

## **5.3 Biological Resources**

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## 5.3 BIOLOGICAL RESOURCES

This section describes the biological resources on the Project site and potential adverse impacts resulting from Project implementation. Review and analysis of compliance with all Federal, State, and local laws and policies regarding biological resources have also been conducted. This section is primarily based upon the biological assessment of the Project site, *Biological Technical Report for the Proposed 76-Acre Mixed-Use Nelles Specific Plan Project* (Biological Report) (Glenn Lukos Associates (GLA), May 3, 2013); see [Appendix 11.5, \*Biological Technical Report\*](#).

### 5.3.1 EXISTING ENVIRONMENTAL SETTING

#### BIOLOGICAL ASSESSMENT METHODOLOGY

The Project site was surveyed on March 29, 2013 to identify the presence of special-status species and habitats. The Project site was also evaluated for the presence of areas potentially subject to the jurisdiction of the U.S. Army Corps of Engineers (Corps) pursuant to Section 404 of the Clean Water Act and the California Department of Fish and Wildlife (CDFW) pursuant to Section 1602 of the California Fish and Game Code. Site reconnaissance was conducted in such a manner as to allow inspection of the entire site by direct observation, including the use of binoculars. In addition to site reconnaissance, the assessment included review of the following sources:

1. California Natural Diversity Database (CNDDB) for the Whittier and eight surrounding quadrangles (Anaheim, Baldwin Park, El Monte, La Habra, Los Alamitos, Los Angeles, Long Beach, and South Gate);
2. 2010 California Native Plant Society (CNPS) rare plant inventory;
3. United States Fish and Wildlife (USFWS) Critical Habitat for all Federally Threatened and Endangered species;
4. Natural Resources Conservation Service's (NRCS) soil survey for Los Angeles County (southeastern part); and
5. GLA's biological technical report for The Greenleaf Community Plan (April 11, 2005), and GLA's biological technical report (update) for The Greenleaf Community Development Plan (June 14, 2010).

#### EXISTING CONDITIONS

The Project site is a former correctional facility that is surrounded on all sides by two major roadways and a combination of residential and commercial development. The Project site is highly developed and disturbed due to the presence of over 50 structures and associated infrastructure, including paved parking lots, and paved and dirt roads. The Project site is surrounded on all sides by an approximately 15-foot high chain link razor wire fence. The onsite vegetation is comprised entirely of ornamental trees, shrubs, and non-native vegetation. The California Department of Corrections and Rehabilitation contracts with the California Conservation Corps to perform periodic brush clearance and removal of cuttings in order to



reduce fire hazards. The surrounding land is urbanized, consisting of major roadways, residential areas, and commercial warehouses.

## Vegetative Species

Vegetative cover consists of numerous ornamental trees, shrubs, and non-native grasses. Ornamental vegetation observed included gum trees (*Eucalyptus* sp.), bottlebrush (*Callistemon citrinus*), jacaranda trees (*Jacaranda mimosifolia*), tree of heaven (*Ailanthus altissima*), magnolia trees (*Magnolia grandiflora*), and numerous other tree and shrub species associated with the surrounding residential and industrial areas, including several pine species (*Pinus* spp.) and several palm species including Mexican fan palm (*Washingtonia robusta*). Several individual native plant species that were planted or volunteered include a mulefat (*Baccharis salicifolia*) individual and a single toyon (*Heteromeles arbutifolia*). No native trees were observed onsite. The open fields are vegetated primarily with ripgut grass (*Bromus diandrus*) and hare barley (*Hordeum murinum* ssp. *leporinum*). A complete list of plant species detected onsite is included in Appendix A of the Biological Report. Representative site photographs are included in Biological Report Exhibit 4, *Site Photographs*.

## Wildlife Species

The following common avian species were observed during the various site visits: house finch (*Carpodacus mexicanus*); house sparrow (*Passer domesticus*); lesser goldfinch (*Spinus psaltria*); bushtit (*Psaltriparus minimus*); Anna's hummingbird (*Calypte anna*); northern mockingbird (*Mimus polyglottos*); song sparrow (*Melospiza melodia*); American crow (*Corvus brachyrhynchos*); black phoebe (*Sayornis nigricans*); mourning dove (*Zenaida macroura*); western kingbird (*Tyrannus verticalis*); and redtailed hawk (*Buteo jamaicensis*).

No amphibians were detected onsite. Reptile species detected onsite include the western fence lizard (*Sceloporus occidentalis*) and side blotched lizard (*Uta stansburiana*). Mammals detected onsite by direct observation and/or sign (i.e., tracks, scat, and burrows) include Botta's pocket gopher (*Thomomys bottae*). Animals previously detected onsite during prior surveys in 2005 and 2010 include the brush rabbit (*Sylvilagus bachmani*) and California ground squirrel (*Otospermophilus beecheyi*). A complete list of fauna detected onsite is included in Appendix B of the Biological Report.

## Special-Status Plant Species

No special-status plants were observed onsite, and none are expected to occur due to a lack of suitable habitat. Species were considered based on various factors, including: 1) species identified by the April 2013 CNDDDB as occurring (either currently or historically) in the property's vicinity; and 2) any other special-status plants that are known to occur within the property's vicinity, or for which potentially suitable habitat occurs onsite. [Table 5.3-1, \*Special-Status Plant Species Considered for the Project Site\*](#), summarizes all plants considered for the site assessment based on CNDDDB and CNPS listings.

## Sensitive Habitats

Sensitive habitats identified in the April 2013 CNDDDB as occurring (either currently or historically) within the Whittier and surrounding quadrangles include: California Walnut Woodland; Riversidian Alluvial Fan Sage Scrub; Southern California Salt Marsh; and Walnut Forest. No special-status habitats occur on the Project site.



**Table 5.3-1  
Special-Status Plant Species Considered for the Project Site**

Species Name	Status	Habitat Requirements	Potential for Occurrence								
Brand's phacelia <i>Phacelia stellaris</i>	Federal: None State: None CRPR List 1B	Coastal dunes and coastal sage scrub.	Does not occur onsite due to a lack of suitable habitat.								
California Orcutt grass <i>Orcuttia californica</i>	Federal: FE State: SE CRPR: List 1B	Vernal pools.	Does not occur onsite due to a lack of suitable habitat.								
Coulter's goldfields <i>Lasthenia glabrata</i> ssp. <i>Coulteri</i>	Federal: None State: None CRPR: List 1B.1	Playas, vernal pools, marshes and swamps (coastal salt).	Does not occur onsite due to a lack of suitable habitat.								
Intermediate mariposa lily <i>Calochortus weedii</i> var. <i>intermedius</i>	Federal: None State: None CRPR: List 1B	Rocky soils in chaparral, coastal sage scrub, valley and foothill grassland.	Does not occur onsite due to a lack of suitable habitat.								
Parish's brittle scale <i>Atriplex parishii</i>	Federal: None State: None CRPR: List 1B	Chenopod scrub, playas, vernal pools.	Does not occur onsite due to a lack of suitable habitat.								
Plummer's mariposa lily <i>Calochortus plummerae</i>	Federal: None State: None CRPR: List 1B	Granitic, rock soils within chaparral, cismontane woodland, coastal sage scrub, lower montane coniferous forest, valley and foothill grassland.	Does not occur onsite due to a lack of suitable habitat.								
Prostrate navarretia <i>Navarretia prostrata</i>	Federal: FSC State: None CRPR: List 1B	Coastal sage scrub, valley and foothill grassland (alkaline), vernal pools. Occurring in mesic soils.	Does not occur onsite due to a lack of suitable habitat.								
Southern tarplant <i>Centomadia parryi</i> ssp. <i>Australis</i>	Federal: None State: None CRPR: List 1B.1	Disturbed habitats, margins of marshes and swamps, vernal mesic valley and foothill grassland, vernal pools.	Does not occur onsite due to a lack of suitable habitat.								
<p><b>Federal State</b>            FE - Federally Endangered SE - State Endangered            FT - Federally Threatened ST - State Threatened</p> <p><b>California Rare Plant Rank (CRPR)</b>            List 1B - Plants rare, threatened, or endangered in California and elsewhere.            List 2 - Plants rare, threatened, or endangered in California, but more common elsewhere.            List 3 - Plants about which more information is needed.</p> <p><b>CRPR Threat Code Extensions</b></p> <table border="1"> <thead> <tr> <th>Extension</th> <th>Code Comment</th> </tr> </thead> <tbody> <tr> <td>0.1</td> <td>Seriously endangered in California</td> </tr> <tr> <td>0.2</td> <td>Fairly endangered in California</td> </tr> <tr> <td>0.3</td> <td>Not very endangered in California</td> </tr> </tbody> </table> <p>Source: Glenn Lukos Associates, <i>Biological Technical Report for the Proposed 76-Acre Mixed-Use Nelles Specific Plan Project</i>, May 3, 2013.</p>				Extension	Code Comment	0.1	Seriously endangered in California	0.2	Fairly endangered in California	0.3	Not very endangered in California
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0.1	Seriously endangered in California										
0.2	Fairly endangered in California										
0.3	Not very endangered in California										

## Critical Habitat

The Project site does not occur within areas designated by the USFWS as critical habitat for any federally listed species.

## Jurisdiction

There are no blue-line drainages or other aquatic environments on or associated with the Project site. No areas subject to Corps or CDFW jurisdiction are associated with the site.



## Raptor and Owl Use

The Project site supports suitable nesting (large trees, light posts, and abandoned buildings) and limited foraging habitat (open fields) for raptors. One active red-tailed hawk (*Buteo jamaicensis*) and several inactive raptor/corvid nests were identified on the Project site; however, none of the nests were occupied by special-status or sensitive species.<sup>1</sup> Although not detected onsite, it is expected that owl species including barn owls (*Tyto alba*) and great horned owls (*Bubo virginianus*) have the potential to breed onsite due to the presence of tree species including Mexican fan palms, unoccupied raptor nests (which great horned owls will use), and unoccupied/abandoned buildings. The open fields provide limited foraging opportunities for several raptor species due to the height of the weedy species and general absence of small mammal burrows. Botta's pocket gopher constitutes the main prey item for raptors onsite.

## Special-Status Wildlife

No special-status wildlife was observed on the site and none is expected to occur onsite due to a lack of suitable habitat. Species were considered based on various factors, including: 1) species identified by the April 2013 CNDDDB as occurring (either currently or historically) on or in the property's vicinity; and 2) any other special-status species that are known to occur within the property's vicinity, or for which potentially suitable habitat occurs onsite. Table 5.3-2, *Special-Status Wildlife Considered for the Project Site*, summarizes all wildlife considered for the site assessment based on CNDDDB listings.

Burrowing owls are not expected to occur onsite in the open fields due to the general absence of ground squirrel burrows, combined with the height of weedy species, which precludes unobstructed visibility.<sup>2</sup> In addition, the open fields are in close proximity to dozens of tall trees and lamp posts, which are utilized by other raptor species including red-tailed hawks, Cooper's hawk (*Accipiter cooperii*), barn owls, and great horned owls, all of which will predate on burrowing owls.

### 5.3.2 EXISTING REGULATORY SETTING

Threatened and endangered species are listed by the USFWS and CDFW. In California, three agencies generally regulate activities within inland streams, wetlands, and riparian areas: the Corps; the CDFW; and the Regional Water Quality Control Board (RWQCB). The Corps Regulatory Branch regulates activities pursuant to Section 404 of the Federal Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act. The CDFW regulates activities under California Fish and Game Code Sections 1600-1607. The RWQCB regulates activities pursuant to Section 401 of the CWA and the California Porter-Cologne Act.

<sup>1</sup> All active nesting bird species (excluding several non-native species) are protected under the Migratory Bird Treaty Act.

<sup>2</sup> Several California ground squirrels were detected onsite in 2010, but were not detected in 2013.



**Table 5.3-2  
Special-Status Wildlife Considered for the Project Site**

Species Name	Status	Habitat Requirements	Potential for Occurrence
Burrowing owl <i>Athene cunicularia</i>	Federal: FSC State: SSC	Shortgrass prairies, grasslands, lowland scrub, agricultural lands (particularly rangelands), coastal dunes, desert floors, and some artificial, open areas as a year-long resident. Occupies abandoned ground squirrel burrows as well as artificial structures such as culverts and underpasses.	Not expected to occur onsite due to a lack of suitable habitat. No ground squirrels or burrows were detected and open fields are vegetated with weedy species about one-foot in height.
Coastal California gnatcatcher <i>Polioptila californica californica</i>	Federal: FT State: SSC	Low elevation coastal sage scrub and coastal bluff scrub.	Does not occur onsite due to lack of suitable habitat.
Coast horned lizard <i>Phrynosoma blainvillii</i>	Federal: None State: SSC	Occurs in a variety of vegetation types including coastal sage scrub, chaparral, annual grassland, oak woodland, and riparian woodlands.	Does not occur onsite due to lack of suitable habitat.
Least Bell's vireo <i>Vireo bellii pusillus</i>	Federal: FE State: SE	Dense riparian habitats with a stratified canopy, including southern willow scrub, mule fat scrub, and riparian forest.	Does not occur onsite due to lack of suitable habitat.
Southwestern willow flycatcher <i>Empidonax traillii extimus</i>	Federal: FE State: SE	Riparian woodlands along streams and rivers with mature dense thickets of trees and shrubs.	Does not occur onsite due to lack of suitable habitat.
Western mastiff bat <i>Eumops perotis californicus</i>	Federal: None State: SSC	Occurs in many open, semi-arid to arid habitats, including conifer and deciduous woodlands, coastal scrub, grasslands, and chaparral. Roosts in crevices in cliff faces, high buildings, trees, and tunnels.	Not expected to occur onsite due to a lack of suitable habitat.
Western spadefoot <i>Scaphiopus hammondi</i>	Federal: None State: SSC	Seasonal pools in coastal sage scrub, chaparral, and grassland habitats.	Does not occur onsite due to lack of suitable habitat.
Western yellow-billed cuckoo <i>Coccyzus americanus occidentalis</i>	Federal: None State: SE	Dense, wide riparian woodlands with well-developed understories.	Does not occur onsite due to lack of suitable habitat.
Yellow-breasted chat <i>Icteria virens</i>	Federal: None State: SSC	Dense, relatively wide riparian woodlands and thickets of willows, vine tangles, and dense brush with welldeveloped understories.	Does not occur onsite due to lack of suitable habitat.
<p><b>Federal State</b>            FE – Federally Endangered            FT – Federally Threatened            FPT – Federally Proposed Threatened            FSC – Federal Species of Concern</p> <p><b>State</b>            SE – State Endangered            ST – State Threatened            SSC- California Species of Concern            CFP – California Fully-Protected Species</p> <p>Source: Glenn Lukos Associates, <i>Biological Technical Report for the Proposed 76-Acre Mixed-Use Nelles Specific Plan Project</i>, May 3, 2013.</p>			



## FEDERAL

### Federal Endangered Species Act

The Federal Endangered Species Act (FESA) of 1973 (50 CFR 17) is intended to protect plants and wildlife that have been identified as being at risk of extinction and classified as either threatened or endangered. FESA also regulates the “taking” of any endangered fish or wildlife species, per Section 9 of the Act. A responsible agency or individual landowners are required to submit to a formal consultation with the USFWS to assess potential impacts to listed species as the result of a development project, pursuant to FESA Sections 7 and 10. The USFWS is required to make a determination as to the extent of impact to a particular species a project would have. If it is determined that potential impacts to a species would likely occur, measures to avoid or reduce such impacts must be identified.

### Federal Clean Water Act

#### SECTION 404

The Corps maintains regulatory authority over the discharge of dredged or fill material into the waters of the United States, pursuant to Section 404 of the CWA. The Corps and United States Environmental Protection Agency (EPA) defines “fill material” as any “material placed in waters of the United States where the material has the effect of: (i) Replacing any portion of a water of the United States with dry land; or (ii) Changing the bottom elevation of any portion of the waters of the United States.” Fill material may include sand, rock, clay, construction debris, wood chips, or other similar “materials used to create any structure or infrastructure in the waters of the United States.” The term “waters of the United States” includes the following:

- All waters that have, are, or may be used in interstate or foreign commerce (including sightseeing or hunting), including all waters subject to the ebb and flow of the tide;
- Wetlands;
- All waters such as interstate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds; the use, degradation or destruction of which could affect interstate or foreign commerce;
- All impoundments of water mentioned above;
- All tributaries of waters mentioned above;
- Territorial seas; and,
- All wetlands adjacent to the waters mentioned above.

In the absence of wetlands, the Corps’ jurisdiction in non-tidal waters extends to the ordinary high water mark (OHWM), which is defined as “...*that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding area (33 CFR 328.3(e)).*”

Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands are jointly defined by the Corps and EPA as “*those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions (33 CFR 328.3(b)).*”



On January 9, 2001, the U.S. Supreme Court issued the decision, *Solid Waste Agency of Northern Cook County v. U.S. Army Corp of Engineers et al.* As a result of this case, the scope of the Corps' Section 404 CWA regulatory permitting program was limited, restricting Corps' jurisdictional authority over isolated, non-navigable, intrastate waters that are not tributary or adjacent to navigable waters or tributaries (i.e., wetland conditions). The Supreme Court held that Congress did not intend for isolated, non-navigable water conditions to be covered within Section 404 of the CWA, as they are not considered to be true "waters of the U.S."

## **SECTION 401**

The RWQCB is the primary agency responsible for protecting water quality in California. The RWQCB regulates discharges to surface waters under the Federal CWA and the California Porter-Cologne Water Quality Control Act. The RWQCB's jurisdiction extends to all waters of the State and to all waters of the United States, including wetlands (isolated and non-isolated conditions).

Through 401 Certification, Section 401 of the CWA allows the RWQCB to regulate any proposed Federally permitted activity that may affect water quality. Such activities include the discharge of dredged or fill material, as permitted by the Corps, pursuant to Section 404 of the CWA. The RWQCB is required to provide "certification that there is reasonable assurance that an activity which may result in the discharge to waters of the United States will not violate water quality standards," pursuant to Section 401. The Water Quality Certification must be based on the finding that proposed discharge will comply with applicable water quality standards, of which are given as objectives in each of the RWQCB's Basin Plans.

In addition, pursuant to the Porter-Cologne Water Quality Control Act, the State is given authority to regulate waters of the State, which are defined as any surface water or groundwater, including saline waters. As such, any person proposing to discharge waste into a water body that could affect its water quality must first file a Report of Waste Discharge if a Section 404 does not apply. "Waste" is partially defined as any waste substance associated with human habitation, including fill material discharged into water bodies.

## **STATE**

### **California Endangered Species Act**

The California Endangered Species Act (CESA) of 1984, in combination with the California Native Plant Protection Act of 1977, regulates the listing and take of plant and wildlife species designated as endangered, threatened, or rare within the State. The State of California also lists Species of Special Concern based on limited distribution, declining populations, diminishing habitat, or unusual scientific, recreational, or educational value. The State gives the CDFW the responsibility to assess development projects for their potential to impact listed species and their habitats. State listed special-status species are also addressed through the issuance of a 2081 permit (Memorandum of Understanding).

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

Within the State of California, fish, wildlife, and native plant resources are protected and managed by the CDFW. The Fish and Game Commission and/or the CDFW are responsible for issuing permits for the take or possession of protected species. The following sections of the



Code address the protected species: Section 3511 (birds); Section 4700 (mammals); Section 5050 (reptiles and amphibians); and, Section 5515 (fish).

## California Department of Fish and Wildlife Lake and Streambed Alteration Agreements

Historically, the State of California regulated activities in rivers, streams, and lakes pursuant to *California Fish and Game Code* Sections 1600-1607; however, on January 1, 2004, legislation went into effect that repealed Fish and Game Code Sections 1600-1607 and instead, added *Fish and Game Code* Sections 1600-1616. This action eliminated the separation between private/public notifications (previously 1601/1603). Section 1602 of the *Fish and Game Code* requires any person, state, or local governmental agency, or public utility to notify the CDFW before commencing any activity that would result in one or more of the following:

- Substantially obstruct or divert the natural flow of a river, stream, or lake;
- Substantially change or use any material from the bed, channel, or bank of a river, stream, or lake; or,
- Deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it can pass into a river, stream, or lake.

*Fish and Game Code* Section 1602 applies to all perennial, intermittent, and ephemeral rivers, streams, and lakes within the State of California. While the jurisdictional limits are similar to the limits defined by Corps regulations, CDFW jurisdiction includes riparian habitat supported by a river, stream, or lake with or without the presence or absence of saturated soil conditions or hydric soils. CDFW jurisdiction generally includes to the top of bank of the stream, or to the outer limit of the adjacent riparian vegetation (outer drip line), whichever is greater. Any project that occurs within or in the vicinity of a river, stream, lake, or their tributaries typically requires notification of the CDFW, including rivers or streams that flow at least periodically or permanently through a bed or channel with banks that support fish or other aquatic life, and watercourses having a surface or subsurface flow that supports or has supported riparian vegetation.

## Migratory Bird Treaty Act of 1918

The Federal Migratory Bird Treaty Act (MBTA) was originally drafted to end the commercial trade in bird feathers popular in the latter part of the 1800s. The MBTA makes it illegal to take, possess, buy, sell, purchase, or barter any migratory bird listed in 50 C.F.R. Part 10, including feathers, nests, eggs, or other avian products. The USFWS is responsible for enforcing the MBTA.

## California Environmental Quality Act

In addition to specific Federal and State statutes for the protection of threatened and endangered species, *California Environmental Quality Act (CEQA) Guidelines* Section 15380(b) provides that a species not listed on the Federal or State list of protected species may be considered rare or endangered if it can be shown that the species meets certain specified criteria. Modeled after definitions in the FESA and the section of the *California Fish and Game Code* dealing with rare or endangered plants and wildlife, these criteria are given in *CEQA Guidelines* Section 15380(b). The effect of Section 15380(b) is to require public agencies to undertake reviews to determine if projects would result in significant effects on species not listed by either the USFWS or CDFW (i.e., candidate species). Through this process, agencies are



provided with the authority to protect additional species from the potential impacts of a project until the appropriate government agencies have an opportunity to designate the species as protected, if deemed appropriate.

## Natural Community Conservation Plan

The Natural Community Conservation Act (the Act), codified at Fish and Game Code Sections 2800-2840, authorizes the preparation of Natural Community Conservation Plans (NCCPs) to protect natural communities and species, while allowing a reasonable amount of economic development. The project site is not within the jurisdiction of any NCCP or Habitat Conservation Plan (HCP).

## CITY OF WHITTIER GENERAL PLAN ENVIRONMENTAL RESOURCE MANAGEMENT ELEMENT

The General Plan Environmental Resource Management Element (ERME) provides for the conservation, development, and use of natural resources including water, wildlife, minerals, and other natural resources. In addition, the Element details goals and policies for resource conservation. It is the City's goal (Goal 1) to "preserve or conserve natural resources that have scientific, educational, economic, aesthetic, social, and cultural value." To this end, it is the City's policy (Policy 1.5) to "encourage property owners to preserve areas with native vegetation, wildlife habitat, and visual beauty."

### 5.3.3 IMPACT THRESHOLDS AND SIGNIFICANCE CRITERIA

#### THRESHOLDS OF SIGNIFICANCE

Environmental impacts relative to biological resources are assessed using impact significance threshold criteria, which reflect the policy statement contained in CEQA, Section 21001(c) of the California Public Resources Code. Accordingly, the State Legislature has established it to be the policy of the State of California to:

*"Prevent the elimination of fish or wildlife species due to man's activities, ensure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities..."*

Determining whether a project may have a significant effect or impact, plays a critical role in the CEQA process. According to CEQA, Section 15064.7 (Thresholds of Significance), each public agency is encouraged to develop and adopt (by ordinance, resolution, rule, or regulation) thresholds of significance that the agency uses in the determination of the significance of environmental effects. A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant. In the development of thresholds of significance for impacts to biological resources CEQA provides guidance primarily in Section 15065, Mandatory Findings of Significance, and the CEQA Guidelines, Appendix G, Environmental Checklist Form. Section 15065(a) states that a project may have a significant effect where:



*“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 wildlife community, reduce the number or restrict the range of an endangered, rare, or threatened species, ...”*

Therefore, for the purpose of this analysis, impacts to biological resources are considered potentially significant (before considering offsetting mitigation measures) if one or more of the following criteria discussed below would result from implementation of the proposed project.

## **SIGNIFICANCE CRITERIA**

The issues presented in the Initial Study Environmental Checklist (Appendix G of the *CEQA Guidelines*) have been utilized as thresholds of significance in this Section. Accordingly, biological resources impacts resulting from the project implementation may be considered significant if they would result in the following:

- 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 Services.
- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Services; refer to Section 8.0, *Effects Found Not to be Significant*.
- 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; refer to Section 8.0, *Effects Found Not to be Significant*.
- 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.
- Conflict with provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan; refer to Section 8.0, *Effects Found Not to be Significant*.

Based on these standards, the effects of the proposed project have been categorized as either a “less than significant impact” or a “potentially significant impact.” Mitigation measures are recommended for potentially significant impacts. If a potentially significant impact cannot be reduced to a less than significant level through the application of mitigation, it is categorized as a significant unavoidable impact.

The following discussion examines the potential impacts to plant and wildlife resources that may occur as a result of Project implementation. Project-related impacts can occur in two forms, direct and indirect. Direct impacts are considered to be those that involve the loss, modification



or disturbance of plant communities, which in turn, directly affect the flora and fauna of those habitats. Direct impacts also include the destruction of individual plants or wildlife, which may also directly affect regional population numbers of a species or result in the physical isolation of populations thereby reducing genetic diversity and population stability.

Other impacts, such as loss of foraging habitat, can occur although these areas or habitats are not directly removed by project development; i.e., indirect impacts. Indirect impacts can also involve the effects of increases in ambient levels of noise or light, unnatural predators (i.e., domestic cats and other non-native animals), competition with exotic plants and animals, and increased human disturbance such as hiking and dumping of green waste onsite. Indirect impacts may be associated with the subsequent day-to-day activities associated with project build-out, such as increased traffic use, permanent concrete barrier walls or chain-link fences, exotic ornamental plantings that provide a local source of seed, etc., which may be both short-term and long-term in their duration. These impacts are commonly referred to as “edge effects” and may result in a slow replacement of native plants by exotics, and changes in the behavioral patterns of wildlife and reduced wildlife diversity and abundance in habitats adjacent to project sites.

Potential significant adverse effects, either directly or through habitat modifications, on any special-status plant, animal, or habitat that could occur as a result of project development have been evaluated under CEQA and CDFW guidelines.

### 5.3.4 IMPACTS AND MITIGATION MEASURES

#### SPECIAL STATUS PLANT AND WILDLIFE SPECIES

- **PROJECT IMPLEMENTATION MAY HAVE AN ADVERSE EFFECT, EITHER DIRECTLY OR THROUGH HABITAT MODIFICATIONS, ON SPECIAL STATUS PLANT OR WILDLIFE SPECIES.**

**Impact Analysis:** No sensitive plant or animal species were detected during previous surveys conducted in 2005 and 2010, and none were detected during the 2013 surveys. The Project site does not provide suitable habitat for special status plant or wildlife species. The Project site does support suitable nesting habitat (including trees, shrubs, buildings, and open areas) for passerine and raptor species, however, raptor foraging habitat is limited.

The project has the potential to result in impacts to nesting birds and bats on maternity roosts during the construction process. Based on the *Fred Nelles School Tree Evaluation* (Tree Evaluation), prepared for the proposed project (refer to [Appendix 11.3, Tree Evaluation](#)), a total of 460 trees are currently located on the Project site, which would be affected by construction activities. However, implementation of Mitigation Measure BIO-1 and compliance with existing requirements of the MBTA would require that vegetation/tree removal and structure demolition occur outside of the nesting season, unless preconstruction surveys are conducted. These requirements would reduce impacts to nesting birds and roosting bats to a less than significant level. As such, no substantial adverse effect, either directly or indirectly, to any endangered or threatened species, or any other special-status plant, wildlife, or sensitive habitat would occur as a result of Project development.



### ***Mitigation Measures:***

BIO-1 Vegetation removal and structure demolition shall be conducted outside of the nesting bird season, which can begin as early as December for barn owls and extend to August 31 for most passerines. If this is not possible, then a qualified biologist shall conduct nesting bird surveys within three days of vegetation removal and structure demolition during the nesting season. The biologist conducting the clearance survey shall document a negative survey with a brief letter report indicating that no impacts to active bird nests would occur.

If an active avian nest is discovered during the nesting bird survey, construction activities shall stay outside of a 300-foot buffer around the active nest. For raptor species, this buffer shall be expanded to 500 feet. A biological monitor shall be present to delineate the boundaries of the buffer area and to monitor the active nest in order to ensure that nesting behavior is not adversely affected by construction activities. Once the young have fledged, normal construction activities shall be allowed to occur.

***Level of Significance:*** Less Than Significant Impact with Mitigation Incorporated.

## **MIGRATORY WILDLIFE SPECIES**

- **PROJECT IMPLEMENTATION COULD INTERFERE WITH THE MOVEMENT OF A NATIVE RESIDENT OR MIGRATORY WILDLIFE SPECIES.**

***Impact Analysis:*** The Project site supports suitable nesting and limited foraging habitat for raptors. One active red-tailed hawk (*Buteo jamaicensis*) and several inactive raptor/corvid nests were identified on the Project site; however, none of the nests were occupied by special-status or sensitive species. Although not detected onsite, it is expected that owl species including barn owls (*Tyto alba*) and great horned owls (*Bubo virginianus*) have the potential to breed onsite due to the presence of certain tree species, unoccupied raptor nest, and unoccupied/abandoned buildings. The open fields provide limited foraging opportunities for several raptor species. Potential impacts to nesting raptors, owls, and passerines would be mitigated through compliance with Mitigation Measure BIO-1, which requires that vegetation removal and structure demolition occur outside of the nesting bird season. If this is not possible, then it is recommended that a qualified biologist conduct pre-construction surveys for nesting birds prior to demolition. With implementation of Mitigation Measure BIO-1, potential impacts to migratory wildlife species would be reduced to less than significant.

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

***Level of Significance:*** Less Than Significant Impact With Mitigation Incorporated.

## **POLICIES PROTECTING BIOLOGICAL RESOURCES**

- **PROJECT IMPLEMENTATION WOULD NOT CONFLICT WITH A CITY POLICY PROTECTING BIOLOGICAL RESOURCES.**



**Impact Analysis:** According to the ERME, it is the City's goal (Goal 1) to preserve or conserve natural resources that have scientific, educational, economic, aesthetic, social, and cultural value. To this end, it is the City's policy (Policy 1.5) to encourage property owners to preserve areas with native vegetation and wildlife habitat.

As concluded above, the onsite vegetation is comprised entirely of ornamental trees, shrubs, and non-native vegetation. The Project site does not support native vegetation or habitat. Additionally, no native trees were observed onsite. The proposed development would not occur on an area containing native vegetation or wildlife habitat. Therefore, the Project would not conflict with Policy 1.5 and no impact would occur in this regard.

In addition, the Whittier Parkway Tree Manual provides guidelines to help reduce impacts on City trees and to provide for effective management of the urban forest. The guidelines within the Parkway Tree Manual pertain to tree care, preservation, pruning, removal, and replacement. These guidelines are applicable to City parkways, which are defined as a strip of right-of-way within which the City plants and maintains its urban forest. As it relates to the proposed Project, the Parkway Tree Manual would be applicable to areas along the Project frontage on Whittier Boulevard, where numerous trees may be affected by roadway improvements. For trees affected by construction projects on City property, the Parkway Tree Manual requires replacement of the affected tree(s) in accordance with International Society of Arboriculture standards. The project would comply with the requirements of the Parkway Tree Manual, and impacts in this regard would not occur.

**Mitigation Measures:** No mitigation measures are required.

**Level of Significance:** No Impact.

### 5.3.5 CUMULATIVE IMPACTS

- **DEVELOPMENT ANTICIPATED BY THE PROJECT COMBINED WITH CUMULATIVE DEVELOPMENT WOULD NOT HAVE ADVERSE EFFECTS ON BIOLOGICAL RESOURCES OR INTERFERE WITH THE MOVEMENT OF MIGRATORY WILDLIFE SPECIES.**

**Impact Analysis:** For purposes of biological resource impact analysis, cumulative impacts are considered for cumulative development, as outlined in Table 4-1, Cumulative Projects List. As concluded above, the Project would result in less than significant impacts on biological resources and/or interference with movement of migratory wildlife species. Therefore, the Project's incremental effects involving biological resources are not cumulatively considerable. Moreover, all cumulative development within the Project area would undergo environmental and design review on a project-by-project basis pursuant to CEQA, in order to evaluate potential impacts to biological resources. Future development with potential to impact biological resources would also be required to comply with the established Federal and State regulatory framework. Cumulative impacts to biological resources would continue to be mitigated on a project-by-project basis and in accordance with the established regulatory framework, through the established regulatory review process. Therefore, the combined cumulative impacts to biological resources associated with the Project's incremental effects and those of the cumulative projects would be less than significant.



**Mitigation Measures:** No mitigation measures are required.

**Level of Significance:** Less Than Significant Impact.

### **5.3.6 SIGNIFICANT UNAVOIDABLE IMPACTS**

No significant unavoidable impacts related to biological resources have been identified following implementation of the recommended mitigation measures.

### **5.3.7 SOURCES CITED**

Arborgate Consulting, Inc., *Fred Nelles School – Tree Evaluation*, June 12, 2014.

City of Whittier, *City of Whittier General Plan*, Comprehensively Adopted 1993.

Glenn Lukos Associates, *Biological Technical Report for the Proposed 76-Acre Mixed-Use Nelles Specific Plan Project*, May 3, 2013.