

4.0 COMPLIANCE WITH APPLICABLE FEDERAL ENVIRONMENTAL LAWS AND REGULATIONS

4.1 INTRODUCTION

In accordance with National Environmental Policy Act (NEPA), this draft Environmental Assessment (EA) follows the approach documented in the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, 40 CFR Parts 1500-1508. To comply with NEPA, the following federal laws and regulations would be met for the proposed action.

4.2 ENDANGERED SPECIES ACT

Under the Federal Endangered Species Act, the U.S. Fish and Wildlife Service (USFWS) has direct regulatory authority over specially designated organisms and their habitat. In response to legislative mandates, USFWS has defined sensitive biological resources as organisms that have regional declining populations that may become extinct if decreasing population trends continue. Habitats are considered sensitive biological resources if they have limited distributions, have high wildlife value, support sensitive species, or are particularly susceptible to disturbance. Sensitive species are plants and animals legally protected under the Federal Endangered Species Act (61 CFR 40: 7596-7613).

Section 7 of the Federal Endangered Species Act requires all federal agencies, in consultation with the USFWS, to ensure that their actions do not jeopardize the continued existence of endangered or threatened species or result in the destruction or modification of critical habitat. The impact to threatened and endangered species and habitat is described in Chapter 3.1 of this draft EA. The U.S. Army Corps of Engineers (USACE) is in the process of coordinating with USFWS in accordance with the Federal Endangered Species Act. With implementation of mitigation measures BIO-A through BIO-Q, impacts from the 18,230 sf Alternative 14,000 sf Alternative, 10,000 sf Alternative, and 2,8000 sf Alternative to federal and state endangered species would be reduced to a less than significant effect. No long-term direct, indirect, or cumulative effects would remain with implementation of mitigation.

4.3 NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM

The U.S. Environmental Protection Agency (EPA) requires project applicants to obtain a storm water discharge permit under the National Pollution Discharge Elimination System (NPDES) program. The Regional Water Quality Control Board enforces the program in California. The permit requires that the applicant develop and adhere to a Storm Water Pollution Prevention Plan (SWPPP). A plan would be developed and a permit obtained prior to any ground disturbing activities on the site, as described in Chapter 3.3 of this draft EA.

4.0 Compliance with Applicable Federal Environmental Laws and Regulations

4.4 CLEAN WATER ACT

There are no jurisdictional wetlands located within the project site. The closest potentially jurisdictional wetlands would be the Robert S. Joe Commemorative Ditch. However, this ditch is not located within the project site. No construction activity would occur within 200 feet of the ditch at the closest point. No vehicles would be staged or construction materials stored or stockpiled in the vicinity of the ditch. Thus, no jurisdictional areas or protected wetlands would be adversely affected, as described in Chapter 3.3 of this draft EA.

4.5 PROTECTION OF WETLANDS

There are no jurisdictional wetlands located within the project site. Thus, no protected wetlands would be adversely affected, as described in Chapter 3.3 of this draft EA.

4.6 FLOODPLAIN MANAGEMENT (EXECUTIVE ORDER 11988)

Executive Order 11988 requires all federal agencies to take actions to reduce the risk of flood loss, restore and preserve the natural and beneficial values in floodplains, and minimize the adverse effects of floods on human safety, health, and welfare. Because the proposed action would be implemented within a designated flood control basin on federally-owned land, the action must comply with Executive Order 11988 (Floodplain Management), which requires all federal agencies to take actions to reduce the risk of flood loss, to restore and preserve the natural and beneficial values in floodplains, and to minimize the adverse effects of floods on human safety, health, and welfare. The proposed action would be consistent with these purposes and would not allow inappropriate development in the flood control basin, as described in Chapter 3.3 of this draft EA.

4.7 CLEAN AIR ACT

The Clean Air Act is the federal law that was passed in 1970 and was last amended in 1990. It forms the basis for the national air pollution control effort. Basic elements of the act include National Ambient Air Quality Standards for major air pollutants, hazardous air pollution standards, state attainment plans, motor vehicle emissions standards, station source emissions standards and permits, acid rain control measures, stratospheric ozone protection, and enforcement provisions.

The USEPA is responsible for setting and enforcing National Ambient Air Quality Standards for criteria pollutants including implementation of the Clean Air Act. Region 9 USEPA, which has its headquarters in San Francisco, is responsible for the geographical area that includes the project site.

The action would be in compliance with the provisions of the Clean Air Act as discussed in Chapter 3.5 of this draft EA. All of the pollutants that would be generated by this project would be below the levels of significance established by the South Coast Air Quality Management District (SCAQMD).

4.0 Compliance with Applicable Federal Environmental Laws and Regulations

4.8 NATIONAL HISTORIC PRESERVATION ACT

The federal government has developed laws and regulations designed to protect cultural resources that may be affected by actions undertaken, regulated, or funded by federal agencies. The National Historic Preservation Act established the Advisory Council on Historic Preservation and State Historic Preservation Officers to assist federal and state officials with historic preservation. Section 106 of the National Historic Preservation Act requires federal agencies to consider effects of their action on properties eligible for listing, or listed, in the National Register of Historic Places; the Advisory Council on Historic Preservation is the administering agency. National Historic Preservation Act outlines three steps for compliance: (1) identification of substantial resources that may be affected by an undertaking; (2) assessment of an actions effects on those resources; and (3) development and implementation of mitigation measures to offset or eliminate adverse effects. The action would not have a significant impact on cultural or historic resources that cannot be mitigated to a less than significant level, as discussed in Chapter 3.2 of this draft EA.

4.9 NATIONAL ENVIRONMENTAL POLICY ACT

This draft EA is consistent with the requirements of the NEPA.

4.10 EXECUTIVE ORDER 12898 (ENVIRONMENTAL JUSTICE)

Executive Order 12898 requires federal actions to address environmental justice in minority and low-income populations. Environmental justice analyses are required to identify potential disproportionately high and adverse effects from proposed actions and to identify alternatives that might mitigate these effects. The 18,230 sf Alternative, 14,000 sf Alternative, and 10,000 sf Alternative evaluated in this EA would have the beneficial effect of providing enhanced educational and recreational resources to disadvantaged, minority, and low-income groups. See Chapter 3.16 of this draft EA.

4.11 EXECUTIVE ORDER 13112 (NOXIOUS AND INVASIVE PLANT SPECIES)

Executive Order 13112 requires federal agencies to work to prevent and control the introduction and spread of invasive species. Typical mitigation measures used to ensure compliance with this Order include a survey for invasive weed species of proposed construction areas, use of certified weed-free and/or native materials in erosion control and revegetation efforts, and cleaning of all attached soil or plant parts from construction equipment prior to entering and/or leaving construction sites when equipment has been exposed to areas known to contain invasive plant species. The proposed action involves restoration of the site with locally indigenous, native vegetation and removal of invasive or nonnative species. See Chapter 2 of this draft EA.

4.0 Compliance with Applicable Federal Environmental Laws and Regulations

4.12 MIGRATORY BIRD TREATY ACT

Migratory non-game native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act of 1918 (50 C.F.R. Section 10.13). Under the Migratory Bird Treaty Act, the taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests are regulated. Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit the take of all birds and their active nests, including raptors and other migratory non-game birds (as listed under the Migratory Bird Treaty Act). See Chapter 3.1 of this draft EA. As described in mitigation measure BIO-E, the 18,230 sf Alternative, 14,000 sf Alternative, 10,000 sf Alternative, and the 2,800 sf Alternative would be required to comply with the Migratory Bird Treaty Act