

4.7 Biological Resources

This section evaluates the effects of the proposed project on biological resources, specifically related to the effects on migratory species. All other issues related to biological resources are discussed under Chapter 6, Effects Not Found to be Significant.

4.7.1 Environmental Settings

The project corridor runs from the western edge of downtown at Valencia Street to the eastern boundary of the City of Santa Monica at Centinela Avenue (Figure 2-1). The project corridor spans approximately 9.9 miles, excluding the City of Beverly Hills. The Wilshire corridor is a densely populated, highly developed inner urban region with extensive commercial and nearby residential uses.

BRT operations already occur within the project corridor. The project corridor is not within or adjacent to natural open space or significant ecological areas (SEAs) that would support threatened or endangered species. There are no natural or landscaped features in the project corridor that would support any sensitive biological resources. Wildlife use of the project corridor is limited largely to feral cats, rats, mice, and birds, which adapt to urban areas and are not considered sensitive species. No natural streams or waterways are located in the project vicinity that would be considered ecologically sensitive. The nearest concrete-lined stream is the Ballona Creek, located 1.3 miles south of the project corridor.

A search of the California Natural Diversity Database (CNDDDB) was conducted to identify sensitive species historically noted in the project area (consisting of portions of the Hollywood and the Beverly Hills Quadrangles). The following species were found: American badger (*Taxidea taxus*), Braunton's milk-vetch (*Astragalus brauntonii*), Burrowing owl (*Athene cunicularia*), Coast horned lizard (*Phrynosoma blainvillii*), Davidson's saltscale, (*Atriplex serenana* var. *davidsonii*), Gertsch's socialchemmis spider (*Socalchemmis gertschi*), Hoary bat (*Lasiurus cinereus*), Monarch butterfly (*Danaus plexippus*), Mud nama (*Nama stenocarpum*), Silver-haired bat (*Lasionycteris noctivagans*), and Southwestern willow flycatcher (*Empidonax traillii extimus*) (CNDDDB 2010). These species and their specific habitat requirements are outlined in Table 4.7-1 below. Figure 4.7-1 shows the locations where these species potentially occur within the project corridor.

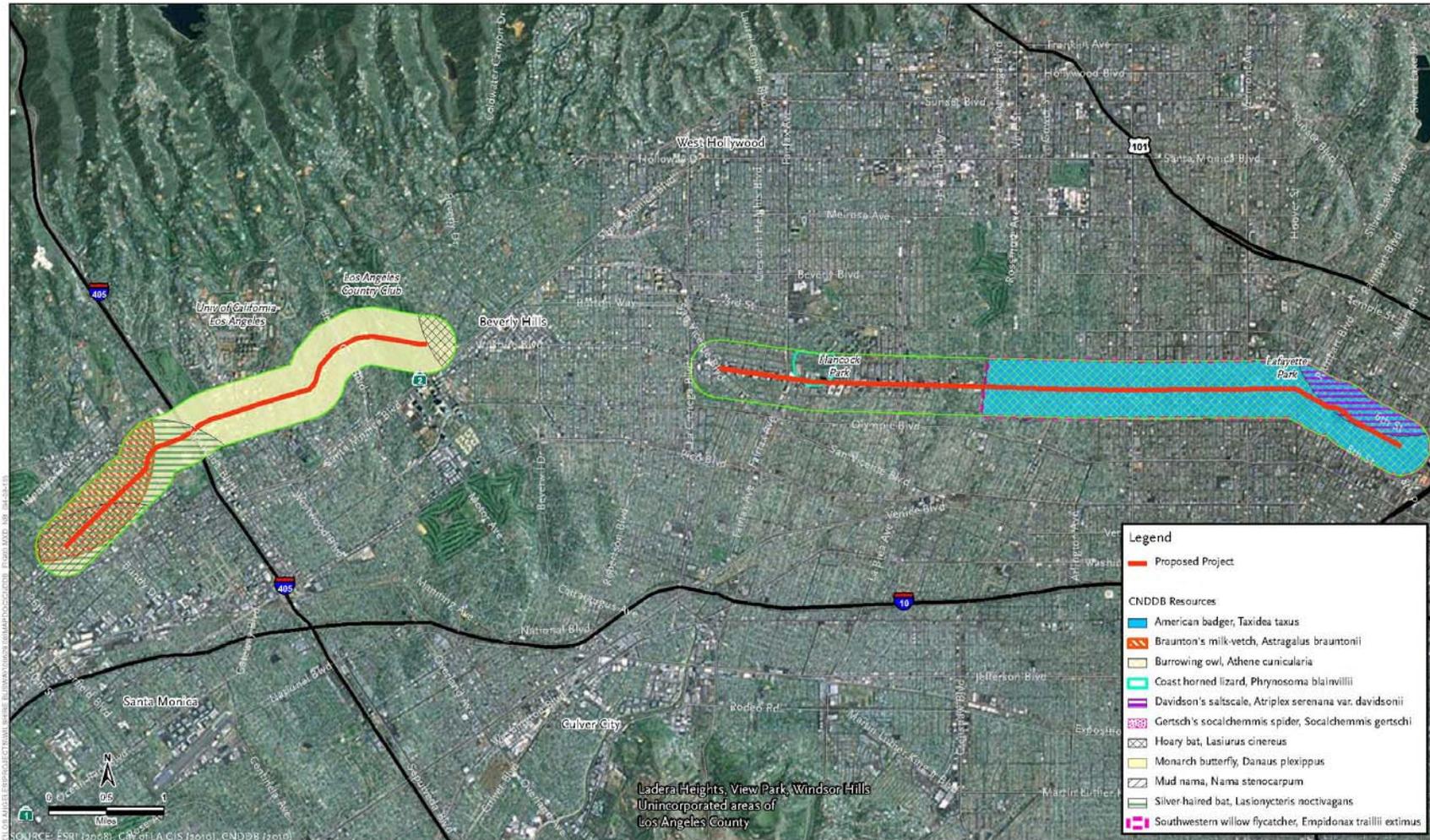
The project corridor is within a highly developed urban area, where the only suitable habitat for wildlife consists of ornamental trees planted along the sidewalk. The project corridor does not provide suitable habitat for the following species: American badger (*Taxidea taxus*), Braunton's milk-vetch (*Astragalus brauntonii*), Burrowing owl (*Athene cunicularia*), Coast horned lizard (*Phrynosoma blainvillii*), Davidson's saltscale, (*Atriplex serenana* var.

Table 4.7-1. Sensitive Species with Potential to Occur in Project Area

Common Name (<i>Scientific Name</i>)	Sensitivity Code and Status	Habitat Preference/Requirements
Plants		
Braunton's milk-vetch (<i>Astragalus brauntonii</i>)	FE/CNPS list 1B.1	Burned or disturbed areas in closed-cone coniferous forest, chaparral, coastal scrub, and valley and foothill grassland habitats.
Davidson's saltscale (<i>Atriplex serenana</i> var. <i>davidsonii</i>)	CNPS List 1B.2	Coastal bluff scrub and coastal scrub habitats (alkaline soil).
Mud nama (<i>Nama stenocarpum</i>)	CNPS List 2.2	Marshes, lakeshores, river banks, intermittently wet areas.
Wildlife		
Silver-haired bat (<i>Lasionycteris noctivagans</i>)	--	Coastal and montane forests; feeds over streams, ponds and open brushy areas; roosts in hollow trees, rarely under rocks.
Hoary bat (<i>Lasiurus cinereus</i>)	--	Roosts in dense foliage of medium to large trees.
American badger (<i>Taxidea taxus</i>)	SSC	Dry, open stages of most shrub, forest and grassland habitats, with friable soils.
Burrowing owl (<i>Athene cunicularia</i>)	SSC	Open, dry, grasslands, deserts, scrublands, with low-growing vegetation; uses ground squirrel burrows.
Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>)	FE/SE	Riparian woodlands in southern California.
Coast horned lizard (<i>Phrynosoma blainvillii</i>)	SSC	Valley-foothill hardwood, conifer, riparian and grassland vegetation; most common in lowlands along sandy washes with scattered low bushes.
Monarch butterfly (<i>Danaus plexippus</i>)	--	Roosts in wind-protected tree groves (eucalyptus, Monterey pine, cypress), with nearby water and nectar sources; open fields and meadows in summer.
Gertsch's socialchemmis spider (<i>Socalchemmis gertschi</i>)	--	Known from only 2 localities in Los Angeles county: Brentwood (type locality) and Topanga Canyon.
Federal		State
FE = Endangered		SE = Endangered
FT = Threatened		ST = Threatened
SC = Federal Species of Concern		SR = Rare
		SSC = State Species of Concern
California Native Plant Society (CNPS) Categories		
1A = List 1A species: plants presumed extinct in California.		
1B = List 1B species: rare, threatened, or endangered in California and elsewhere.		
2 = List 2 species: rare, threatened, or endangered in California but more common elsewhere.		
3 = List 3 species: plants for which we need more information – Review List.		
4 = List 4 species: plants of limited distribution – Watch List.		
California Native Plant Society Threat Code extensions		
.1 = Seriously threatened in California (over 80% of occurrences threatened; high degree and immediacy of threat).		
.2 = Fairly threatened in California (20%– 80% of occurrences threatened; moderate degree and immediacy of threat).		
.3 = Not very threatened in California (less than 20% of occurrences threatened or no current threats known).		

Source: California Department of Fish and Game 2010.

Figure 4.7-1. CNDDDB Species Map



Source: CNDDDB 2010

davidsonii), Gertsch's socialchemmis spider (*Socalchemmis gertschi*), Hoary bat (*Lasiurus cinereus*), Monarch butterfly (*Danaus plexippus*), Mud nama (*Nama stenocarpum*), Silver-haired bat (*Lasionycteris noctivagans*), and Southwestern willow flycatcher (*Empidonax traillii extimus*). However, Wilshire Boulevard contains a large number of ornamental trees, which may provide habitat for migratory nesting birds. The segment of the proposed project, where jut-outs are proposed to be removed, contains up to 40 magnolia trees. In addition, the existing median, where the eastbound left-turn pocket at Sepulveda Boulevard is proposed to be extended, contains up to 30 small jacaranda trees.

The project corridor has no known ecologically sensitive areas, or special status species, riparian habitat, or other sensitive natural communities. Due to the highly developed nature of the area, and the fragmented state of remaining open space in the immediate area, the project corridor does not provide readily accessible migration corridors between two or more existing natural open spaces.

4.7.2 Regulatory Setting

Federal, state, and local regulations related to biological resources that would apply to the proposed project are discussed below.

Federal Environmental Regulations

Federal Endangered Species Act

The Federal Endangered Species Act (FESA) was enacted in 1973 to provide protection to threatened and endangered species and their associated ecosystems. "Take" of a listed species is prohibited except when authorization has been granted through a permit under Section 4(d), 7 or 10(a) of the FESA. "Take" is defined as to harass, harm, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any of these activities without a permit.

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) was enacted in 1918. Its purpose is to prohibit the kill or transport of native migratory birds, or any part, nest, or egg of any such bird unless allowed by another regulation adopted in accordance with the MBTA.

State Environmental Regulations

California Environmental Quality Act

CEQA requires that biological resources be considered when assessing the environmental impacts resulting from proposed actions. CEQA does not specifically define what constitutes an "adverse effect" on a biological

resource. Instead, lead agencies are charged with determining what specifically should be considered an impact.

California Fish and Game Code

California Endangered Species Act

The California Endangered Species Act (CESA) prohibits the “take” of any species that the California Fish and Game Commission determines to be a threatened or endangered species and is administered by the California Department of Fish and Game (CDFG). Incidental take of these listed species can be approved by the CDFG. “Take” is defined as to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.

Natural Community Conservation Planning Act of 1991

The Natural Community Conservation Planning (NCCP) Act is designed to conserve natural communities at the ecosystem scale while accommodating compatible land use. The CDFG is the principal state agency implementing the NCCP Program. NCCP plans developed in accordance with the act provide for comprehensive management and conservation of multiple wildlife species and identify and provide for the regional or area-wide protection and perpetuation of natural wildlife diversity while allowing compatible and appropriate development and growth.

Local Environmental Regulations

Tree Removal

In response to the declining oak population in the city, the City of Los Angeles enacted an oak tree protection ordinance in 1982. Although the ordinance slowed the oak tree decline, the oak population, and other native tree species, continued to decline. In an effort to further slow the decline of native tree habitat, the City amended the Los Angeles Municipal Code April 2006. The amended Native Tree Protection Ordinance became law on April 23, 2006. The new law includes protection of all native oak tree species (*Quercus spp*), Western sycamore (*Platanus racemosa*), California bay (*Umbellularia californica*), and California black walnut (*Juglans californica*).¹²⁷ Protected tree removal requires a removal permit by the Board of Public Works. Any act that may cause the failure or death of a protected tree requires inspection by the City’s Urban Forest Division. However, there are no City-protected trees within the segments of the project corridor that involve tree removal.

4.7.3 Thresholds of Significance

For the purposes of the analysis in this EIR and in accordance with Appendix G of the State *CEQA Guidelines*, the proposed project would have a significant environmental impact under CEQA if it would:

¹²⁷ City of Los Angeles, Urban Forestry Division, <http://www.ci.la.ca.us/boss/UrbanForestryDivision/index.htm>, accessed May 26, 2010.

- Have a substantial adverse effect, either directly or indirectly or through habitat modification, on any species identified as being a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFG or USFWS;
- Interfere substantially with the movement of any native resident migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites; or
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance;

4.7.4 Environmental Impacts

Impact BR1: Have a substantial adverse effect on any sensitive or special-status species.

A less-than-significant impact related to sensitive or special status plant and animal species would occur.

Implementation of the proposed project, which would involve improvements to an existing transportation corridor already used by buses and other vehicles to create peak period curbside bus lanes to accommodate existing buses, would not create any new impacts to existing biological resources, including sensitive or special-status species, in the project corridor and vicinity. Project operation would not create any new impacts related to ecologically sensitive areas and endangered species beyond existing conditions. Therefore, a less-than-significant impact related to sensitive or special status plant and animal species would occur.

Impact BR2: Interfere with wildlife movement.

A significant impact related to interference with wildlife movement would potentially occur before mitigation.

During project construction, there is a moderate potential for violation of the federal Migratory Bird Treaty Act and similar laws in the California Fish and Game Code protecting native birds, if any tree removal or other construction-related activities were to occur during the nesting season. The segment of the proposed project, where jut-outs are proposed to be removed, would involve the removal of a maximum of 40 magnolia trees along Wilshire Boulevard between Comstock Avenue and Malcolm Avenue, which may serve as habitat for migratory birds. This may result in conflict with state and federal laws protecting native birds and their active nests. Implementation of Mitigation Measure BR-1, described below, would ensure that this conflict is avoided.

Similarly, the segment of the proposed project, where an existing eastbound left-turn pocket would be extended and the street widened between Bonsall and Federal Avenues, would involve the removal of a maximum of 30 small jacaranda trees between I-405 and Federal Avenue. However, these trees are

ornamental and would not provide suitable habitat for migratory birds. Therefore, no impacts related to migratory birds are anticipated along this segment.

Impact BR3: Conflict with local policies or ordinances protecting biological resources.

With the incorporation of mitigation, a less-than-significant impact related to the project's consistency with local policies or ordinances protecting biological resources would occur.

The proposed project would remove up to 40 magnolia trees along Wilshire Boulevard, between Comstock Avenue and Malcolm Avenue and up to 30 small jacaranda trees between I-405 and Federal Avenue. This would potentially conflict with City of Los Angeles requirements for the preservation or replacement of street trees. While this City requirement is not necessarily intended to protect biological resources, the protection of trees as part of the visual character definition of the local streetscape also provides protection of potential nesting habitat. As described in Mitigation Measure A-1, trees within the existing jut-outs shall be preserved or relocated and incorporated into the landscape plan, where space permits. In addition, implementation of Mitigation Measure BR-1 described below, would ensure that the conflict with state and federal laws protecting native birds and their active nests is avoided. Therefore, a less than significant impact related to conflicts with local policies or ordinances would occur. No additional mitigation would be required.

4.7.4 Mitigation Measures

The proposed project involves the removal of a maximum of 40 magnolia trees along Wilshire Boulevard between Comstock Avenue and Malcolm Avenue, which may serve as habitat for migratory birds. Accordingly, the following mitigation measures shall be implemented to prevent conflict with existing federal, state, and/or local laws, regulations and/or ordinances protecting biological resources that may be encountered during construction of the proposed project:

BR-1 Prior to the typical breeding/nesting season for birds (February 1 through September 1), trees to be removed as part of the jut-out removal between Comstock Avenue and Malcolm Avenue shall be netted to prevent birds from inhabiting the trees prior to tree removal and construction.

4.7.6 Level of Significance After Mitigation

With the implementation of **Mitigation Measure BR-1** described above, potential impacts to nesting sites for migratory birds would be avoided. Therefore, the proposed project would have a less than significant impact after mitigation.

Similarly, the implementation of **Mitigation Measures A-1** and **BR-1**, preserving, replacing or moving the affected street trees, would ensure conformity with City of Los Angeles requirements, and would ensure that potential migratory nesting birds are not affected by the proposed project.