

5.3 BIOLOGICAL RESOURCES

The analysis in this section is based in part on the following technical report(s):

- *Biological Resource Study and Special Status Plant Survey Results, Crummer Project Site, City of Malibu, California*, Impact Sciences, Inc., July 2006.
- *Jurisdictional Determination for the Approximately 25-Acre Property Located at 24600 Pacific Coast Highway, in the City of Malibu, Los Angeles County a/k/a The Crummer Trust Property*, Glenn Lukos Associates, August 5, 2008.
- *Biological Resource Study, 24200 Pacific Coast Highway a.k.a. Crummer Site, City of Malibu, California*, Impact Sciences, Inc., January 2009.
- *Evaluation of Potential Biological Resource Impacts Associated with Construction of Pipeline in Malibu Canyon Road for Crummer Project, City of Malibu, Los Angeles County, California*, Glenn Lukos Associates, May 22, 2012.
- *Update to: 2009 Biological Resource Study, 24200 Pacific Coast Highway a.k.a. Crummer Site, City of Malibu, California Prepared for Crummer Project, City of Malibu, Los Angeles County, California*, Glenn Lukos Associates, May 22, 2012.
- *Revised Update to: 2009 Biological Resource Study, 24200 Pacific Coast Highway a.k.a. Crummer Site, City of Malibu, California Prepared for Crummer Project, City of Malibu, Los Angeles County, California*, Glenn Lukos Associates, March 12, 2013.

Complete copies of these studies are included in Appendix H to this Draft EIR.



5.3.1 Environmental Setting

In 2009 Impact Sciences, Inc., prepared a biological resources study for the project site. As part of their study of the project site, Impact Sciences reviewed previous studies that had been performed onsite, including a 1999 report by Bonterra Consulting. Glenn Lukos Associates (GLA) updated Impact Science's 2009 biological study in May 2012. A senior biologist reviewed the 2009 study, followed by a site survey on April 16, 2012. The entire site was walked and visually inspected. GLA determined that conditions on the site have not changed, and the description and analysis of the biological resources provided by Impact Sciences remains accurate.

Project Site

Site Topography

The project site is on top of a bluff. The majority of the project site is flat, but steep slopes descend from the project site along its south and east borders. The soils on the site are loose and friable and are classified as loamy. The flat portion of the project site is vacant, but it has been disturbed by disking and weed abatement. It contains little vegetation. There is, however, natural vegetation on the slopes to the south and east. Two large ephemeral drainages drain from northwest to southeast, down the slope toward Amarillo Beach. One of the drainages enters the project site from the southwest corner, and one enters the site from the center of the southern site boundary.

The site has been affected by wildfires in the past. Most recently, the October 2007 wildfire severely burned the northern, eastern, southern, and southwestern perimeters of the project site.

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There are five mature Southern California black walnut trees (*Juglans californica* var. *californica*) in the northeast portion of the project site. Each of these trees was scorched by the 2007 wildfire. However, the overall health of these trees has not declined as a result of the fire, and these trees have sprouted new growth.

Immediately adjacent to the west is Winter Mesa Drive, beyond which is Malibu Bluff Park; to the north is Pacific Coast Highway (PCH); to the east is a vacant tow yard facility; to the south is Malibu Road and single-family residences; and to the northwest across Pacific Coast Highway is the campus of Pepperdine University.

The location of the drainages and trees described above are indicated in Figure 5.3-1, *Biology of Project Site*.

Plant Communities

Vegetation nomenclature used to describe plant communities is characterized per the California Department of Fish and Wildlife's (CDFW) List of California Terrestrial Natural Communities. Common plant names are taken from J. C. Hickman. A complete list of plants observed onsite can be found in Appendix H, *Biological Resources Studies*.

A mixed sage scrub plant community covers 1.35 acres of the northern portion of the project site along PCH. The southern, southwestern, and eastern bluffs on the project site consist of a coastal sage chaparral plant community covering 7.76 acres. Eucalyptus trees in the northeast portion of the site form a community of 0.21 acre. The size and location of all plant communities on the project site are depicted in Figure 5.3-1.

Mixed Sage Scrub (1.35 acres)

The northern portion of the project site, the north-facing slope overlooking PCH, contains this natural community, which is characterized as a mixed sage scrub plant community. Dominant plants occurring within this community on the site include black sage (*Salvia mellifera*), purple sage (*Salvia leucophylla*), California sagebrush (*Artemisia californica*), ash-leaved buckwheat (*Eriogonum cinereum*), California buckwheat (*Eriogonum fasciculatum*), toyon (*Heteromeles arbutifolia*), and southern California black walnut trees.

As part of their study of the project site, in 2009 Impact Sciences reviewed previous studies that had been performed onsite, including a 1999 report by Bonterra Consulting. The 1999 Bonterra report categorized this area as buckwheat scrub; however, that vegetation type is not listed in the subsequent CDFW "List of California Terrestrial Natural Communities Recognized by the California Natural Diversity Database" and due to the greater presence of sage species, this community is more accurately categorized as mixed sage scrub. Based on the 2012 GLA site visit, this community has not changed and the description in the 2009 study remains accurate.

Coastal Sage Chaparral Scrub (7.76 acres)

The coastal sage chaparral scrub plant community covers the two drainage channels on the project site as well as the southern and southwestern slopes. Dominant plant species that occur within this community include laurel sumac (*Malosma laurina*), coyote brush (*Baccharis pilularis*), black sage (*Salvia mellifera*), purple sage (*Salvia leucophylla*), and California sagebrush (*Artemisia californica*). Several small Mexican elderberry (*Sambucus mexicana*) trees and one willow (*Salix* sp.) tree were observed.

This plant community forms a dense canopy, allowing for few plants to grow in the understory. This plant community was described as mixed sage scrub in the 1999 Bonterra report. Mixed sage scrub, as described in the preceding paragraph and characterized in the CDFW list of California Terrestrial Natural Communities Recognized by the California Natural Diversity Database, contains sage species as being dominant. While both black and purple sages are present within this plant community, these species are not dominant in this location but on the northern boundary.

Biology of Project Site



Legend

- Zone A
- Zone B
- Zone C
- Swale/Gully
- Blue Gum Trees (*Eucalyptus globulus*)
- Coastal Sage Chaparral Scrub
- Mixed Sage Scrub
- Non-Native Grassland (Disked)
- Location of Catalina Mariposa Lilies
- Protected Southern California Black Walnut Trees



Source: Glenn Lukos Associates

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Purple needlegrass (*Nassella pulchra*) grows sporadically within this plant community. The Bonterra report describes valley needlegrass grassland as occurring on the project site. However, based on the focused plant survey conducted by Impact Sciences in 2006 and 2007, purple needlegrass plants are associated with the herbaceous understory that sparsely occurs within this plant community, and the presence of this species does not constitute a separate plant community.

Nonnative Grassland (disked areas) (14.56 acres)

Nonnative grasslands cover the majority of the site and include a substantial component of nonnative Mediterranean grasses as well as a variety of forbs. Essentially all of the species within this land cover are considered weeds and are nonnative. Species observed include slender wild oats (*Avena barbata*), ripgut (*Bromus diandrus*), false brome (*Brachypodium distachyon*), Mediterranean barley (*Hordeum murinum leporinum*), rattail fescue (*Vulpia myuros*), tocalote (*Centaurea melitensis*), summer mustard (*Hirschfeldia incana*), black mustard (*Brassica nigra*), terracina spruce (*Euphorbia terracina*), and fillaree (*Erodium botrys*). Occasional native species occur including purple needlegrass (*Stipa pulchra*), narrow leaved milkweed (*Asclepias fascicularis*), and telegraph weed (*Heterotheca grandiflora*); however, these natives comprise less than an estimated two percent of the total cover within the Nonnative Grasslands.

Eucalyptus Trees (0.21 acre)

Approximately five mature blue gum trees occur along the northwestern boundary of the site. Several common bird species (including red-tail hawks) were observed roosting in these trees during site visits conducted by Impact Sciences during 2006 and 2007. The blue gum eucalyptuses are generally mature and appear to be potential raptor nesting areas based on structure. The potential fitness of these trees is at least partially reduced due to their proximity to Pacific Coast Highway. No active or abandoned raptor nests were detected during the 2012 GLA site survey, which included checking each tree methodically for nests.

Common Wildlife

The mixed sage scrub and coastal sage chaparral scrub plant communities, and to a lesser extent the nonnative grassland, located on and adjacent to the project site may provide habitat for several common wildlife species known to occur in the region. As a consequence of previous human disturbance on the project site (i.e., weed-abatement activities) and adjacent land uses such as Pacific Coast Highway, Malibu Bluffs Park, and Malibu Road, the number of terrestrial wildlife species expected to occur on the project site is low. Common wildlife species observed, detected, or having a high potential to occur within the project site's boundary and its vicinity are discussed below. Special status wildlife species known to occur, or having the potential to occur within or in the immediate vicinity of the project site, are discussed below. However, due to the disturbed condition of the project site, there is limited habitat or opportunity for most of the special status biological resources to occur on the project site.

Reptiles

Several common reptile species also have the potential to occur on the project site. Reptiles observed on the project site during various field surveys include side-blotched lizard (*Uta stansburiana*) and western fence lizard (*Sceloporus occidentalis*). Additional common species with the potential to occur within the project site, although they were not observed during any of the field surveys conducted by Impact Sciences in 2006 and 2007 or GLA in 2012, include southern alligator lizard (*Elgaria multicarinatus*), gopher snake (*Pituophis melanoleucus*), common kingsnake (*Lampropeltis getulus*), and southern Pacific rattlesnake (*Crotalus viridis helleri*).



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Mammals

Few mammal species are likely to occur on or in the vicinity of the project site, due to its disturbed condition and due to adjacent land uses. Common mammals either directly observed or for which diagnostic sign was detected during surveys of the project site include California ground squirrel, brush rabbit (*Sylvilagus bachmani*), and coyote (scat) (*Canis latrans*). Other mammal species that have the potential to occur, although they were not observed during any of the field surveys conducted by Impact Sciences in 2006 or 2007 or GLA in 2012, include Virginia opossum (*Didelphis virginiana*), common raccoon (*Procyon lotor*), striped skunk (*Mephitis mephitis*), long-tailed weasel (*Mustela frenata*), ornate shrew (*Sorex ornatus*), broad-footed mole (*Scapanus latimanus*), western harvest mouse (*Reithrodontomys megalotis*), deer mouse (*Peromyscus maniculatus*), California mouse (*Peromyscus californicus*), brush mouse (*Peromyscus boylii*), and California vole (*Microtus californicus*). Nonnative mammal species including house mouse (*Mus musculus*), Norway rat (*Rattus norvegicus*), and black rat (*R. rattus*) also may occur on project site. None of the aforementioned animals are considered special status species.

Birds

The site has the potential to provide foraging, roosting, and nesting habitat for a variety of common native bird species such as European starling (*Sturnus vulgaris*), house finch (*Carpodacus mexicanus*), rock pigeon (*Columba livia*), mourning dove (*Zenaidura macroura*), northern mockingbird (*Mimus polyglottos*), western scrub-jay (*Aphelocoma californica*), Anna's hummingbird (*Calypte anna*), American crow (*Corvus brachyrhynchos*), bushtit (*Psaltriparus minimus*), California towhee (*Pipilo crissalis*), and lesser goldfinch (*Carduelis psaltria*). Impact Science and GLA determined that all of these are common, there is no habitat on the site for special status species, and very limited potential for occurrence of any special-status avifauna.

Special Status Biological Resources

For the purposes of analysis of potential impacts to biological resources (under CEQA), "special status" refers to those resources that meet one or more of the following criteria:

- Plant and animal species listed by the US Fish and Wildlife Service (USFWS) or CDFW as Threatened or Endangered, proposed for listing as Threatened or Endangered, or a candidate for listing as Threatened or Endangered.
- Plant and animal species considered "Endangered, Rare or Threatened" as defined in Section 15380 of the State CEQA Guidelines. Section 15380(b) states that a species of animal or plant is "Endangered" when its survival and reproduction in the wild are in immediate jeopardy from one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, disease, or other factors. A species is "Rare" when either (A) although not presently threatened with extinction, the species exists in such small numbers throughout all or a significant portion of its range that it may become Endangered if its environment worsens; or (B) the species is likely to become Endangered within the foreseeable future throughout all or a portion of its range and may be considered "Threatened" as that term is used in the Federal Endangered Species Act (FESA).
- Plants included on Lists 1 or 2 of the California Native Plant Society (CNPS). These species are included because the CNPS is recognized as an authority by the CDFW on the status of rare plant species in California, and because the criteria for placement on List 1 or List 2 are similar to criteria that CDFW and USFWS use for listing species as Threatened or Endangered.
- Animal species designated "Species of Special Concern" or "Fully Protected" by the CDFW. Although these species have no legal status under the California Endangered Species Act (CESA), the CDFW recommends their

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protection, as the populations of these species are generally declining and they could be listed as Threatened or Endangered (under CESA) in the future.

- Birds designated by the USFWS as “Birds of Conservation Concern.” Although these species have no legal status under FESA, the USFWS recommends their protection because populations of these species are generally declining and they could be listed as Threatened or Endangered (under FESA) in the future.
- Riparian habitat or other natural communities considered sensitive or otherwise regulated by the CDFW.
- Wetlands or other aquatic habitats under the jurisdiction of the US Army Corps of Engineers (Corps).
- Established resident or migratory wildlife movement corridors.
- Trees, habitats, or other resources protected by local policies, ordinances, or otherwise considered of local concern.

Special Status Plant Species

No federally or state-listed plant species were observed on the project site. A list of special status plant species that have been previously recorded in the vicinity of the project site (based on the California Natural Diversity Database [CNDDDB] and CNPS) and which have the potential to occur on the project site is provided below in Table 5.3-1, *Special Status Plant Species with Potential to Occur on the Project Site*. The nonnative grassland and the general disturbed condition of the project site does not provide suitable habitat for supporting the plant species listed in the Table 5.3-1. However, the mixed sage scrub and coastal sage chaparral scrub located on the project site does provide suitable habitat. Catalina mariposa (*Calochortus catalinae*) lilies were observed by Impact Sciences in 2006 within the coastal sage chaparral scrub community along the eastern and northeastern boundaries of the project site. During subsequent visits made by Impact Sciences in 2007 (following the wildfire), it was noted that the number of individual Catalina mariposa lilies within these locations substantially increased, which can be expected, since this species is known to emerge following severe burns. Catalina mariposa lilies were also observed by GLA in 2012. This species is considered a CNPS list 4 plant species, which are “plants of limited distribution; a watch list,” according to CNPS. The general locations of the Catalina mariposa lilies on the project site, as depicted in Figure 5.3-1, are within the boundary of proposed fuel modification zones A and B of Parcel 1 and Parcel 2.



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**Table 5.3-1
Special Status Plant Species with Potential to Occur on the Project Site**

Species	Status			Habitat Requirements	Potential for Occurrence and Survey Results
	Federal	State	CNPS		
Braunton's milk-vetch (<i>Astragalus brauntonii</i>)	FE	-	1B.1	Occurs in chaparral, coastal sage scrub, valley and foothill grasslands, recent burns, or disturbed areas. Found on stiff gravelly soils overlying granite and limestone, below 1,500 feet above mean sea level (msl).	Not Expected: This species was not observed during focused surveys conducted in May 2006 and May 2007, nor was it observed during a visit to the project site made by Impact Sciences biologist Greg Ainsworth, on February 19, 2008. Although Braunton's milk-vetch could potentially get establish on the project site since this species is known to occur within suitable habitat following burns (CNDDDB 2007, CNPS 2007), the species is not expected because the preferred substrate is not present. GLA did not observe Braunton's milk vetch during its 2012 site survey.
Plummer's mariposa lily (<i>Calochortus plummerae</i>)	-	-	1B.2	Rocky and sandy sites, usually of granitic or alluvial material, within coastal sage scrub, chaparral, valley and foothill grassland, and forests and woodlands; between approximately 295-5,280 feet msl.	Not Expected: This species was not observed during focused surveys conducted in May 2006 and Spring 2007. This species is not expected to occur on the project site because there is only limited suitable habitat available. The project site is located below 295 feet msl.
San Fernando Valley spineflower (<i>Chorizanthe parryi</i> var. <i>fernandina</i>)	FSC	SE	1B.1	Sandy soils within coastal sage scrub between approximately 1,000-3,600 feet above msl.	Not Expected: This species was not observed during focused surveys conducted in May 2006 and Spring 2007. This species is not expected to occur on the project site as suitable habitat is not available. The project site is located below 1000 feet msl.
Parry's spineflower (<i>Chorizanthe parryi</i> var. <i>parryi</i>)	FSC	-	3.2	Occurs in coastal sage scrub and chaparral (flat dry slopes and sandy soils).	Not Expected: Although portions of the project site hosted native plant communities potentially suitable for this species prior to the 2007 wildfire, there is currently no suitable habitat present on the project site, especially considering the steepness of the slopes where native plant communities were found. This species was not observed during focused surveys conducted in May 2006 and 2007 and it is not expected to occur on the project site.
Dune larkspur (<i>Delphinium parryi</i> ssp. <i>blochmaniae</i>)	-	-	1B.2	Occurs on sandy and rocky soils in chaparral and coastal maritime dune habitats.	Not Expected: This species was not observed during focused surveys conducted in May 2006 and May 2007. This species is not expected to occur on the project site because suitable habitat is not present.
Chaparral nolina (<i>Nolina cismontana</i>)	-	-	1B.2	Occurs in chaparral and coastal sage scrub habitats on sandstone, shale, and gabbro substrates.	Not Expected: This species was not observed during focused surveys conducted in May 2006 and May 2007 and is not expected to occur on the project site because suitable habitat is not present.

Source: Impact Sciences, Inc. 2008; GLA 2012.

FED: Federal Classifications

FE Federally Endangered

FSC Federal Species of Concern

STATE: State Classifications

SE State Endangered

CNPS: California Native Plant Society Classifications

1B Plants Rare, Threatened, Endangered in California and elsewhere

3 More information is needed about this species

.2 Fairly Endangered in California

.3 Not very Endangered in California

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Protected Tree Resources

Pursuant to the City of Malibu’s native tree protection ordinance, removal of or damage to any native oak, walnut, sycamore, alder, or toyon tree that is at least 6 inches in diameter, or has a combined trunk circumference of any two trunks of at least 8 inches in diameter, as measured 4.5 feet above the mean natural grade (diameter at breast height [dbh]), “shall be prohibited except where no other feasible alternative exists” (Chapter 5 of the City of Malibu Local Coastal Program Local Implementation Plan [LIP], dated September 13, 2002). If impacts to protected trees cannot be avoided, mitigation is required for native tree removal or the loss of or worsened health of native trees resulting from encroachment into the protective zone of a given tree.

As discussed in the project site protected tree report (attached to the Biological Resources Study, included as Appendix H of this Draft EIR), six southern California black walnut trees subject to the City of Malibu’s Native Tree Protection Ordinance occur within the project site boundary. The locations of these southern California walnut trees are all outside of the project’s grading limit and will be avoided, as shown in Figure 5.3-1.

Special Status Wildlife Species

No special status wildlife species were observed on or adjacent to the project site during the 2007 focused surveys (or any other project site visit conducted by Impact Sciences [2006, 2007] or BonTerra Consulting [1999]). The mixed sage scrub and coastal sage chaparral scrub located on the project site could provide suitable habitat for potentially supporting seven special status wildlife species. No other habitat suitable for supporting special status wildlife species is currently present on the project site. A list of special status wildlife species that have the potential to occur on the project site is provided below in Table 5.3-2, *Special Status Wildlife Species with Potential to Occur on the Project Site*.

**Table 5.3-2
Special Status Wildlife Species with Potential to Occur on the Project Site**

Species	Status		Habitat	Potential Occurrence within the Project Site
	Federal	State		
Insects				
Monarch butterfly (wintering sites) (<i>Danaus plexippus</i>)	–	–	Wind-protected tree groves, including Blue gum, Monterey pine, and cypress trees with nearby water and nectar sources.	No Potential: The blue gum trees located on the project site do not provide typical roosting habitat for this species because they are too exposed and do not afford enough wind and cold protection and because there is no standing fresh water present on the project site.
Reptiles				
California Mountain Kingsnake (<i>Lampropeltis zonata pulchra</i>)	–	SC	Occurs in coniferous forest, oak-pine woodlands, riparian woodland, chaparral, and coastal sage scrub; near sea level to 7,000 ft.	Low Potential: This species was not observed on the project site during focused surveys conducted in 2007. Because limited suitable habitat occurs on project site, there is a low potential for this species to occur.
Coast (San Diego) Horned Lizard (<i>Phrynosoma coronatum blainvilli</i>)	–	SC	Occurs in coastal sage scrub, annual grassland, chaparral, oak woodland, riparian woodland, and coniferous forest on sandy soils, often in association with harvester ants. This species is commonly found on open ground within its habitat.	Low to No Potential: This species was not observed on the project site during focused surveys conducted in 2007. This species has a low potential to occur on project site because there is limited surrounding habitat from which the species could disperse. GLA believes there is no potential for the coast horned lizard due to the lack of suitable sandy soils on the site.



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**Table 5.3-2
Special Status Wildlife Species with Potential to Occur on the Project Site**

Species	Status		Habitat	Potential Occurrence within the Project Site
	Federal	State		
Coast Patchnosed Snake (<i>Salvadora hexalepis virgulata</i>)	–	SC	Occurs in coastal sage scrub and chaparral with open ground and rocky outcrops, often in sandy soils.	Low Potential: This species was not observed on the project site during focused surveys conducted in 2007. This uncommon species has a low potential to occur on project site because there is limited surrounding habitat from which the species could disperse.
Birds				
Southern California Rufous-crowned Sparrow (<i>Aimophila ruficeps canescens</i>)	–	SC	Sparsely vegetated hillsides in coastal sage scrub, rocky slopes; often in association with California sagebrush (<i>Artemisia californica</i>).	Moderate Potential: This species was not observed on the project site during focused surveys conducted in 2007. This species has a moderate potential to occur because the mixed sage scrub offers some habitat that may be suitable for this species. However, this habitat is outside of the proposed development area and this species should not be directly impacted.
Bell's Sage Sparrow (<i>Amphispiza belli belli</i>)	–	SC	Occurs in shrublands near the coast, most often coastal sage scrub, and chaparral.	Low to No Potential: This species was not observed on the project site during focused surveys conducted in 2007. This species has low potential to occur on the project site in the future because of the fragmentation of the project site to natural open space areas within the Malibu area. GLA believes there is no potential for Bell's sage sparrow due to the lack of large areas of contiguous sage scrub or chaparral on the site.
Mammals				
San Diego Desert Woodrat (<i>Neotoma lepida intermedia</i>)	–	SC	Coastal scrub with moderate to dense canopies, especially with rock outcrops and rocky cliffs and slopes.	Low Potential: This species was not observed on the project site during focused surveys conducted in 2007. This species has a low potential for occurrence within the on-site channels covered with coastal sage chaparral scrub, but does not have rocky cliffs or rock outcrops.

Source: Impact Sciences, Inc., 2008. GLA, 2012.

STATE: State Classifications

SC California Species of Special Concern

Wildlife Movement Corridors

Wildlife corridors are pathways or habitat linkages that connect discrete areas of natural open space otherwise separated or fragmented by topography, changes in vegetation, and other natural or human-induced factors, such as urbanization. The project site does not provide a corridor for wildlife movement to and from adjacent sites, because the project site occurs in an area with residential development and the Pacific Ocean to the south, PCH to the north, with Winter Mesa Drive and Malibu Bluffs Park to the west, the vacant tow yard facility to the east, a Malibu retail center further to the east and the Pepperdine University campus to the northwest across Pacific Coast Highway. Potential wildlife movement to or from the remnant open space west of Malibu Bluffs Park and south of PCH would occur through Puerco Canyon to the northwest. Core wildlife habitat areas exist to the north of PCH and the band of urban development that parallels the highway through most of the City of Malibu. Therefore, migration or movement of mammalian species to and from large open space areas in the project region is not expected to occur through the

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project site, and no sign of the project site being used as a corridor was observed at the time of either the 2006, 2007, or 2012 surveys.

Offsite Areas Affected

The proposed project includes offsite improvements, in the form of a water line extension. In connection with providing water service to the proposed subdivision, a new 12-inch water line connection would be installed at the southeast corner of the intersection of Pacific Coast Highway and Malibu Canyon Road and approximately 3,400 linear feet up Malibu Canyon Road to connect to an existing water line. Malibu Canyon Road is currently developed and paved. GLA conducted an assessment of the biological resources adjacent to Malibu Canyon Road to determine whether construction of the project within Malibu Canyon Road exhibits any potential for direct or indirect impacts to special-status biological resources.

In order to determine whether the project exhibits the potential for indirect impacts special-status biological resources, a buffer of approximately 300 feet on each side of Malibu Canyon Road was mapped and evaluated. Figure 5.3-2, *Pipeline Vegetation/Land Cover Types Map*, depicts the vegetation or land cover types within the 300-foot buffer. The site visit was conducted on May 16, 2012, during which time all vegetation types within the 300-foot buffer was examined and characterized by type. Large trees and other potential habitat within the 300-foot were examined for the presence of active and abandoned raptor nests.

Coastal Sage Scrub and Disturbed Coastal Sage Scrub

Coastal sage scrub occurs at various locations on both sides of Malibu Canyon Road, as depicted on Exhibit 2. This vegetation association is dominated by California sagebrush (*Artemisia californica*), black sage (*Salvia mellifera*), purple sage (*Salvia leucophylla*), deerweed (*Act...scoparius*), coyote brush (*Baccharis pilularis*), saw-toothed goldenbush (*Hazardia squarrosa*), ashy-laved buckwheat (*Eriogonum cinereum*), and California buckwheat (*Eriogonum fasciculatum*), California sunflower (*Encelia californica*). Areas of disturbed coastal sage scrub are dominated by these species and also include moderate to high densities of nonnative grasses and forbs such as tocalote (*Centaurea melitensis*), summer mustard (*Hirschfeldia incana*), fountain grass (*Pennisetum setaceum*), fig marigold (*Carpobrotus edulis*), Australian saltbush (*Atriplex semibaccata*), and black mustard (*Brassica nigra*). Common avifauna observed within these areas include European starling (*Sturnus vulgaris*), house finch (*Carpodacus mexicanus*), rock pigeon (*Columbia livia*), mourning dove (*Zenaida macroura*), northern mockingbird (*Mimus polyglottos*), western scrub jay (*Aphelocoma californica*), Anna's hummingbird (*Calypte anna*), American crow (*Corvus brachyrhynchos*), bushtit (*Psaltriparus minimus*), California towhee (*Pipilo crissalis*), and lesser goldfinch (*Carduelis psaltria*).

Turf Grass

Pepperdine University property fronts Malibu Canyon Road from Pacific Coast Highway to Seaver Drive which connects to Civic Center Way. This portion of the university property consists of maintained turf grass with a few scattered ornamental trees, as depicted on Figure 5.3-2.

Ruderal Areas

Ruderal areas are largely dominated by nonnative forbs and can include a substantial component of nonnative Mediterranean grasses. Essentially all of the species within this land cover are considered weeds and are nonnative. Species observed include tocalote, summer mustard, Australian saltbush, false brome (*Brachypodium distachyon*), English plantain (*Plantago lanceolata*), black mustard, terracina spruce (*Euphorbia terracina*), castor bean (*Ricinus communis*), tree tobacco (*Nicotiana glauca*), kikiyu grass (*Pennisetum clandestinum*), and slender wild oats (*Avena barbata*).



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Fountain Grass

Fountain grass (*Pennisetum setaceum*) is an invasive exotic grass that easily establishes and then dominates disturbed slopes. Much of the slope area within the 300-foot buffer on the north side of Malibu Canyon Road, above Seaver Drive, is dominated by near monocultural stands of fountain grass. Occasional species occurring in these areas include deerweed and laurel sumac as well as nonnative grasses such as the slender wild oats. These areas are particularly limited in biological values due to the poor habitat quality of the fountain grass.

Ornamental Woodland

Ornamental woodland occurs in a limited area east of Malibu Canyon Road and north of Pacific Coast Highway and is dominated by nonnative trees, including blue gum eucalyptus (*Eucalyptus globulus*), golden Sydney wattle (*Acacia longiflora*), Brazilian pepper (*Schinus terebinthifolius*), and Mexican fan palm (*Washingtonia robusta*). Understory varies from sparse to dense and is mostly nonnative grasses and forbs, described for ruderal areas above, and also includes occasional native shrubs such as laurel sumac and California sagebrush. Most of blue gum eucalyptus are small and do not appear to be high quality raptor foraging habitat, especially given the proximity to Malibu Canyon Road. No active or abandoned raptor nests were detected during the survey, which included checking each tree methodically for nests. The absence of such nests is best explained by the limited stature of most of the trees and proximity to Malibu Canyon Road and associated traffic noise. Avifauna associated with this area include the species listed for areas of coastal sage scrub above.

Ornamental

Other areas were mapped as ornamental vegetation, which include landscaped areas with a variety of nonnative ornamental trees, shrub, and ground covers. These areas exhibit only minimal habitat value and to the extent they support wildlife, the species (mostly avifauna) are common and highly urban adapted, such as the house finch, northern mocking bird, and American crow.

Drainages

The City of Malibu GIS Database depicts one stream within the area evaluated. The database depicts the drainage as beginning near the intersection of Malibu Canyon Road and Civic Center Drive within the area mapped as ruderal. During the site reconnaissance the drainage was not confirmed. The GIS map further depicts the drainage as occurring within other developed areas. Comparison of the drainage location as depicted on the GIS Database and current site conditions indicate that there is no longer a drainage or stream present within the area evaluated for biological resources. In addition, the City Biologist has determined that this stream is actually a buried drainage ditch that is within a concrete culvert.

Special Status Plants

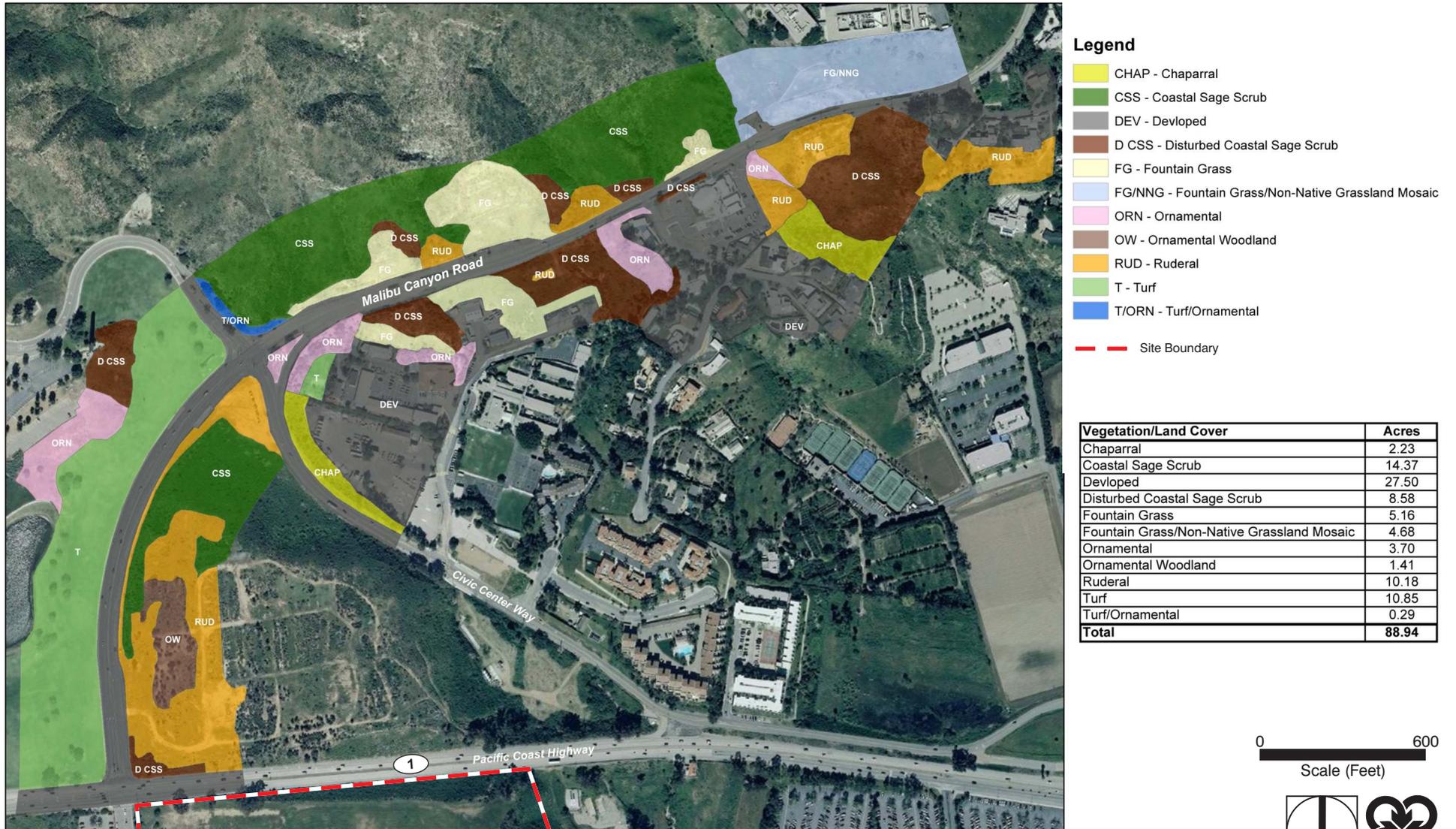
Areas of turf grass and ornamental vegetation within the 300-foot buffer exhibit no potential for supporting special-status plants. Areas of coastal sage scrub exhibit limited potential for supporting special-status plants; however, because there will be no direct impacts to coastal sage scrub, there is no potential for impacts to special status plants.

Special Status Wildlife

Areas of turf grass and ornamental vegetation within the 300-foot buffer exhibit no potential for supporting special-status wildlife species. Areas of coastal sage scrub exhibit limited potential for supporting special-status wildlife; however, because there will be no direct impacts to coastal sage scrub, there is no potential for direct impacts to special status wildlife.

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Pipeline Vegetation/Land Cover Types Map



Source: Glenn Lukos Associates 2012

Crummer Site Subdivision Draft EIR

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Applicable Plans and Regulations

Federal Regulations

Endangered Species Act

The FESA of 1973, as amended, was promulgated to protect and conserve any species of plant or animal that is endangered or threatened with extinction and the habitats in which these species are found. "Take" of endangered species is prohibited under Section 9 of the FESA. "Take," as defined under the FESA, means to "harass, harm, pursue, hunt, wound, kill, trap, capture, collect, or attempt to engage in any such conduct." Section 7 of the FESA requires federal agencies to consult with the USFWS on proposed federal actions which may affect any endangered, threatened or proposed (for listing) species or critical habitat that may support the species. Section 4(a) of the FESA requires that critical habitat be designated by the USFWS "to the maximum extent prudent and determinable, at the time a species is determined to be endangered or threatened." Critical habitat is formally designated by USFWS to provide guidance for planners/managers and biologists with an indication of where suitable habitat may occur and where high priority of preservation for a particular species should be given. Section 10 of the FESA provides the regulatory mechanism that allows the incidental take of a listed species by private interests and non-federal government agencies during lawful activities. Habitat conservation plans (HCPs) for the impacted species must be developed in support of incidental take permits for nonfederal projects to minimize impacts to the species and develop viable mitigation measures to offset the unavoidable impacts.

Migratory Bird Treaty Act

The Migratory Bird Treaty Act of 1918 (MBTA), is the domestic law that affirms or implements the United States' commitment to four international conventions with Canada, Japan, Mexico, and Russia for the protection of shared migratory bird resources. The MBTA governs the taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests. It prohibits the take, possession, import, export, transport, sale, purchase, barter, or offering of these activities, except under a valid permit or as permitted in the implementing regulations. USFWS administers permits to take migratory birds in accordance with the regulations promulgated by the MBTA.



Clean Water Act, Section 404

The Army Corps of Engineers regulates discharges of dredged or fill material into "waters of the U.S."¹ (including wetlands and non-wetland bodies of water that meet specific criteria). Pursuant to Section 404 of the federal CWA, a permit is required for any filling or dredging within waters of the U.S. The permit review process entails an assessment of potential adverse impacts to Corps wetlands and jurisdictional waters, wherein the Corps may require mitigation measures. Where a federally listed species may be affected, a Section 7 consultation with USFWS may be required. If there is potential for cultural resources to be present, Section 106 review may be required. Also, where a Section 404 permit is required, a Section 401 Water Quality Certification would also be required from the Regional Water Quality Control Board (RWQCB).

¹ "Waters of the United States," as it applies to the jurisdictional limits of the authority of the Corps of Engineers under the Clean Water Act, includes: all waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; all interstate waters including interstate wetlands; all other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce; water impoundments; tributaries of waters; territorial seas; wetlands adjacent to waters. The terminology used by Section 404 of the Clean Water Act includes "navigable waters" which is defined at Section 502(7) of the Act as "waters of the United States including the territorial seas."

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State Regulations

California Endangered Species Act

The CESA generally parallels the main provisions of the FESA and is administered by the CDFW. Its intent is to prohibit take and protect state-listed endangered and threatened species of fish, wildlife, and plants. Unlike its federal counterpart, CESA also applies the take prohibitions to species petitioned for listing (state candidates). Candidate species may be afforded temporary protection as though they were already listed as threatened or endangered at the discretion of the Fish and Game Commission. Unlike the FESA, CESA does not include listing provisions for invertebrate species. Under certain conditions, CESA has provisions for take through a 2081 permit or Memorandum of Understanding (MOU). In addition, some sensitive mammals and birds are protected by the State as Fully Protected Species. California Species of Special Concern are species designated as vulnerable to extinction due to declining population levels, limited ranges, and/or continuing threats. This list is primarily a working document for the CDFW's California Natural Diversity Data Base project, which maintains a database of known and recorded occurrences of sensitive species. Informally listed taxa are not protected per se, but warrant consideration in the preparation of biological resources assessments.

California Fish and Game Code, Section 1600

Section 1600 of the California Fish and Game Code requires that a project proponent notify the CDFW of any proposed alteration of streambeds, rivers, and lakes. The intent is to protect habitats that are important to fish and wildlife. CDFW may review a project and place conditions on the project as part of a Streambed Alteration Agreement (SAA). The conditions are intended to address potentially significant adverse impacts within CDFW's jurisdictional limits.

California Fish and Game Code (Sections 3503 and 3513)

Sections 3503 and 3513 of the California Fish and Game Code protect all native birds and their nests and make it unlawful to take any migratory bird and their active nests.

Local Regulations

City of Malibu Local Coastal Program Land Use Plan

The City of Malibu Local Coastal Program (LCP) Land Use Plan contains numerous policies for land development, and there are several ordinances for implementation of the LCP. Several policies relate to Environmentally Sensitive Habitat Areas (ESHA), which are: "Areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments." ESHAs in the LCP are generally shown on the LCP Land Use Plan ESHA Map. Policies on ESHAs within the LCP include the following:

- **Policy 3.1.** The ESHAs in the City of Malibu are riparian areas, streams, native woodlands, native grasslands/savannas, chaparral, coastal sage scrub, dunes, bluffs, and wetlands, unless there is site-specific evidence that establishes that a habitat area is not especially valuable because of its special nature or role in the ecosystem. Regardless of whether streams and wetlands are designated as ESHAs, the policies and standards in the LCP applicable to streams and wetlands shall apply. Existing, legally established agricultural uses, confined wildlife facilities, and fuel modification areas required by the Los Angeles County Fire Department for existing, legal structures do not meet the definition of ESHA.

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- **Policy 3.3.** All Areas of Special Biological Significance and Marine Protected Areas (as designated by the California Department of Fish and Game), shall be considered ESHAs and shall be accorded all protection provided for ESHAs in the LCP.
- **Policy 3.4:** Any area not designated on the LUP ESHA Map that meets the ESHA criteria is an ESHA and shall be accorded all the protection provided for ESHAs in the LCP. The following areas shall be considered ESHAs, unless there is compelling site-specific evidence to the contrary: (i) any habitat area that is rare or especially valuable from a local, regional, or statewide basis, (ii) areas that contribute to the viability of plant or wildlife species designated as rare, threatened, or endangered under state or federal law, (iii) areas that contribute to the viability of species designated as Fully Protected or Species of Special Concern under state law or regulations, and (iv) areas that contribute to the viability of plant species for which there is compelling evidence of rarity, for example, those designated 1B (rare or endangered in California and elsewhere) or 2 (rare, threatened, or endangered in California but more common elsewhere) by the California Native Plant Society.
- **Policy 3.21.** Wildfire burn areas shall be allowed to revegetate naturally, except where re-seeding is necessary to minimize risks to public health or safety. Where necessary, reseeded shall utilize a mix of native plant seeds appropriate for the site and collected in a similar habitat within the same geographic region, where feasible. Wildfire burn areas that were previously subject to fuel modification or brush clearance for existing structures, pursuant to the requirements of the Los Angeles County Fire Department, may be revegetated to prefire conditions.

City of Malibu Local Coastal Program Local Implementation Plan

The LIP contains regulations intended to carry out the policies of the Local Coastal Program Land Use Plan, including those policies discussed above. The LIP defines an ESHA as “any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.” Chapter 4 of the LIP includes rules and regulations regarding ESHAs.

City of Malibu General Plan

The conservation element of the City of Malibu General Plan includes goals, objectives, and policies intended to protect existing natural resources in the City of Malibu, including biological resources. The first goal of the conservation element is the preservation and protection of natural resources. Objective 1.2 of the conservation element is “Wildlife and biota resources preserved, protected, and reclaimed.”

City of Malibu's Native Tree Protection Ordinance

Pursuant to the City of Malibu’s native tree protection ordinance, removal of or damage to any native oak, walnut, sycamore, alder, or toyon tree that is at least six inches in diameter, or has a combined trunk circumference of any two trunks of at least eight inches in diameter, as measured 4.5 feet above the mean natural grade (diameter at breast height [dbh]), “shall be prohibited except where no other feasible alternative exists” (Chapter 5 of the City of Malibu Local Coastal Program LIP, dated September 13, 2002). If impacts to protected trees cannot be avoided, mitigation is required for native tree removal or the loss of or worsened health of native trees resulting from encroachment into the protective zone² of a given tree. Policies on native tree protection within the LCP include the following:

² The area within the dripline of a protected tree and extending to a point at least 5 feet outside the dripline, or 15 feet from the trunk[s] of a tree, whichever distance is greater.



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- **Policy 3.63:** New development shall be sited and designed to preserve oak, walnut, sycamore, alder, toyon, or other native trees that are not otherwise protected as ESHA. Removal of native trees shall be prohibited except where no other feasible alternative exists. Structures, including roads or driveways, shall be sited to prevent any encroachment into the root zone and to provide an adequate buffer outside of the root zone of individual native trees in order to allow for future growth.
- **Policy 3.64:** New development on sites containing oak, walnut, sycamore, alder, toyon, or other native trees shall include a tree protection plan.
- **Policy 3.65:** Where the removal of native trees cannot be avoided through the implementation of project alternatives or where development encroachments into the protected zone of native trees result in the loss or worsened health of the trees, mitigation measures shall include, at a minimum, the planting of replacement trees on-site, if suitable area exists on the project site, at a ratio of 10 replacement trees for every one tree removed. Where on-site mitigation is not feasible, off-site mitigation shall be provided through planting replacement trees or by providing an in-lieu fee based on the type, size and age of the tree(s) removed.
- **Policy 3.66:** A fund shall be established to receive the in-lieu fee payments required under Policy 3.65. This fund, administered by the Santa Monica Mountains Conservancy, shall be used for the restoration or creation of native tree woodland or savanna habitat areas within the Santa Monica Mountains Coastal Zone. Fees paid to mitigate impacts of development approved within the City may be used to restore habitat anywhere within this area. Priority shall be given to restoration or creation on properties containing areas designated ESHA, and to properties contiguous with existing parklands containing suitable native tree habitat.

Protected Coastal Biological Resources

The City of Malibu's Local Coastal Program LIP does not depict any ESHA on the project site. The project site does not support any biological resources that can be considered to be rare, especially valuable, and easily disturbed or degraded by human activities or the proposed development of the project site. As previously indicated, the southern, southwestern, eastern and northern boundaries of the project site contain native plant communities; however, no special status species covered by the Malibu LIP were observed on the site, as the Catalina mariposa lilies located near the eastern boundary are CNPS List 4.

The City of Malibu's Local Coastal Program LIP depicts an ESHA located immediately to the southwest of the project site in state park land. This ESHA is identified in the City's LCP on "ESHA Overlay Map: 3, Dan Blocker to Malibu Pier." The proposed project would have no direct impacts on this identified ESHA, and the development footprint has been designed to be approximately 200 feet from the offsite designated ESHA.

Jurisdictional Waters and Wetlands

The City of Malibu GIS Database depicts no streams within the site. There are two drainage channels located on the site; however, there is no resource dependent riparian vegetation present, and only elements of the coastal sage chaparral scrub community are present on the site. The proposed area of development for the project would not disturb or impact either of these channels. Moreover, an approximately 100-foot buffer would be incorporated between the developed portions of the site and these two onsite drainage features (See Figure 5.3-1). No wetlands relating to Section 4.4.3 of the Malibu LIP (page 126) occur on the site. In addition, GLA's Jurisdictional Report concluded that the site did not contain streams that would be subject to the jurisdiction of US Army Corps of Engineers, California Department of Fish and Wildlife or the California Coastal Commission. Runoff generated from the site would be

diverted into a water quality treatment system, to be constructed as part of the project, prior to discharge from the site. Some runoff will be directed north to Pacific Coast Highway.

The Pacific Ocean to the south of the site is traditional navigable water and is regulated by the U.S. Army Corps of Engineer and the California Coastal Commission. Runoff generated from the site would be diverted, in compliance with the National Pollutant Discharge Elimination System (NPDES) requirements, into water quality treatment system to be constructed as part of the project prior to discharge from the site. Currently the stormwater runoff is untreated prior to discharge from the site. The complete report prepared by Glenn Lukos supporting this determination is attached as Appendix H of this Draft EIR.

5.3.2 Thresholds of Significance

According to Appendix G of the CEQA Guidelines, a project would normally have a significant effect on the environment if the project would:

- B-1 Have a substantial effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.
- B-2 Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.
- B-3 Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.
- B-4 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.
- B-5 Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.
- B-6 Conflict with the provisions of an adopted habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.



The 2012 Initial Study, included as Appendix C, substantiates that impacts associated with the following thresholds would be less than significant:

- Thresholds B-4, B-5, and B-6.

However, due to comments received by the lead agency on the Initial Study, all of the above thresholds will be evaluated in this document.

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5.3.3 Environmental Impacts

Direct impacts typically represent the physical alteration (i.e., habitat degradation or loss) of biological conditions that are expected to occur within a site as a result of the project's implementation. Indirect impacts are those reasonably foreseeable effects on remaining or adjacent biological resources that are expected to be caused by the project subsequent to its implementation. Impacts can also be short or long term, depending on the duration of the effect on a given biological resource. Short-term impacts are temporary, arising from direct impacts to biological resources during a project's implementation, but not after completion. Long-term impacts result in the permanent modification of a biological resource caused by the project's implementation.

The physical alteration of habitat is not, in itself, a significant impact under CEQA. Significance is determined by comparing physical alteration of habitat to each of the significance threshold criteria defined above. For example, should the alteration of habitat result in the direct or indirect loss or have an otherwise substantial adverse effect on a species identified as a "candidate, sensitive, or special status species in local or regional plans, policies, or regulations or by the CDFW or USFWS," impacts would be considered significant unless a project implements mitigation that would reduce the impact to a less than significant level.

An evaluation of whether an impact on biological resources would be substantial and, therefore, a significant impact must consider both the resource and the CEQA threshold of significance criteria. For example, because of the dependence of most plant and wildlife species on native habitats to satisfy various life cycle requirements, a habitat-based approach that addresses the overall biological value of a particular plant community or habitat area is appropriate when determining whether alteration of that habitat will substantially affect special status species, sensitive habitats, wetlands, and movement corridors. The relative biological value of a particular habitat area—its functions and values—can be determined by such factors as disturbance history, biological diversity, its importance to particular plant and wildlife species, its uniqueness or sensitivity status, the surrounding environment, and the presence or absence of special status resources.

However, direct impacts with respect to specific plant and wildlife resources (e.g., active nests and individual plants and wildlife) are also evaluated and discussed when impacts to these resources, in and of themselves, could be considered significant or in conflict with local, state, and federal statutes or regulations. The significance of impacts with respect to direct impacts to individuals or populations of plant and wildlife species takes into consideration the number of individual plants or animals potentially affected; how common or uncommon the species is, both within a site and from a regional perspective; and the sensitivity status if the species is considered special status by resource agencies. These factors are evaluated based on the results of onsite biological surveys and studies, literature and database reviews, discussions with biological experts, and established and recognized ecological and biodiversity theory and assumptions.

The following impact analysis addresses thresholds of significance for which the 2012 Initial Study disclosed potentially significant impacts. The applicable thresholds are identified in brackets after the impact statement.

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Impact 5.3-1: Implementation of the proposed project would result in the loss of special status plant species and an increase in nonnative plants. [Threshold B-1]

Impact Analysis:

To identify plant communities that would be directly affected by the proposed project, the development boundary of the project site—which includes the daylight grading limits and Fuel Modification Zone A—was evaluated and overlain on a map of the surveyed plant communities within the project site (Figure 5.3-1). The total acreage of each plant community occurring on the project site was calculated using a GIS database by Impact Sciences in 2009. The impacted acreages were recalculated by GLA in 2013 to include Fuel Modification Zones B and C. Total and impacted acreage of each community that occurs on the project site is provided below in Table 5.3-3, *Acreages of Plant Communities on the Project Site*.

**Table 5.3-3
Acreages of Plant Communities on the Project Site**

Plant Community	Total Acres Present	Acres Impacted	Percent Impacted	Acres Remaining
Mixed Sage Scrub	1.35	1.26	93%	0.09
Coastal Sage Chaparral Scrub	7.76	7.76	100%	0
Mature Eucalyptus Trees	0.21	0.21	100%	0
Nonnative Grassland (disked area)	14.56	14.51	99%	0.05
Totals	23.88	23.74	99%	0.14

Source: Impact Sciences, Inc., 2008; as updated by GLA 2013.

Note: These figures based on vegetation prior to the October 2007 fire. Acres and percentages of impacted plant communities include tieback locations and fuel modification zones A, B and C. Impact percentages are based on building footprints for 5 one-story homes on Lots 1 through 6.



Total and impacted acreages of each plant community within each lot (parcels 1–7) are provided below in Table 5.3-4, *Acreages of Plant Communities Located on Individual Parcels*.

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**Table 5.3-4
Acreages of Plant Communities on Individual Parcels**

Plant Community	Total Acres Present	Acres Impacted	Percent Impacted	Acres Remaining
Parcel 1				
Mixed Sage Scrub	0.45	0.45	100%	0
Coastal Sage Chaparral Scrub	1.55	1.55	100%	0
Mature Eucalyptus Trees	-	-	-	-
Nonnative Grassland (disked)	1.87	1.85	99%	.02
Total	3.87	3.85	100%	.02
Parcel 2				
Mixed Sage Scrub	-	-	-	-
Coastal Sage Chaparral Scrub	1.06	1.06	100%	0
Mature Eucalyptus Trees	-	-	-	-
Nonnative Grassland (disked)	2.33	2.31	100%	.02
Total	3.39	3.37	100%	.02
Parcel 3				
Mixed Sage Scrub	-	-	-	-
Coastal Sage Chaparral Scrub	0.70	.70	100%	0
Mature Eucalyptus Trees	-	-	-	-
Nonnative Grassland (disked)	1.91	1.91	100%	0
Total	2.61	2.61	100%	0
Parcel 4				
Mixed Sage Scrub	-	-	-	-
Coastal Sage Chaparral Scrub	1.59	1.59	100%	0
Mature Eucalyptus Trees	-	-	-	-
Nonnative Grassland (disked)	1.86	1.86	100%	0
Total	3.45	3.45	100%	0
Parcel 5				
Mixed Sage Scrub	-	-	-	-
Coastal Sage Chaparral Scrub	2.80	2.80	100%	0
Mature Eucalyptus Trees	-	-	-	-
Nonnative Grassland (disked)	3.13	3.12	100%	.01
Total	5.93	5.92	100%	.01
Parcel 6				
Mixed Sage Scrub	0.90	0.81	89%	.09
Coastal Sage Chaparral Scrub	0.06	0.06	100%	0
Mature Eucalyptus Trees	0.21	0.21	100%	0
Nonnative Grassland (disked)	1.74	1.74	100%	0
Total	2.91	2.82	97%	.09
Parcel 7 (Public Open Space)				
Mixed Sage Scrub	-	-	-	-
Coastal Sage Chaparral Scrub	-	-	-	-
Mature Eucalyptus Trees	-	-	-	-
Nonnative Grassland (disked)	1.72	1.72	100%	0
Total	1.72	1.72	100%	0

Sources: Impact Sciences, Inc., 2008; as updated by LLG, 2013.

Note: These figures based on vegetation prior to the October 2007 fire. Acres and percentages of impacted plant communities include tieback locations and fuel modification zones A, B and C. Impact percentages are based on building footprints for 5 one-story homes on Lots 1 through 6.

Direct Loss of Special Status Plant Species

As previously indicated, suitable habitat for supporting special status plant species existed primarily within the mixed sage scrub and coastal sage chaparral scrub on the project site. However, no special status plants species were observed on the project site during the 2006 and 2007 focused plant surveys conducted by Impact Sciences. Nor was it observed during a visit to the project site made by Impact Sciences biologist Greg Ainsworth, on February 19, 2008. Because none of the potentially occurring special status plants were observed after the 2007 fire, this is strong confirmation that it is unlikely that a seed bank is present for reestablishment of these plants following the 2007 wildfire. (GLA 2013) With the implementation of Mitigation Measure 3-1(a), which requires a focused survey for Braunton's milk-vetch during the typical blooming period (February through July) prior to development or grading of the project site, impacts to special status plant species from the proposed project's implementation would be less than significant. GLA did not observe Braunton's milk vetch during its 2012 site survey and does not believe that there is any potential for this species to occur due to the disturbed character of the site. Nevertheless, in an abundance of caution, with mitigation measure Mitigation Measure 3-1(a), the potential for such impacts would be reduced to less than significant.

City of Malibu's Local Coastal Program LIP GIS database does not depict any environmentally sensitive habitat area ESHA on the site. The site does not support any biological resources that can be considered to be rare, especially valuable, and easily disturbed or degraded by human activities or the proposed development of the proposed project. As observed by Impact Sciences and confirmed by GLA, the southern, southwestern, eastern and northern boundaries of the site contain native plant communities; however, no special-status species covered by the Malibu LIP were observed on the site. The Catalina mariposa lilies located near the eastern boundary are CNPS List 4, as is the Southern California black walnut, both of which are located in areas that will not be affected by project grading. A portion of the area occupied by the Catalina mariposa lily occurs within Fuel Modification Zone B and would therefore be impacted by the proposed project. A few Catalina mariposa lily may be impacted by Zone C; however, this is a List 4 taxon and such impacts are not significant and do not require mitigation.



Direct Loss of Special Status Wildlife Species

Monarch butterfly (*Danaus plexippus*). The monarch butterfly typically winters in wind-protected tree groves, which includes blue gum, Monterey pine, and cypress trees with nearby fresh standing water and nectar sources throughout coastal California. Because the blue gum trees on the project site do not provide suitable wintering habitat for monarch colonies because they are too exposed and do not afford enough wind and cold protection, and there is no standing fresh water present on the project site this species has no potential to occur on the project site. The onsite biological surveys conducted over the past two years have shown no use of the project site by this species. No direct loss of special status insect species is expected to occur; therefore, no impacts would occur as a result of the proposed project's implementation.

California mountain kingsnake (*Lampropeltis zonata pulchra*), coast (San Diego) horned lizard (*Phrynosoma coronatum*), and coast patch-nosed snake (*Salvadora hexalepis virgultea*). The suitable habitat for these California Species of Concern occurs within the mixed sage scrub and coastal sage chaparral scrub on the project site. No special status wildlife species were observed on the project site during the 2007 focused surveys conducted by Impact Sciences. No loss of these three reptile species is expected to occur; therefore, no impacts would occur as a result of the proposed project's implementation.

Southern California rufous-crowned sparrow (*Aimophila ruficeps canescens*) and Bell's sage sparrow (*Amphispiza belli belli*). The suitable habitat for these California Species of Concern occurs within the mixed sage scrub and coastal sage chaparral scrub on the project site. No special status wildlife species were observed on the

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project site during the 2007 focused surveys conducted by Impact Sciences. No loss of these two bird species is expected to occur; therefore, no impacts would occur as a result of the proposed project's implementation.

San Diego desert woodrat (*Neotoma lepida intermedia*). The suitable habitat for these California Species of Concern occurs within the mixed sage scrub and coastal sage chaparral scrub on the project site. No special status wildlife species were observed on the project site during the 2007 focused surveys conducted by Impact Sciences. No loss of San Diego desert woodrat is expected to occur; therefore, no impacts would occur as a result of the proposed project's implementation.

Indirect Loss Special Status Wildlife Species

As noted above, the water pipeline extension project exhibits no potential direct impacts to native and nonnative vegetation communities/land covers. The project also exhibits no potential impacts to City-identified drainages, special-status plants, or special-status wildlife.

The only potential impacts associated with the construction of the project include indirect impacts to nesting avifauna including raptors due to a potential increase in ambient noise levels. Such (potential) impacts would not be considered significant for two reasons: the species potentially affected are 1) common and widespread and 2) already habituated to high noise levels generated by traffic on Malibu Canyon Road.

The potential for special-status wildlife to occur within the 300-foot buffer, particularly avifauna is low due to the disturbed to highly degraded character of much of the habitat in conjunction with the proximity to existing developed areas, including Malibu Canyon Road. Clearly, there is no potential habitat in the 300-foot buffer for special-status avifauna such as the snowy plover (*Charadrius nivosus*), brown pelican (*Pelecanus occidentalis*), or other species, which are identified in the CNDDDB as potentially occurring within the vicinity. There is no riparian habitat within the 300-foot buffer that could support riparian species such as least Bell's vireo (*Vireo bellii pusillus*) or southwestern willow flycatcher (*Empidonax traillii extimus*), and the area is not within the range of species dependent on coastal sage scrub, such as the California gnatcatcher (*Poliophtila californica californica*) or coastal Cactus wren (*Campylorhynchus brunneicapillus couesi*). Potential indirect impacts on special-status avifauna would not be considered significant.

All of the species of avifauna observed within the 300-foot buffer are common in southern California and are also habituated to the urban environment, which includes traffic and noise generated within the urban environment. Given that there is already substantial urban noise generated by vehicular traffic on Malibu Canyon Road (and for a portion of the 300-foot buffer Pacific Coast Highway), additional increases in noise during construction of the project would not have a significant impact on wildlife within the 300-foot buffer, including avifauna, which also includes raptors.

Construction within Malibu Canyon Road for purposes of installing the proposed 3,400-linear-foot pipeline does not exhibit potential for direct or indirect significant impacts to biological resources. Therefore, mitigation would not be necessary to reduce potential significant impacts from the project and none is proposed.

Increase in Nonnative Plants

As a result of previous human disturbances and the recent 2007 wildfire, a number of nonnative plants could establish on the project site. Further, nonnative plants, which tend to be more adapted to urban environments than native species, are often planted within residential sites. Nonnative plants could potentially be introduced into open-space areas near the project site, especially given the disturbed condition of the area that resulted from the 2007 fire. Plants typical of an urban environment already occur to some degree in the region due to the presence of development in the immediate vicinity of the project site. The City of Malibu prohibits the introduction of invasive plant species in a

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project's landscape plan. In addition, with the implementation of Mitigation Measure 3-1(b), the impacts from an increase in nonnative plants would be less than significant as a result of the proposed project's implementation.

Impact 5.3-2: Development of the proposed project would not result in the loss of Sensitive Habitat. [Threshold B-2]

Impact Analysis: No riparian habitat occurs on the project site. The project site contains two ephemeral drainages; however, Glenn Lukos Associates determined that these drainages are not streams according to Corps, CDFW, or CCC definitions. None of the plant communities identified as occurring on the project site are listed as sensitive communities by the California Department of Fish and Wildlife or the US Fish and Wildlife Service; therefore, no significant impacts to sensitive plant communities would occur as a result of the proposed project's implementation.

Impact 5.3-3: The proposed project would not impact jurisdictional waters. [Threshold B-3]

Impact Analysis: GLA determined that there are no streams associated with the project site that would be subject to Corps jurisdiction, CDFW jurisdiction, or CCC jurisdiction. The two ephemeral drainages on the project site are not considered streams by the Corps, CDFW, or CCC. The project site contains no jurisdictional waters, and implementation of the proposed project would not impact any jurisdictional waters.

Impact 5.3-4: The proposed project would not affect wildlife movement. [Threshold B-4]

Impact Analysis: Wildlife movement corridors are linear landscape elements that serve as linkages between historically connected habitat/natural areas, thereby facilitating wildlife movement between these natural areas. Because the project site is separated from large areas of open space and occurs in an urbanized area with a residential neighborhood to the south, Winter Mesa Drive and Malibu Bluffs Park to the west, the vacant tow yard facility to the east, Pepperdine University campus to the northwest, and PCH to the north, migration or movement of wildlife species to and from large open space areas in the region is not expected to occur through the project site.

Moreover, the proposed development would be confined to the currently disturbed portions of the project site (i.e., the disked areas containing nonnative grasses) and would not substantially impact the native bluff vegetation. The proposed project is situated at the western end of the Malibu Civic Center urban area, with a continuous strip of residences to the south along the Pacific Ocean coast. To the north of the project site, on the north side of PCH, is property currently proposed for development as a hotel. Further to the north are residential neighbors to the northeast and Pepperdine University to the northwest. It is only to the north of the residential neighbors and west of Pepperdine University where large areas of open space are found that would function as core habitat for wildlife. For these reasons, Impact Sciences concluded that no impacts to wildlife movement would occur as a result of the proposed project's implementation.

The 2009 Biology Resource Study and subsequent 2012 update determined that migration or movement of mammalian species to and from large open space areas in the project region is not expected to occur through the site and no sign of the site being used as a corridor was observed at the time of either the 2006, 2007, or 2012 surveys. While Impact Sciences found that no wildlife movement corridors exist on the site, the Santa Monica Mountains Conservancy (SMMC) submitted a comment on the 2008 Initial Study and Notice of Preparation for the proposed project in which they state that wildlife movement corridors do exist on the site. This letter can be seen in Appendix B as well as in



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Appendix D. Impact Sciences considered this letter while preparing their report. While Impact Sciences concluded that no wildlife corridors exist on the site, the project applicant reached an agreement with the SMMC. As part of this agreement, a conservation easement would be created along the western, southern, and eastern boundaries of the project site. Fencing along this easement would be wrought iron fencing containing not less than 3.4 inch gaps between the vertical fence posts and the fencing will not be closed at the bottom, to allow the passage of small animals. This would allow wildlife to traverse the site. The proposed project would not restrict wildlife movement, and no impacts related to wildlife movement corridors would occur.

Impact 5.3-5: The proposed project would require compliance with the City of Malibu Local Coastal Program and Native Tree Protection Ordinance. [Thresholds B-5 and B-6]

Impact Analysis:

Compliance with the City of Malibu Local Coastal Program

The purpose of an ESHA overlay zone (as defined in Section 4.1 of the Malibu LIP) is to identify resources in order to “protect and preserve areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.”

The ESHA overlay provisions apply to designated ESHAs on the Malibu LCP ESHA overlay map and areas within 200 feet of a designated ESHA. Additionally, those areas not mapped as ESHA, but found to be ESHA under the provisions of Section 4.3 of the Malibu LIP are also subject to these provisions. Any area not designated on the ESHA Overlay Map that meets the ESHA definition is ESHA and must be accorded all the protection provided for ESHA in the LCP.

The LIP for the City of Malibu lists the following habitat criteria as ESHA:

1. Any habitat area that is rare or especially valuable from a local, regional, or statewide basis.
2. Any habitat area that contributes to the viability of plant or animal species that are designated or are candidates for listing as rare, threatened, or endangered under state or federal law.
3. Any habitat area that contributes to the viability of species that are designated “fully protected” or “species of special concern” under state law or regulations.
4. Any habitat area that contributes to the viability of species for which there is other compelling evidence of rarity, for example plant species eligible for state listing as demonstrated by their designation as “1b” (Rare or endangered in California and elsewhere) or designation as “2” (rare, threatened or endangered in California but more common elsewhere) by the California Native Plant Society.
5. Any designated Area of Special Biological Significance, or Marine Protected Area.
6. Streams.

The project site is depicted on the City of Malibu LCP ESHA and Marine Resources Map 3. The map does not designate the project site as an ESHA. The City of Malibu’s LCP LIP indicates that no ESHA is located on the project site. The biological resources on the project site are not rare or especially valuable; do not contribute to the viability of plant and wildlife species designated as threatened or endangered under state or federal law; do not contribute to the

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viability of any fully protected species or species of special concern; do not contribute to the viability of other rare species such as those listed by the California Native Plant Society; nor are they easily damaged by human activities. The onsite channels are not designated Special Biological Significance or Marine Protected Area. Therefore, the onsite resources are determined to not qualify as ESHA, and there are no published reports found that identify any onsite ESHA.

However, the City of Malibu LCP ESHA and Marine Resources Map 3 depicts an ESHA immediately to the southwest of the project site in state park land. The proposed project development footprint has been designed to stay a minimum of 100 feet from the offsite ESHA, consistent with the policies of the Malibu LCP.

Proposed development of the project site would not impact the adjacent ESHA to the southwest, nor would it impact the native plant communities in the two onsite drainage channels or the native landscape on its southern, southwestern, eastern, or northern boundaries, which are contiguous with the plant community located within the ESHA to the southwest. As previously indicated, a 100-foot buffer consistent with Section 4.6.1 of the LIP would occur between the development zone and the native plant communities at the southern boundary of the site.

As described above, several special status plant and wildlife species are known to occur in the mixed sage scrub and coastal sage chaparral scrub plant communities throughout the region. Because of this, several focused plant surveys were conducted in 2006 and 2007 and focused wildlife surveys were conducted in 2007, on the project site. Given that no special status plants or wildlife occur on the project site, and because there are no biological resources on the project site that meet the requirements of an ESHA, no ESHA currently exists on the project site. Therefore, no impact to special status plant or wildlife species would occur as a result of the implementation of the proposed project, and the proposed project would be consistent with LIP policies.

The Pacific Ocean, approximately 300 from the proposed project's development boundary, is not identified as an ESHA. However, offshore kelp beds are designated in the Malibu LCP as a valuable marine resource. These kelp beds would not be impacted by the proposed project because any potential impacts to water quality would be mitigated to a level of less than significant, as described in Section 5.5, *Hydrology and Water Quality*.

Compliance with the City of Malibu's Native Tree Protection Ordinance

Pursuant to the City of Malibu's Native Tree Protection Ordinance, removal or damage to any native oak, walnut, sycamore, alder, or toyon tree that is at least 6 inches in diameter, or has a combined trunk circumference of any two trunks of at least 8 inches in diameter, as measured 4.5 feet dbh "shall be prohibited except where no other feasible alternative exists" (Chapter 5 of the City of Malibu Local Coastal Program LIP). If impacts to protected trees cannot be avoided, mitigation is required for native tree removal or the loss of or worsened health of native trees resulting from encroachment into the protective zone of a tree.

Six Southern California black walnut trees are located within the project site boundary, which includes the proposed grading limit line. None of these trees would be removed or impacted by the grading or development of the proposed project.

However, because the black walnut trees are on the project site, a protected tree survey was conducted and a subsequent report was prepared, as required by the City of Malibu. The protected tree survey is attached to the Biological Survey Report prepared by Impact Sciences included as Appendix H of this Draft EIR. It includes maintenance and monitoring measures for these six trees. Mitigation Measure 3-2 would ensure that the proposed project would comply with the City of Malibu's Native Tree Protection Ordinance and that impacts to protected trees would be less than significant.



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Impact 5.3-6: The proposed project would not substantially reduce the habitat of a fish or wildlife species, threaten to eliminate a plant or animal community, or cause a fish or wildlife population to drop below self-sustaining levels.

Impact Analysis:

In addition to the above thresholds, Section 15065(a) of the State CEQA Guidelines states that a project may have a significant effect on the environment where it has the potential to:

- substantially reduce the habitat of a fish or wildlife species;
- cause a fish or wildlife population to drop below self-sustaining levels;
- threaten to eliminate a plant or animal community
- substantially reduce the number or restrict the range of an Endangered, Rare, or Threatened species.

The following is an analysis of the project's potential to result in any of the impacts listed above.

Direct Loss of Common Wildlife

During construction and grading activities, most common wildlife species are expected to be displaced to adjacent areas, such as the ESHA to the southwest of the project site. At the time of site disturbance, some species of low mobility (particularly burrowing mammals, amphibians, and reptiles) could be disturbed or lost during site preparation and construction. Because of the disturbed nature of the habitat within the majority of the development area (from previous human disturbances), the project site does not provide sufficient resources to support large populations. Therefore, wildlife species diversity as well as the total number of wildlife on the project site is currently low.

Some common animals known to occur in the region (e.g., western fence lizard, side-blotched lizard, California ground squirrel) may be inadvertently taken as a result of grading activities. Implementation of the proposed project would not reduce local or regional populations to below self-sustaining levels or otherwise substantially affect common wildlife species populations on the project site. Consequently, no significant impacts to common wildlife species are expected to occur as a result of the proposed project's implementation.

No bird nests were observed within the drainage channels or along the bluffs that surround the project site, and no evidence of breeding or nesting occurs within the blue gum trees on the northern boundary of the project site. Common birds that could nest within the coastal sage scrub and chaparral habitats include (but are not limited to) goldfinch, hummingbird, mourning dove, sparrow, and towhee. The blue gum trees could provide nesting habitat for red-tailed hawks; however, the potential is considered to be low since these trees are shorter than the typical height used for nesting by hawks (i.e., typically greater than 50 feet tall in non-forested areas), they are located immediately adjacent to Pacific Coast Highway, and the trees are rather exposed that is, they lack a dense canopy cover, which is preferred. Most of the species that would be expected to nest in the surrounding vegetation are better adapted to urban environments. Because the project site is situated within an urban setting, adjacent to Pacific Coast Highway and above residences along Malibu Road to the south, implementation of the proposed project would not substantially reduce the potential for avian nesting in adjacent vegetation.

Because several common bird species have the potential to nest on the ground, in shrubs, or in trees located on the project site in the future, construction activities could result in the direct loss of active nests of common bird species (including raptors) or the abandonment of active nests by adult birds. The MBTA and the California Fish and Game Code consider the loss of active nests (nests with eggs or young) of all native bird species as unlawful. Consequently, the loss or abandonment of nests of common bird species as a result of construction-related activities is considered a

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potentially significant impact and would conflict with state and federal laws. However, with implementation of Mitigation Measure 3-3(a) and Mitigation Measure 3-3(b), which provide for the avoidance of the loss or abandonment of any active nests found on the project site prior to grading and construction, impacts are considered less than significant as a result of the proposed project's implementation.

Loss of Foraging and Nesting Habitat for Common Wildlife Species

The mixed sage scrub, coastal sage chaparral scrub, and mature trees in the project site provide foraging and breeding habitat for a number of small mammals, reptiles, amphibians, and invertebrates that, in turn, provided a source of prey for a variety of common and special-status birds (including passerines and both local and wintering raptors) and mammal species. The development of the project site would remove approximately 1.25 acre of mixed sage scrub, 7.76 acres of coastal sage chaparral scrub, 0.21 acre of mature eucalyptus trees, and 14.51 acres of nonnative grassland. Although the project site currently has the potential to provide habitats for foraging and nesting opportunities for common reptile, mammal, and bird species, the loss of these habitats as a result of the proposed project's implementation would not substantially reduce the populations of native wildlife or their habitats. Because the project site occurs in an area of urban development, migration or movement of mammalian species to and from large open space areas in the region is not expected to occur through the project site, and no such migration or movement was observed during any visit to the project site. Therefore, the loss of these plant communities and associated habitats would not be considered a significant impact as a result of the proposed project's implementation. Limited impact would not be considered significant.

In addition, the plant communities on the project site are not unique and occur elsewhere within the surrounding areas. Therefore, the implementation of the proposed project would not eliminate any plant or animal community. These resources would continue to exist within the surrounding area and other places within the larger region. In addition, development on the project site and surrounding parcels would be consistent with the provisions of the LCP, providing more than enough area for the continued existence of the urban-tolerant species.

However, the project site may be used for nesting by birds protected by the MBTA, including common birds such as California horned lark, kill deer, and mourning dove. The loss of nesting opportunities if occupied vegetation is removed during nesting season may constitute an impact to special status and common bird species. Compliance with Mitigation Measures 3-3(a) and 3-3(b) would ensure that impacts to bird species would be less than significant.

5.3.4 Cumulative Impacts

Cumulative impacts are defined in CEQA as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts" (State CEQA Guidelines Section 15355). Stated in another way, "A cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing relating impacts." (*State CEQA Guidelines* Section 15130 (a)(1)).

The currently known projects that could cause related impacts are the AZ Winter Mesa Towing Site Subdivision project on the parcel immediately to the east, which was previously determined by Impact Sciences to not present significant impacts to biological resources and a proposed hotel to the north of the project site (immediately north of PCH).. The City of Malibu Local Coastal Program ESHA and Marine Resources Map 3 does not identify ESHA on these parcels.

The development of the project site and related projects in the vicinity of the project site would have limited adverse effects on the diversity and abundance of native flora and fauna either locally or in the region because there are limited



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native communities and those present are chiefly avoided in project design features. The project site, the ESHA to the southwest, and property of the proposed hotel to the north contain suitable habitat for potentially occurring special status wildlife and plant species. Most wildlife species that could be expected to use the project site and these adjacent properties are common species (e.g., western fence lizard, house sparrow, western harvest mouse) that are adapted to the disturbance caused by human activity. Because development of the project site is confined to previously disturbed areas and has limited impact on surrounding native plant communities, and because the surrounding lands are either developed with urban uses or are adjacent to such uses, it is highly unlikely that implementation of the proposed project would contribute considerably to cumulative adverse impacts to regional flora and fauna. Therefore, there would not be a cumulative loss of suitable habitat in the region for supporting sensitive biological resources (i.e., special status species) as a result of the development of the project site. Based on GLA's review of the site and as concurred by the City Biologist the project would not result in significant cumulative impacts to biological resources.

5.3.5 Existing Regulations and Standard Conditions

- Federal Migratory Bird Treaty Act
- Fish and Game Code Sections 3503, 3513, 1600
- City of Malibu Local Coastal Program Land Use Plan
- City of Malibu Local Coastal Program Local Implementation Plan
- City of Malibu General Plan

5.3.6 Level of Significance Before Mitigation

Upon implementation of regulatory requirements and standard conditions of approval, the following impacts would be less than significant:

- Impact 5.3-2 The proposed project would not result in the loss of sensitive habitat, as no sensitive habitat exists on the project site.
- Impact 5.3-3 The proposed project would not impact jurisdictional waters, as no jurisdictional waters exist on the project site.
- Impact 5.3-4 Implementation of the proposed project would not impact an existing wildlife corridor.
- Cumulative Impacts There would not be cumulatively considerable biological impacts associated with the project.

Without mitigation, the following impacts would be **potentially significant**:

- Impact 5.3-1 Implementation of the proposed project could result in impacts to special status species.
- Impact 5.3-5 The project site contains six Southern California black walnut trees, which are protected by the City of Malibu's Native Tree Protection Ordinance.
- Impact 5.3-6 The proposed project may impact trees or vegetation used for nesting by birds.

5.3.7 Mitigation Measures

Impact 5.3-1

- 3-1(a) A focused survey for Braunton’s milk-vetch shall occur prior to the issuance of a grading permit. The focused survey shall occur within onsite suitable habitat (i.e., mixed sage scrub and coastal sage chaparral scrub) that may be disturbed as a result of the proposed project implementation, during the typical blooming period (February through July). This survey shall be conducted in accordance with the methodologies used for performing focused plant surveys per the CDFW’s 2000 *Guidelines for Assessing the Effects of Proposed Projects on Rare, Threatened, and Endangered Plants and Plant Communities*, and the CNPS’s 2001 *Botanical Survey Guidelines of the California Native Plant Society*.
- 3-1(b) Certain ornamental plants are known to escape from planted areas and invade native plant communities. In order to protect established native plant communities in the vicinity, the plants listed in Table 14 of the Biological Resource Study prepared by Impact Sciences, in 2008 for the proposed project shall not be planted within the project site. This list shall also be distributed to new homeowners and included within any covenants, conditions, and restrictions. The landscaping plans within common areas of the project shall be reviewed by a qualified botanist who shall recommend appropriate provisions to prevent other invasive plant species from colonizing remaining onsite or adjacent natural areas. These provisions may include the following: (a) review and screening of proposed plant palette and planting plans to identify and avoid the use of invasive species; (b) weed removal during the initial planting of landscaped areas; and (c) monitoring for and removal of weeds and other invasive plant species as part of ongoing landscape maintenance activities. The frequency and method of monitoring for invasive species shall be determined by a qualified botanist.
- 3-1(c) Seeded areas shall be irrigated with temporary overhead irrigation until plants have established as determined by a qualified biologist.



Impact 5.3-5

- 3-2 The City of Malibu Native Tree Protection Ordinance requires that mitigation and maintenance measures be developed to preserve the six Southern California black walnut trees located on the project site. The Protected Tree Report released in June 2008 by Impact Sciences, Inc., includes suggested mitigation measures. The proposed project shall comply with all mitigation measures contained in the 2008 Protected Tree Report. These measures include the installation of protective fencing around the black walnut trees for the duration of construction and limits on grading activities which can be performed near the protected trees, among others. The mitigation measures included in the Protected Tree Report also require maintenance and monitoring of the trees. The report requires that many of the mitigation measures be approved by a City-approved arborist. After the completion of construction, a monitoring report would be required. Should the monitoring report determine that any protected trees were impacted, counter-measures, including the planting of replacement trees, would be required.

Impact 5.3-6

- 3-3(a) To avoid impacts to native nesting birds, the applicant and/or its contractors shall retain a qualified biologist (with selection to be reviewed by the City) to conduct nest surveys in potential nesting habitat within the project site prior to construction or site preparation activities. Specifically, within 30 days of ground disturbance activities associated with construction or grading, a qualified biologist

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shall conduct weekly surveys to determine if active nests of bird species protected by the Migratory Bird Treaty Act or the California Fish and Game Code are present in the construction zone or within a distance determined by CDFW or the City of Malibu biologist. Because many birds known to use the project area (including Anna's hummingbird, Cooper's hawk, and loggerhead shrike) nest during the late winter, breeding bird surveys shall be carried out both during the typical nesting/breeding season (mid March through September) and in January and February. The surveys shall continue on a weekly basis, with the last survey being conducted no more than three days prior to initiation of clearance or construction work. If ground disturbance activities are delayed, additional preconstruction surveys will be conducted such that no more than three days will have elapsed between the last survey and the commencement of ground disturbance activities. Surveys shall include examination of trees, shrubs, and the ground within grassland for nesting birds, as several bird species known to occur in the area are shrub or ground nesters, including (but not limited to) California horned lark, kill deer, and mourning dove.

- 3-3(b) If active nests are found, clearing and construction activities within a buffer distance determined by CDFW or the City of Malibu biologist, shall be postponed or halted until the nest is vacated and juveniles have fledged, as determined by the biologist, and there is no evidence of a second attempt at nesting during the same year. Limits of construction to avoid an active nest shall be established in the field with flagging, fencing, or other appropriate barriers; and construction personnel shall be instructed on the sensitivity of nest areas. The biologist shall serve as a construction monitor during those periods when construction activities will occur near active nest areas to ensure that no inadvertent impacts to these nests will occur. The results of the survey, and any avoidance measures taken, shall be submitted to the City of Malibu within 30 days of completion of the pre-construction surveys and construction monitoring to document compliance with applicable state and federal laws pertaining to the protection of native birds.

5.3.8 Level of Significance After Mitigation

Compliance with existing regulations and implementation of the mitigation measures identified above would reduce potential biological resource impacts to less than significant. Therefore, no significant unavoidable adverse impacts relating to biological resources would result on a project-specific or cumulative basis.