

2.3.2 Animal Species

2.3.2.1 Regulatory Setting

Many state and federal laws regulate impacts to wildlife. The United States Fish and Wildlife Service (USFWS), the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries Service), and the California Department of Fish and Wildlife (CDFW) are responsible for implementing these laws. This section discusses potential impacts and permit requirements associated with animals not listed or proposed for listing under the federal or state Endangered Species Act.

As noted at the beginning of Chapter 2 within Environmental Issues with No Impacts, the project was determined to have no impacts on threatened and endangered species due to lack of suitable habitat and known distributions. All other special-status animal species are discussed here, including CDFW fully protected species and species of special concern, and USFWS or NOAA Fisheries Service candidate species.

Federal laws and regulations relevant to wildlife include the following:

- National Environmental Policy Act
- Migratory Bird Treaty Act
- Fish and Wildlife Coordination Act

State laws and regulations relevant to wildlife include the following:

- California Environmental Quality Act
- Sections 1600 – 1603 of the California Fish and Game Code
- Sections 4150 and 4152 of the California Fish and Game Code

2.3.2.2 Affected Environment

The *Natural Environment Study (Minimal Impacts)* (NES-MI) and associated Errata prepared for the project analyzes impacts to sensitive animal species.

2.3.2.2.1 Methodology

Prior to conducting the habitat assessment, a literature review and records search was conducted for special-status biological resources potentially occurring on or within the vicinity of the BSA. The record search was focused on the Los Alamitos USGS 7.5-minute quadrangle since the areas surrounding the project are completely developed and no longer support or connect to natural plant communities. Previously recorded occurrences of special-status plant and animal species and their proximity to the BSA were determined through a query of the CDFW California Natural Diversity Database (CNDDDB) Rarefind 5, CDFW Biogeographic Information & Observation System (BIOS), the California Native Plant Society (CNPS) Electronic Inventory of Rare and Endangered Vascular Plants of California, Calflora Database, compendia of special-status species published by CDFW, the USFWS species listings, and NOAA Fisheries Service species listings. In addition, a Species List was obtained from the Carlsbad Field Office of the USFWS via the Information for Planning and Conservation (IPaC) database on March 21, 2017.

Literature detailing biological resources previously documented in the vicinity of the BSA and historical land uses were reviewed to understand the extent of disturbances to the habitats on-site. Standard field guides and texts on special-status and non-special-status biological resources were reviewed for habitat requirements, as well as the following resources:

- Google Earth Pro historic aerial imagery (1994 – 2016);
- United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS) Soil Survey;
- USFWS Critical Habitat designations for Threatened and Endangered Species;
- Orange County Transportation Authority (OCTA) Measure M2 Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP);
- County of Orange Central and Coastal Subregion NCCP/HCP;
- The Birds of North America Online; and
- eBird database.

The literature review provided a baseline from which to inventory the biological resources potentially occurring within the BSA. Additional recorded occurrences of these species found within or near the BSA were derived from database queries. The CNDDDB database was used, in conjunction with ArcGIS software, to locate the nearest special-status plant and animal species occurrences and determine the distance from the BSA. In addition, the goals and objectives of the MSHCP were reviewed for applicability to the BSA.

Following the literature review and records search, an evaluation of the extent and condition of plant communities found within the boundaries of the BSA was conducted on March 10, 2017. Plant communities identified on aerial photographs during the literature review were verified in the field by walking meandering transects through the plant communities and along boundaries between plant communities. The plant communities were evaluated for their potential to support special-status plant and animal species. In addition, field staff identified any corridors and linkages that may support the movement of wildlife through the area.

Special attention was given to any natural plant communities and/or undeveloped areas, which have a higher potential to support special-status plant and animal species such as those identified during the literature search. All plant and animal species observed, as well as dominant plant species within each plant community, were recorded in a field notebook. Wildlife detections were made through observation of scat, trails, tracks, burrows, nests, and/or visual and aural observation. In addition, site characteristics such as soil condition, topography, hydrology, anthropogenic disturbances, indicator species, condition of the on-site plant communities, and presence of potential jurisdictional drainage and wetland features were noted.

2.3.2.2.2 Existing Conditions

Based on the NES-MI, no fish, amphibians, or mammals were observed within the Biological Study Area (BSA) during the site investigation on March 10, 2017; however, one reptile was observed: western fence lizard (*Sceloporus occidentalis*). Avian species observed during the site investigation included Anna's hummingbird (*Calypte anna*), rock pigeon (*Columba livia*), house finch (*Haemorhous mexicanus*), American bushtit (*Psaltriparus minimus*), and black phoebe (*Sayornis nigricans*). One killdeer (*Charadrius vociferus*) nest was observed within the southwestern portion of the BSA.

A total of 39 special-status animal species were identified by the CDFW California Natural Diversity Database (CNDDDB) and Information for Planning and Conservation (IPaC) records search as potentially occurring within the BSA. Two "Covered Species," as referred to under the

Orange County Transportation Authority (OCTA) Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP), were identified as potentially occurring within the BSA. However, no special-status animal species or “Covered Species” were observed within the BSA during the assessment (refer to the U.S. Fish and Wildlife Service Species List and National Marine Fisheries Service Species List provided in Chapter 4, Comments and Coordination). Based on the NES-MI, two special-status animal species were determined to have a moderate potential to occur within the BSA: great blue heron (*Ardea herodias*) and snowy egret (*Egretta thula*). One special-status animal species was determined to have a low potential to occur within the BSA: California gull (*Larus californicus*). All other special-status animal species are not expected to occur and are presumed absent from the BSA based on specific habitat requirements for special-status animal species, availability and quality of habitat within the BSA, and known distributions including the two “Covered Species” (coast horned lizard and western pond turtle).

Great Blue Heron (*Ardea herodias*) (USFWS/Federal status: none; CDFW/California status: none)

According to the NES-MI, great blue heron was not detected during the habitat assessment. This species is widespread and often occurs in urban environments in proximity to any kind of calm waters or slow-moving rivers. Basin A, within the BSA provides foraging habitat for great blue heron; however, no suitable nesting habitat was observed within the BSA as this species typically nests in colonies within trees 20 to 60 feet above the ground or water. The majority of the BSA has been developed and does not provide large trees that would provide suitable nesting opportunities for great blue heron. As a result, great blue heron was determined to have a moderate potential to occur within the BSA.

Snowy Egret (*Egretta thula*) (USFWS/Federal status: none; CDFW/California status: none)

Based on the NES-MI, snowy egret was not detected during the habitat assessment. This species is widespread and often occurs in urban environments in proximity to any kind of calm waters or slow-moving rivers. Basin A provides foraging habitat for snowy egret; however, no suitable nesting habitat was observed within the BSA as this species typically nests in colonies within trees or shrubs 5 to 10 feet above the ground. The majority of the BSA has been developed and does not provide large trees that would provide suitable nesting opportunities for snowy egret. As a result, snowy egret was determined to have a moderate potential to occur within the BSA.

California Gull (*Larus californicus*) (USFWS/Federal status: none; CDFW/California status: Watch List (WL))

According to the NES-MI, California gull was not detected during the habitat assessment. This species is relatively common and often occurs in urban environments in proximity to sea coasts, lakes, farms, and urban centers. The BSA provides limited foraging habitat for California gull; however, no suitable nesting habitat was observed within the BSA as this species typically nests in large colonies on the ground near a lake or marsh. The majority of the BSA has been developed and does not provide open ground that would provide suitable nesting opportunities for California gull. As a result, California gull was determined to have a low potential to occur within the BSA.

Western Pond Turtle (*Emys marmorata*) (USFWS/Federal status: none; CDFW/California status: California Species of Concern (SSC))

Western pond turtles inhabit ponds, lakes, rivers, streams, creeks, marshes, and irrigation ditches with abundant vegetation and either rocky or muddy bottoms in woodland, forest, and grassland habitats. Based on the NES-MI, western pond turtle was not detected during the habitat assessment. The concrete-lined drainage features within the limits of disturbance and the BSA do not provide suitable habitat for western pond turtle. The channelization of the waterways within the BSA and surrounding development have eliminated native habitats needed by western pond turtle to lay their eggs. As a result, western pond turtle is not expected to occur within the BSA and is presumed absent. However, it should be noted that the San Gabriel River transitions from a concrete lined channel to an earthen channel approximately 0.25 mile south of the BSA and has the potential to provide suitable habitat for western pond turtle.

2.3.2.3 Environmental Consequences

2.3.2.3.1 Temporary Impacts

Alternative 1 (No-Build Alternative)

Project improvements would not occur under the No-Build Alternative; therefore, the No-Build Alternative would not impact animal species.

Alternatives 2 and 3 (Build Alternatives)

Due to a lack of suitable habitat, the NES-MI determined that BSA does not support any of the special-status animal species known to occur in the general vicinity of the BSA. Due to the limited scope of work, existing development, lack of natural plant communities, and ongoing disturbance associated with daily vehicle/pedestrian traffic, no special-status animal species are expected to be impacted from implementation of the project.

Great Blue Heron (*Ardea herodias*)

Temporary impacts may occur to great blue heron foraging opportunities during construction activities, but no impacts to great blue heron breeding behaviors are anticipated since the landscaped vegetation provides minimal nesting opportunities. However, as part of the project and pursuant to the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code (Sections 3503, 3503.3, 3511, and 3513), a pre-construction clearance survey will be performed if project activities occur during the nesting season (February 1st through September 30th) (PF-AS-1). Thus, construction effects on nesting birds would not be adverse, including the great blue heron.

PF-AS-1 Nesting Birds. Pursuant to the Migratory Bird Treaty Act (MBTA) and Fish and Game Code (Sections 3503, 3503.3, 3511, and 3513), removal of any trees, shrubs, or any other potential nesting habitat should be conducted outside the avian nesting season in order to protect avian nesting activities. The nesting season generally extends from February 1st through September 30th (as early as January 1st for some birds), but can vary slightly from year to year based upon seasonal weather conditions. If project activities cannot occur outside of the nesting season, a pre-construction clearance survey for nesting birds will be conducted within three days of the start of any ground disturbing or vegetation removal activities to ensure that no nesting birds would be disturbed during construction. The biologist conducting the clearance survey will document a

negative survey with a brief letter report indicating that no impacts to active avian nests would occur. If an active avian nest is discovered during the pre-construction clearance survey, construction activities will stay outside of a 300-foot buffer around the active nest. For raptor species, this buffer is expanded to 500 feet. A biological monitor shall be present to delineate the boundaries of the buffer area and to monitor the active nest to ensure that nesting behavior is not adversely affected by the construction activity. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, project activities may occur.

Snowy Egret (*Egretta thula*)

Temporary impacts may occur to snowy egret foraging opportunities during construction activities, but no impacts to snowy egret breeding behaviors are anticipated since the landscaped vegetation provides minimal nesting opportunities. As part of the project, a pre-construction clearance survey will be performed if project activities occur during the nesting season (February 1st through September 30th) (PF-AS-1). Thus, construction effects on nesting birds would not be adverse, including the snowy egret.

California Gull (*Larus californicus*)

Temporary impacts may occur to California gull foraging opportunities during construction activities, but no impacts to California gull breeding behaviors are anticipated since the landscaped vegetation provides minimal nesting opportunities. As part of the project, a pre-construction clearance survey will be performed if project activities occur during the nesting season (February 1st through September 30th) (PF-AS-1). Thus, construction effects on nesting birds would not be adverse, including the California gull.

Western Pond Turtle

In accordance with the OCTA Measure M2 NCCP/HCP, the BSA is located within the historic occurrence range for western pond turtle, and the project (OCTA NCCP/HCP Covered Project M) was identified as having the potential to have indirect impacts to aquatic and upland habitats for this species. Indirect temporary impacts identified include hydrology and water quality effects, and increasing dispersal barriers during the construction process. Per the NCCP/HCP, Measure AS-1 would require pre-construction surveys, and if determined present, would require avoidance and/or relocation as necessary.

2.3.2.3.2 Permanent Impacts

Alternative 1 (No-Build Alternative)

Project improvements would not occur under the No-Build Alternative; therefore, the No-Build Alternative would not impact animal species.

Alternatives 2 and 3 (Build Alternatives)

Due to a lack of suitable habitat, the NES-MI determined that BSA does not support any of the special-status animal species known to occur in the general vicinity of the BSA. Due to the limited scope of work, existing development, lack of natural plant communities, and ongoing disturbance associated with daily vehicle/pedestrian traffic, no special-status animal species are expected to be directly or indirectly impacted from operation of the project.

Great Blue Heron (*Ardea herodias*)

Due to a lack of suitable nesting habitat within the BSA, no direct impacts to great blue heron are anticipated to occur as a result of the project implementation. Project activities would be concentrated within existing developed areas and roadway right-of-way (ROW), with minimal direct impacts to surrounding landscaped areas. Due to the limited scope of work, existing development, lack of natural plant communities, and ongoing disturbance associated with daily vehicle/pedestrian traffic, no special-status animal species are expected to be directly impacted from operation of the project.

Snowy Egret (*Egretta thula*)

Due to a lack of suitable nesting habitat within the BSA, no direct impacts to snowy egrets are anticipated to occur as a result of the project implementation. Project activities would be concentrated within existing developed areas and roadway ROW, with minimal direct impacts to surrounding landscaped areas. Due to the limited scope of work, existing development, lack of natural plant communities, and ongoing disturbance associated with daily vehicle/pedestrian traffic, no special-status animal species are expected to be directly impacted from operation of the project.

California Gull (*Larus californicus*)

Due to a lack of suitable nesting habitat within the BSA, no direct impacts to California gulls are anticipated to occur as a result of the project implementation. Project activities will be concentrated within existing developed areas and road ROW, with minimal direct impacts to surrounding landscaped areas. Due to the limited scope of work, existing development, lack of natural plant communities, and ongoing disturbance associated with daily vehicle/pedestrian traffic, no special-status animal species are expected to be directly impacted from operation of the project.

Western Pond Turtle

Due to a lack of suitable habitat within the BSA, no direct impacts to western pond turtle are anticipated to occur as a result of project implementation. Project activities would be concentrated within existing developed areas and roadway ROW, with minimal direct impacts to surrounding landscaped areas. Due to the limited scope of work, existing development, lack of natural plant communities, and ongoing disturbance associated with daily vehicle/pedestrian traffic, no special-status animal species are expected to be directly impacted from operation of the project.

2.3.2.4 Avoidance, Minimization, and/or Mitigation Measures

AS-1 Pre-construction surveys will be conducted by a California Department of Fish and Wildlife (CDFW) approved biologist to ensure western pond turtle remain absent from the proposed limits of disturbance. If western pond turtles are found within the construction footprint, the occupied habitat and appropriate buffer, as determined by the biologist, shall be avoided. If avoidance is not possible and the species is determined to be present in work areas, the biologist may capture turtles prior to construction activities and relocate them to nearby, suitable habitat a minimum of 300 feet downstream from the work area. Alternatively, if recommended and approved by the wildlife agencies, the turtles may be captured and either temporarily held or relocated to an appropriate, nearby location.