

3.2 BIOLOGICAL RESOURCES/ECOSYSTEMS

3.2.1 Regulatory Setting

3.2.1.1 State and Federal

Endangered Species Act

The Federal Endangered Species Act protects plants and animals that the U.S. Fish and Wildlife Service (USFWS) has listed as “Endangered” or “Threatened.” A federally listed species is protected from unauthorized “take,” which is defined in the Act as “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or attempt to engage in any such conduct.” The USFWS reviews potential impacts on listed species and may issue a Biological Opinion if they find that take of an Endangered or Threatened species would not jeopardize the continued existence of the species.

Clean Water Act

The U.S. Army Corps of Engineers (USACE) Regulatory Branch regulates activities that discharge dredged or fill materials into the “Waters of the U.S.” under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. This permitting authority applies to all waters of the U.S.

Section 401 of the Clean Water Act provides the Regional Water Quality Control Board (RWQCB) with the authority to regulate, through a Water Quality Certification, any proposed federally permitted activity that may affect water quality.

Executive Order 11990

Executive Order 11990 directs federal agencies to (1) minimize the destruction, loss, or degradation of wetlands and (2) preserve and enhance the natural and beneficial values of wetlands in carrying out the agencies’ responsibilities.

Migratory Bird Treaty Act

Pursuant to the Migratory Bird Treaty Act (MBTA) of 1918, federal law prohibits the taking of migratory birds, their nests, or their eggs (16 United States Code, Section 703). In 1972, the MBTA was amended to include protection for migratory birds of prey (e.g., raptors).

California Endangered Species Act

The California Endangered Species Act protects plants and animals that the California Department of Fish and ~~Game~~Wildlife¹ has listed as “Endangered” or “Threatened.” Under the California Endangered Species Act, “take” is defined as an activity that would directly or indirectly kill an individual of a species. Pursuant to the California Endangered Species Act and Section 2081 of the California Fish and Wildlife Code, an Incidental Take Permit from the California Department of Fish and Wildlife (CDFW) is required for projects that could result in the take of a State-listed species. A Section 2081 permit is issued when a project is consistent with an existing Biological Opinion issued by the USFWS.

¹ Pursuant to AB 2402, signed into law on September 25, 2012, the name of the California Department of Fish and Game was changed to the California Department of Fish and Wildlife effective January 1, 2013. Therefore, the Final EIR has been revised to reflect the new department name.

Porter-Cologne Act

The Porter-Cologne Act provides the State of California with very broad authority to regulate “waters of the State” (which are defined as any surface water or groundwater, including saline waters).

California Fish and Wildlife Code

Sections 1600 through 1616 of the California Fish and Wildlife Code protect waters of the State. Activities of state and local agencies and public utilities that are project proponents are regulated by the CDFW under Section 1602 of the code. This section regulates any work that will: (1) Substantially divert or obstruct the natural flow of any river, stream, or lake; (2) Substantially change or use any material from the bed, channel, or bank of any river, stream, or lake; or (3) Deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake. For project activities that may affect stream channels and/or riparian vegetation regulated under Sections 1600 through 1603, CDFW authorization is required in the form of a Streambed Alteration Agreement.

Unlawful Take or Destruction of Nests or Eggs

Section 3503.5 of the California Fish and Wildlife Code specifically protects nests and eggs of birds of prey. Section 3513 of the California Fish and Wildlife Code duplicates the federal protection of migratory birds and prohibits taking and possession of any migratory nongame bird as designated in the MBTA.

California Environmental Quality Act—Treatment of Non-Listed Plant and Animal Species

Section 15380 of the California Environmental Quality Act (CEQA) indicates that a lead agency can consider a non-listed species (e.g., California Native Plant Society [CNPS] List 1B and 2 plants and a few qualifying California Species of Special Concern) to be Endangered, Rare, or Threatened for the purposes of CEQA if the species can be shown to meet the criteria in the definition of Rare or Endangered.

3.2.1.2 Local

Glendora Tree Preservation Ordinance

Pruning of trees must be conducted according to the standards listed in the Glendora Urban Forestry Manual. Chapter 16.12 of the Tree Preservation Ordinance protects native trees that may be impacted by new development in Glendora. If native trees would be affected, the Planning and Redevelopment Department will consult the Community Services Department on appropriate measures to take regarding tree removal and to develop an appropriate mitigation plan.

San Dimas Community Tree Management Ordinance

Prior to pruning, trimming, or engaging in any activity that may directly or indirectly affect the health or welfare of a “Community Tree” (a City-owned tree located within a public park, City right-of-way, median, parkway, easement, or other City-owned property), a written permit from the Director of the Parks and Recreation Department must be obtained. The standards defined in the San Dimas Community Forest Management Plan must be followed.

La Verne Preservation, Protection, and Tree Removal Ordinance

Tree pruning undertaken or supervised by a certified arborist does not require a permit. However, a permit is required prior to and a certified arborist is required for the removal or pruning of significant or heritage trees or heritage groves including Deodar Cedars, Camphors, Oaks, California Sycamores and Southern California Black Walnuts. Applications for tree removal must be submitted to the Community Development Department.

Pomona Protection and Preservation Ordinance

Trimming of street trees must be done in accordance with the adopted trimming policies outlined in the City of Pomona Street Tree Policy Manual and professional accepted tree trimming standards. Within historic districts, oak trees with trunks more than 8 inches in diameter, other trees with trunks more than 10 inches in diameter, and multi-trunk trees with a total circumference of 38 inches or more are considered mature significant trees and require administrative review prior to trimming. Designated heritage trees within historic districts also require administrative review prior to trimming.

Claremont Tree Management Ordinance

Prior to disturbing any City tree, a permit must be obtained from the Community Services Department. Pruning of trees must be conducted using professionally accepted industry standards and must comply with the City of Claremont Tree Policy Manual.

Montclair Tree Policy

A tree permit is required for landscape removal, tree removal, or major tree pruning; however, a permit is not required for maintenance of trees within the City right-of-way on non-residentially owned property. Any tree trimming must follow the tree pruning guidelines as listed in Section 1.C of the City of Montclair Tree Policy. A written traffic control plan must be submitted to the Public Works Department and approved by the City before any work begins within the City right-of-way.

3.2.2 Existing Conditions

3.2.2.1 Literature Review/Survey Methodology

The biological Study Area for the project included the railway right-of-way and a 500-foot buffer area on each side of the right-of-way. This includes all proposed project activities, including the proposed parking sites. A reconnaissance-level survey of the biological Study Area was conducted on May 17, 2011. The purpose of the survey was to evaluate biological resources in the Study Area to evaluate project impacts. The survey was conducted by driving the entire length of the Study Area to achieve visual coverage of all habitats present in the Study Area. All plant and wildlife species observed during the survey were recorded.

Prior to the survey, a literature review was conducted to determine which species were known to occur in the project region (i.e., U.S. Geological Survey [USGS] Glendora, Mt. Baldy, Ontario, and San Dimas 7.5-minute quadrangles). The review included previous project documentation for the Metro Gold Line, which included the *Draft Biological Technical Report for the Metro Gold Line Project, Los Angeles and San Bernardino Counties* (Chambers 2005) and the Biological Resources (Section 3.3) of the *Final Environmental Report for the Gold Line Foothill Extension—Pasadena to Montclair* (Parsons Brinckerhoff 2007). In addition, the review included an updated database search of the CNPS's *Electronic Inventory of Rare and Endangered Vascular Plants of California* (CNPS 2011) and CDFW's *California*

Natural Diversity Database (CNDDDB) (CDFG 2011) for the quadrangles containing and surrounding the Study Area (i.e., Glendora, Mt. Baldy, Ontario, and San Dimas). These databases contain records of reported occurrences of federal or state-listed Endangered or Threatened species, Proposed Endangered or Proposed Threatened species, CDFW Species of Special Concern, Special Animals, and habitats known to occur in the project region. Lists of special status plant and wildlife species potentially occurring within the Study Area were subsequently developed using these database searches in consideration of the habitat present in the Study Area.

3.2.2.2 Vegetation

Vegetation Communities

The Study Area consists primarily of urban development with ornamental vegetation. Tree species characteristic of the ornamental areas within the Study Area include Peruvian pepper tree (*Schinus molle*), Brazilian pepper tree (*Schinus terebinthifolius*), pine (*Pinus* sp.), evergreen pear (*Pyrus kawakamii*), gum (*Eucalyptus* sp.), fan palm (*Washingtonia* sp.), and western sycamore (*Platanus racemosa*).

The railway right-of-way contains compacted soils and is either lacking vegetation or contains, at most, ruderal (weedy) vegetation. Species characteristic of areas along the railway right-of-way include common horseweed (*Conyza canadensis*), Russian thistle (*Salsola tragus*), tree tobacco (*Nicotiana glauca*), telegraph weed (*Heterotheca grandiflora*), and non-native grasses such as wild oat (*Avena* sp.) and ripgut brome (*Bromus diandrus*).

One small segment in Glendora (west of the SR 57 and I-210 interchange near Hunter Trail and Route 66) adjacent to the railway right-of-way contains a hillside with a dense cover of chaparral and an area of annual grassland. Dominant species in the chaparral include laurel sumac (*Malosma laurina*), Mexican elderberry (*Sambucus mexicana*), toyon (*Heteromeles arbutifolia*), and coast live oak (*Quercus agrifolia*) with understory species consisting of orange-bush monkey-flower (*Mimulus aurantiacus*), California buckwheat (*Eriogonum fasciculatum*), and California sagebrush (*Artemisia californica*). The annual grassland portion of the hillside contains wild oat and western sunflower (*Helianthus annuus*). This area is within the Study Area but is outside of the railway right-of-way.

Sensitive Plant Species

Of the species reported by the CNPS, CNDDDB, and other pertinent biological documentation, four species listed as federally or state endangered or threatened were reported from the region: Braunton's milk-vetch (*Astragalus brauntonii*, federally endangered, CNPS List 1B.1); Nevin's barberry (*Berberis nevinii*, federally endangered, state endangered, CNPS List 1B.1); thread-leaved brodiaea (*Brodiaea filifolia*, federally threatened, state endangered, CNPS List 1B.1); and slender-horned spineflower (*Dodecahema leptoceras*, federally endangered, state endangered, CNPS List 1B.1). None of these species is expected to occur in the Study Area because of a lack of suitable habitat and/or because the Study Area is located out of the species' normal range. Additionally, the Study Area is not within designated critical habitat for any threatened or endangered plant species.

Sensitive Vegetation Communities

Six sensitive communities were reported by the CNDDDB: Riversidean alluvial fan sage scrub, California walnut woodland, walnut forest, canyon live oak ravine forest, southern coast live oak riparian forest, and southern sycamore alder riparian woodland. None of these communities are present in the Study Area.

Drainages, which may include wetlands and “waters of the U.S.,” are protected under Section 404 of the Clean Water Act and are under the jurisdiction of the USACE. “Waters of the U.S.” include navigable coastal and inland waters, lakes, rivers, streams and their tributaries, interstate waters and their tributaries, wetlands adjacent to such waters, intermittent streams, and other waters that could affect interstate commerce. In addition, if drainages in the Study Area meet the criteria established by Section 1600 of the California Fish and Wildlife Code, a Streambed Alteration Agreement may be required by CDFW prior to any modification of the bed, bank, or channel of streambeds in the survey area. A few vertical-sided concrete channels cross the Study Area. These channels are under the jurisdiction of the USACE, CDFW, and RWQCB. A jurisdictional delineation would be conducted to determine the limits of USACE, CDFW, and RWQCB jurisdiction in the Study Area if construction of the project extends into these drainages.

3.2.2.3 Wildlife

Because of the developed nature of the Study Area, only urban-tolerant wildlife is expected to occur in the Study Area.

Amphibians

Amphibians require moisture for at least a portion of their life cycle, and many require standing or flowing water for reproduction. Although a few channels cross the alignment, they consist of vertical-sided concrete channels with no vegetation. No amphibians were observed during the survey and none would be expected based on the disturbed nature of the Study Area and lack of suitable habitat.

Reptiles

Limited suitable habitat for reptiles occurs in the Study Area. No reptiles were observed during the survey. Reptiles species expected to occur in the Study Area include side-blotched lizard (*Uta stansburiana*), western fence lizard (*Sceloporus occidentalis*), and alligator lizard (*Elgaria multicarinata*).

Birds

Limited suitable habitat for bird species occurs in the Study Area. Bird species observed during the survey were characteristic of those in urban areas. These species included red-tailed hawk (*Buteo jamaicensis*), rock pigeon (*Columba livia*), mourning dove (*Zenaida macroura*), Anna’s hummingbird (*Calypte anna*), black phoebe (*Sayornis nigricans*), American crow (*Corvus brachyrhynchos*), northern mockingbird (*Mimus polyglottos*), European starling (*Sturnus vulgaris*), California towhee (*Pipilo crissalis*), Say’s phoebe (*Sayornis saya*), house finch (*Carpodacus mexicanus*), and house sparrow (*Passer domesticus*). Bird species, including hawks and owls, have potential to nest in ornamental vegetation and on structures in the Study Area.

Mammals

Limited suitable habitat for mammal species occurs in the Study Area. No mammals were observed during the survey. Mammal species that are expected to occur within the Study Area include the Virginia opossum (*Didelphis virginiana*), desert cottontail rabbit (*Sylvilagus audubonii*), California ground squirrel (*Otospermophilus beecheyi*), coyote (*Canis latrans*), common raccoon (*Procyon lotor*), and striped skunk (*Mephitis mephitis*).

Sensitive Wildlife Species

Of the species reported by the CNDDDB and other pertinent biological documentation, four species listed as federally or state endangered or threatened were reported from the larger region: Santa Ana sucker (*Catostomus santaanae*, federally threatened, California Species of Special Concern), coastal California gnatcatcher (*Polioptila californica californica*, federally threatened, California Species of Special Concern), Sierra Madre yellow-legged frog (*Rana muscosa*, federally endangered, state candidate endangered, California Species of Special Concern), and least Bell's vireo (*Vireo bellii pusillus*, federally endangered, state endangered). None of these species are expected to occur in the Study Area because there is no suitable habitat and/or because the Study Area is located out of the species' normal range. Additionally, the Study Area is not within designated critical habitat for any threatened or endangered wildlife species.

3.2.2.4 Wildlife Movement Corridors

Wildlife movement corridors are of substantial importance to the viability of regional planning efforts to preserve habitat linkages. In the absence of habitat linkages that allow movement to adjoining open space areas, some wildlife species, especially the larger and more mobile mammals, will not likely persist over time because the infusion of new individuals and genetic information is prevented. A wildlife movement corridor is traditionally defined as a linear habitat whose primary wildlife function is to connect two or more significant habitat areas. More specifically, a wildlife corridor is a piece of habitat with vegetation and topography that facilitates the movements of wild animals (and plants) from one large patch of suitable habitat to another in order to fulfill foraging, breeding, and territorial needs.

Wildlife movement in the Study Area is expected to be extremely limited because of the developed nature of the Study Area. Only urban-tolerant wildlife would be expected to occur in the Study Area and there are no large areas of habitat within or immediately adjacent to the Study Area. However, the railway may be used by coyotes for wildlife movement.

3.2.3 Environmental Impacts

3.2.3.1 Evaluation Methodology

The determination of impacts in this analysis is based on the ultimate limits of the project in comparison to biological resources observed in the Study Area. All construction activities, including staging, grading, equipment areas, and parking areas are assumed to be contained within the Study Area. Both direct and indirect impacts on biological resources have been evaluated. Direct impacts are those that involve the initial loss of habitats due to construction and construction-related activities. Indirect impacts are those that would be related to impacts on the adjacent remaining habitat due to construction activities or operation of the project. Biological impacts associated with the proposed project were evaluated with respect to the following special status biological issues:

- Federally or state-listed Endangered or Threatened species of plant or wildlife
- Streambeds, wetlands, and their associated vegetation
- Habitats suitable to support a federally- or state-listed Endangered or Threatened species of plant or wildlife
- Species designated as California Species of Special Concern

- Habitat, other than wetlands, considered special status by regulatory agencies (USFWS, CDFW) or resource conservation organizations
- Other species or issues of concern to regulatory agencies or conservation organizations (e.g., CNPS)

The actual and potential occurrence of these resources on the project site was correlated with the following significance criteria to determine whether the impacts of the proposed project on these resources would be considered significant.

3.2.3.2 Impact Criteria

Impact on biological resources is considered significant if the project would:

- Have an adverse effect, either directly or through habitat modifications, on any species listed as endangered, threatened, or proposed or critical habitat for these species.
- 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 CDFW or USFWS.
- 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 CDFW or USFWS.
- 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) through direct removal, filling, hydrological interruption, or other means.
- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinances.
- Conflict with the provisions of an adopted Habitat Conservation Plan (HCP), Natural Community Conservation Plan, or other approved local, regional, or state HCP.

3.2.3.3 Short-Term Construction Impacts

No Build Alternative

The No Build Alternative does not include elements that would affect biological resources; therefore, there would be no impact to biological resources.

Transportation System Management (TSM) Alternative

The TSM Alternative would require minimal infrastructure improvements and would operate on the existing roadway network; no landscaping, street trees, or undeveloped areas would be disturbed by the improvements. The TSM Alternative would not include elements that would affect biological resources; therefore, there would be no impact to biological resources.

Build Alternative

The potential impact area within the Study Area is limited to the existing railway right-of-way and associated stations and parking facilities, which contain low-quality biological resources consisting of

developed or disturbed areas that lack vegetation or contain only limited ruderal (weedy) vegetation; both types provide limited value as habitat. The impact to each biological resource is discussed in more detail below.

Direct Impacts: Vegetation Communities

- **Vegetation Communities**—No sensitive vegetation communities are present within the project impact area; therefore, there would be no effect to sensitive vegetation communities.
- **Jurisdictional Areas**—A few vertical-sided concrete channels cross the Study Area. Although these channels have no vegetation and provide no habitat value, they are under the jurisdiction of the USACE, CDFW, and RWQCB, Los Angeles Region. The project would not change the existing configuration of the railway crossing over these channels and would not affect them during construction. There would be no direct effect to federally protected wetlands as defined by Section 404 of the Clean Water Act or state protected wetlands as defined by Section 1600 of the California Fish and Wildlife Code, and therefore, there would be no impact and no regulatory permitting would be required. However, the Build Alternative would be required to comply with measures in the Construction Authority’s Stormwater Pollution Prevention Plan (SWPPP).

If modification to any of these channels becomes necessary during final design, or if drainage into the channels would be modified, a jurisdictional delineation would be conducted per existing USACE, CDFW, and RWQCB requirements (and any required regulatory permitting with these agencies) would be completed. Mitigation measure B-1 would ensure that there is no impact or that the impact will be reduced to a less than significant level.

- **Tree Protection**—Each City government within the Study Area has its own tree protection ordinance as outlined in Section 3.2.1.2. The direct removal or pruning of trees along the rail right-of-way to ensure that there are no encroachments into the operating envelope of the rail vehicles may fall under the protection of such ordinances and may require permits from the Cities to remove or alter these trees. Although the Construction Authority is not subject to local ordinances, the Construction Authority would voluntarily comply with local tree-protection ordinances to the extent feasible. Mitigation measures B-2 would reduce this impact to a less than significant level.

Direct Impacts: Wildlife

- **Wildlife Habitat**—The potential impact area is limited to the existing railway right-of-way, the associated parking, and TPSS sites adjacent to it, which contain low-quality biological resources consisting of developed or disturbed areas that lack vegetation or contain only limited ruderal (weedy) vegetation; both types provide limited value as wildlife habitat. Because of the disturbed/developed nature of the Study Area, only urban-tolerant wildlife is expected to occur in the Study Area. The project is not expected to affect the use of the project area by urban-tolerant species; therefore, effects to wildlife habitat would be less than significant.
- **Nesting Birds/Raptors**—Trees and shrubs within any city along the railway right-of-way may support nesting birds that are protected by the MBTA. In addition, mature trees within any city along the railway right-of-way may support nesting raptors that are protected by California Fish and Wildlife Code (Sections 3503, 3503.5, and 3513) and the MBTA. Project effects may occur if trees and shrubs that contain active bird/raptor nests are removed or are disturbed by increased noise during construction within 500 feet of an active raptor nest. Active nests could be present in trees and shrubs between March 15 and September 15 for nesting birds, and February 1 to June 30 for nesting raptors. If tree/shrub removal were to occur during the nesting season or if construction were to occur within 500 feet of an active raptor nest, effects would be potentially significant. The Compliance with the

MBTA and California Fish and Wildlife Code (Sections 3503, 3503.5 and 3513) would be required throughout the impact area, if construction would occur during the breeding season (February 1 to June 30 for nesting raptors, March 15 to September 15 for all other birds). Mitigation measures B-3 and B-4 would reduce this impact to a less than significant level.

- **Wildlife Movement Corridors**—Wildlife movement in the Study Area is expected to be extremely limited because of its developed urban nature. Only urban-tolerant wildlife would be expected to occur in the Study Area, and there are no large areas of habitat within or adjacent to the Study Area. However, coyotes may use the railway right-of-way as a corridor. The project is not expected to increase or decrease the use of the railway right-of-way by urban-tolerant species; effects to wildlife movement corridors would be less than significant.

Direct Impacts: Sensitive Plant Species

Because there is no suitable habitat, none of the sensitive plant species reported from the project region is expected to occur in the Study Area. Additionally, the Study Area is not within designated critical habitat for any threatened or endangered plant species. Therefore, there would be no impacts.

Direct Impacts: Sensitive Wildlife Species

Due to lack of suitable habitat, none of the sensitive wildlife species reported from the project region is expected to occur in the Study Area. Additionally, the Study Area is not within designated critical habitat for any threatened or endangered wildlife species. Therefore, there would be no impacts.

Indirect Impacts: Increased Dust

Construction activities and increased traffic during construction could increase the amount of dust deposited on vegetation and trees adjacent to the Study Area. Because small amounts of vegetation occur in the Study Area, dust would not be expected to have a long-term impact on the vegetation; therefore, temporary impacts as a result of intermittent increased dust during construction would be less than significant.

Indirect Impacts: Increased Noise

Increased noise generated by construction activities during the raptor breeding season (February 1 to June 30) could disturb an active raptor nest if one were present in the mature tall trees in or adjacent to the impact area. If construction activities occur within 500 feet of an active nest, and the nesting raptor is displaced or otherwise disturbed, effects would be considered significant. Mitigation measures B-3 and B-4 would reduce this impact to a less than significant level.

Indirect Impacts: Water Quality

Impacts to biological resources downstream of the project site could occur as a result of changes in water quality. Petroleum or chemical runoff from construction equipment operating near storm drains or channels could temporarily affect water quality. Adverse effects on water quality could affect populations of aquatic species by degrading available habitat quality and could result in direct mortality. Adverse water quality effects could also affect populations of terrestrial wildlife species that use downstream areas, through food web interactions affecting prey (e.g., insects, tadpoles, fish, and other aquatic prey), or through biomagnification (i.e., the buildup of pesticides to toxic levels in higher trophic [predator] levels). These indirect effects on biological resources would be potentially significant. Mitigation measures B-5 and B-6 would reduce this impact to a less than significant level.

3.2.3.4 Long-term Impacts

No Build Alternative

The No Build Alternative would not include elements that would affect biological resources; therefore, there would be no effect to biological resources.

Transportation Systems Management (TSM) Alternative

The TSM Alternative would require minimal infrastructure improvements and would operate on the existing roadway network; no landscaping, street trees, or undeveloped areas would be disturbed by the improvements. The TSM Alternative would not include elements that would affect biological resources; therefore, there would be no effect to biological resources.

Build Alternative

Because the project would occur within an urban setting, any wildlife species near the railway right-of-way would be urban-tolerant and would not be expected to be sensitive to indirect noise from the operation of the Metro rail line. Additionally, any wildlife near the existing railway right-of-way would already be acclimated to train noise since the tracks currently support train traffic. Therefore, the project would have a less than significant impact.

3.2.3.5 Cumulative Impacts

The Southern California Association of Governments' 2012-2035 *Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) Final Program Environmental Impact Report* ~~is the~~ provides a regional cumulative impact assessment for transportation improvements (including the Study Area) through 2035. The RTP Final Program EIR concludes that cumulative impacts to biological resources could result due to construction in undeveloped areas and to population growth and development on existing natural lands. Because the Study Area is within an urban setting and impacts would be within the existing railway right-of-way, the project would not contribute to these types of impacts.

3.2.4 Mitigation Measures

3.2.4.1 Short-Term Construction Mitigation Measures

- **B-1**—During final plan review for each segment of the project, the Construction Authority shall review project plans to confirm that none of the drainages would be impacted by the final design. If changes in the design have occurred requiring impacts to drainage(s), the Construction Authority shall retain a qualified biologist/jurisdictional specialist to delineate the jurisdiction of the US Army Corps of Engineers, California Department of Fish and Wildlife (CDFW), and the Regional Water Quality Control Board (RWQCB). If impacts on jurisdictional resources cannot be avoided, the Construction Authority shall obtain the necessary permits/agreements pursuant to the Clean Water Act and California Fish and Wildlife Code prior to impacting the drainage(s).
- **B-2**—Prior to the construction of each segment of the project, the Construction Authority (or its contractor) shall review project plans to determine whether any trees within the impact area require removal or trimming. If trees requiring removal or trimming are present and fit the requirements for protection by the corresponding city's ordinance, the Construction Authority shall retain a qualified biologist/arborist to determine whether any of the trees meet the requirements of the city's ordinance.

Should any trees within the impact area meet the criteria specified in the city ordinance, the trees shall be trimmed (or removed and replaced) according to the specifications of the applicable city ordinance.

- **B-3**—The Construction Authority shall direct the contractor to avoid or minimize removal of vegetation (including ornamental tree and shrub removal) during the breeding season (February 1 to June 30 for nesting raptors and ~~March-February~~ February 15 to September 15 for all other birds). To the extent practicable, the contractor shall conduct vegetation and tree removal activities during the non-breeding season (September ~~16-2~~ 15 through January 31) to limit impacts to nesting birds/raptors.
- **B-4**—In the event that removal of vegetation (including ornamental tree and shrub removal) must occur between February 1 and September 15, the Construction Authority (or contractor) shall retain a qualified biologist to conduct a nesting bird/raptor survey of the project impact area prior to the initiation of construction. The survey shall be conducted no more than three days prior to the initiation of construction to minimize the potential for nesting following the survey and prior to construction. If the biologist detects any active nests within or adjacent to the project impact area (within ~~25-150~~ 150 feet for nesting birds, within 500 feet for raptors), the area(s) supporting bird nests shall be flagged for protection with a buffer determined at the biologist's discretion based on the sensitivity of the species (minimum buffer of ~~3500~~ 500 feet for raptors). The Construction Authority shall direct the contractor to avoid any activities within the buffer zone until the nests are no longer occupied as determined by the biologist.
- **B-5**—The Construction Authority shall direct the contractor to check and maintain daily any equipment operated within or adjacent to a drainage (including storm drains and concrete channels) to prevent leaks of materials that, if introduced to water, could be detrimental to water quality and, as a result, to biological resources that occur downstream of the project site. Cement/concrete, asphalt, paint, petroleum products, or other substances that could be hazardous, shall be prevented from entering the soil or waters. Any of these materials placed in an area that may result in the material entering the drainage shall be removed and disposed of at an appropriate site.
- **B-6**—The Construction Authority shall direct the contractor to remove all trash and debris related to the project prior to completion of project activities each day to avoid attracting wildlife to the work site.

3.2.4.2 Long-term Mitigation Measures

No adverse impacts were identified; therefore, no long-term mitigation is required.

3.2.5 Level of Impact after Mitigation

3.2.5.1 Construction Period

With implementation of the identified mitigation measures, impacts to biological resources would be avoided or mitigated to less than significant levels.

3.2.5.2 Long-Term Impacts

No long-term impacts would occur to biological resources; therefore, no mitigation is required.

