
4.1 Biological Resources

4.1.1 Introduction

This biological resources section addresses the proposed project's impacts on nesting birds/raptors. The existing biological resources conditions in the project area are described, along with the methodology and the regulatory framework that guided the evaluation of biological resources. Potential impacts to biological resources that would result from the proposed project are identified, along with any measures to mitigate significant effects of the proposed project.

Prior to the preparation of this EIR, an Initial Study (included as Appendix A of this EIR) was prepared using the CEQA Environmental Checklist Form to assess potential environmental impacts on biological resources. The Initial Study, provided in Appendix A of this EIR, determined the proposed project would have "no impact" related to five of the biological resource topics identified in the Initial Study Checklist Form and, for this reason, no further analysis of these topics in an EIR was required. The following Initial Study topics related to biological resources do not require any additional analysis in this EIR:

- The potential for 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 Wildlife (CDFW) or U.S. Fish and Wildlife Service (USFWS) was evaluated and determined to have "No Impact" in the Initial Study. The project site and proposed construction staging area west of and adjacent to the project site are located in a highly developed area within the center portion of the west side of LAX that, other than ornamental landscaping, is completely devoid of biological resources. While other areas within the airport boundary contain plant and animal species as well as habitats identified as sensitive, none of the identified sensitive plant or animal species have been identified on the project site or the construction staging area, or in their immediate vicinity. Therefore, the proposed project would have no impacts to sensitive or special status species or habitats.
- The potential for a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS was evaluated and determined to have "No Impact" in the Initial Study. There are no riparian areas or other sensitive natural community at or adjacent to the project site or proposed construction staging area. Therefore, no impacts to any riparian or other sensitive natural community would occur with the implementation of the proposed project.
- The potential for 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 was evaluated and determined to have "No Impact" in the Initial Study. There are no wetland areas at or adjacent to the project site or proposed construction staging area. Therefore, no impacts to any federally protected wetlands as defined by Section 404 of the Clean Water Act would occur with the implementation of the proposed project.
- The potential for conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance, was evaluated and determined to have "No Impact" in the Initial Study. As discussed further in Sections 4.1.3.2 and 4.1.5 below, there are a number of non-native ornamental trees located around the perimeter of the CAL GO Building that would be removed as part of the proposed project. However, there are no native trees, including trees protected by City of Los Angeles Ordinance No. 177404 (i.e., oak trees indigenous to California [excluding Scrub Oak], Southern California Black Walnut, Western Sycamore, or California Bay) at or adjacent to the project site or the proposed construction staging area.³⁵ In addition, none of the ornamental trees located around the perimeter of the CAL GO Building and surface parking area to the west are located within a public right-of-way; therefore, removal of the ornamental trees would not be subject to permitting requirements for street tree removal under

³⁵ City of Los Angeles, Ordinance No. 177,404, *Protected Tree Relocation and Replacement*, effective April 23, 2006.

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Los Angeles Municipal Code, Chapter VI, Sections 62.169 and 62.170. Therefore, the proposed project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

- The potential for conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan was evaluated and determined to have “No Impact” in the Initial Study. There is no adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan that includes the project site or proposed construction staging area. The Dunes Specific Plan Area (i.e., Los Angeles/El Segundo Dunes), a designated Los Angeles County Significant Ecological Area, is located in the western portion of LAX, approximately 0.9 mile west of the project site, opposite Pershing Drive. The Dunes area is well removed from the project site and would not be affected by the proposed project. Therefore, the proposed project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

4.1.2 Methodology

The analysis presented in this section incorporates relevant information from the LAX Specific Plan Amendment Study (SPAS) EIR the LAX Landside Access Modernization Program Draft EIR, and the LAX Northside Plan Update EIR, Impacts on biological resources have been previously addressed in these EIRs; therefore, the analysis procedures and data from these other projects were applied as appropriate for the proposed project.^{36,37,38}

4.1.3 Existing Conditions

4.1.3.1 Regulatory Setting

A review of the various federal, state, regional, and local government regulatory requirements was conducted to identify regulations that provide protection of biological resources. This section summarizes the various regulatory requirements that are relevant to the proposed Project.

Federal Endangered Species Act of 1973

The Federal Endangered Species Act (ESA) was enacted in 1973 and is administered by the USFWS.³⁹ The ESA provides for the conservation of endangered or threatened species and conservation of the ecosystems in which they exist. Floral and faunal species that are listed as federally threatened or federally endangered, or are candidates for listing, are protected under the ESA. Section 9 of the ESA prohibits the taking of species listed by the USFWS as endangered or threatened. As defined by the ESA, “taking” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in such conduct. In recognition that a “take” cannot always be avoided, the ESA includes a provision for incidental take of endangered and threatened species that occurs within the parameters of otherwise lawful activities.

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 et seq.), makes it unlawful to take, capture, kill, attempt to take, capture, or kill, or possess, any migratory birds, parts of migratory birds, or their eggs and nests, except when specifically authorized by the Secretary of the Interior.⁴⁰ (16 U.S.C. §§ 703, 704.) The term “take” is defined in federal

³⁶ City of Los Angeles, Los Angeles World Airports, *Final Environmental Impact Report for Los Angeles International Airport (LAX) Specific Plan Amendment Study*, (SCH 1997061047), Section 4.3 – Biological Resources, January 2013.

³⁷ Los Angeles World Airports, *Draft Environmental Impact Report for Los Angeles International Airport (LAX) Landside Access Modernization Program*, (SCH 2015021014), Section 4.3 - Biological Resources, September 2016.

³⁸ City of Los Angeles, Los Angeles World Airports, *Final Environmental Impact Report for Los Angeles International Airport (LAX) Northside Plan Update*, (SCH 2012041003), Section 4.3 – Biological Resources, December 2014.

³⁹ 16 United States Code, Sections 1531 – 1544, as amended, Endangered Species Act of 1973.

⁴⁰ 16 United States Code, Sections 703-712, as amended, *Migratory Bird Treaty Act*.

regulations as meaning, “to pursue, hunt, shoot, wound, kill, capture, or collect or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect.” (50 CFR 10.12.) Many bird species are considered migratory under the MBTA. The migratory bird species protected under the act are listed in 50 CFR 10.13. Disturbances that cause nest abandonment and/or loss of reproductive effort or loss of habitat upon which these birds depend may result in take and would be in violation of the MBTA.

FAA Advisory Circular No. 150/5200-33B "Hazardous Wildlife Attractants on or Near Airports"

Advisory Circular (AC) 150/5200-33B provides guidance on certain land uses that have the potential to attract hazardous wildlife on or near public-use airports.⁴¹ It also discusses airport development projects (including airport construction, expansion, and renovation) affecting aircraft movement near hazardous wildlife attractants. The AC provides guidance on types of land uses and management of habitat within proximity to airports and prescribes management techniques for airport operators to implement in order to minimize the risk of wildlife and aircraft interactions.

California Endangered Species Act

The California Endangered Species Act (CESA) prohibits the taking, importation, or sale of state-listed endangered or threatened species except in compliance with permits or conditions specified in the CESA.⁴²

The CESA also authorizes the CDFW to issue permits for incidental take of endangered or threatened species by general development activities, provided that a proposed project will not jeopardize the continued existence of such species and that any of the project's negative effects on those species will be minimized and fully mitigated. CESA authorizes CDFW to enter into a memorandum of understanding with individuals, public agencies, universities, zoological gardens, and scientific or educational institutions to import, export, take, or possess species for scientific, educational, or management purposes.

"Fully protected" Species

The California Fish and Game Code classifies some species as "fully protected," and "take" of these species is generally prohibited.⁴³ In 2011, legislation amended the Fish and Game Code to allow "take" of fully protected species covered under approved natural community conservation plans.

California Native Plant Protection Act

The California Native Plant Protection Act (NPPA) includes measures to preserve, protect, and enhance endangered and rare native plants.⁴⁴ The list of native plants afforded protection by NPPA includes those listed as endangered and threatened under CESA, although the NPPA definitions of endangered and rare differ from those contained in CESA. However, under California Fish and Game Code Section 2062, any plant species determined by the California Fish and Game Commission (Commission) as “endangered” on or before January 1, 1985 is an endangered species under CESA and, under Section 2067, any plant species determined by the Commission as “rare” is a “threatened species” under CESA. The NPPA specifies that no person shall import into this state, or take, possess, or sell within this state, any endangered or rare native plant, except in compliance with provisions of NPPA.⁴⁵ Individual landowners who have been notified by CDFW of the presence of a rare or endangered plant are required to notify CDFW at least 10 days in advance of changing land uses to allow CDFW to salvage any endangered or rare native plant material.⁴⁶

⁴¹ U.S. Department of Transportation, Federal Aviation Administration, *Advisory Circular 150/5200-33B, Hazardous Wildlife Attractants on or Near Airports*, August 28, 2007.

⁴² California, Fish and Game Code, Section 2050 et. seq., *California Endangered Species Act*.

⁴³ California Fish and Game Code, Sections 3511, 4700, 5050, and 5515.

⁴⁴ California Fish and Game Code, Sections 1900–1913, *California Native Plant Protection Act*.

⁴⁵ California Fish and Game Code, Section 1908, *California Native Plant Protection Act*.

⁴⁶ California Fish and Game Code, Section 1913, *California Native Plant Protection Act*.

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California Fish and Game Code, Sections 3503, 3503.5, 3513

The California Fish and Game Code also prohibits the destruction of bird nests and eggs (Section 3503), as well as the “take” of birds of prey or destruction of their nests or eggs (Section 3503.5), and the take of migratory nongame birds except as provided by the rules and regulations implementing the MBTA (Section 3513).⁴⁷ Disturbance that causes nest abandonment and/or loss of reproductive effort (killing or abandonment of eggs or young) may violate these sections, and federal law protecting migratory birds.

Los Angeles Municipal Code, Chapter VI, Sections 62.169 and 62.170

Street trees within the public right-of-way are regulated by the Board of Public Works under the Los Angeles Municipal Code Chapter VI, Sections 62.169 and 62.170. Per Section 62.169, “No person shall plant, remove, destroy, cut, prune or deface or in any manner injure any tree, shrub or plant in any street in the City, without first obtaining a permit to do so from the Board.” Section 62.170 states: “The Board may require, as a condition to any permit to remove or destroy a tree, that the permittee plant another tree of the type and size specified in the permit, within forty (40) days from the date of the issuance of the permit, in place of the tree to be destroyed or removed pursuant to the permit.”

Los Angeles Protected Tree Ordinance

The City of Los Angeles passed a Protected Tree Ordinance in 2006 to ensure the protection and regulation of removal of protected trees.⁴⁸ Protected trees are specified as Southern California native tree species, which measure four inches or more in cumulative diameter, four and one-half feet above the ground level at the base of the tree. The protected native tree species are:

- Oak tree including Valley Oak (*Quercus lobata*) and California Live Oak (*Quercus agrifolia*), or any other tree of the oak genus indigenous to California but excluding the Scrub Oak (*Quercus dumosa*)
- Southern California Black Walnut (*Juglans californica* var. *californica*)
- Western Sycamore (*Platanus racemosa*)
- California Bay (*Umbellularia californica*)

Protected tree removal requires a removal permit by the Board of Public Works. Any act that may cause the failure or death of a protected tree requires inspection by the Los Angeles Department of Public Works, Bureau of Street Services, Urban Forestry Division.

LAX Street Frontage and Landscape Development Plan

The LAX Street Frontage and Landscape Development Plan (“Landscape Development Plan”) provides integrated and coordinated landscape design guidelines for new development along the perimeter of LAX.⁴⁹ The Landscape Development Plan includes the objective to promote land use compatibility, particularly between the airport and surrounding land uses to the north and south. The Landscape Development Plan also requires compliance with the Neighborhood Compatibility Program for projects seeking LAX compliance review, which requires community input on landscape design for projects located along the northern and southern boundaries of LAX.⁵⁰

⁴⁷ California Fish and Game Code, Sections 3503, 3503.5, and 3513.

⁴⁸ City of Los Angeles, Ordinance No. 177,404, *Protected Tree Relocation and Replacement*, April 23, 2006.

⁴⁹ City of Los Angeles, Los Angeles World Airports, Environmental Management Division, *Los Angeles International Airport Street Frontage and Landscape Development Plan Update*, March 2005.

⁵⁰ The Neighborhood Compatibility Program is LAX Master Plan Commitment LU-4. See Los Angeles World Airports and Federal Aviation Administration, *LAX Master Plan Final EIS/EIR*, Section 4.2.5, Land Use, Master Plan Commitments, pp. 4-173, 2004.

LAX Wildlife Hazard Management Plan

The goal of the LAX Wildlife Hazard Management Plan (WHMP) is to minimize the risk to aviation safety, airport structures or equipment, or human health posed by populations of hazardous wildlife on and around the airport.⁵¹ The WHMP identifies hazardous wildlife attractants on or near the airport and the appropriate wildlife damage management techniques to minimize the wildlife hazard. For example, the grass areas between runways are identified as hazardous wildlife attractants at LAX that contain vegetation that are managed under the WHMP to minimize wildlife hazards at LAX. In addition, some prey species around the runways are also actively managed to minimize wildlife hazards under the WHMP. LAX holds a current USFWS Depredation Permit, which allows for the limited take, temporary possession, and transport of migratory birds and nests at the airport to relieve or prevent injurious situations impacting public safety. The U.S. Department of Agriculture Wildlife Services actively manages the airport property to reduce its attractiveness to wildlife species that may pose a safety to airport operations.

4.1.3.2 Existing Conditions

The project site is located in a highly developed area on the west side of LAX. As described in Chapter 3, *Overview of Project Setting*, the project site and adjacent construction staging area are highly developed and/or disturbed and do not contain any sensitive biological resources (i.e., sensitive or special status species or habitats; riparian/wetland areas), or native trees. Further, there is no adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan applicable to the project area.

Birds

Common bird species observed in the project area, as documented in the LAX SPAS EIR, include Cooper's hawk (*Accipiter cooperii*), red-tailed hawk (*Buteo jamaicensis*), American kestrel (*Falco sparverius*), killdeer (*Charadrius vociferus*), mourning dove (*Zenaida macrourus*), rock pigeon (*Columba livia*), Anna's hummingbird (*Calypte anna*), northern flicker (*Colaptes auratus*), black phoebe (*Sayornis nigricans*), American crow (*Corvus brachyrhynchos*), northern mockingbird (*Mimus polyglottos*), European starling (*Sturnus vulgaris*), yellow-rumped warbler (*Setophaga coronata*), white-crowned sparrow (*Zonotrichia leucophrys*), western meadowlark (*Sturnella neglecta*), house finch (*Carpodacus mexicanus*), and the common house sparrow (*Passer domesticus*).⁵²

Trees

Based on project site observations by the EIR preparers (CDM Smith), approximately 45 non-native ornamental trees (i.e., pine, juniper, bottle brush, American sweet gum, ficus, and olive) ranging in height from 8 feet to 50 feet are located around the perimeter of the CAL GO Building and surface parking area to the west. These trees may be used by migratory or nesting birds/ raptors. None of these trees meet the criteria for being a locally-protected tree, such as native oak, sycamore, or California walnut, under the City of Los Angeles Protected Tree Ordinance (Chapter IV, Article 6 of the Los Angeles Municipal Code). In addition, as discussed previously, none of the ornamental trees located around the perimeter of the CAL GO Building and surface parking area to the west are located within a public right-of-way; therefore, removal of the ornamental trees would not be subject to permitting requirements for street tree removal under Los Angeles Municipal Code, Chapter VI, Sections 62.169 and 62.170.

⁵¹ Los Angeles International Airport in cooperation with the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services, *Los Angeles International Airport (LAX) Wildlife Hazard Management Plan*, December 2012.

⁵² City of Los Angeles, Los Angeles World Airports, *Final Environmental Impact Report for Los Angeles International Airport (LAX) Specific Plan Amendment Study*, (SCH 1997061047), Section 4.3 – Biological Resources, January 2013.

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4.1.4 Thresholds of Significance

A significant impact to biological resources would occur if the proposed project would:

- Substantially interfere with the movement of any resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

This threshold is derived from the *L.A. CEQA Thresholds Guide* and Appendix G of the State CEQA Guidelines relative to biological resource impacts.⁵³

4.1.5 Impacts Analysis

Approximately 45 non-native ornamental trees are located around the perimeter of the CAL GO Building. Although native birds prefer native trees for nesting, the non-native trees on the project site could harbor raptor and other native bird nests. Therefore, project-related tree removals due to construction of the proposed project could result in impacts to migratory or nesting birds, or raptors protected under the MBTA and/or California Fish and Game Code Sections 3503, 3503.5, 3511, and 3513. This impact is significant because tree removals could substantially interfere with the movement of these resident or migratory wildlife species.

4.1.6 Cumulative Impacts

Some of the cumulative development projects described in Chapter 3, *Overview of Project Setting*, particularly the LAX Northside Development, which could result in the potential removal of up to 187 trees, and the LAX Landside Access Modernization Program Project, which could result in the removal and/or trimming of up to 875 trees, would result in significant impacts because tree removal or trimming could substantially interfere with the movement of resident or migratory wildlife species.^{54,55,56} Other area projects in combination with the proposed project would have a cumulatively significant impact on nesting birds/raptors. The proposed project would result in the removal of relatively few (approximately 45) trees, and the trees that would be removed by the proposed project are located in a highly developed portion of the airport that is actively managed to prevent the presence of wildlife species, including birds. Nevertheless, because the trees on the project site could harbor raptor and other native bird nests, the proposed project's contribution to the cumulatively significant impact would be cumulatively considerable.

4.1.7 Mitigation Measures

As indicated in Section 4.1.5, impacts related to migratory or nesting birds/ raptors, would be significant. The following Standard Control Measures are proposed as mitigation measures to reduce the proposed project's significant impacts to nesting birds/raptors.

- **LAX-BR-1 – Conservation of Faunal Resources: Nesting Birds/Raptors:** LAWA shall require construction contractors to implement the following measures:
 - Construction shall be scheduled outside of nesting season for those areas of the project site that have a potential for nesting birds/raptors, if feasible.
 - If construction is scheduled to occur during the nesting season for birds/raptors (generally February 1 to June 30 for raptors and March 15 to August 15 for other birds), vegetation clearing for the proposed project shall be conducted outside the nesting season, if feasible.

⁵³ City of Los Angeles, *L.A. CEQA Thresholds Guide, Your Resource for Preparing CEQA Analyses in Los Angeles*, 2006.

⁵⁴ City of Los Angeles, Los Angeles World Airports, *Final Environmental Impact Report for Los Angeles International Airport (LAX) Northside Plan Update*, (SCH 2012041003), Section 4.3 – Biological Resources, December 2014.

⁵⁵ Los Angeles World Airports, *Draft Environmental Impact Report for Los Angeles International Airport (LAX) Landside Access Modernization Program*, (SCH 2015021014), Section 4.3 - Biological Resources, September 2016.

⁵⁶ Potential impacts to nesting birds/raptors associated with tree removals/trimmings for all LAWA projects at LAX, including the LAX Northside Development and the LAX Landside Access Modernization Program Project, would be mitigated in accordance with LAWA standard control measures to reduce such impacts to a level that is less than significant.

- If it is not feasible to schedule vegetation clearing outside of nesting season, then a qualified avian biologist ("biologist") shall inspect the shrubs/trees prior to project activities to ensure that no nesting birds/raptors are present. The qualified avian biologist shall be approved by LAWA, and shall have authority to halt construction activities if nesting birds/raptors are disturbed.
 - If the biologist finds an active nest within the construction area, or in the vicinity, and determines that the nest may be impacted, the biologist shall delineate an appropriate buffer zone; the size of the buffer zone will depend on the species and the type of construction activity. Only construction activities (if any) that have been approved by the biologist will take place within the buffer zone until the young have fledged and are independent of the adults and nest.
 - The biologist shall be present and monitor during construction activities near active nest areas to ensure that no adverse impacts on nesting birds/raptors or young occur. The biologist shall submit weekly reports to LAWA.
 - Appropriate bird exclusion methods shall be used to discourage birds from nesting in construction equipment and facilities, if determined by the wildlife biologist to be necessary. Bird netting shall not be used as an exclusion method in order to avoid potential bird entanglement.
 - These impact avoidance measures shall be coordinated with LAWA's United States Department of Agriculture (USDA) Wildlife Hazard Biologist and will be consistent with FAA AC No. 150/5200-33B "Hazardous Wildlife Attractants on or Near Airports" and LAWA's "LAX Wildlife Hazard Management Plan" to avoid increasing wildlife hazards to aircraft.
- **LAX-BR-2 – Conservation of Floral Resources: Mature Tree Replacement – Nesting Raptors:** LAWA shall require construction contractors to implement the following measures:
- Prior to construction, affected areas shall be surveyed by a qualified avian biologist (see LAX-BR-1) to identify potential areas for raptor nesting. Results of the survey shall be reported to LAWA.
 - For areas of the project site that have potential for nesting raptors to occur, all mature trees within such areas shall be inspected for current or past raptor nesting activity prior to initiating construction activities during the nesting season (February 1 to June 30).
 - Inspections for signs of raptor nesting may be conducted outside of nesting season. The biologist shall identify active nests, and evidence of past raptor nesting, in mature trees to be removed from the construction area.
 - Results of surveys and inspections shall be reported to LAWA on a timely basis.
 - LAWA shall compensate at a ratio of 2:1 for the loss of mature trees with either active nests or evidence of past raptor nesting, which would occur as a result of implementation of any of the project components. The species of newly planted replacement trees shall be local native tree species to the extent feasible. Each mitigation tree shall be at least a 15-gallon or larger specimen. The replacement trees shall be planted within the boundaries of LAX or at a suitable off-site location. If mitigation occurs within LAX boundaries, the replacement site and tree species will be determined in consultation with LAWA's USDA Wildlife Hazard Biologist and will be consistent with FAA AC No. 150/5200-33B "Hazardous Wildlife Attractants on or Near Airports" and LAWA's "LAX Wildlife Hazard Management Plan" to avoid increasing wildlife hazards to aircraft.

4.1.8 Level of Significance After Mitigation

With implementation of Standard Control Measures (Mitigation Measures) LAX-BR-1 and LAX-BR-2, significant impacts to migratory or nesting birds/raptors, would be reduced to a level that is less than significant and the contribution of the proposed project to significant cumulative impacts to migratory or nesting birds/raptors would not be cumulatively considerable because these measures would prevent substantial interference with the movement of resident or migratory wildlife species through protecting migratory or nesting birds/raptors and providing replacement habitat.

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