streams, from 5 to 1305 meters in elevation. The species requires a permanent source of water. The project site does not provide suitable habitat for the Gambel's watercress. In addition, the Gambel's watercress has not been observed within a five-mile radius of the project site. The Gambel's watercress is presumed to be **absent** from the project site.

## ■ Other Sensitive Biological Resources

### Vegetation

#### Plants

In addition to the federal and state listed species detailed above, the CNDDDB and CNPSEI literature review resulted in the identification of thirty-seven additional sensitive plant species that have a potential to occur on, or within the vicinity of, the project site. Of these, none were observed within the project site during the general botanical survey of the property. The sensitive plant species, their current status, and their habitat requirements are summarized in Appendix A of Appendix D1.

Taking into account the habitat, elevation, and blooming periods of each species, two of the thirty-seven sensitive plant species listed in Appendix A of Appendix D1 have a *moderate* or greater potential to occur within the project site:

- **High Potential to Occur:**
  - > Plummer's mariposa lily (*Calochortus plummerae*)
- **Moderate Potential to Occur:**
  - > mesa horkelia (*Horkelia cuneata* ssp. *puberula*)

Although these species carry no official state or federal listing, CEQA requires consideration of them during the environmental documentation process due to their limited distribution and/or declining numbers.

It should also be noted that even though no sensitive plant species were observed within the project site, not all species within the project site would have been in bloom during the time of the surveys, and thus would not have been easily identifiable.

#### Habitats

In addition to individual plant species, sensitive habitats are considered important because of their high species diversity, high productivity, limited distribution, declining status, or a combination of these

qualities. These habitats are recognized as important by local, state, and federal agencies, and identified by the CDFG in the CNDDDB. These sensitive habitats are summarized in Appendix A of Appendix D1.

None of the sensitive habitats reported to the CNDDDB and listed in Appendix A of Appendix D1 exist within the project site. However, the project site does support coastal sage scrub, a sensitive natural community that requires compensatory mitigation for temporary and permanent impacts.

In addition, the project site does not occur within any USFWS-designated critical habitat, including that which has been finalized by the USFWS for the coastal California gnatcatcher and San Bernardino kangaroo rat (USFWS 2000; 2008; and, 2011).

## Wildlife

In addition to the federal and state listed species detailed above, the CNDDDB review resulted in the identification of thirty-five sensitive wildlife species that have the potential to occur on or within the vicinity of the project site. Of these, none were observed within the project site during the general wildlife surveys of the property. The sensitive wildlife species, their current status, and their habitat requirements are summarized in Appendix A of Appendix D1.

Taking into account the on-site habitat, elevation, and habitat requirements/restrictions of each species, the following 10 of the 35 sensitive wildlife species listed in Appendix A of Appendix D1 has a *moderate* or greater potential to occur within the project site:

- **High Potential to Occur:**
  - > coast (San Diego) horned lizard (*Phrynosoma blainvillii*)
- **Moderate Potential to Occur:**
  - > Bell's sage sparrow (*Amphispiza belli belli*)
  - > California horned lark (*Eremophila alpestris actia*)
  - > northwestern San Diego pocket mouse (*Chaetodipus fallax fallax*)
  - > pallid San Diego pocket mouse (*Chaetodipus fallax pallidus*)
  - > San Diego black-tailed jackrabbit (*Lepus californicus bennettii*)
  - > San Diego desert woodrat (*Neotoma lepida intermedia*)
  - > Los Angeles pocket mouse (*Perognathus longimembris brevinasus*)
  - > orange-throated whiptail (*Aspidoscelis hyperythra*)
  - > rosy boa (*Charina trivirgata*)

Although these species carry no official state or federal listing, CEQA requires consideration of them during the environmental documentation process due to their limited distribution and/or declining numbers.

### 4.3.5 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. Fragmentation can also occur when a portion of one or more habitats is converted into another habitat, such as when woodland or scrub habitat is altered or converted into grasslands after a disturbance such as fire, mudslide, or grading activities. 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, would not likely persist over time in fragmented or isolated habitat areas because they prohibit the infusion of new individuals and genetic information. Wildlife 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 of catastrophic events (such as fire or disease) on population or local species extinction; and (3) serving as travel routes for individual animals as they move within their home ranges in search of food, water, mates, and other needs.

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) local movements related to home range activities (foraging for food or water, defending territories, searching for mates, breeding areas, or cover). A number of terms have been used in various wildlife movement studies, such as “wildlife corridor,” “travel route,” “habitat linkage,” and “wildlife crossing,” to refer to areas in which wildlife move from one area to another. To clarify the meaning of these terms and facilitate the discussion of wildlife movement in this analysis, these terms are defined as follows:

- *Travel route*—A landscape feature (such as a ridgeline, drainage, canyon, or riparian strip) within a larger natural habitat area that is used frequently by animals to facilitate movement and provide access to necessary resources (e.g., water, food, cover, den sites). The travel route is generally preferred because it provides the least amount of topographic resistance in moving from one area to another. It contains adequate food, water, and/or cover while moving between habitat areas and provides a relatively direct link between target habitat areas.
- *Wildlife corridor*—A piece of habitat, usually linear in nature, that connects two or more habitat patches that would otherwise be fragmented or isolated from one another. Wildlife corridors are usually bounded by urban land areas or other areas unsuitable for wildlife. The corridor generally contains suitable cover, food, and/or water to support species and facilitate movement while in the corridor. Larger, landscape-level corridors (often referred to as “habitat or landscape linkages”) can provide both transitory and resident habitat for a variety of species.
- *Wildlife crossing*—A small, narrow area, relatively short in length and generally constricted in nature, that allows wildlife to pass under or through an obstacle or barrier that otherwise hinders or prevents movement. Crossings typically are manmade and include culverts, underpasses, drainage pipes, and tunnels to provide access across or under roads, highways, pipelines, or other physical obstacles. These often represent “choke points” along a movement corridor.

Within a large open space area in which there are few or no manmade or naturally occurring physical constraints to wildlife movement, wildlife corridors, as defined above, may not yet exist. Given an open space area that is both large enough to maintain viable populations of species and provide a variety of travel routes (canyons, ridgelines, trails, riverbeds, and others), wildlife would use these “local” routes while searching for food, water, shelter, and mates, and would not need to cross into other large open space areas. Based on their size, location, vegetative composition, and availability of food, some of these movement areas (e.g., large drainages and canyons) are used for longer lengths of time and serve as source areas for food, water, and cover, particularly for small- and medium-size animals. This is especially true if the travel route is within a larger open space area. However, once open space areas become constrained and/or fragmented as a result of urban development or construction of physical obstacles, such as roads and highways, the remaining landscape features or travel routes that connect the larger open space areas can “become” corridors as long as they provide adequate space, cover, food, and water, and do not contain obstacles or distractions (e.g., manmade noise, lighting) that could hinder wildlife movement.

### **4.3.6 Regulatory Framework**

#### **■ Federal**

##### ***Endangered Species Act of 1973***

The Endangered Species Act (ESA) and implementing regulations, Title 16 United States Code (USC) Sections 1531 et seq. (16 USC 1531 et seq.), Title 50 Code of Federal Regulations (CFR) Sections 17.1 et seq. (50 CFR Sections 17.1 et seq.), includes provisions for the protection and management of federally listed threatened or endangered plants and animals and their designated critical habitats. Section 7 of the ESA requires a permit to take threatened or endangered species during lawful project activities. The administering agency for the above authority is the USFWS for terrestrial, avian, and most aquatic species. The National Marine Fisheries Service (NMFS) is responsible for administering the federal ESA as it applies to marine species and anadromous fish.

##### ***Fish and Wildlife Coordination Act***

Section 7 of Fish and Wildlife Coordination Act, 16 USC 742 et seq., 16 USC 1531 et seq., and 50 CFR 17 requires consultation if any project facilities could jeopardize the continued existence of an endangered species. Applicability depends on federal jurisdiction over some aspect of the project. The administering agency for these authorities is expected to be the Corps in coordination with the USFWS.

##### ***Migratory Bird Treaty Act***

The Migratory Bird Treaty Act (MBTA) (16 USC Sections 703–711) includes provisions for protection of migratory birds, including the nonpermitted take of migratory birds, under the authority of the USFWS and CDFG. The MBTA protects over 800 species including geese, ducks, shorebirds, raptors, songbirds, and many relatively common species.

### ***Clean Water Act of 1977, Section 404***

This section of the Act (33 USC 1251 et seq., 33 CFR Sections 320 and 323) gives the Corps authority to regulate discharges of dredge or fill material into waters of the U.S., including wetlands.

### ***Clean Water Act of 1977, Section 401***

This section of the Act requires a state-issued Water Quality Certification for all projects regulated under Section 404. In California, the RWQCB issues Water Quality Certifications with jurisdiction over the project site. The RWQCB, Santa Ana Region, issues Section 401 Water Quality Certifications for the project site.

### ***Army Corps of Engineers Jurisdiction***

Under Section 404 of the Clean Water Act (CWA) the U.S. Army Corps of Engineers (Corps) is charged with regulating the discharge of dredge and fill materials into jurisdictional waters of the United States. The term “waters of the United States,” or “jurisdictional waters,” has a broad meaning that includes special aquatic sites, such as wetlands. Waters of the United States, as defined by regulation and refined by case law, include: (1) the territorial seas; (2) coastal and inland waters, lakes, rivers, and streams that are navigable waters of the United States, including their adjacent wetlands; (3) tributaries to navigable waters of the United States, including adjacent wetlands; (4) interstate waters and their tributaries, including adjacent wetlands; and (5) all other waters of the United States not identified above, such as some isolated wetlands and lakes, intermittent and ephemeral streams, prairie potholes, and other waters that are not a part of a tributary system to interstate waters or navigable waters of the United States, the degradation or destruction of which could affect interstate commerce.

## **■ State**

### ***California Endangered Species Act of 1984***

The California Endangered Species Act (CESA) and implementing regulations in the Fish and Game Code, Sections 2050 through 2089, includes provisions for the protection and management of plant and animals species listed as endangered or threatened, or designated as candidates for such listing. Incidental take of an endangered species is permitted by CDFG only under certain conditions and provided that the proper federal permits have been obtained and notifications made to the CDFG as described in Fish and Game Code Section 2080.1. Plants of California declared to be endangered, threatened, or rare are listed at 14 CCR Section 670.2. Animals of California declared to be endangered or threatened are listed at 14 CCR Section 670.5.14. CCR Sections 15000 et seq. describes the types and extent of information required to evaluate the effects of a proposed project on biological resources of a project site.

### ***Fish and Game Code of California***

The Fish and Game Code provides specific protection and listing for several types of biological resources.

Section 1600 of the Fish and Game Code requires a Streambed Alteration Agreement for any activity that may alter the bed and/or bank of a stream, river, or channel. Typical activities that require a Streambed Alteration Agreement include excavation or fill placed within a channel, vegetation clearing, structures for diversion of water, installation of culverts and bridge supports, cofferdams for construction dewatering, and bank reinforcement.

Section 2081(b) and (c) of the CESA allows CDFG to issue an incidental take permit for a state-listed threatened and endangered species only if specific criteria are met. These criteria can be found in Title 14 CCR, Sections 783.4(a) and (b). No Section 2081(b) permit may authorize the take of “fully protected” species and “specified birds.” If a project is planned in an area where a species or specified bird occurs, an Applicant must design the project to avoid all take; the CDFG cannot provide take authorization under CESA.

### ***Porter-Cologne Water Quality Control Act of 1970***

The Porter-Cologne Water Quality Control Act (Porter-Cologne Act) of 1970 grants the State Water Resources Control Board (SWRCB) and its regional offices power to protect water quality, and is the primary vehicle for implementation of California’s responsibilities under Section 401 of the federal CWA. The Porter-Cologne Act grants the SWRCB authority and responsibility to adopt plans and policies, regulate discharges to surface and groundwater, regulate waste disposal sites, and require cleanup of discharges of hazardous materials and other pollutants.

### ***Native Plant Protection Act of 1977***

The Native Plant Protection Act of 1977 and implementing regulations in Sections 1900 et seq. of the Fish and Game Code designates rare and endangered plants, and provides specific protection measures for identified populations. It is administered by the CDFG.

### ***Wetlands Conservation Policy of 1993***

This policy provides for the protection, preservation, restoration, enhancement, and expansion of wetland habitats in California. Primarily it acts to ensure no overall net loss of wetlands within the state and achieve a long-term net gain in the quantity, quality, and permanence of wetlands acreage and values in California in a manner that fosters creativity, stewardship, and respect for private property. The administering agencies for this authority are the CDFG, the California Environmental Protection Agency (Cal/EPA), and the RWQCB.

### ***California Department of Fish and Game Jurisdiction***

In addition to the federal regulatory authority, the State also routinely asserts jurisdiction over wetlands. When any alteration of a lake, stream, or river could adversely affect fish and wildlife resources within the state, the CDFG is empowered, under Section 1600 of the Fish and Game Code, to issue a Streambed Alteration Agreement, which is designed to ensure protections of said resources.

## ■ Regional

### ***San Bernardino Valley Wide Multi-Species Habitat Conservation Plan***

Presently, there is no approved Habitat Conservation Plan (HCP)/Natural Communities Conservation Plan (NCCP) for the valley portion of the County. The San Bernardino Valley-wide Multi Species Habitat Conservation Plan (MSHCP) encompasses approximately 500 square miles, containing six unlisted species, six state listed endangered or threatened species, and thirteen federally listed endangered threatened species, and fifty-three species of special concern. The County, through the San Bernardino County Museum staff, conducted biological and botanical surveys for several years in order to identify habitat needs and requirements for the various species. The potential for completion and adoption of the MSHCP is uncertain at this time. Completion of the plan is not expected anytime within the near future. The City participated in previous planning efforts, with the intent to be a “Local Permittee” upon adoption of the plan. Should work on the MSHCP resume, the City would reevaluate merits of participation.

### ***Regional Water Quality Control Board Jurisdiction***

The Regional Water Quality Control Board (RWQCB) asserts jurisdiction over “waters of the United States” under Section 401 of the CWA, where such waters are also subject to Corps jurisdiction, pursuant to Section 404 of the CWA. The RWQCB can also assert jurisdiction over “waters of the state” pursuant to the Porter-Cologne Water Quality Control Act. If the Corps does not assert jurisdiction over the wetlands, it is expected that the RWQCB would assert jurisdiction under the Porter-Cologne Act.

## ■ Local

### ***City of San Bernardino General Plan***

#### **Chapter 2: Land Use**

- Goal 2.6** Control development and the use of land to minimize adverse impacts on significant natural, historic, cultural, habitat, and hillside resources.
  - Policy 2.6.1** Hillside development and development adjacent to natural areas shall be designed and sited to maintain the character of the City’s significant open spaces and historic and cultural landmarks.
  - Policy 2.6.2** Balance the preservation of plant and wildlife habitats with the need for new development through site plan review and enforcement of the CEQA.

#### **Chapter 12: Natural Resources and Conservation**

- Goal 12.1** Conserve and enhance San Bernardino’s biological resources.

- Policy 12.1.1** Acquire and maintain current information regarding the status and location of sensitive biological elements (species and natural communities) within the planning area.
- Policy 12.1.2** Site and develop land uses in a manner that is sensitive to the unique characteristics of and that minimizes the impacts upon sensitive biological resources.
- Policy 12.1.3** Require that all proposed land uses in the “Biological Resource Management Area” (BRM)...be subject to review by the Environmental Review Committee (ERC).
- Policy 12.1.4** Require that development in the BRM:
- a) Submit a report prepared by a qualified professional(s) that addresses the proposed project’s impact on sensitive species and habitat, especially those that are identified in state and federal conservation programs;
  - b) Identify mitigation measures necessary to eliminate significant adverse impacts to sensitive biological resources;
  - c) Define a program for monitoring, evaluating the effectiveness of, and ensuring the adequacy of the specified mitigation measures; and
  - d) Discuss restoration of significant habitats.

### **City of San Bernardino Municipal Code**

- Chapter 15.34 Removal or Destruction of Trees.** Prohibit the removal and/or destruction of more than five trees within any 36-month period from a development site or parcel of property without first being issued a permit from the Development Services Department. Per the ordinances, a permit shall not be required when a lawful order to remove the trees for health and safety purposes has been issued by a local, state, or federal government agency; nor shall a permit be required if a removal is to be accomplished by, or under the auspices of a governmental entity.

### **Consistency Analysis**

The City of San Bernardino General Plan Goal 2.6 (Land Use) addresses the need to control development and the use of land to minimize adverse impacts on significant natural, historic, cultural, habitat, and hillside resources. Specifically Policy 2.6.1 requires hillside development and development adjacent to natural areas to be designed and sited to maintain the character of the City’s significant open spaces from damage. Also, Policy 2.6.2 requires the balance of the preservation of plant and wildlife habitats with the need for new development through site plan review and enforcement of the CEQA. All development and construction activities included in the proposed project would adhere to the City of San Bernardino General Plan goals and policies and the policies/statutes of CWQA. Therefore, the proposed project would not conflict with Goal 2.6.

The City of San Bernardino General Plan Goal 12.1 (Natural Resources) addresses the conservation and enhancement of San Bernardino's biological resources. A biological technical report was prepared by LSA Associates that determined that the site does not support any federal or state listed plant or wildlife species; however, the site does support habitat for federally listed California gnatcatcher and other resident and migratory bird species protected by the Migratory Bird Treaty Act. In Section 4.3.7 (Project Impacts and Mitigation Measures) of the chapter, there are mitigation measures designed to offset the impacts to biological resources. Implementation of mitigation measures MM4.3-1 through MM4.3-8 will balance the preservation of plant and wildlife habitats and therefore would not conflict with the goals and policies designed to protect biological resources.

The City of San Bernardino Municipal Code Chapter 15.34 addresses the removal or destruction of trees. It is expected that the project will acquire a permit from the Community Development Department per the City's ordinances with regard to tree removal. Therefore, the proposed project would not conflict with Chapter 15.34 of the City of San Bernardino Municipal Code.

### **4.3.7 Project Impacts and Mitigation Measures**

#### **■ Analytic Method**

The criteria for determining significant impacts on biological resources were developed in accordance with CEQA Guidelines. CEQA Guidelines Section 15065(a) states that a project may have a significant effect on the environment if "the project has the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of an endangered, rare, or threatened species." An evaluation of whether an impact on biological resources would be significant must consider both the resource itself and how that resource fits into a regional or local context. Significant impacts would be those that would diminish, or result in the loss of, an important biological resource or those that would obviously conflict with local, state, or federal resource conservation plans, goals, or regulations. Impacts are sometimes locally adverse, but not significant, because they would result in an adverse alteration of existing conditions, but they would not substantially diminish or result in the permanent loss of an important resource on a population- or region-wide basis.

#### **■ Thresholds of Significance**

The following thresholds of significance are based on Appendix G of the 2011 CEQA Guidelines and City-specific thresholds, where applicable. For purposes of this EIR, implementation of the proposed project could have a significant adverse impact on biological resources if it would:

- 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

- 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
- 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
- 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
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance

Effects related to the following thresholds were found to have “no impact,” and are discussed in Section 4.14 (Effects Not Found to Be Significant):

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

## ■ Less-Than-Significant Impacts

Threshold	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?
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**Impact 4.3-1**      **The proposed project could have a substantial adverse impact on species identified as candidate, sensitive, or special status. This is a potentially significant impact. However, implementation of mitigation measures MM4.3-1 through MM4.3-4 would reduce this impact to *less than significant*.**

## ***Endangered, Threatened, and Sensitive Species***

### **Listed Species**

No federally or state-listed threatened or endangered species were observed within the project site during the general biological field surveys of the entire property, or USFWS protocol-level surveys conducted within habitat surveyed for the federally threatened coastal California gnatcatcher and trapped for the federally endangered San Bernardino kangaroo rat. As discussed in the “Wildlife” subsection of Section 4.3.4 (Special-Status Biological Resources), a single federally listed species was identified as having a moderate or higher potential for occurring within the project site: the coastal California gnatcatcher. Although protocol-level surveys conducted in 2007/08 confirmed the absence of gnatcatchers on the project site (see Appendix D1), suitable habitat remains under current conditions, and individuals in the local area could use the on-site habitat as temporary foraging and dispersal habitat. This species could therefore be present within the habitat that occurs on the project site and/or

immediate vicinity during construction. Any impacts to this species would be considered significant. Implementation of the avoidance and minimization measures proposed within mitigation measures MM4.3-1 through MM4.3-4 would substantially reduce the risk of potential direct impacts and inadvertent “take” of coastal California gnatcatcher individuals during project construction to **less than significant**. In addition, implementation of MM4.3-7 would provide for compensation of the loss of habitat potentially used by gnatcatchers for foraging and dispersal.

MM4.3-1

*Thirty days prior to clearing/grubbing, grading, and/or construction activities within or adjacent to coastal sage scrub on the project site, the project Applicant shall retain a qualified biologist to perform pre-construction surveys and monitor construction activities. The biologist must be knowledgeable of coastal California gnatcatcher and other listed species’ biology and ecology, and must be permitted to conduct surveys for these species. The project Applicant shall submit the biologist’s name, contact information, and work schedule for the project to the USFWS and CDFG (Wildlife Agencies). The biologist shall perform the following duties:*

- a. *Conduct a pre-construction meeting to ensure that construction crews are informed of the approved limits of disturbance and of the sensitive animals and habitats in the vicinity.*
- b. *Train all contractors and construction personnel on the biological resources associated with the project. At a minimum, training shall include (1) the purpose for resource protection; (2) a description of sensitive species and their habitats; (3) environmentally responsible construction practices; (4) the protocol to resolve conflicts that may arise at any time during the construction process; and (5) the general provisions of the FESA and CESA, the need to adhere to the provisions of the FESA and CESA, and the penalties associated with violation of the FESA and CESA.*
- c. *Be on site during initial clearing/grubbing, grading, and/or construction activities within sensitive habitat to be impacted, or within 500 feet of habitats to be avoided, and periodically monitor these activities to ensure they do not exceed the fenced construction limits (refer to MM4.3-2). If a violation is observed, then the biologist shall immediately notify the on-site construction superintendent who shall temporarily divert or halt work in the area of impact. Within 24 hours of its occurrence, the project Applicant and the biologist shall confer with the Wildlife Agencies to ensure the proper implementation of species and habitat compensation.*
- d. *Submit weekly letter reports (including photographs of the impact areas) to the project Applicant and the Wildlife Agencies during clearing/grubbing, grading, and/or construction activities within sensitive habitat to be impacted, or within 500 feet of habitats to be avoided. The weekly reports shall document that authorized impacts were not exceeded, that work did not occur within the 500-foot setback (except as authorized by the Wildlife Agencies), and that general compliance with all conditions occurred. The reports shall also outline the duration of any coastal California gnatcatcher monitoring (refer to MM4.3-3 and MM4.3-4), the location of construction activities, the type of construction which occurred, and equipment used. If coastal California gnatcatcher surveys are conducted, then these reports shall specify numbers, locations, and sex of gnatcatchers (if present), observed gnatcatcher behavior (especially in relation to construction activities), and remedial measures employed to avoid, minimize, and mitigate impacts to gnatcatcher. Raw field notes should be available upon request by the Wildlife Agencies.*
- e. *Submit a final report to the project Applicant and the Wildlife Agencies within 60 days of project completion, that includes construction drawings with an overlay of habitat that was impacted and avoided, photographs of habitat areas that were to be avoided and other relevant*

*summary information documenting that authorized impacts were not exceeded, and that general compliance with all conditions were achieved.*

MM4.3-2

*Prior to clearing/grubbing, grading, and/or construction activities within or adjacent to coastal sage scrub on the project site, the project Applicant shall retain a qualified biologist to supervise the installation of temporary construction fencing, with silt barriers, along the approved limits of disturbance, including construction staging areas and access routes, to prevent additional habitat impacts and prevent the spread of silt from the construction zone into adjacent habitats to be avoided. Fencing shall be installed in a manner that does not impact habitats to be avoided.*

*Within 24 hours after installation of fencing, the project Applicant shall submit the final plans for initial clearing/grubbing and grading of habitat and project construction limits to the Wildlife Agencies. These final plans shall include photographs that show the fenced limits of disturbance, native habitats to be impacted, and adjacent native habitats to be avoided.*

*The biologist shall check the fencing weekly to ensure that fenced construction limits are not exceeded. If work occurs beyond the fenced or demarcated limits of disturbance, then the biologist shall immediately notify the on-site construction superintendent who shall temporarily divert or halt work in the area of impact. Within 24 hours of its occurrence, the project Applicant and the biologist shall confer with the Wildlife Agencies to ensure the proper implementation of species and habitat compensation. The biologist shall verify that all fencing has been removed upon completion of construction activities.*

MM4.3-3

*Fourteen days prior to clearing/grubbing, grading, and/or construction activities within or adjacent to coastal sage scrub, and that are scheduled to occur between September 1 and February 14 (outside of the coastal California gnatcatcher breeding season), the project Applicant shall retain a biologist qualified and permitted to conduct pre-construction coastal California gnatcatcher surveys, and shall notify the Wildlife Agencies of the impending pre-construction surveys. At that time, the biologist shall also coordinate with the Wildlife Agencies on appropriate bird “flushing” procedures, if necessary.*

*Seven days prior to clearing/grubbing, grading, and/or construction activities, the biologist shall perform a minimum of three focused surveys, on separate days, to determine the presence of gnatcatchers in the project impact footprint. The last of the surveys shall be conducted on the day immediately prior to the land disturbance. If any gnatcatchers are found within the project impact footprint, the biologist shall notify the on-site construction superintendent who shall redirect work to areas that are located approximately 500 feet from the gnatcatcher(s). In addition, the biologist shall walk ahead of the clearing/grading equipment to flush birds toward coastal sage scrub outside of the project impact footprint. Documentation of the gnatcatcher surveys and any follow-up bird flushing activities, as necessary, shall be provided to the project Applicant and the Wildlife Agencies within 10 days of completing the final survey or flushing activity.*

*The biologist shall also record the number and location of any gnatcatchers disturbed by vegetation clearing/grubbing, grading, and/or construction activities. Within 24 hours, the project Applicant and the biologist shall confer with the Wildlife Agencies to ensure the proper implementation of species and habitat compensation.*

MM4.3-4

*Fourteen days prior to clearing/grubbing, grading, and/or construction activities within or adjacent to coastal sage scrub, and that are scheduled to occur between February 15 and August 31 (during the coastal California gnatcatcher breeding season), the project Applicant shall retain a biologist qualified*

*and permitted to conduct coastal California gnatcatcher surveys, and shall notify the Wildlife Agencies of the impending pre-construction surveys. Seven days prior to clearing/grubbing, grading, and/or construction activities, the biologist shall perform a minimum of three focused surveys, on separate days, to determine the presence of gnatcatchers, nest building activities, egg incubation activities, or brood rearing activities on, or within 500 feet of, the proposed construction site. The last of the surveys shall be conducted on the day immediately prior to the land disturbance. Additional surveys shall be conducted once a week during project construction throughout the breeding season. These additional surveys may be suspended as approved by the Wildlife Agencies.*

*If a gnatcatcher nest is found on, or within 500 feet of, the proposed construction site, then the biologist shall notify the on-site construction superintendent who shall postpone work within 500 feet of the nest or redirect work to areas that are located approximately 500 feet from the nest. Within 24 hours, the project Applicant and the biologist shall confer with the Wildlife Agencies to determine the best approach to avoid/minimize impacts to nesting birds (e.g., sound walls) and to develop a nest monitoring program acceptable to the Wildlife Agencies. Subsequent to these discussions, work may be initiated subject to implementation of the agreed upon avoidance/minimization measures and nest monitoring program. Nest success or failure shall be established by regular and frequent trips to the site, as determined by the biologist and through a schedule approved by the Wildlife Agencies. If the biologist determines that the bird activity is being disrupted, then the on-site construction superintendent shall be notified and shall postpone work within 500 feet of the nest. Within 24 hours, the project Applicant and the biologist shall coordinate with the Wildlife Agencies to review the avoidance/minimization measures. Upon agreement as to the necessary revisions to the avoidance/minimization measures, work may resume subject to implementation of the revised measures and continued nest monitoring. Nest monitoring shall continue until fledglings have dispersed or the nest is determined to be a failure, as approved by the Wildlife Agencies. Documentation of the gnatcatcher surveys and any follow-up monitoring, as necessary, shall be provided to the project Applicant and the Wildlife Agencies within 10 days of completing the final survey or monitoring event.*

*Construction activity that has commenced prior to the breeding season shall be allowed to continue without interruption. The contractor(s) should maintain continuous construction activities adjacent to coastal sage scrub located within 500 feet, until the work is completed. If gnatcatchers move into an area within 500 feet of ongoing construction noise levels and attempt to nest, then it can be deduced that the noise is not great enough to discourage gnatcatcher nesting activities. In addition, if these activities are initiated prior to, and extend into, the breeding season, but they cease for a period longer than three weeks and the contractor wishes to restart work within the breeding season window, then updated pre-construction surveys are necessary, as specified above.*

### **Other (NonListed) Sensitive Species**

No nonlisted sensitive plant or wildlife species were observed within the project site during the biological field surveys of the entire property; however, these surveys were not intended to formally determine the presence/absence of nonlisted sensitive plant or wildlife species, only assess the potential for them to occur based on habitat suitability. Nonlisted sensitive species are those that are listed as State Species of Concern, Federal Species of Concern, and CNPS Lists 1A, 1B, and 2. As discussed in the “Wildlife” and “Plants” subsections of Section 4.3.4, one sensitive species were identified as having a *high* potential of occurring within the project site, and ten sensitive species were identified as having a *moderate* potential of occurring within the project site.

The coast (San Diego) horned lizard and San Diego desert woodrat are nonlisted wildlife species with a *high* potential to occur within the project site. The Bell's sage sparrow, California horned lark, northwestern San Diego pocket mouse, pallid San Diego pocket mouse, San Diego black-tailed jackrabbit, Los Angeles pocket mouse, orange-throated whiptail, and rosy boa are nonlisted wildlife species, and the Plummer's mariposa lily and mesa horkelia is a nonlisted sensitive plant species, with a *moderate* potential to occur within the project site.

If any of these species is present during ground disturbance, construction, operation, and maintenance activities associated with the proposed project, including, but not limited to, grading, materials laydown, building construction, and construction and/or service vehicle traffic, it could result in direct impacts to these species, including the following:

- Direct loss of a sensitive species
- Increased human disturbance
- Mortality by construction or other human-related activity
- Impairing essential behavioral activities, such as breeding, feeding, or shelter/refuge
- Destruction or abandonment of active nest(s)
- Direct loss of occupied habitat
- Permanent habitat loss including loss of foraging, nesting, or refuge

In addition, potential indirect impacts could include, but are not limited to, the following:

- Displacement of wildlife by construction activities
- Disturbance in essential behavioral activities due to an increase in ambient noise levels and/or artificial light from plant lighting, and outdoor lighting around facilities

Under CEQA, the Lead Agency for the proposed project would determine, on a case-by-case basis, whether or not impacts to nonlisted sensitive species would be considered significant; however, under CEQA Section 15380, impacts to sensitive species are a potentially significant impact. Implementation of mitigation measures MM4.3-5 and MM4.3-6, below, would reduce impacts to ***less than significant***.

*MM4.3-5 Nonlisted Sensitive Plant Species. Due to potentially suitable habitat present within the project site for two nonlisted sensitive plant species, the project Applicant shall retain a qualified biologist or botanist to conduct a pre-construction survey of the area within the footprint of impact, and extended 50 feet outside of the impact area. The survey shall be conducted according to applicable CNPS and CDFG protocols, during the species blooming period or, if applicable and appropriate, immediately prior to the onset of project-related disturbances. The purpose of the pre-construction survey shall be to locate any special-status plant species that have a moderate or greater potential to occur within or directly adjacent to the proposed area. These surveys shall be restricted to habitat types that could support special-status plant species that have the potential to occur within the proposed project's impact area, including the following plant species:*

- *Plummer's mariposa lily*
- *Mesa horkelia*

*If no nonlisted sensitive plant species are determined to be in the proposed project's impact area, then no further mitigation would be necessary and impacts related to nonlisted sensitive plant species are considered less than significant. If nonlisted sensitive plant species are determined to be present within or directly adjacent to the proposed project's impact area, and cannot be avoided, the following mitigation shall be implemented to reduce impacts to a less-than-significant level:*

- a. A report shall be submitted to the CDFG that includes, at a minimum, a description of methodology, including dates of field visits; the names of survey personnel with résumés; a list of references cited and persons contacted; and a map showing the location(s) of any nonlisted sensitive plant species observed within or adjacent to the project site, and mitigation plan if required by CDFG.*
- b. Nonlisted sensitive plant species populations shall be avoided to the extent feasible. For those plants that cannot be avoided, they shall be transplanted to a mitigation site approved by the CDFG. The success criteria of the transplantation program shall include 80 percent or more of the transplanted plants surviving five years after transplantation. Mitigation projects will be implemented and monitored annually for five years using success criteria developed in coordination with the CDFG.*
- c. The mitigation report shall also detail the relocation and avoidance strategy and shall be submitted to the CDFG, and, if required, the USFWS for comment, prior to implementation.*

## MM4.3-6

*Nonlisted Sensitive Wildlife Species. Due to potentially suitable habitat present within the project site for ten nonlisted sensitive wildlife species, the project Applicant shall retain a qualified biologist to conduct a pre-construction survey of the area within the footprint of impact, and extended 50 feet outside of the impact area. The survey shall be conducted according to any available CDFG protocols, prior to the onset of project-related disturbances. The purpose of the pre-construction survey shall be to locate any special-status wildlife species that have a moderate or greater potential to occur within or directly adjacent to the proposed project's impact area, and would not be mobile enough to avoid construction activities. These surveys shall including the following species:*

- *Coast (San Diego) horned lizard*
- *Bell's sage sparrow*
- *California horned lark*
- *Northwestern San Diego pocket mouse*
- *Pallid San Diego pocket mouse*
- *San Diego black-tailed jackrabbit*
- *San Diego desert woodrat*
- *Los Angeles pocket mouse*
- *Orange-throated whiptail*
- *Rosy boa*

*If no nonlisted sensitive wildlife species are determined to be within or directly adjacent to the proposed project's impact area, then no further mitigation would be necessary and impacts related to nonlisted sensitive wildlife species are considered less than significant. If nonlisted sensitive wildlife species are determined to be present within or directly adjacent to the proposed project's impact area, and cannot be avoided, the following mitigation shall be implemented to reduce impacts to a less-than-significant level:*

- a. *A mitigation report shall be submitted to the CDFG that includes, at a minimum, a description of methodology, including dates of field visits; the names of survey personnel with résumés; a list of references cited and persons contacted; and a map showing the location(s) of any nonlisted sensitive wildlife species observed within or adjacent to the project site.*
- b. *Five days prior to grading of the project site, sensitive rodent and reptilian species shall, to the extent possible, be passively relocated to suitable adjacent habitat. Collection and relocation of wildlife shall only occur with the proper scientific collection and handling permits.*
- c. *The mitigation report shall also detail the relocation and avoidance strategy and shall be submitted to the CDFG, and, if required, the USFWS for comments prior to project implementation.*

Threshold	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?
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**Impact 4.3-2      The proposed project could have a substantial adverse impact on riparian habitat or other sensitive natural community. This is a potentially significant impact. However, implementation of mitigation measure MM4.3-7 would reduce this impact to *less than significant*.**

The proposed project would directly impact coastal sage scrub (20.91 acres), potential habitat for the coastal California gnatcatcher (along with other sensitive species whose numbers are in decline due to the destruction of coastal sage scrub habitat) by the USFWS. Permanent loss of this sensitive habitat would be considered a significant impact. As no on-site restoration would be feasible, implementation of mitigation measure MM4.3-7, below, would reduce impacts from removal of coastal sage scrub habitat to *less than significant*.

- MM4.3-7      To compensate for losses of sensitive on-site habitat resources, the Applicant shall do one or more of the following, which shall be approved by the USFWS as full mitigation for loss of habitat prior to grading activities:*
- a. *Purchase mitigation credits at a USFWS approved mitigation bank at ratios of no less than 1:1*
  - b. *Preserve, create, restore, and/or enhance coastal sage scrub habitat within other properties or approved mitigation programs available at the time of grading*
  - c. *A combination of the above*

Implementation of mitigation measure MM4.3-7 would reduce impacts to coastal sage scrub (a sensitive natural community) to a less-than-significant level by offsetting the effects of the loss of a sensitive natural community through the purchase of mitigation credits at a USFWS approved mitigation bank at ratios of no less than 1:1 or creation of suitable habitat off site.

Threshold	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?
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**Impact 4.3-3            The proposed project would not have a substantial adverse impact on federally protected wetlands. This impact is considered *less than significant*.**

According to the USGS 7.5-minute series topographic map for San Bernardino North, no “blue-line” stream occurs on the project site, and accordingly, the project site does not contain riparian habitat. While an ephemeral wash does cross through the central portion of the project site, eventually dissipating at the western base of the larger of the two hill features located within the property, this wash is extremely degraded, with no defined bed or bank, and no hydrophytic vegetation. This feature is isolated, and does not exhibit connectivity to any other drainageway outside of the project site. It does intercept discharges from along I-215 (on and off ramps), and Palm Avenue, during heavy precipitation events. As such, there are no impacts related to federally protected wetlands. No mitigation is required.

Threshold	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?
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**Impact 4.3-4            The proposed project would not have a substantial adverse impact on 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. This impact is considered *less than significant*.**

Wildlife movement is defined and described in Section 4.3.5 (Wildlife Movement). There are no wildlife nursery sites within the project site. The project site is not part of a major or local wildlife corridor/travel route, as it does not serve to connect two significant habitats. It is surrounded by industrial and commercial uses, a heavily traveled interstate highway, and wide, four-lane streets. As such, the project site does not fit in to any of the wildlife movement categories previously described (travel route, wildlife crossing, wildlife corridor), and development of the proposed project would only disrupt local foraging of the avian and ground-dwelling species. Impacts to avian and ground-dwelling species are analyzed above, in Impact 4.3-1. As such, impacts related to wildlife movement are considered *less than significant*. No mitigation is required.

**Impact 4.3-5**      **The proposed project could have a substantial adverse impact on an MBTA-protected occupied nest, or substantial interference with roosting and foraging opportunities for migratory species, sensitive avian species, or raptors. This is a potentially significant impact. Implementation of mitigation measure MM4.3-8 would reduce this impact to *less than significant*.**

The focused surveys for the coastal California gnatcatcher were negative in years 2007/2008, although there is a high potential for this species to utilize the site as temporary foraging and dispersal habitat. Pre-construction surveys would be required for the gnatcatcher prior to commencement of construction activities pursuant to mitigation measures MM4.3-1 through MM4.3-4, which would reduce potential impacts on the coastal California gnatcatcher to less than significant. Migratory avian species and raptors, which may use the large western sycamore trees located within the project site during breeding season, are protected under the MBTA and California Fish and Game Code while nesting. The loss or disturbance of occupied nest, or substantial interference with roosting and foraging opportunities for migratory species, sensitive avian species, or raptors, is a potentially significant impact. Implementation of mitigation measure MM4.3-8 would reduce impacts to *less than significant*.

*MM4.3-8      If the proposed project's construction phase occurs during the avian breeding season (generally February 1 through August 15), then within 30 days of the onset of construction activities, surveys for nesting special status and/or migratory avian species and raptors will be conducted on the affected portion of the project site, following USFWS and/or CDFG guidelines.*

*If no active nests of nonraptor species are identified on or within 250 feet, and no active nests of raptor species are identified on or within 500 feet of the construction areas, then no further mitigation is necessary. If active nests for special status avian species, or species afforded protection by the MBTA and Fish and Game Code are found within the footprint of impact, or a 250-foot buffer zone, construction shall be delayed within the footprint of impact and buffer zone until the young have fledged, or appropriate mitigation measures responding to the specific situation are developed by a qualified biologist in consultation with USFWS and CDFG. The distance of the buffer zone shall be expanded to 500 feet for active raptor nests.*

*Alternatively, to avoid impacts, the Applicant can begin construction after the breeding season for local raptors and other special status avian species has ended (generally after August 15) and before the next breeding season begins (generally before February 1). Should nonraptor species choose to nest in an area within 250 feet, and/or raptor species choose to nest in an area within 500 feet of active construction that was initiated after August 15, and prior to February 1 of the following year, the Applicant shall be required to provide a minimum buffer of 200 feet between activities and the nest site.*

Mitigation measure MM4.3-8 would require that surveys for nesting birds and raptors be conducted prior to construction activities. Implementation of MM4.3-8 would ensure that impacts to species afforded protection under the MBTA and Fish and Game Code would be *less-than-significant* level.

Threshold	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?
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**Impact 4.3-6      The proposed project would not conflict with local policies or ordinances protecting biological resources. Compliance with City regulations concerning the destruction of trees as outlined in project requirement PR4.3A would ensure this impact is *less than significant*.**

Applicable City policies and/or ordinances are detailed in the “Local” subsection of Section 4.3.6 (Regulatory Framework). In preparing a biological technical report, the Applicant adhered to Policy 12.1.4 of the City’s General Plan. In addition to Policy 12.1.4, the biological technical report also fulfills the Applicant’s responsibility of acquiring and maintaining current information regarding the status and location of sensitive biological elements within the planning area (Policy 12.1.1). In accordance with Policy 12.1.3, the proposed project has already been reviewed by the ERC on August 15, 2007. As build-out of the proposed project will require the removal of over five trees (western sycamore and California black walnut) within the project site, the Applicant will be required to receive a permit from the City’s Community Development Department (per Chapter 15.34 [Removal or Destruction of Trees] of the City’s Municipal Code), as outlined in project requirement PR4.3A. The proposed project is consistent with Policies 2.6.2 and 12.1.2, as the Applicant has prepared this EIR for the proposed project, ensuring compliance with CEQA and minimization of biological impacts. As such, impacts related to local policies and ordinances protecting biological resources are *less than significant*.

*PR4.3A      Prior to or concurrent with issuance of a grading permit, the project Applicant shall obtain a permit from the Community Development Department to remove on-site trees.*

### 4.3.8 Cumulative Impacts

A cumulative impact analysis is only provided for those thresholds that result in a less-than-significant or significant and unavoidable impact. A cumulative impact analysis is not provided for Effects Found Not to Be Significant, which result in no project-related impacts.

This cumulative impact analysis considers development of the proposed project, in conjunction with other development within the vicinity of the proposed project in the City. The primary effects of the proposed project, when considered with the past, present, and probable future projects in the vicinity of the project site, would be the cumulative direct loss of undeveloped land, and the potential removal of sensitive wildlife and habitat. Loss of sensitive habitat within the localized areas would further decrease the amount of this habitat within the immediate area and add to the cumulative loss of sensitive species in the region.

If any species identified as a listed, candidate, sensitive or special-status species is found to be present within the project site, including the federally threatened coastal California gnatcatcher, then measures would be developed in consultation with the appropriate resource agencies, per mitigation measures MM4.3-1 through MM4.3-6, to ensure that impacts would not be substantially adverse. As such, the

proposed project would not contribute to a cumulative loss of any species identified as a listed, candidate, sensitive, or special status species.

The proposed project would represent an incremental loss of coastal sage scrub habitat; however, per mitigation measure MM4.3-7, development of the proposed project would require off-site mitigation through the purchase of mitigation credits at a USFWS-approved mitigation bank at ratios of no less than 1-to-1 and/or creation or restoration of coastal sage scrub habitat at an alternative site, subject to USFWS approval. As such, the proposed project would not contribute to a cumulative loss of a sensitive natural community.

As noted above, the project site does not provide a locally or regionally important wildlife corridor. As such, the proposed project would not contribute to a cumulative loss of a locally or regionally important wildlife corridor.

### 4.3.9 References

- California Native Plant Society (CNPS). 2011. *Electronic Inventory of Rare and Endangered Vascular Plants of California*. California Native Plant Society, Sacramento, CA. January.
- California Natural Diversity Data Base (CNDDB). 2011. List of special plants. Heritage section, California Department of Fish and Game, April.
- California Wilderness Coalition. 2000. *Missing Linkages: Restoring Connectivity to the California Landscape*. Prepared by the California Wilderness Coalition, November.
- Holland, R. F. 1986. *Preliminary Descriptions of the Terrestrial Natural Communities of California*. Non-Game Heritage Program, State of California Department of Fish and Game: Sacramento, CA.
- Holland, V. L., and David J. Keil. 1989. *California Vegetation*. California Polytechnic State University, San Luis Obispo. El Corral Publications: San Luis Obispo, CA.
- San Bernardino, City of. 2007. *Palm/Industrial Distribution Center Project—Biological Technical Report*. October.
- . 2005. *City of San Bernardino General Plan*, November.
- Sawyer, J.O., and T. Keeler-Wolf. 2009. *A Manual of California Vegetation – 2nd Edition*. California Native Plant Society: Sacramento, CA.
- Sawyer, J.O., and J.D. Stuart. 2001. *Trees and Shrubs of California*. University of California Press: Berkeley, CA.
- U.S. Fish and Wildlife Service (USFWS). 2000. Endangered and Threatened Wildlife and Plants; Final Determination of Critical Habitat for the Coastal California Gnatcatcher; Final Rule. October 24, 2000. Final Rule. Federal Register 65: 63679–63743.
- . 2008. Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the San Bernardino Kangaroo Rat; Final Rule. October 17, 2008. Final Rule. Federal Register 73: 61936–62002.
- . 2011. Critical Habitat Portal. <http://criticalhabitat.fws.gov/> (accessed April 19, 2011).

