4.3 BIOLOGICAL RESOURCES

This section evaluates the potential for implementation of the proposed project to have substantial adverse impacts on biological resources, including sensitive plants, animals, and habitats. The Initial Study (Appendix A) identified the potential for impacts associated with the effect on candidate, sensitive, or special status species, sensitive natural communities, and jurisdictional waters of the United States. Data used to prepare this section were obtained during a biological field survey of the project site and taken from the City of Huntington Beach General Plan, two Jurisdictional and Wetland Delineations of Waters of the United States (Glen Lukos 2003 and EIP Associates 2005), a supplemental hydric soils investigation (Young 2005), and the Biological Resources Technical Report prepared by EIP Associates for this project.

4.3.1 Existing Conditions

Regional Setting

The project site is contained within the United States Geological Survey (USGS) 7.5-minute series topographical map for Seal Beach. The site is located in the City of Huntington Beach, Orange County California (Figure 1).

Site Characteristics

Adjacent and Existing Land Use

The 23.1-acre site is located inland and northeast of State Route 1 (also referred to as the Pacific Coast Highway [PCH]). Specifically, the site is located at 21471 Newland Street, south of Lomond Drive, west of Newland Street, and north of the terminus of Hamilton Avenue. Bordering the site to the west and south are wetland and open space properties, 24 acres of which were conveyed in 2004 by the current land owner to CalTrans, an agency of the State of California, and deed restricted as wetlands in perpetuity. At the time of that conveyance, the current land owner caused an additional 28 acres of property surrounding the deeded property to be likewise deed restricted as wetlands. The site is also abutted on the west by the Huntington Beach Channel.

The majority of the project site is currently vacant, graded soil, surrounded by chain link and masonry fencing. As a result of the previous industrial uses and extensive soil disturbance, the graded soil portion of the site supports minimal vegetation. The northeast corner of the site (approximately 4.5 acres located at 21401 Newland Street) is currently used as a recreational vehicle and boat storage facility, consisting of a large paved surface parking area and a temporary trailer serving as an administration office.

Soils and Topography

From the 1950s until 2002, the majority of the site was used as an oil storage facility and pipeline terminal. All facilities and materials related to former oil storage/pipeline uses have been removed. The

project site has been previously graded as part of a completed soil remediation program due to the property's historic industrial use and has been backfilled with soil that meets City specifications.

The site is underlain by alluvial sediment of the Holocene age. These deposits are generally thought to be derived from sediments lain down by the Santa Ana River across the Orange County coastal plain. Subsurface investigations revealed alluvial deposits generally consisting of silty clays and clayey silts to a depth of approximately 15 feet. Below this layer fine to medium grain sand was observed with scattered layers of silty sand and silt. In general across the site surface clay soils were wet and soft; underlying soils were moist to wet and varied in consistency from loose to very dense (LCG 2005).

Vegetation

The project site consists primarily of disturbed landscape with limited areas of ruderal vegetation that occur along the periphery of the site. Additionally ornamental vegetation can be found along the southern, northern, and eastern edge of the project site. These vegetation types will be discussed in detail in the "Vegetation Communities" section.

Methodology

Literature Survey

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) Natural Diversity Data Base (CNDDB, January 2005) and California Native Plant Society's (CNPS) Electronic Inventory (January 2004) for the U. S. Geological Survey's (USGS) 7.5-minute Los Alamitos, Long Beach, Newport Beach and Anaheim Quadrangles. Information on the status of special-status plant and animal species potentially occurring within the project area was also obtained from the CDFG's Special Vascular Plants, Bryophytes, and Lichens List (January 2005), the CDFG's List of State and Federally Listed Endangered and Threatened Animals of California (January 2005), and the CDFG's List of Special Animals (January 2005). This search range encompasses a sufficient distance to accommodate for regional habitat diversity and to overcome the limitations of the CNDDB. The CNDDB 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), the List of California Terrestrial Natural Communities Recognized by the Natural Diversity Data Base (CDFG 2002, January), and the Jepson Manual of Higher Plants of California (J.C. Hickman, Ed., 1993), and a wetland delineation of the project area and adjacent parcels (Glen Lukos Associates, Inc., 2004). 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.

Field Surveys

Plant Surveys

A general botanical survey was performed on July 6, 2005. The survey included an assessment of vegetation types and plant communities occurring within the project site, as well as a general search for wetland indicator plant species and an assessment of potential habitat for special status species. Plant species were identified in the field or collected for future identification. Plants were identified using keys in Hickman (1993), Munz (1974), and Abrams (1923). Taxonomy follows Hickman (1993) for scientific and common names. Results of this survey are shown in Table 4.3-2.

Blooming periods were taken from the CNPS Electronic Inventory of Rare and Endangered Vascular Plants of California (CNSPI information dated 2002). The plant survey was conducted at a time of year when not all potentially sensitive species were both evident and identifiable.

Wildlife Surveys

A general wildlife survey was performed simultaneously with the plant survey on July, 6 2005. Surveys included active searches for reptiles and amphibians that involved lifting, overturning, and carefully replacing rocks and debris and observing reptile activity on dirt areas and in drainage bottoms. Birds were identified by standard visual and auditory recognition, and the presence of nests or other evidence of breeding activity was noted. Surveys for mammals included searching for and identifying diagnostic signs, including scat, footprints, scratch-outs, dusting bowls, burrows, and trails.

Biological Resources

Vegetation Communities

The vegetation within the 23.1-acre site was limited; the majority of the site consisted of unvegetated disturbed bare landscape. The areas along the northern and eastern (Lomond and Newland streets) boundary of the site are generally characterized by ruderal and ornamental vegetation types. A total of fifteen plant species and three habitat types were observed within the limits of project site. Habitat types on site are summarized in Table 4.3-1, and plant species are listed in Table 4.3-2.

Table 4.3-1 Vegetation Communities Located on the Project Site

Vegetation Community	*Approximate Acreage*
Ruderal Vegetation	0.7
Ornamental	0.9
Disturbed	17.0
Developed Hardscape	4.5
Total	*23.1 acres.*

SOURCE: EIP Associates Site Survey 2005, July

Ruderal Vegetation

Though not a true habitat community as defined by Holland (1986), ruderal areas are dominated by highly adaptive and invasive species with few to no native species and are found most frequently in areas disturbed by human activities such as agriculture, construction, or other land clearing activities. Disturbed habitat typically occurs throughout areas such as, vacant lots, abandoned oil fields, roadsides, and parks and comprises approximately 0.7 acre of the project site. Characteristic ruderal species identified on-site include Italian rye (*Lolium multiflorum*), annual rye grass (*Lolium rigidum*), rip gut brome (*Bromus diandrus*), and five-hook bassia (*Bassia hyssopifolia*). In addition, a small area (0.003 acre) of saltgrass (*Distichlis spicata*) is present along the western edge of the project site. The presence of saltgrass could indicate the potential presence of wetland habitat in coastal areas, however based on the two jurisdictional waters/wetland delineations and a hydric soils report performed for the project, no wetland habitat is present within the limits of the project site.

Table 4.3-2 Plant Species Observed at the Project Site

Scientific Name	*Common Name*
ANGIOSPERMAE: DICOTYLEDONAE	DICOT FLOWERING PLANTS
Apocynaceae	Dogbane Family
Nerium Oleander	Oleander
Bataceae	Saltwort Family
Batis maritima	Saltwort
Buxaceae	Boxwood Family
Buxus sp.	Boxwood
Caryophyllaceae	Carnation Family
Spergularia villosa	Sand Spurry
Chenopodiaceae	Saltbush Family
Bassia hyssopifolia	Five-Hook Bassia
Salicornia virginica	Common pickelweed
Malvaceae	Mallow Family
Malvella leprosa	Alkali Mallow
ANGIOSPERMAE: MONOCOTYLEDONAE	MONOCOT FLOWERING PLANTS
Cyperaceae	Sedge Family
Callistemon sp.	Bottlebrush
Scirpus maritimu	Alkali Bullrush
Palmae	Palm Family
Washingtonia filifera	California Fan Palm
Poaceae	Grass Family
Bromus diandrus	Ripgut brome
Distichlis spicata	Salt grass
Lolium multiflorum	Italian rye grass
Lolium rigidum	Annual rye grass
Phalaris arundinacea	Canary grass

SOURCE: EIP field survey performed July 6, 2005

Ornamental

Ornamental landscaping is not a true habitat classification as defined by Holland (1986), but occurs in large enough stands to warrant specific analysis. Ornamental habitat within the site is located along the northern and eastern fence line. Ornamental vegetation covers approximately 0.9 acre along the perimeter of the project site; common ornamental species observed on the site include oleander (*Nerium oleander*) bottlebrush (*Callistemon* sp.) and boxwood (*Buxus* sp.).

Disturbed

Disturbed areas cover most of the site (approximately 17.0 acres). These areas are devoid of vegetation primarily as a result of soil remediation activities.

Developed Hardscape

Developed areas include infrastructure features such as roads, buildings, parking lots, storage areas. The vegetation in these areas is sparse and highly disturbed. Approximately 4.5 acres of the project site is classified as developed hardscape; this area is currently being used as a recreational vehicle and boat storage facility.

Wildlife

A total of seven wildlife species were recorded within the project site through direct observation, detection of vocalizations, or observation of sign. These species are listed in Table 4.3-3 and include six avian and one mammal species. Wildlife and wildlife signs (including tracks, scat, carcasses, burrows, nests, excavations, vocalizations, and observations) were noted and recorded on standardized data sheets.

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 (MacArthur and Wilson 1967; Soule 1987; Harris and Gallagher 1989; Bennett 1990). 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 (Noss 1983; Simberloff and Cox 1987; Harris and Gallagher 1989).

Table 4.3-3 Wildlife Species Observed at the Project Site

Scientific Name	*Common Name*
VERTEBRATES	
AVES	BIRDS
Corvidae *Corvus corvax*	Common raven
Emberizidae *Spizella passerine*	Chipping sparrow
Fringillidae *Carpodacus mexicanus*	House finch
Hirundinidae *Hirundo rustica*	Barn swallow
Laridae *Larus occidentalis*	Western gull
Ploceidae *Passer domesticus*	House sparrow
MAMMALIA	MAMMALS
Canidae *Canius familiaris*	Domestic dog

SOURCE: EIP field survey performed July 6, 2005

This is not intended to be an exhaustive list of all bird species that may occur at one time or another within the project site during their migration

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 would generally hinder wildlife movement.

Although bird flyways are not traditionally considered wildlife movement corridors, wetlands serve as important habitat for bird species during migration through the Pacific Flyway. Many bird species use wetland areas as an annual stopover location for several days of rest and feeding prior to continuing migration. These habitats also provide critical staging areas for migratory species.

The site is not expected to function as an important regional wildlife corridor because it is bounded by development to the north and east and contains primarily disturbed areas. The disturbed ground is primarily devoid of vegetation and thus reduces wildlife foraging and localized movement within the project site. The adjacent land uses act as significant barriers to wildlife movement and the project site would not meet the criteria of a significant wildlife movement corridor. Given the lack of cover and food sources the project site would be expected to provide very limited overland movement opportunities for wildlife species.

Sensitive Biological Resources

The following section addresses sensitive biological resources observed, reported, or having the potential to occur on the site. These sensitive resources include plant and wildlife species that have been afforded special status and/or sensitive recognition by federal and state resource agencies, as well as private conservation organizations and special interest groups such as the CNPS (List 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 within the Biological Resources Technical Report prepared for this project (Appendix C of this EIR) lists sensitive plants and animals known to occur within the region of the project (Seal Beach, Long Beach, Los Alamitos, Newport Beach, and Anaheim USGS quads), along with their federal and state listing and potential for occurrence on the

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.

In addition to the other sources listed in this section, the following sources were used to determine the special status of biological resources:

- **Plants**—CNPS 2005. Electronic Inventory of Rare and Endangered Vascular Plants of California. California Native Plant Society, Sacramento, California. California Natural Diversity Data Base (CNDDB), 2003. Various Federal Register notices from the USFWS regarding listing status of plant species.
- **Wildlife**—California Natural Diversity Data Base (CNDDB), 2005. Federal Register notices from the USFWS regarding listing status of wildlife species
- **Habitats**—California Natural Diversity Data Base (CNDDB), 2005

Sensitive habitats are vegetation types, associations, or sub-associations that support concentrations of special status plant or wildlife species, are of relatively limited distribution, or are of particular value to wildlife. Although special status habitats are not afforded legal protection unless they support protected species, potential impacts on them may increase concerns and mitigation suggestions by resources agencies.

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

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

California considers an Endangered species as one whose prospects of survival and reproduction are in immediate jeopardy, a Threatened species as one present in such small numbers throughout its range that it is likely to become an Endangered species in the near future in the absence of special protection or management, and a Rare species as one present in such small numbers throughout its range that it may become Endangered if its present environment worsens. Rare species apply primarily to California native plants. State Threatened and Endangered species are protected against take unless an incidental take permit is obtained from the wildlife agencies (Section 2080–2081.1 of the Fish and Game Code of California).

Federal Species of Concern (a "term of art" for former Category 2 candidates) are species with an informal designation by the USFWS for some declining species that are not federal candidates for listing at this time, but are noted as species of concern in the California Natural Diversity Database (CNDDB)

(California Department of Fish and Game 2005b). This list has not been updated by the USFWS since 1996 and is included for informational purposes only.

California Species of Special Concern is an informal designation used by the CDFG for some declining wildlife species that are not state candidates. This designation does not provide legal protection but signifies that these species are recognized as special status by the CDFG.

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

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

The CNPS is a resource conservation organization that has developed an inventory of California's special status plant species (CNPS 2005). This inventory is the summary of information on the distribution, rarity, and endangerment of California's vascular plants. This rare plant inventory is comprised of four lists. CNPS presumes that List 1A plant species are extinct in California because they have not been seen in the wild for many years. CNPS considers List 1B plants as rare, threatened, or endangered throughout their range. List 2 plant species are considered rare, threatened, or endangered in California but more common in the rest of its range. Plant species for which CNPS needs additional information are included on List 3. List 4 plant species are those of limited distribution in California whose susceptibility to threat appears low at this time.

The potential for sensitive species 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 5 miles) and 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 1 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

No threatened or endangered species were observed within the project site during EIP's survey of the entire site. However, this survey was not intended to determine the presence/absence of threatened or

endangered species, only assess the potential for them to occur based on habitat suitability. Focused surveys to determine presence/absence would be at the discretion of the appropriate state or federal resource agencies.

A total of 14 federally/state listed threatened or endangered species were identified as potentially occurring within a 10-mile radius of the project site (Refer to Appendix A of the Biological Resources Technical Report [Appendix C]). As discussed below, three of the state and/or federally listed species found historically in the area have at least a moderate potential to occur within the project site. Belding's savannah sparrow (*Passerculus sandwichensis* ssp. *beldingi*) has a high potential to occur within the project site, and the California least tern (*Sterna antillarum* ssp. *browni*) and western snowy plover (*Charadrius alexandrinus nivosus*) have a moderate to high potential to occur within the project site. The remaining 11 species are considered to have a low potential to occur or to be absent due to lack of suitable habitat within the project area. Each of the state and/or federally listed species and its probability of occurrence are described in more detail in the species accounts that follow as well as within Appendix A of the Biological Resources Technical Report (Appendix C).

San Diego Fairy Shrimp (*Branchinecta sandiegonensis*). The San Diego fairy shrimp is listed as endangered by the U.S. Fish and Wildlife Service. It is known from a limited area of coastal mesas in Orange and San Diego counties (Eriksen and Belk 1999). This fairy shrimp appears when late fall, winter, and spring rains fill small, shallow, unpredictable seasonal vernal pools. Maximum longevity of adults in the field is about 42 days, following a 10 to 20 day maturation period (Eriksen and Belk 1999). There is no suitable habitat within the project site, so it is unlikely that this species is present.

Western Snowy Plover (*Charadrius alexandrinus nivosus*). The western snowy plover was listed as threatened by USFWS in 1993 and critical habitat was designated in 1999. They have declined as a nesting species throughout California, in part due to human disturbance of sandy beaches typically used for nesting and roosting. The Pacific coast population of the western snowy plover breeds primarily on coastal beaches from southern Washington to southern Baja California, Mexico. The nesting season extends from early March through late September. The breeding season generally begins earlier in more southerly latitudes, and may be two to four weeks earlier in southern California than in Oregon and Washington. Snowy plover's nest on sandy beaches and dunes by creating a shallow depression as a nest, using driftwood, rocks, or bushes as cover; nests may also be entirely out in the open. Nests typically occur in flat, open areas with sandy or saline substrates. Vegetation and driftwood are usually sparse or absent. No areas within the city have reported recent extant populations of Western snowy plover. The nearest population sited within the city limits was noted within Newland Street Marsh in 1986. Due to the marginally suitable habitat present on-site and since the latest sighting of plovers within 5 miles of the project site occurred in 1986, the potential for this species to occur within the project site is considered moderate.

Western Yellow-billed Cuckoo (*Coccyzus americanus occidentalis*). The yellow-billed cuckoo is a federal species of concern and a state-listed endangered species. In California this species requires dense, wide riparian woodlands with well-developed understories for breeding. It occurs in densely foliaged, 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 only known occurrence was from the San Gabriel River near Artesia in 1912. The population is listed as extirpated by the CDFG.

California Black Rail (*Laterallus jamaicensis coturniculus*). The California black rail is listed as California state threatened species. The historical distribution of the California black rail ranged from the San Francisco Bay Area and the delta of the Sacramento and San Joaquin rivers south along the coast to northern Baja California. California black rails are still present within the remaining tidal marshlands of northern and coastal southern California. Significant loss of saltwater and freshwater wetland habitat in recent decades has significantly reduced the populations of California black rail. California black rails prefer to live in tidal salt marshes with a heavy canopy of pickleweed and an open structure below the canopy for nesting. The breeding season begins in February, normally with a single brood with an average clutch size of 6 eggs. California black rails have been reported to abandon their nests if disturbed before completing their clutch, but have not been noted in the area since 1970. There is no suitable habitat for the California black rail within the project site.

Belding's Savannah Sparrow (*Passerculus sandwichensis* ssp. *beldingi*). This savannah sparrow is a small, brown, resident songbird. It is a state-listed endangered species. This sparrow occurs in coastal areas of southern California and Baja California where it is a year-round resident of coastal salt marshes and associated mudflats and salt flats. Dense stands of pickleweed in the upper region of slat marshes that flood only during extremely high spring tides are its preferred nesting habitat. Belding's savannah sparrow forages on insects in the marsh and intertidal zone as well as in nearby mudflats and salt flats. Although very little is known about the Belding's savannah sparrow's breeding habits, nesting season is typically from April through July. The females build a nest above the highest tide line to avoid being flooded. The nest materials are comprised of pickleweed (*Salicornia virginica*) twigs and hair. This species occurs within wetland habitat of Long Beach, Seal Beach, and Newport Beach, the closest being in Newland Street Marsh, immediately adjacent to the project site. This species has a high probability of nesting and/or foraging in the wetlands that are adjacent to the project site.

Coastal California Gnatcatcher (*Polioptila californica californica*). The California gnatcatcher is listed as threatened by the USFWS and, as an obligate resident of southern California coastal sage scrub communities near arid hillsides, mesas, and washes. As there is not habitat for this species in the project area, it is not expected to be present.

Lightfooted Clapper Rail (*Rallus longirostris levipes*). The light-footed clapper rail is a federal and state endangered species. It inhabits coastal salt and freshwater marshes containing cordgrass, cattails or tules, and rushes and forages in higher marsh vegetation, along vegetation and mudflat interface, and along tidal creeks. Its population declines were due to habitat loss of floodplain river areas and tidal estuaries. It is found within Seal Beach National Wildlife Refuge, Upper Newport Bay, and Bolsa Chica Ecological Reserve. As there is not habitat for this species in the project area, it is not expected to be present.

California Least Tern (*Sterna antillarum* ssp. *browni*). The California least tern is a medium-sized black and white migratory bird. It is a federal and state-listed endangered species. Historic nesting sites

were primarily sandy, ocean beach strand areas near estuaries and river mouths. Locally, it breeds from April to September along the coast of southern California in abandoned salt ponds, on sandy beaches, and along estuarine shores in San Francisco Bay. Of the twelve known occurrence of this species within the vicinity of the project site, Belmont Shore Beach, NASA Island, Bolsa Chica Ecological Reserve, Terminal Island, Huntington State Beach, and Harbor Lake (Harbor Park) are the only sites that have active (extant) populations near the city. Due to the marginally suitable habitat present on site, the potential for this species to occur within the project site is considered moderate.

Pacific Pocket Mouse (*Perognathus longimembris pacificus*). The Pacific pocket mouse is a federally listed endangered species and a California Species of Concern. Historically, the Pacific pocket mouse range once extended from Los Angeles County south to the Mexican border. Currently pocket mice are only found within 4 kilometers of the coast on fine-grained sandy substrates in coastal sage scrub, coastal strand, and river alluvium. Two occurrences are noted by the CNDDB; however, both occurred prior to 1932 and are noted as extirpated by the CDFG. Due to the marginally suitable habitat present on-site and the lack of recent sightings of this species in the area, this species is considered absent.

Ventura Marsh Milk-vetch (*Astragalus pycnostachyus* var. *lanosisimus*). Ventura Marsh Milk-vetch is a federally and state listed endangered species. This is an herbaceous perennial in the pea family. It has a thick taproot and multiple erect, reddish stems, 16 to 36 inches tall, that emerge from the root crown. The blooming time has been recorded as July to October. With the exception of the extant Ventura County population, the species is believed extirpated from all other areas from which it has been collected. The single known population of the Ventura Marsh Milk-vetch occurs in a degraded site near the city of Oxnard. This plant is not expected to occur within the project site or in adjacent areas due to the lack of suitable habitat.

San Fernando Valley Spineflower (*Chorizanthe parryi* var. *fernandin*). This species is a member of the buckwheat family and grows in sandy or gravelly soils along dry washes. The San Fernando Valley Spineflower typically blooms with tiny white flowers from April to June. It is threatened by loss of habitat and competition with exotic invasive plants. It formerly occurred in San Bernardino, Riverside, Orange, Ventura, and Los Angeles Counties, but now known only to occur in a few locations. This plant is not expected to occur within the project site or in adjacent areas due to the lack of suitable habitat.

Salt Marsh Bird's Beak (*Cordylanthus maritimus* ssp. *maritimus*). This species is a hemiparasitic annual herb that is federally and state-listed as endangered. This species occurs in coastal dunes and coastal salt marshes and swamps along coastal California south to Baja. It flowers from May to October and can be found at elevations up to 100 feet. The project site is located outside the typical elevation limits characteristic of this species. Due to historical activities and soil remediation within the project site, suitable habitat for this species does not occur within the project site; therefore, this species is not expected to occur.

California Orcutt grass (*Orcuttia californica*). California Orcutt grass is a state and federally-listed endangered species. It is a member of the grass family (Poaceae) that is a bright green, sticky, aromatic annual with flowers borne in dense spikes. This species was once commonly found in the volcanic

terrace and valley vernal pool systems of southern California in Los Angeles, Riverside and San Diego counties. This species was last collected near Lakewood, sometime prior to 1977 and is listed as extirpated by the CNDDB (2004.) This plant is not expected to occur within the project site or in adjacent areas due to the lack of suitable habitat.

Lyon's Pentachaeta (*Pentachaeta lyonii*). Lyon's pentachaeta is a state and federally-listed endangered species. It is an herbaceous, annual plant that has yellow ray and disk flowers arranged in heads. Habitat for Lyon's pentachaeta consists of sparsely vegetated openings in grassland, coastal sage scrub, and chaparral. The species is a poor competitor, and is currently limited to areas of shallow soils or heavy clay with reduced shrub and grass competition. Currently, this species is known only from the coastal mountain region of northern Los Angeles County and southern Ventura County in the Santa Monica Mountains and in the Simi Valley (California Department of Fish and Game 2000). This plant is not expected to occur within the project site or in adjacent areas due to the lack of suitable habitat.

Other Sensitive Species

A total of 31 sensitive (e.g., non-threatened or endangered) wildlife species were identified during the CNDDB database search. Of these 31 sensitive species that are known to occur in the vicinity of the project, none had a greater than "low" probability of occurring on the project site as the habitat of the site is inconsistent with that which is required to support these species.

Jurisdictional Waters

Army Corps of Engineers Jurisdiction

The project site is immediately adjacent to wetlands along its western and southern edges. These wetlands are adjacent to the Huntington Beach Channel, a navigable water of the United States. As such, EIP Associates conducted a *Clean Water Act* wetland/jurisdictional delineation for the proposed project to confirm an earlier delineation (Glen Lukos Associates 2003) that indicated that no wetlands were located within the boundaries of the project site As the site is outside the Coastal Zone, the on-site examination of vegetation, soils, and hydrology was conducted according to the Corps 1987 manual's three-parameter (vegetation, soils, hydrology) method of jurisdictional/wetland delineation. The wetland/jurisdictional delineation field evaluation was conducted by EIP on October 14 and November 11, 2005 and included the entire project site as well as the portions of the wetlands that are immediately adjacent to the project site. The site evaluation included analysis of current aerial photographs, topographic maps, vegetation, and a focused analysis of soils within the project site by a Certified Soils Scientist. Based on this analysis, EIP found that the 23.1 acre project site does not contain wetlands or "jurisdictional waters" that would be subject to the jurisdiction of the Corps.

California Department of Fish and Game Jurisdiction

In addition to the federal regulatory authority, the state also routinely asserts jurisdiction over wetlands. The CDFG reserves the right, on a case-by-case basis and as supported by applicable laws and regulations, to determine whether or not potential jurisdictional areas lie within their regulatory

boundaries. However, the project site does not contain wetland or riparian vegetation that would be subject to the CDFG's jurisdiction.

RWQCB Jurisdiction

The Regional Water Quality Control Board (RWQCB) asserts jurisdiction over "waters of the United States" under Section 401 of the *Clean Water Act* where such waters are also subject to Corps jurisdiction pursuant to Section 404 of the *Clean Water Act*. 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*. However, the project site does not contain wetland waters potentially subject to RWQCB jurisdiction under either section 401 of the *Clean Water Act* or the *Porter-Cologne Act*.

4.3.2 Regulatory Framework

■ Federal

Endangered Species Act of 1973 (ESA)

The ESA and implementing regulations, Title 16 *United States Code* (USC) §1531 *et seq*. (16 USC 1531 *et seq*.), Title 50 *Code of Federal Regulations* (CFR) §17.1 *et seq*. (50 CFR §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 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 (MBTA)

The MBTA (16 USC §§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 §§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 area. The RWQCB, Santa Ana Region, issues Section 401 Water Quality Certifications for Orange County.

State

California Endangered Species Act of 1984 (CESA)

The CESA and implementing regulations in the Fish and Game Code, §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 §2080.1. Plants of California declared to be endangered, threatened, or rare are listed at 14 CCR §670.2. Animals of California declared to be endangered or threatened are listed at 14 CCR §670.5.14. CCR §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 1580 of the *Fish and Game Code* presents the process and definition for Designated Ecological Reserves. Designated Ecological Reserves are significant wildlife habitats to be preserved in natural condition for the general public to observe and study.

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 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.

Native Plant Protection Act of 1977

The *Native Plant Protection Act of 1977* and implementing regulations in Section 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 Regional Water Quality Control Board (RWQCB).

Local

City of Huntington Beach General Plan Land Use Element

The Land Use Element includes goals and policies that have been developed to minimize potential impacts to biological resources. The following list identifies goals and objectives presented in the Land Use Element of the General Plan related to biological resources that are potentially relevant to the proposed project.

Goal LU 5 Ensure that significant environmental habitats and resources are maintained.

Policy LU 5.1.1 Require that development protect environmental resources by consideration of the policies and standards contained in the Environmental Resources/Conservation Element of the General Plan and federal (NEPA) and state (CEQA) regulations.

Goal LU 14.1 Preserve the City's open spaces.

Objective LU 14.1 Preserve and acquire open spaces for the City's existing and future residents that provide, maintain, and protect significant environmental resources, recreational opportunities, and visual relief from development.

Policy LU 14.1.1 Accommodate the development of public parks, water-related recreational uses, and the conservation of environmental resources in areas designated for Open Space on the Land Use Plan Map and in accordance with Policy LU 7.1.1.

Policy LU 14.1.2 Permit the acquisition and/or dedication of lands for new open space purposes in any land use zone where they complement and are compatible with adjacent land uses and development, contingent on City review and approval.

City of Huntington Beach General Plan Environmental Resource/Conservation Element

Goals and Policies listed in the Environmental Resources/Conservation Element of the General Plan have been developed to minimize potential impacts to biological resources. The list below identifies goals and objectives presented in the Environmental Resource/Conservation Element of the General Plan related to biological resources that are potentially relevant to the proposed project.

Goal ERC 2 Protect and preserve significant habitats of plant and wildlife species, including wetlands, for their intrinsic values.

Objective ERC 2.1 Evaluate, enhance, and preserve the City's important habitat areas.

Policy ERC 2.1.9 Preserve the habitat of endangered species, including those listed in Table BR-1 of the Technical Background Report and those which may be considered by the City in the future.

Policy ERC 2.1.10 Conduct construction activities to minimize adverse impacts on existing wildlife resources.

Consistency Analysis

The proposed project includes mitigation measures to ensure the protection of environmental resources, including significant habitats. As discussed in this section under Impact 4.3-4, the proposed project would not adversely affect wetland areas. In addition, the proposed project would result in dedication of two acres of land as a public park, creating a new open space area in the City. Therefore, the proposed project would not conflict with the policies listed above.

4.3.3 Project Impacts and Mitigation

Thresholds of Significance

Implementation of the proposed project could result in potentially significant impacts if the project would do 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 by the 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, or regulations; or by the California Department of Fish and Game; or by the U.S. 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
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance

Impacts and Mitigation Measures

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

Impact 4.3-1 **The proposed project would not have a substantial adverse impact on species identified as sensitive or special status in local or regional plans, policies, or regulations; or by the California Department of Fish and Game; or by the U.S. Fish and Wildlife Service.**

State- or Federally Listed Wildlife Species

As discussed in the existing setting, three federal and/or state listed species were identified as occurring, or potentially occurring, in the immediate vicinity of the site's boundaries. Direct or indirect impacts to these species would constitute a significant impact. If these species are 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 listed species including the following:

- Direct loss of a sensitive species
- Increased human disturbance in previously undisturbed habitats
- Mortality by construction or other human-related activity
- Impairing essential behavioral activities, such as breeding, feeding, or shelter/refugia
- 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 may 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

The western snowy plover is known to have been present in the wetland areas immediately adjacent to the project site. Western snowy plovers are ground nesters and have been known to nest in areas with little to no ground cover, such as the project site. The nesting season for this species extends from early March through late September. Should construction activities be conducted on-site between those months, direct impacts could occur in the rare event that plovers are nesting on site. It should be noted that the nearest designated critical habitat for western snowy plover is approximately 2 miles to the southeast of the project site and would not be impacted by activities within the project site.

Belding's savannah sparrow is also known to be present immediately adjacent to the project site. Unlike plovers, Belding's savannah sparrow typically nests in dense stands of pickleweed between January and August. Given the known occurrence in the adjacent wetlands and the dominance of pickleweed in this area, there is a high probability of Belding's savannah sparrow nesting in the adjacent wetlands.

Because both the western snowy plover and Belding's savannah sparrow may nest in the immediately adjacent wetland habitat to the south and west of the project site, the use of heavy construction equipment, which would increase ambient noise levels in the immediate area, may result in nest abandonment if construction is conducted during either species' breeding seasons.

The third listed species identified as potentially occurring at the project site, California least tern, has been known to nest on bare or sparsely vegetated flat substrates, such as the project site. Typically, terns will nest between the months of April and August. No terns have been noted at the project site or in the surrounding wetland area. The nearest identifiable tern population is located at the Seal Beach National Wildlife Refuge, located less than five miles to the northwest. In addition, Huntington State Beach and the Bolsa Chica nesting islands are nesting sanctuaries for the California least tern located in the project vicinity. While no terns have been noted at or near the site in recent past, the conditions on-site are marginally conducive to their presence/establishment.

Because these species are protected by state and/or federal *Endangered Species Acts*, impacts to them would be ***potentially significant***.

Other Sensitive Species

Due to recent soil remediation activities, the deposition of 11,000 cubic yards of soil material within the project site, and the current barren state of the site, the 31 nonlisted sensitive species identified by the CNDDB search (refer to Appendix C) would likely not occur within the limits of the project site. As a result, no impacts to these additional 31 sensitive species are anticipated.

However, due to seasonal differences in the breeding locations of avian sensitive species, the City shall implement the following mitigation measures during the breeding season (March through September) of the Western snowy plover, Belding's savannah sparrow, and California least tern to ensure that potential impacts to these sensitive species remain less-than-significant.

MM 4.3-1(a) *If construction occurs at any time during the breeding season (March through September) for the Western snowy plover, Belding's savannah sparrow, or California least tern then two weeks prior to grading or the construction of facilities, and per applicable USFWS and/or CDFG protocols, preconstruction surveys to determine the presence or absence of Western snowy plover, Belding's savannah sparrow, and California least tern shall be required. These surveys shall extend up to 300 feet off site into the surrounding wetland areas to determine the presence of active nests adjacent to the project site. If no active nests are identified within the 300 foot survey area no further action or mitigation is required. Should active nests be found, a 250-foot, no-construction buffer shall be required around each active nest, as it extends into the project site/construction footprint.*

If the nesting Western snowy plover, Belding's savannah sparrow, or California least tern are found to be present on the project site or within the buffer area and cannot be avoided mitigation shall be required in accordance with the Endangered Species Act. *Measures shall be developed in consultation with the CDFG and USFWS and may include but would not be limited to:*

- *On-site preservation or habitat enhancement.*
- *Off-site mitigation through the purchase of suitable habitat or participation in an existing mitigation bank.*
- *Preparation of a Habitat Conservation Plan if there is no federal nexus*

MM 4.3-1(b) *Permanent nighttime lighting associated with the residential development and any low-level security lighting associated with the public park, shall be angled down and away from the adjacent wetland areas. Further, the use of prismatic glass coverings and cutoff shields is recommended to further prevent light spillover off site.*

With compliance with the federal *Endangered Species Act* and implementation of MM 4.3-1(a) the proposed project would not have a substantial adverse effect either directly or through habitat modification on any species identified as a candidate, sensitive or special-status species in local or regional plans, policies, or regulations; or by the CDFG, or by the USFWS, and this impact would be reduced to a ***less-than-significant*** level.

Impact 4.3-2 **Implementation of the proposed project could have a substantial adverse effect as a result of the direct loss of nesting habitat for resident and migratory avian species of special concern and raptors.**

Many migratory avian species and raptors, which may use portions of the site (ornamental vegetation), or areas directly adjacent to the site during breeding season, are protected under the Migratory Bird Treaty Act (MBTA) while nesting. Project implementation and construction-related activities including, but not limited to, grading, materials laydown, facilities construction, and construction vehicle traffic and noise may result in the disturbance of nesting and nonnesting MBTA-protected sensitive species that could occur within the project site or in the adjacent wetlands; including sensitive species such as western snowy plover, California least tern, and Belding's savanna sparrow. The loss or disturbance of an MBTA protected occupied nest, or substantial interference with roosting and foraging opportunities for migratory species, sensitive avian species, or raptors would constitute a ***potentially significant*** impact.

To minimize for potential impacts to sensitive species, the City shall implement the following mitigation measures to reduce potential impacts to less-than-significant levels.

MM 4.3-2 *If the construction phase occurs during the avian breeding season for MBTA-covered species, generally February through August 15, then prior (within 2 weeks) to the onset of construction activities, surveys for nesting special-status and/or migratory avian species and raptors will be conducted on the project site following USFWS and/or CDFG guidelines. If no active avian nests are identified on or within 200 feet of the construction areas, no further mitigation is necessary.*

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

If active nests for avian species of concern, migratory species, or raptors are found within the construction footprint or a 200-foot buffer zone, construction shall be delayed within the construction footprint and buffer zone until the young have fledged or appropriate mitigation measures responding to the specific situation are developed in consultation with USFWS or CDFG.

Implementation of mitigation measure MM 4.3-2 would reduce this impact to a ***less-than-significant*** level.

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

Impact 4.3-3 Implementation of the proposed project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community.

The entire project site has been developed (e.g., RV/Boat Storage area) or has been graded and cleared historically, and, as discussed in Section 4.3.1 (Existing Conditions), no sensitive vegetation associations (i.e., habitats) have been identified on site, including those associated with riparian species, such as southern coast live oak riparian forest or southern cottonwood-willow riparian forest, or other sensitive natural communities identified in local or regional plans, policies, or regulations established by the CDFG or USFWS, such as California coastal sage scrub or alluvial fan sage scrub. Alkali marsh is present immediately adjacent to the project site, but would not be impacted as a result of implementation of the proposed project. Therefore, there are no riparian habitats or other sensitive natural communities identified in local or regional plans, policies, or regulations established by the CDFG or USFWS that could be affected by implementation of the proposed project. Impacts would be ***less than significant***.

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.

Impact 4.3-4 The proposed project would not have a substantial adverse effect on federally protected wetlands, including those located adjacent to the project site.

As stated previously, a wetland delineation was performed of the project site to determine the potential of wetland waters at the project site. Historic conditions at the project site may have allowed for a wetland to develop at the project site at one time. However, due to the previous use of the site as an oil tank farm, native soils were disturbed, replaced, and, in some cases, paved over. The placement of fill and

alteration of the on-site drainage conditions at the project site have removed any wetland habitat from the project area. There are wetlands located to the west and south of the project site, but development of the proposed project would not extend into nor have direct impacts to the existing wetlands.

A portion of the proposed project site currently slopes down and towards the western and southern edges of the adjacent wetland. The amount of runoff and water supplies provided by this slope does not substantially contribute to the hydrologic conditions of the adjacent wetland. Further, current runoff from the site results in artificial fill sediment accumulation in the adjacent wetland, which could be considered a negative impact on the existing soil conditions of the adjacent wetland. Development of the project site, including the placement of a wall between the project site and the adjacent wetland, would eliminate potential impacts to the adjacent wetlands as a result of artificial fill sediment migration from the project site. As such, development of the project site would not have an impact on federally protected wetlands as defined by Section 404 of the Clean Water Act.

However, grading for construction of the project has the potential to temporarily increase erosion and subsequent deposition of soil particles into the adjacent wetland, which would constitute a ***potentially significant*** impact. Runoff produced during and after construction is subject to National Pollution Discharge Elimination System Regulations, as well as local water quality and runoff standards. Therefore, the Applicant will be required to prepare and implement a Stormwater Pollution Prevention Plan (SWPPP). The SWPPP shall require, among other Best Management Practices (BMPs), that stormwater runoff be prevented from flowing over unprotected slopes and that silt fencing shall be trenched in 100 feet from the outer limits of any riparian vegetation and left in place during construction. The BMPs would include, but are not limited to, sandbagging around the southern and western borders of the project site, temporary catch basins, and hay bales to prevent additional runoff and/or sediment from washing into the adjacent wetland areas. Disturbed areas would also be stabilized as quickly as possible, using biotechnical techniques. In addition, California Stormwater Best Management Practices (BMPs) for Construction Activity, as prepared by the California State Stormwater Quality Task Force, would also need to be incorporated into the construction plans. The following Mitigation Measure would be require to ensure protection of wetlands during construction:

MM 4.3-4 *Runoff from the project site during construction and operation shall be routed away from the adjacent wetlands. To this extent, any drainage system should include standard urban water runoff reduction measures and runoff prevention measures should be incorporated into the landscape design along the western and southern perimeter. This would include, but not be limited to, landscaped berms and vegetated swales around the perimeter of the site to prevent stormwater runoff from flowing into the wetlands and to provide some treatment prior to it exiting the site. Landscaping of the berm shall only consist of native species of grasses and other appropriate vegetation that are noninvasive.*

The berm shall be monitored following each significant rain event during the construction period and for one-year after the completion of construction to ensure that runoff from the project site does not flow into the adjacent wetland areas. Guidelines for the maintenance of the site shall be established during the establishment phase of the plantings. The maintenance program shall contain guidelines for the control of nonnative plant species, maintenance of the system, and replacement of plant species.

Implementation of mitigation measure MM 4.3-4 and the SWPPP, as well as compliance with state and federal clean water regulations would reduce the impacts of construction and operation of the proposed project to the adjacent wetlands to ***less than significant***.

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

Impact 4.3-5 The proposed project would not conflict with local policies or ordinances protecting biological resources.

Currently, there are very limited biological resources within the project site, which is currently undeveloped land (recently extensively disturbed due to removal of previous industrial uses and soil remediation) and an RV/boat storage lot located in a semi-urbanized area outside the state's defined Coastal Zone. As discussed under Section 4.3.2 Regulatory Framework, the proposed project would not conflict with any local policies or ordinances protecting biological resources. As a result, impacts would be ***less than significant***.

4.3.4 Cumulative Impacts

The primary effects of the project, when considered with the past, present, and probable future projects in the vicinity of the project area, would be the cumulative direct loss of undeveloped land and the potential removal of sensitive wildlife, plants, and habitats. Loss of sensitive or rare habitat within the localized areas would further decrease the amount of this habitat within the immediate area and add to the cumulative loss of these species and/or communities in the region.

This cumulative impact analysis considers development of the proposed project, in conjunction with other development within the vicinity of the project in the City of Huntington Beach. If any of the species noted above are found to be present within the project site, then measures would be developed in consultation with the appropriate resource agencies, per mitigation measures. As noted above, the project site is currently bare due to recent soil removal activities and does not provide a locally or regionally important natural habitat or wildlife corridor. Therefore, the project has a limited potential to contribute to cumulative impacts.

As with this project, other cumulative projects would undergo CEQA documentation that would address site-specific impacts to biological resources. Therefore, compliance with applicable federal, state, and local regulations would ensure that projects would not result in significant cumulative adverse biological impacts. Thus, the project's contribution to cumulative impacts described above would be expected to be less than significant.

As noted above, any impacts to wetland areas, both in terms of the proposed project and other related projects, would be subject to CDFG policies and the requirements of the *Clean Water Act* and, potentially, the *California Coastal Act*. As part of the requirements of these acts of legislation, a "no net loss of wetland habitat" policy would apply to any development project in the area. As such, the impact of the proposed project would not be cumulatively considerable with respect to net wetland habitat loss.

Therefore, compliance with state and federal regulations with regard to wetlands would insure that cumulative impacts to wetland areas would be expected to be less than significant due to the "no net loss of wetland habitat" policy.

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