

5.3 - BIOLOGICAL RESOURCES

5.3.1 - Introduction

Information in this section is based on the following documents:

- Biological Resources Survey Report, Michael Brandman Associates, June 2004. The complete report is contained in Appendix B of the Technical Appendices of the DEIR.
- Focused DSF Survey Reports, Ecological Sciences, Inc., November 2003 and October 2004. The complete reports are contained in Appendix B of the Technical Appendices of the DEIR.
- NMC Final EIR, City of Ontario, October 1997. This document is incorporated by reference.
- NMC General Plan, City of Ontario, January 1998. This document is incorporated by reference.
- NMC Parks, Recreation, and Biological Resources Implementation Program, Final Hearing Draft, City of Ontario, September 1999. This report is incorporated by reference.
- Initial Study/Mitigated Negative Declaration, New Model Colony Parks, Recreation and Biological Resources Implementation Program, City of Ontario, August 2002. This report is incorporated by reference.

NMC Final EIR

The NMC Final EIR evaluated potential impacts to vegetation and wildlife and concluded that no significant impacts to native plant communities or species would occur as a result of implementation of the NMC. In addition to evaluating native vegetation, potential impacts to windrows were also evaluated. The NMC Final EIR concluded that elimination of the windrows for roosting by raptors, without direct access to foraging habitat, is a minimal impact. However, the elimination of these windrows when used in combination with agricultural fields for foraging habitat was identified as potentially significant.

The NMC Final EIR evaluated potential impacts to migratory waterfowl that would result from the conversion of open water bodies, some of which are used for stormwater retention on dairies, and concluded that conversion of these would result in potentially significant impacts to waterfowl and migratory bird species.

The NMC Final EIR evaluated the potential impacts to the Delhi Sands flower-loving fly (DSF), classified by the U.S. Fish and Wildlife Service (USFWS) as a Federal Endangered species, and concluded that there would not be any direct impacts to this species resulting from development of the NMC due to the high likelihood that the DSF does not exist in the NMC. However, the NMC

Final EIR further concluded that significant indirect impacts could result due to interference with recovery efforts because a large portion of the NMC is located within the Ontario Recovery Unit for the DSF.

The NMC Final EIR evaluated biological resource policies contained in the NMC General Plan for the purpose of determining if any of these policies could provide mitigation of any of the potentially significant effects resulting from the development of the entire NMC. The NMC Final EIR concluded that, with the implementation of the recommended mitigation measures, impacts to waterfowl habitat, raptor habitat, sensitive species, and the DSF would be reduced below the level of significance.

Initial Study/Mitigated Negative Declaration, New Model Colony Parks, Recreation and Biological Resources Implementation Program

Subsequent to the preparation of the NMC Final EIR, the City prepared the Sphere of Influence Parks, Recreation, and Biological Resources Implementation Program (Implementation Program) for the NMC in order to identify components and costs of the mitigation infrastructure that are associated with parks, recreation, and biological resources that would be implemented with the development of the NMC. To evaluate the potential impacts of the Implementation Program, the City prepared an Initial Study/Mitigated Negative Declaration (Improvement Program IS/MND). The Improvement Program IS/MND stated that no new environmental effects were identified beyond those identified in the NMC Final EIR. In addition, the Implementation Program reflected information contained in the NMC Final EIR that potential environmental impacts to biological resources would be fully evaluated as individual projects within the NMC are proposed.

Biological Resources Survey Report

Following is a brief overview of the Biological Resources Survey Report prepared for the project site.

Report Methodology

Studies of biological resources associated with the project site began with a thorough review of relevant literature followed by a reconnaissance-level field survey. The reconnaissance-level survey provided documentation of the biological resources existing on the project site.

Literature Review. A compilation of sensitive plant and wildlife species recorded in the vicinity of the project site was derived from a sensitive species and natural community account database, the California Department of Fish and Game (CDFG) California Natural Diversity Database (CNDDDB), and recorded occurrences of plant species found on or near the project site derived from the California Native Plant Society's (CNPS) database. The CNDDDB and CNPS search was based on the USGS Guasti 7.5-minute topographic quadrangle. The search included the project site and a

reasonable distance surrounding the property (approximately 7 miles). Federal Register listings, protocols, and species data provided by the USFWS and CDFG were reviewed in conjunction with anticipated federal- and state-listed species potentially occurring within the vicinity of the project site. The literature review provided a baseline from which to inventory the biological resources potentially occurring on the project site, as well as the surrounding area.

Reconnaissance-Level Survey. A reconnaissance-level survey was conducted over all portions of the project site by Michael Brandman Associates (MBA) biologist Nina Jimerson on May 6, 2004. The focus of the survey was on identification of any potentially sensitive habitats or those areas potentially supporting sensitive flora and fauna species, and included the following five primary objectives:

- Vegetation community mapping;
- Sensitive plant assessment;
- Sensitive wildlife species assessment;
- Jurisdictional Drainage assessment; and
- Wildlife Corridor assessment.

The results of this survey are presented in the following section, which includes the broad, program-level evaluation information contained in the NMC Final EIR.

5.3.2 - Existing Conditions

Historically, the region surrounding the project site was dominated by coastal sage scrub and riparian vegetation along various streams. Urban development and channelization of the streams have eliminated the majority of this vegetation. Currently, vegetation in the region is generally comprised of urban landscaping, pasturelands, agricultural production, vineyards, nurseries, windrows, and small patches of remnant, native vegetation.

The area surrounding the project site is mostly developed. The Creekside residential subdivision, a nursery, and vacant land are located north of the project site across Riverside Drive. Colony High School is located west of the project site. A Southern California Edison (SCE) electrical sub-station is located south of the project site. Various light industrial uses are located east of the project site. The SR-60 (Pomona Freeway) and I-15 (Ontario Freeway) interchange is located northeast of the project site.

The project site is generally level with no significant geologic or topographical features. According to Figure 6-2 of the NMC General Plan, the soils on-site are comprised entirely of Delhi Fine Sand. The majority of the property is disturbed and contains evidence of continual disturbance caused by

dairy operations and crop production. Generally, the eastern half of the project site is used for growing feed for the dairy cattle. A commercial nursery is located in the southeast quadrant of the project site. The southwestern corner of the project site is used for grazing cattle. Numerous dairy-associated structures and a single-family residence occur on the northern portion of the site. A stormwater detention pond is located on the southern portion of the project site. Additionally, an SCE high-voltage electrical transmission line right-of-way (SCE Corridor) bisects the central portion of the project site. Other high-voltage transmission lines cross the southeast corner of the project site. Non-native grasses dominate the project site.

Vegetation Communities

Three vegetation communities were identified on the project site: Non-native grassland, ornamental windrows, and Developed/Disturbed Areas. Non-native grassland is the predominant plant community on the project site and a small windrow of ornamental trees is located along the southern perimeter of the project site. A large portion of the property represents developed and disturbed lands and is included in the tabulations in order to represent the entire project site (see Exhibit 5.3-1). Acreages of these vegetation communities are presented in Table 5.3-1 below.

Table 5.3-1: Project Site Vegetation Communities

Community	Approximate Acres on Site	Percent of Project Site
Non-native grassland	89.1	55.3%
Ornamental windrow	2.8	1.8%
Developed/Disturbed	69.1	42.9%
Total	161.0	100.0%
Source: Biological Resources Survey Report, Michael Brandman Associates, June 2004.		

Non-native Grassland

Non-native grassland consists of non-native, annual grasses often associated with native annual forbs. These grasses begin to germinate with the fall rains, grow during the winter and spring, and wither in the early summer. This community is often found on clay soils (Holland 1986) and it is incorporated into the California annual grassland series described by Sawyer and Keeler-Wolf (1995). Wildlife species use the non-native grasslands for a number of different reasons depending on the species needs. Smaller wildlife species such as lizards, rodents, and snakes use the grasslands as cover from predators as well as foraging for insects, seeds, or other small prey items. Larger wildlife species, such as coyotes, and raptors use the grasslands for foraging for the smaller wildlife species.



Source: USGS Guasti SW 3.75' DOQQ.

Ornamental Windrow

Ornamental woodlands are human created woodlands using non-native trees and shrubs. The windrows are comprised of a species of gum tree (*Eucalyptus* spp.) and ornamental pine trees (*Pinus* spp.). Ornamental woodlands present a challenge for species conservation. On one hand, they are comprised of non-native species that often out-compete native tree species, provide little or no food source for native fauna, and are sometimes even poisonous to wildlife. On the other hand, these woodlands often provide excellent nesting habitat for raptors and other birds. An ornamental windrow is located on the southern portion of the project site (see Exhibit 5.3-1). A red-shouldered hawk (*buteo lineatus*) was observed within the windrow immediately south of the nursery and may possibly use the windrow for nesting.

Developed/Disturbed Areas

These areas are characterized by a lack of significant vegetative cover, usually the result of previous human disturbance. Although such areas may contain a sparse cover of ruderal vegetation and an occasional scattering of native plant specimens, this type of “habitat” is not a plant community and is considered to be of little or no value to wildlife.

Sensitive Plant Communities

No sensitive plant communities occur within the boundaries of the project site. The only sensitive plant species identified by the CNDDDB, and a literature review as occurring in the vicinity of the project site is the prostrate navarretia (*navarretia prostrata*). This species has a low probability of occurring on the project site due to absence of suitable habitat and no examples of this species were observed during the reconnaissance-level survey.

Sensitive Wildlife Species

Five sensitive wildlife species identified by the CNDDDB and a literature review occur in the vicinity of the project site. They are: the burrowing owl (*Athene cunicularia hypugaea*) the Delhi Sands flower-loving fly (*rhaphiomidas terminatus abdominalis*), the Los Angeles little pocket mouse (*perognathus longimembris brevinasus*), the San Diego horned lizard, (*phrynosoma coronatum blainvillei*), and the San Diego desert woodrat (*neotoma lepida intermedia*). Of these, the burrowing owl has a high potential to occur on the project site and the Delhi Sands flower-loving fly has a moderate potential to occur on the project site; the other three species have a low potential of occurrence on the project site. The burrowing owl and the Delhi Sands flower-loving fly are further discussed below.

Burrowing Owl

The burrowing owl is not federally-listed; however, it is a CDFG Species of Special Concern. Formerly common throughout California, this species’ decline was noticeable as early as the 1940s. The burrowing owl is a gregarious owl that occupies open habitats such as grasslands, savannahs, and

sparse brush lands. The burrowing owl lives in the abandoned burrows of ground squirrels and other burrowing animals, modifying the burrows to suit their needs by digging. It is one of the few owl species often seen during the day and early evening hours, perched on fence posts or at the entrance to burrows. Their diet is predominantly large insects and small rodents, but they will also take small birds, reptiles, amphibians, fish, scorpions, and other available prey.

Burrowing owls breed between early March and late August. Pairs may stay together during an entire year. Clutches average about five young but a dozen is not uncommon. After the breeding season, secondary burrows may be used for cover and roost sites. During winter, attachment to a particular burrow is reduced. Typically, burrowing owls form small colonies, fly low to the ground, and seldom reach heights above 25 feet.

Although none were observed during the reconnaissance-level survey, suitable habitat, including flat grasslands and rodent burrows, for burrowing owls occurs throughout the project site. Additionally, burrowing owls have been recently observed in the vicinity of the project site.

Delhi-Sands Flower-loving Fly

The Delhi Sands flower-loving fly (DSF), classified by the U.S. Fish and Wildlife Service as a Federal Endangered species, is a large herbaceous fly that occurs only in the Delhi Sands in western San Bernardino County. Dominant native plant species in DSF habitat often include wild buckwheat (*erigonum fasciculatum*), croton (*croton californicus*), and telegraph weed (*heterotheca grandiflora*). However, no data exists that can provide a quantitative definition of DSF habitat except by correlation with Delhi fine sand substrate, less than 50 percent vegetation cover, and the presence of these plant species. Circumstantial evidence suggests that these plant species are DSF “indicators” and important in the biology of the DSF, although specific plant associations that may be required by this species are not known. The DSF does not rely upon any plant species for survival. Rather, evidence only indicates that these plant species are present on sites that are occupied by DSF. All of these plant species are common in Southern California.

Much of the Delhi fine sand on the project site has been commingled with cow manure that has affected their quality. Based on the reconnaissance-level survey conducted by MBA in June 2004, the eastern portion of the project site has a habitat Suitability Rating of 4 (Moderate Quality) and the western portion of the project site has a habitat Suitability Rating of 3 (Low Quality). These ratings are based on an USFWS-approved system that classifies potential DSF habitat within five rating categories: Unsuitable (1), Very Low Quality (2), Low Quality (3), Moderate Quality (4), and High Quality (5). A Moderate Quality rating exhibits the following characteristics: abundant clean Delhi fine sand with little or no alluvial material or Tujunga soils present; moderate abundance of exposed sands on the soil surface; a low vegetative cover; and evidence of a moderate degree of fossorial activity by vertebrates and invertebrates. A low quality rating indicates the presence of Delhi fine

sands that are not entirely clean, but in sufficient quantity to prevent soil compaction and some sandy soils are exposed on the surface due to fossorial animal activity.

Focused 10-week surveys were conducted on the western portion of the project site by Ecological Sciences, Inc. in 2003 and in 2004. The surveys occurred between July and September, 2003 and 2004, and concluded that DSF was not present on the site and that DSF would not likely become established on the western portion of the project site.

Jurisdictional Drainage Assessment

According to the reconnaissance-level survey conducted on the project site there are no drainage features on the project site.

Wildlife Corridor Connectivity

The project site is surrounded by urban development and does not support regional wildlife movement through the area. Further, it does not link large open space areas together for wildlife movement.

Applicable Programs

Following are discussions of NMC General Plan policies and programs that are applicable to the proposed project.

Biological Resource Policies

The following policies related to biological resources identified in Chapter 6 of the NMC General Plan are applicable to the proposed project:

Policy 18.1.3: Development projects should include a Biological Assessment Report that addresses the proposed project's impact on state- and federally-listed and candidate plants and animals; California Department of Fish and Game Special Animals; waterfowl or raptor habitat and any other special interest species or communities identified in the General Plan Analyses of Existing Conditions and Trends Report, or those hereafter named by state or federal trustee agencies.

Policy 18.1.5: Require that subarea specific plans include sufficient technical data to enable an adequate assessment of the potential for impacts on biological resources. Such technical data shall include species lists, habitat use, acreage of habitat, and descriptions of any vegetation.

Policy 18.1.6: Review that specific plans and development projects proposed within the NMC assess their impacts (sic) on local biological resources and recommend appropriate

mitigation measures, if necessary to account for specific development characteristics or site conditions that are not adequately addressed by the NMC Final EIR.

Policy 18.1.12: Establish a Waterfowl and Raptor Conservation Area (WRCA) in the NMC adjacent to the Chino Basin Flood Control Ponds located to the south of Chino Avenue, west of Archibald Avenue, north of Schaefer and east of Whispering Lakes Lane consisting of approximately 145 acres adjacent to the 85 acres of existing county owned detention basins.

Two alternatives to establishing the WRCA are presented:

Alternative A. The City shall work with the appropriate landowners(s) in establishing the WRCA as a mitigation bank. In exchange for creating the WRCA on their property, landowners(s) will be able to sell “credits” to developers to pay for the WRCA establishment and maintenance. The credit values shall be based upon a percentage of the NMC to be converted. The cost of the credits will be established in consultation with California Department of Fish and Game, according the State guidelines.

When the final credits are sold, the landowner or mitigation bank operator has the option of selling the WRCA to an appropriate conservation agency, or retaining the land and ensuring its maintenance as a waterfowl and raptor refuge.

Alternative B. The City and CDFG shall work with future developers in the central part of the NMC to ensure that adequate compensation is made for relinquishing development rights for the WRCA. Compensation shall be paid with City General Funds, and any other funding that can be obtained from public and private conservation groups interested in waterfowl conservation.

The City shall be reimbursed for land purchase costs and habitat creation with development fees to be paid by each developer (not current landowners) within the NMC. The fees shall be determined annually, based upon current land values in the NMC.

Policy 18.2.2: The City shall cooperate with the USFWS in the following ways to mitigate potential impact to the DSF by cooperating with the USFWS to ensure, through the specific plan process, that potential recovery areas are appropriately mitigated; by establishing a standard for buffers for protecting DSF restoration areas, in cooperation with USFWS; and working with rights-of-way owners and the USFWS to explore the possibility of creating DSF habitat within these undeveloped strips.

Section 2.4 of the Parks, Recreation, and Biological Resources Implementation Program prepared for the NMC contains the following applicable non-numbered policy related to biological resources:

- An overriding goal of the NMC plan is to provide creative, multi-use facilities incorporating habitat (biological resources) into open space, recreation facilities, and utility corridors.

Creative uses of these resources will result in a greater number and wider diversity of recreation opportunities and wildlife in the NMC.

Habitat Mitigation Fee

The City established a Habitat Mitigation Fee (HMF) program that would go toward the development of the Waterfowl and Raptor Conservation Area (WRCA). The HMF of \$4,320 per-acre (net) would be based on the percentage of the land area that a proposed project occupies. The WRCA, which could be developed anywhere within the Prado Dam Basin, is intended to provide permanent habitat for migratory waterfowl and raptors. A portion of the HMF (\$500 per acre) may be stipulated for mitigation of impacts to the DSF.

Ontario Recovery Unit

The DSF was listed as an endangered species by the USFWS on September 23, 1993 (58 Federal Register 49881). However, critical habitat for this species has not been designated. The USFWS considers this species to have a high degree of threat and low potential for recovery. Although the species has a low recovery potential, the USFWS adopted a Final Recovery Plan for the DSF (U.S. Fish and Wildlife Service 1997). This recovery plan attempts to reduce the risk of global extinction of the species by spreading protection across three separate Recovery Units (RUs) that include adequate habitat and area. These are identified as the Colton RU, the Jurupa RU, and the Ontario RU. The project site is located within the boundaries of the Ontario RU.

The majority of DSF habitat within the Ontario RU has been eliminated by longstanding agricultural land uses and urban development. Historical actions that have eliminated the species and its habitat include commercial and residential development, dumping of cow manure, and invasive exotic vegetation. Restorable habitat is located along SCE rights-of-way and a few other locations in the Ontario RU.

Southern California Edison Wildlife Protection Program

SCE has established a Wildlife Protection Program for the protection of endangered species and their habitat in lands owned or managed by SCE. In order to implement this effort, a comprehensive Endangered Species Alert Program manual was created in 1989, and updated in 1999. This manual contains descriptions and pictures of every protected plant or animal in the utility's service territory, its natural history, current status on state and federal endangered species lists, a description of activities that degrade its habitat, and a map showing where the species is found.

5.3.3 - Thresholds of Significance

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

- Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or the U.S. Fish and Wildlife Service;
- 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 the U.S. Fish and Wildlife Service;
- Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act;
- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory corridors, or impede the use of native wildlife nursery sites;
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or
- Conflict with the provisions of an adopted Natural Community Conservation Plan (NCCP) Habitat Conservation Plan (HCP) or other approved local, regional or State habitat conservation plan.

5.3.4 - Project Impacts

The proposed project would remove the majority of the existing on-site vegetation consisting of 12.8 acres of ornamental windrow; 69.1 acres of developed/disturbed; and approximately 77.1 acres of nonnative grassland. The majority of the nonnative grassland vegetation within the SCE Corridor, representing approximately 12 acres, would not be removed. In addition, the ornamental windrow would be removed and the existing on-site stormwater retention basin would be eliminated. This stormwater detention basin is not considered to be jurisdictional waters. Following is a discussion of the project impacts that correspond to the thresholds of significance previously identified in Section 5.3.3.

The following Project Design Feature included in the project description is applicable to the protection of DSF habitat:

- PDF-4** Approximately 12 acres, or 94 percent, of the SCE Corridor will be retained in its existing open space condition and available for the Delhi Sands flower-loving fly and burrowing owl.

Impacts Related to Habitat Modification

Implementation of the proposed project would impact habitat previously identified in Section 5.3.2. Following is a discussion of each.

Burrowing Owl Habitat

The majority of the habitat available for use by the burrowing owls would be removed as a result of implementing the proposed project. The portion of the SCE Corridor that would not be developed with the bicycle and pedestrian trail and preserved as open space would continue to be available for use by burrowing owls. Because burrowing owls are protected by the Migratory Bird Treaty Act of 1918 are classified by the CDFG as a Species of Special Concern, and are not a federally- or state-listed species, modification of the habitat by the removal of the on-site vegetation communities and subsequent development of the project site would not result in a significant impact. However, significant impacts to burrowing owls could result from direct impacts to actual animals, if present, on the project site during construction-related activities.

Delhi Sands Flower-loving Fly Habitat

Implementation of the proposed project would remove the majority of habitat available for use by the DSF. As previously discussed, the portion of the SCE Corridor not proposed for development with the SCE Corridor Trail, representing approximately 12 acres, would be available for burrowing owls and would also be available for the DSF. Because the DSF is a federally-listed species, removal of this habitat could result in a significant impact if the DSF was present on the project site, although the USFWS has not designated critical habitat for the DSF and has not determined specific habitat acreage objectives within the three RUs (see Section 5.3.2 for a discussion of the Ontario RU). The focused DSF surveys conducted by Ecological Sciences in 2003 and 2004 for the western portion of the project site concluded that DSF was absent and unlikely to become established in the future. Therefore, removal of the habitat on the western half of the project site, representing the residential component, would not result in a significant impact to the DSF.

Prior to the approval of any development on the eastern half of the project site, representing the commercial component, consecutive, 2-year focused surveys would be required.

Migratory Bird Habitat

The ornamental windrow would be removed as a result of implementing the proposed project. This windrow, generally comprised of blue gum (Eucalyptus) and pine trees, is not considered a sensitive plant community. Exhibit 2 of the Implementation Program identified the windrow along the southern perimeter of the project site as a Low Value Windrow; other windrows located in the NMC were identified as High Value Windrows.

Low Value Windrows are defined by the Implementation Program as having the following characteristics:

- No seasonal nesting is expected;
- Trees are comprised of young, spindly, low height, and sparse in foliage;
- Trunks and branches are thin and grow horizontally and are not considered adequate to support nests;
- Human disturbance is expected to be high; and
- Narrow windrow width offers poor cover and/or nesting sites.

This windrow is used, as determined by the reconnaissance-level survey (see discussion in Section 5.3.2), by raptors, which are protected by the Migratory Bird Treaty Act of 1918. This protection is codified in Section 3513 of the California Fish and Game Code. Removal of these trees if occupied by raptors could result in a significant impact.

In addition to the removal of this windrow, the conversion of the project site to urban uses would eliminate all but 12 acres of foraging open space that could be used for migratory birds. The combination of the removal of the windrow and foraging open space could result in a significant impact to migratory birds.

The location of the existing on-site stormwater detention basin is identified on Exhibit 2 of the Implementation Program as a surface water feature and also identified as High Value Habitat on Exhibit 3 of the Biological Resources Technical Report, which is included as Appendix B of the Implementation Program. The Implementation Program does not precisely define High Value Habitat, but references surface water features, which include agricultural ponds, detention basins, and other miscellaneous ponds, as providing “stepping stones” for migratory birds. This surface water feature could be used by migratory waterfowl. However, Section 5.8.1 of the NMC Final EIR referenced that wildlife associated with dairy operations are likely to be non-native species, or more common native species that are tolerant of human activity. Further, the high-level of human and livestock activity would likely disrupt native species wildlife found elsewhere in the NMC. In addition, stormwater retentions basins on dairies are considered to be of marginal value habitat value due to the concentrations of various pollutants. The reconnaissance-level survey did not report the observance of migratory waterfowl on the project site. However, because the location of the stormwater detention basin is identified as High Value Habitat by the Implementation Program, removal of this surface water feature could result in a potentially significant impact.

Impacts Related to Riparian Habitat or Other Sensitive Natural Communities

The reconnaissance-level survey did not identify any drainage features on the project site that would support riparian habitat. In addition, the survey did not identify any sensitive natural communities existing on the project site. Therefore, implementation of the proposed project would not result in any impacts related to either riparian vegetation or sensitive natural communities.

Impacts Related to Jurisdictional Areas

No drainage features are known to exist on the project site. The reconnaissance-level survey conducted in May 2004 did not identify any drainage features or any other conditions that would qualify as jurisdictional waters by either the U.S. Army Corps of Engineers or the CDFG. Therefore, no impacts to jurisdictional waters would result from project implementation.

Impacts Related to Wildlife Movement

The reconnaissance-level survey did not observe any large mammals on the project site such as coyote, deer, or bobcats, or other mammals that could use the project site as a migratory corridor. In addition, the survey did not observe any evidence of such mammals. Because the project site is mostly surrounded by urban development and does not directly link to large open space areas, the project site is not considered a wildlife corridor. Therefore, implementation of the proposed project would not result in any impacts related to wildlife movement.

Impacts Related to Conflicts with Policies or Ordinances Related to Biological Resources

The City does not have any specific municipal ordinances related to biological resources. Following is an evaluation of the NMC General Plan policies previously identified in Section 5.3.2, which are applicable to the proposed project. The preparation of the Biological Resources Survey Report prepared for this project and the analysis contained in this section of the Draft EIR satisfies the requirement of Policies 18.1.3 and 18.1.6. Policy 18.1.5 is satisfied because the specific plan prepared for this project contains extensive technical information that enabled a thorough evaluation of potentially significant impacts to biological resources. The portion of Policy 18.2.2 that requires potential recovery areas to be mitigated is satisfied because mitigation measures have been proposed as part of this analysis and contained in this section of the Draft EIR. Therefore, implementation of the proposed project would not conflict with or create any impacts related to these policies, including the applicable portion of Policy 18.2.2, along with the non-numbered policy contained in the Implementation Program. The remaining applicable portion of Policy 18.2.2 that requires the exploration of developing DSF habitat within undeveloped rights-of-way, could result in a significant impact regarding implementation of this policy if the portion of SCE corridor not proposed for development cannot be retained as open space and available for the DSF.

Impacts Related to an Adopted NCCP or HCP

The project site is not located within the boundaries of an adopted habitat conservation plan or natural community conservation plan. However, as previously identified in Section 5.3.2, the project site is located within the boundaries of the Ontario RU for the DSF. Because the proposed project is consistent with General Plan Policy 18.2.2, as previously discussed, and includes permanent retention of open space available for the DSF (see PDF 12 in Section 3.3.7 of this document), the proposed project is not in conflict with the recovery provisions of the Ontario RU.

5.3.5 - Cumulative Impacts

Implementation of the Edenglen Project in combination with the other related projects would result in the conversion of agricultural land uses to urban uses and elimination of the majority of windrows that, when used together, provide foraging habitat for migratory birds. In addition, the elimination of the on-site stormwater detention basin along with the elimination of the majority of other surface water features located throughout the NMC would eliminate habitat for migratory birds. Therefore, the elimination of windrows, foraging habitat, and surface water features would be cumulatively considerable.

Because the NMC Final EIR concluded that no sensitive plant communities or plant species occur within the NMC, and the reconnaissance-level survey concluded that no sensitive plant communities are located on the project site and that sensitive plant species have a low potential to occur on the project site, no cumulative impacts would result from implementation of the proposed project along with the related projects.

The NMC Final EIR concluded that there would not be any direct impacts to the DSF resulting from development of the NMC due to unlikely existence of DSF in the NMC. This was confirmed for the project site by the reconnaissance-level survey and 2-year focused DSF surveys conducted on the western half of the project site. Therefore, no direct cumulatively considerable impacts to the DSF would result. However, because development of the project site and the related projects would convert the majority of the NMC to urban uses that have the potential to be used by the DSF, indirect cumulative considerable impacts to the recovery efforts of the DSF could result.

5.3.6 - Mitigation Measures

The Biological Resources Section of the NMC Final EIR identified three mitigation measures (Mitigation Measures BR-1 through BR-3). Mitigation Measure BR-1 related to waterfowl habitat and recommended creation of new habitat in an area that does not currently have waterfowl habitat, mitigation ratios for replacement habitat, and the dedication of non-public lands for a permanent Waterfowl and Raptor Conservation Area (WRCA). Mitigation Measure BR-2, also related to

waterfowl habitat, outlined two alternatives for the creation of a WRCA. Alternative A suggests a WRCA could be established as a mitigation bank and Alternative B suggests that landowners could be compensated for relinquishing development rights for a WRCA. Both alternatives suggest the southeastern portion of the NMC as the location for a WRCA. Mitigation Measure BR-3 outlined methods on how the City should cooperate with the U.S. Fish and Wildlife Service in the protection of the Delhi Sands Flower-loving Fly.

Implementation of the NMC Final EIR mitigation measures and the following recommended mitigation measures would reduce potentially significant impacts to a less than significant level.

- BR-1** Not less than two weeks and not more than four weeks prior to the commencement of any ground-disturbing activities, a survey for burrowing owls will be conducted to document their presence or absence. If burrowing owls are documented to be present on the project site, they will be physically relocated to an established preserve relocation site.
- BR-2** Prior to approval of any development plans for the eastern half of the project site relating to the commercial component, consecutive, 2-year focused protocol DSF surveys shall be conducted in conformance with published USFWS protocols to confirm the absence of DSF from the project site. Should DSF occur on the project site, require the developer of the eastern half of the project site to pay the Habitat Mitigation Fee or acquire replacement habitat.
- BR-3** Removal of this windrow must be accomplished in a manner that avoids impacts to active nests during the breeding season. If the windrow is entirely removed between September 1 and January 14, no surveys or monitoring will be required. If removal of this windrow must be performed between January 15 and August 31, a nesting bird survey must be conducted one week prior to commencing tree removal. If any active nests are detected within the windrow, a 100-foot wide buffer area around the nest(s) will be flagged, and will be avoided until the nesting cycle is complete or it is determined that the nest(s) has failed. In addition, a qualified biological monitor will be present on the site to monitor tree removal or other construction activity in the vicinity of nest sites to assure that active nests are not disturbed.
- BR-4** Require the developer of the Edenglen Project to pay a Habitat Mitigation Fee of \$4,320 per net acre to the City of Ontario toward the development of the Waterfowl and Raptor Conservation Area, which would be based on the percentage of land area of the NMC that is occupied by the project site, as approved by the City of Ontario.

5.3.7 - Level of Significance After Mitigation

Mitigation Measures BR-1 through BR-3 require implementation prior to permit issuance or construction activities. This eliminates the potential for construction-related activities to commence without the benefit of the recommended mitigation measures.

Mitigation Measure BR-1 would eliminate the potential to significantly affect burrowing owls, if present on the project site.

Mitigation Measure BR-2 would determine if DSF is present on the eastern portion of the project site and, if present, require payment of a Habitat Mitigation Fee in conformance with Mitigation Measure BR-4.

Mitigation Measures BR-3 and BR-4 would eliminate the potential to affect nesting raptors, if present in the windrows.

With the incorporation of the Project Design Feature and the recommended mitigation measures, significant and unavoidable indirect cumulative impacts to the DSF would remain after project implementation. All other impacts to biological resources are reduced to less than significant levels.