

4.10 BIOLOGICAL RESOURCES

4.10.1 AFFECTED ENVIRONMENT

Regulatory Framework

Executive Order (EO) 11990, Protection of Wetlands, requires federal agencies to take action to minimize the loss of wetlands. The NEPA compliance process requires federal agencies to consider direct and indirect impacts to wetlands, which may result from federally funded actions. (This EO uses the same analysis as EO 11988.)

Section 7 of the Endangered Species Act of 1973, requires that any federal agency which funds, authorizes or carries out an action, ensure that their action is not likely to jeopardize the continued existence of any endangered or threatened species (including plant species) or result in the destruction of or adverse modification of designated critical habitats.

The Migratory Bird Treaty Act (MBTA) makes it illegal for people to "take" migratory birds, their eggs, feathers or nests. Take is defined in the MBTA to include by any means or in any manner, any attempt at hunting, pursuing, wounding, killing, possessing or transporting any migratory bird, nest, egg, or part thereof.

Existing Biological Environment

The project site is located within the urbanized downtown core of Los Angeles. The local vicinity is characterized as urban and paved with no open space areas. The Hall of Justice building and surface parking areas currently occupy the project site.

Vegetation observed during visits to the site and surrounding parcels consists of hedges and non-indigenous ornamental street trees. The ornamental street trees include: 7 ficus trees and 1 Japanese zelkova tree along Temple Street; 7 magnolia trees and 4 olive trees along North Broadway; 3 Japanese maple trees along Aliso Street; and 11 Japanese maple trees along Spring Street. Wildlife observed during site visits was limited to common bird species adapted to urban settings such as house sparrows, brewer's blackbird, starlings, and pigeons.

No threatened/endangered or rare species or their habitats, locally designated species, locally designated natural communities, wetland habitats, or wildlife corridors are located on the project site.¹ The site is not identified as a Significant Ecological Area (SEA), SEA Buffer or Ecological Significant Habitat Area (ESHA).² No drainage course was identified on the Los Angeles USGS quad sheet or observed during site visits on or in proximity to the project site.

4.10.2 THRESHOLDS OF SIGNIFICANCE

For purposes of this analysis, an impact would be considered significant if an alternative resulted in the loss of wetlands, or would result in the loss of federally threatened and endangered wildlife or vegetation species or its habitats.

4.10.3 POTENTIAL IMPACTS OF ALTERNATIVES

This project was evaluated to ensure there would be no direct or indirect impact on any wetlands and for potential occurrences of federally threatened and endangered species or their habitats.

Alternative 1 – No Project Alternative

Under the No Project Alternative, the project site would remain in its present state. No impacts to biological resources would occur with the implementation of this alternative. Thus, the impacts are less than significant.

Alternative 2 – Repair and Reuse Alternative (Proposed Alternative)

Construction of this alternative would include the removal of on-site ornamental vegetation and the potential replacement with, or addition of, new on-site vegetation for ornamental or passive energy conservation purposes. Along Temple Street, the ficus trees and Japanese zelkova tree would be removed and new street trees would be provided. Along North Broadway, the 7 magnolia trees would be retained, and the 4 olive trees would be removed and replaced with new magnolias. The 3 Japanese maple trees along Aliso Street would be relocated to Spring Street, and Aliso Street would receive new landscaping. The 11 Japanese maple trees along Spring Street would include retaining 8 of the trees and the removal of 3 trees near the new main entrance to the building. Landscaping in the area of the new

¹ California Department of Fish and Game, California Natural Diversity Data Base, December 8, 2003; and Site Visit conducted by Impact Sciences, Inc., April 9, 2002.

² County of Los Angeles, *Significant Ecological Area Study*, 2000.

main building entrance and pedestrian plaza on Spring Street would include various plant species including trees, hedges, lawns, and ground cover plant material. The loss of this non-native habitat is considered to be a less than significant biological resources impact.

In addition to the loss of ornamental vegetation and trees, construction activities in the project area, including noise, barriers, and dust, would cause temporary disturbance to locally and regionally abundant wildlife species. Grading and soil compaction could result in the direct mortality of slow-moving and/or ground-dwelling animals. Because these animals are abundant and would likely reestablish in temporarily disturbed areas following construction, the level of construction-related mortality is considered less than significant.

However, a number of bird species could be adversely affected as a result of construction or other site-preparation activities. Such activities could result in the direct loss of active nests or the abandonment and subsequent loss of active nests by adult birds. Bird nests with eggs or young are protected under the Federal Migratory Bird Treaty Act and the California Fish and Game Code. Depending on the number and extent of bird nests on the site that may be disturbed or removed, the loss of active bird nests would be a potentially significant impact.

No endangered or threatened or otherwise sensitive biological resources (i.e., wetlands, vegetation, or wildlife) were found on the site, nor are any anticipated given present on-site conditions. Consequently, impacts to these resources are considered to be less than significant.³⁴

Alternative 3 – Adaptive Reuse of the Existing Building to Secretary of Interior Standards

The removal and replacement of vegetation and ornamental trees would be the same under this alternative as Alternative 2, and would thus result in less than significant impacts. Wildlife disruption under this alternative, like Alternative 2, would be less than significant given that on-site animals are abundant and would likely reestablish in temporarily disturbed areas following construction. Since this alternative includes the removal of trees, potential impacts to active nest could occur resulting in potentially significant impacts.

³ California Department of Fish and Game, California Natural Diversity Data Base, December 8, 2003; and Site Visit conducted by Impact Sciences, Inc., April 9, 2002.

⁴ County of Los Angeles, *Significant Ecological Area Study*, 2000.

4.10.4 MITIGATION MEASURES (ALTERNATIVE 2 AND 3)

The following mitigation measure is required for both Alternative 2 and 3.

BIO-1 Within 15 days prior to exterior construction or site preparation activities that would occur during the nesting/breeding season of bird species potentially nesting on the site (typically March 1 through August 15), the applicant shall retain the services of a qualified biologist. The biologist shall conduct on-site surveys to determine if active bird nests, protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code, are present within the construction zone. If active nests are found on or immediately adjacent to the site, a minimum buffer, as determined by the retained biologist, shall be temporarily fenced around the nest site. No construction activities shall be permitted within this nest zone until the young birds have fledged, as determined by the biologist.

4.10.5 ADVERSE IMPACTS AFTER MITIGATION (ALTERNATIVE 2 AND 3)

Impacts under Alternatives 2 and 3 would be less than significant.