

1 **3.4 BIOLOGICAL RESOURCES**

BIOLOGICAL RESOURCES – Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) 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 Wildlife or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) 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 Wildlife or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

2 **3.4.1 Environmental Setting**

3 The Project area has experienced moderate to heavy OHV recreational use and
 4 consists largely of dense, largely non-native vegetation and unvegetated sand dunes.
 5 The sand dunes were formed from disposed dredge spoil. Vegetation consists mainly of
 6 non-native salt cedar, with arrowweed and some creosote bush interspersed on the
 7 periphery. A dense thicket of salt cedar runs through the middle of Project channel
 8 footprint. More compact soils and coarser substrates are found on the far western side
 9 of the parcel that is bounded by a gravel road.

10 Biological surveys were completed in June of 2014 in preparation for soil sampling at 15
 11 test pits within the Project area (USBR 2014 and Appendix E). Of the species included
 12 in the California Natural Diversity Database (CNDDDB) records for the area, only the

1 yellow-breasted chat (*Icteria virens*) was detected during survey efforts. Bird territories
 2 were detected within the densest habitat including at least four yellow-breasted chat
 3 territories. The yellow-breasted chat is a California species of special concern. The
 4 numbers of bird territories around five of the test pit locations were high and the habitat
 5 was so dense that nests for those territories would have been difficult to locate and
 6 buffer.

7 Additionally, on June 18, 2014, presence/absence surveys were conducted by
 8 Reclamation for the Mojave desert tortoise (*Gopherus agassizii*) within the upland scrub
 9 habitat adjacent to and within the proposed Project area. No desert tortoise or desert
 10 tortoise sign were detected. Surveys for burrowing owls (*Athene cunicularia*) and their
 11 burrows were conducted at the same time as the desert tortoise surveys. No burrowing
 12 owls or their burrows were detected. The Project area is not considered habitat for
 13 Mojave desert tortoise or western burrowing owl due to the sandy soil types and riparian
 14 vegetation. The habitat quality is poor in the Project area for these species and sandy
 15 soil types are not conducive to burrowing and attempts will collapse easily. Additionally,
 16 the Project area is not considered habitat for listed fish species on the River because
 17 the area is not currently connected to the River and lacks adequate water flow.
 18 However, depending on rainfall amounts and season, there is a small area of standing
 19 water in the salt cedar stand.

20 Migratory species of birds observed during the general reconnaissance surveys
 21 included the Abert's towhee (*Pipilo aberti*), black-tailed gnatcatcher (*Poliopitila*
 22 *melanura*), Gambel's quail (*Callipepla gambelii*), great-tailed grackle (*Quiscalus*
 23 *mexicanus*), lesser night hawk (*Chordeiles gundlachii*), mourning dove (*Zenaida*
 24 *macroura*), northern mockingbird (*Mimus polyglottos*), red-winged blackbird (*Agelaius*
 25 *phoeniceus*), verdin (*Auriparus flaviceps*), white-winged dove (*Zenaida asiatica*), and
 26 yellow-breasted chat (USBR 2014). The number of individuals per species was not
 27 tallied because they could not be accurately counted during general reconnaissance
 28 surveys (USBR 2014).

29 Other wildlife common to the area include small mammals, reptiles, and amphibians.
 30 These species may be resident or migrating through the Project area to access water,
 31 cover, or forage.

32 **3.4.2 Regulatory Setting**

33 The following Federal and State laws and regulations pertaining to this issue area and
 34 relevant to the Project are identified in Table 3.4-1.

Table 3.4-1. Laws, Regulations, and Policies (Biological Resources)

U.S.	Endangered Species Act (FESA) (7 USC 136, 16 USC 1531 et seq.)	The FESA, which is administered in California by the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS), provides protection to species listed as threatened or endangered, or proposed for listing as threatened or endangered. Section 9 prohibits the "take" of any member of a listed species. <ul style="list-style-type: none"> • Take is defined as "...to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct."
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Table 3.4-1. Laws, Regulations, and Policies (Biological Resources)

		<ul style="list-style-type: none"> • Harass is “an intentional or negligent act or omission that creates the likelihood of injury to a listed species by annoying it to such an extent as to significantly disrupt normal behavior patterns that include, but are not limited to, breeding, feeding, or sheltering.” • Harm is defined as “...significant habitat modification or degradation that results in death or injury to listed species by significantly impairing behavioral patterns such as breeding, feeding, or sheltering.” <p>When applicants are proposing projects with a Federal nexus that “may affect” a federally listed or proposed species, the Federal agency is required to consult with the USFWS or NMFS, as appropriate, under Section 7, which provides that each Federal agency must ensure that any actions authorized, funded, or carried out by the agency are not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of areas determined to be critical habitat.</p>
U.S.	Migratory Bird Treaty Act (MBTA) (16 USC 703-712)	The MBTA was enacted to ensure the protection of shared migratory bird resources. The MBTA prohibits the take, possession, import, export, transport, selling, purchase, barter, or offering for sale, purchase, or barter, of any migratory bird, their eggs, parts, and nests, except as authorized under a valid permit. The responsibilities of Federal agencies to protect migratory birds are set forth in Executive Order (EO) 13186. The USFWS is the lead agency for migratory birds. The USFWS issues permits for takes of migratory birds for activities such as scientific research, education, and depredation control, but does not issue permits for incidental take of migratory birds.
U.S.	Rivers and Harbors Act (RHA) (33 USC 403)	Section 10 of the RHA prohibits the creation of any obstruction not affirmatively authorized by Congress to the navigable capacity of any of the waters of the United States. Except where recommended by the Chief of Engineers and authorized by the Secretary of War, it is unlawful to build or commence the building of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, or other structures in any port, roadstead, haven, harbor, canal, navigable river, or to excavate or fill, or in any manner to alter or modify the course, location, condition, or capacity of, any port, roadstead, haven, harbor, canal, lake, harbor of refuge, or enclosure within the limits of any breakwater, or of any channel of any navigable waters of the United States.
U.S.	Federal Water Pollution Control Act (AKA Clean Water Act - CWA) (33 USC 1251-1376)	Section 401 (33 USC 1341) of the CWA specifies that any applicant for a federal permit to conduct any activity which may result in any discharge into the navigable waters of the United States to obtain a certification or waiver thereof from the state in which the discharge originates that such a discharge will comply with state water quality standards. Section 404 (33 USC 1344) of the CWA authorizes the U.S. Army Corps of Engineers (USACE) to issue permits for the discharge of dredged or fill material into waters of the United States, including wetlands, streams, rivers, lakes, coastal waters or other water bodies or aquatic areas that qualify as waters of the United States.
U.S.	Other	<ul style="list-style-type: none"> • The Bald and Golden Eagle Protection Act makes it illegal to import, export, take (including molest or disturb), sell, purchase or barter any bald eagle or golden eagle or parts thereof. • Clean Water Act (33 USC 1251 et seq.) and Rivers and Harbors Act (33 USC 401) (see Section 3.9, Hydrology and Water Quality). • Executive Order 13112 requires Federal agencies to use authorities to prevent introduction of invasive species, respond to and control invasions in a cost-effective and environmentally sound manner, and provide for restoration of native species and habitat conditions in invaded ecosystems. • Executive Order 13158 requires Federal agencies to identify actions that affect natural or cultural resources within a Marine Protected Area (MPA) and,

Table 3.4-1. Laws, Regulations, and Policies (Biological Resources)

		in taking such actions, to avoid harm to the natural and cultural resources that are protected by a MPA.
CA	California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.)	The CESA provides for the protection of rare, threatened, and endangered plants and animals, as recognized by the California Department of Fish and Wildlife (CDFW), and prohibits the taking of such species without its authorization. Furthermore, the CESA provides protection for those species that are designated as candidates for threatened or endangered listings. Under the CESA, the CDFW has the responsibility for maintaining a list of threatened species and endangered species (Fish & G. Code, § 2070). The CDFW also maintains a list of candidate species, which are species that the CDFW has formally noticed as under review for addition to the threatened or endangered species lists. The CDFW also maintains lists of Species of Special Concern that serve as watch lists. Pursuant to the requirements of the CESA, an agency reviewing a proposed project within its jurisdiction must determine whether any State-listed endangered or threatened species may be present in the project site and determine whether the proposed project will have a potentially significant impact on such species. In addition, the CDFW encourages informal consultation on any proposed project that may affect a candidate species. The CESA also requires a permit to take a State-listed species through incidental or otherwise lawful activities (§ 2081, subd. (b)).
CA	Lake and Streambed Alteration Program (Fish & G. Code, §§ 1600-1616)	The CDFW regulates activities that would interfere with the natural flow of, or substantially alter, the channel, bed, or bank of a lake, river, or stream. These regulations require notification of the CDFW for lake or stream alteration activities. If, after notification is complete, the CDFW determines that the activity may substantially adversely affect an existing fish and wildlife resource, the CDFW has authority to issue a Streambed Alteration Agreement.
CA	Other relevant California Fish and Game Code sections	<ul style="list-style-type: none"> • The California Native Plant Protection Act (Fish & G. Code, § 1900 et seq.) is intended to preserve, protect, and enhance endangered or rare native plants in California. This Act includes provisions that prohibit the taking of listed rare or endangered plants from the wild and a salvage requirement for landowners. The Act directs the CDFW to establish criteria for determining what native plants are rare or endangered. Under section 1901, a species is endangered when its prospects for survival and reproduction are in immediate jeopardy from one or more causes. A species is rare when, although not threatened with immediate extinction, it is in such small numbers throughout its range that it may become endangered. • The California Species Preservation Act (Fish & G. Code, §§ 900-903) provides for the protection and enhancement of the amphibians, birds, fish, mammals, and reptiles of California. • Fish and Game Code sections 3503 & 3503.5 prohibit the taking and possession of native birds' nests and eggs from all forms of needless take. These regulations also provide that it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nests or eggs of any such bird except as otherwise provided by this Code or any regulation adopted pursuant thereto. • Fish and Game Code sections 3511 (birds), 4700 (mammals), 5050 (reptiles and amphibians), & 5515 (fish) designate certain species as "fully protected." Fully protected species, or parts thereof, may not be taken or possessed at any time without permission by the CDFW. • Fish and Game Code section 3513 does not include statutory or regulatory mechanism for obtaining an incidental take permit for the loss of non-game, migratory birds.

1 The following local goal related to biological resources is from the San Bernardino
2 County 2007 General Plan (SBC 2007) Chapter V. Conservation Element (Section C.
3 Countywide Goals and Policies of the Conservation Element 1. Biological Resources):

- 4 • **GOAL CO 2.** The County will maintain and enhance biological diversity and
5 healthy ecosystems throughout the County by:
 - 6 ○ **CO 2.1.** Coordinating with State and Federal agencies and departments
7 to ensure that their programs to preserve rare and endangered species
8 and protect areas of special habitat value, as well as conserve populations
9 and habitats of commonly occurring species, are reflected in reviews and
10 approvals of development programs.
 - 11 ○ **CO 2.2.** Provide a balanced approach to resource protection and
12 recreational using of the natural environment.
 - 13 ○ **CO 2.3.** Establish long-term comprehensive plans for the County’s role
14 in the protection of native species because preservation and conservation
15 of biological resources are statewide, Regional, and local issues that
16 directly affect development rights.
 - 17 ○ **CO 2.4.** All discretionary approvals requiring mitigation measures for
18 impacts to biological resources will include the condition that the mitigation
19 measures be monitored and modified, if necessary, unless a finding is
20 made that such monitoring is not feasible.

21 3.4.3 Impact Analysis (CEQA)

22 a) ***Have a substantial adverse effect, either directly or through habitat***
23 ***modifications, on any species identified as a candidate, sensitive, or***
24 ***special status species in local or regional plans, policies, or regulations, or***
25 ***by the California Department of Fish and Wildlife or U.S. Fish and Wildlife***
26 ***Service?***

27 **Less than Significant with Mitigation.** As discussed in Section 2, Project
28 Description, Reclamation completed ESA Section 7 consultation for the LCR
29 MSCP in 2005 related to potential effects on sensitive species from implementing
30 MSCP activities. Reclamation sent notification of the proposed Project to the
31 USFWS on January 28, 2015 (Appendix F), stating that the creation of new
32 habitats for covered species could have minor impacts on existing low-value
33 habitat in the LCR MSCP Project area. Importantly, incidental take and
34 avoidance and minimization measures are provided in the Biological Opinion
35 (BO) (File No. 22410-2004-F-0161) and State and Federal incidental take
36 permits, and LCR MSCP must fully implement appropriate avoidance measures
37 as stated therein to reduce or eliminate potential impacts to covered species. A
38 concurrence request letter will be sent to CDFW with the Mohave Valley
39 Backwater Restoration Development and Monitoring Plan (Appendix B) and the
40 Monitoring, Research, and Adaptive Management Plan for review and approval,
41 as stated in the provisions of the Incidental Take Permit issued by CDFW
42 (Incidental Take Permit File No. 2081-2005-008-06) (Appendix G).

1 Notwithstanding the requirements for avoidance and minimization of impacts
2 contained in the prior consultations and permits for the overall LCR MSCP,
3 because sensitive species could be present at the Project site and could be
4 affected by the Project, the potential for a significant impact exists. Specifically,
5 vegetation clearing, grading, and other Project-related activities could impact
6 yellow-breasted chat and other avian species if activities were to occur during
7 breeding or nesting. Therefore, to reduce this potential impact, the following
8 mitigation measures will be implemented for all construction and maintenance
9 activities: **MM BIO-1, MM BIO-2, MM BIO-3, MM BIO-4, and MM BIO-5.**

10 **MM BIO-1: Worker Environmental Awareness Program (WEAP).** Prior to
11 initiating work at the site, an education program (WEAP) will be provided by
12 the Project Biologist to workers. The WEAP shall include:

- 13 1. Brief life history,
- 14 2. Ecology
- 15 3. Identification
- 16 4. Legal protections afforded all potentially occurring special-status plant
17 and animal species as well as the identified protective measures
- 18 5. Implications of noncompliance.

19 All persons employed or otherwise working on the Project site shall attend a
20 WEAP presentation prior to performing any work on site.

21 **MM BIO-2: Designated Project Biologist.** At least 30 days before initiating
22 Project activities, the Project proponent shall obtain the California Department
23 of Fish and Wildlife's written approval for a designated Project
24 Biologist/biological field contact representative. The Project Biologist shall be
25 on site during initial Project activities and as necessary to oversee activities
26 described for monitoring breeding and nesting (**MM BIO-3**) avoidance
27 measures and may halt Project activities that are in violation. In addition, all
28 occurrences of MSCP covered species and California sensitive species
29 observed in the Project area will be submitted to the CNDDDB by the Project
30 Biologist or the long-term site monitor, as appropriate (information and forms
31 at http://www.dfg.ca.gov/biogeodata/cnddb/submitting_data_to_cnddb.asp.)

32 **MM BIO-3 Bird Breeding Season Avoidance.** To the extent feasible, all
33 work for Phases 1 and 2 shall be conducted outside the breeding season
34 (September 1 through February 28) to reduce the possibility of abandonment,
35 or commenced prior to occupation by sensitive birds in the spring in order to
36 prevent occupation and breeding/nesting. If ground disturbance or vegetation
37 clearing is needed during the breeding/nesting season for any phase, a pre-
38 construction survey will be completed by the Project Biologist and a minimum
39 100-foot buffer will be enforced around all nests until the young have fledged.

40 **MM BIO-4: Reduce Terrestrial Invasive Species.** All vehicles and
41 equipment entering and leaving the site will be properly cleaned to avoid
42 spreading terrestrial non-native invasive species.

1 **MM BIO-5: Reduce Aquatic Invasive Species.** All vehicle and equipment
2 would be appropriately washed by implementing the “Clean, Drain, Dry”
3 philosophy to prevent the spread of aquatic invasive species like the quagga
4 mussel ([https://www.wildlife.ca.gov/Conservation/Invasives/Quagga-](https://www.wildlife.ca.gov/Conservation/Invasives/Quagga-Mussels)
5 [Mussels](https://www.wildlife.ca.gov/Conservation/Invasives/Quagga-Mussels)).

6 Project related impacts to biological resources would be less than significant due
7 to the requirement that the LCR MSCP comply with the BO (LCR MSCP 2005a)
8 and incidental take permits issued by CDFW and USFWS, along with the
9 implementation of **MM BIO-1, MM BIO-2, MM BIO-3, MM BIO-4, and MM BIO-5.**

10 ***b) Have a substantial adverse effect on any riparian habitat or other sensitive***
11 ***natural community identified in local or regional plans, policies, regulations***
12 ***or by the California Department of Fish and Wildlife or U.S. Fish and***
13 ***Wildlife Service?***

14 **Less than Significant Impact.** The Project is expected to have a less than
15 significant impact on any riparian habitat or other sensitive natural community
16 identified in local or regional plans, policies, regulation or by the CDFW or
17 USFWS. The Project area consists largely of non-native salt cedar and will be
18 replaced with native vegetation.

19 ***c) Have a substantial adverse effect on federally protected wetlands as***
20 ***defined by Section 404 of the Clean Water Act (including, but not limited to,***
21 ***marsh, vernal pool, coastal, etc.) through direct removal, filling,***
22 ***hydrological interruption, or other means?***

23 **Less than Significant Impact.** The Project is expected to have less than
24 significant impacts to federally protected wetlands under Section 404 of the
25 Clean Water Act (CWA), defined as “those areas that are inundated or saturated
26 by surface or groundwater at a frequency and duration sufficient to support, and
27 that under normal circumstances do support, a prevalence of vegetation typically
28 adapted for life in saturated soil conditions. Wetlands generally include swamps,
29 marshes, bogs and similar areas” (40 Code of Federal Regulations [CFR]
30 230.3(t)).

31 The Project area is to the west of the River within the floodplain and is separated
32 by a roadway berm directly adjacent to the River. The Project is located within
33 133.4 acres of uplands and 33.8 acres of seasonally flooded shrub wetland and
34 perennially flooded emergent wetlands (Bio-West, 2015) (Appendix E).

35 Although the Project area has been highly modified, conditions have normalized
36 to a degree that routine wetland delineation is appropriate. The wetland
37 investigations states that hydrologic indicators observed in the Project area
38 include saturated soils, surface water flooding, surface salt crust, and surface soil
39 cracks (Bio-West, 2015).

1 Short term impacts would result from clearing and excavation activities during
2 Phase 1 and Phase 2 of the Project through vegetation clearing, grading, and
3 dredging to create the backwater and restored wetland habitat. However,
4 clearing of invasive plant species, degraded wetlands areas, and the excavation
5 of an open backwater would restore water flows and allow for increased and
6 improved flows to existing wetland areas. In addition, native vegetation would be
7 planted to restore upland and wetlands habitat.

8 Although clearing and excavation activities during Phase 1 and Phase 2 would
9 temporarily impact the existing wetland areas described above, after the
10 construction of the Project the existing wetland functions would be restored and
11 enhanced above existing conditions. Because the Project would not have a
12 substantial adverse impact on federally protected wetlands, and would instead
13 result in an improvement over the existing degraded conditions, this impact
14 would be less than significant.

15 **d) *Interfere substantially with the movement of any native resident or***
16 ***migratory fish or wildlife species or with established native resident or***
17 ***migratory wildlife corridors, or impede the use of native wildlife nursery***
18 ***sites?***

19 **Less than Significant Impact.** The Project is not anticipated to substantially
20 impact the movement of native resident or migratory fish and wildlife species or
21 with established resident or migratory corridors, or impede the use of native
22 wildlife nursery site. Project construction may temporarily displace wildlife directly
23 from vehicular travel and excavation in the area. Impacts are anticipated to be
24 temporary and habitat created will increase wildlife use and benefit of native
25 habitat over time.

26 **e) *Conflict with any local policies or ordinances protecting biological***
27 ***resources, such as a tree preservation policy or ordinance?***

28 **No Impact.** The Project would not impact local policies or ordinances protecting
29 biological resources, such as tree preservation policy or ordinance. The Project
30 would create and enhance habitat for LCR MSCP covered species.

31 **f) *Conflict with the provisions of an adopted Habitat Conservation Plan,***
32 ***Natural Community Conservation Plan, or other approved local, regional, or***
33 ***state habitat conservation plan?***

34 **No Impact.** The Project would not conflict with the provisions of an adopted
35 Habitat Conservation Plan, Natural Community Conservation Plan, or other
36 approved local, regional, or state habitat conservation plan. The Project is in
37 conformance with the LCR MSCP.

1 **3.4.4 Environmental Consequences (NEPA)**

2 **No Action Alternative**

3 The No Action Alternative would have no impacts to Biological Resources. The
4 Biological Resources would not be altered and the vegetation would remain in its
5 current condition. Non-native salt cedar would continue to spread and LCR MSCP
6 ecological site restoration would not occur at this location on the River.

7 **Proposed Action (Project)**

8 The Project would result in removal of existing vegetation in the Project area and the
9 creation of a backwater and marsh habitat for target species (i.e., flannelmouth sucker)
10 covered under the LCR MSCP. The Project would disturb up to 149 acres and develop
11 50 acres of backwater habitat for listed fish; primarily for the flannelmouth sucker but
12 razorback sucker is also in the Park Moabi Channel. In addition to the backwater
13 creation, migratory birds and other wildlife species may also take advantage of the
14 mosaic of marsh, riparian, and upland vegetation types.

15 Negative impacts to wildlife can occur as a result of construction, operation, and
16 maintenance activities. Wildlife may be temporarily displaced, injured, or killed if not
17 avoided during Project implementation and maintenance activities from vehicle
18 machinery traffic. Human activity, noise, and vibrations can cause wildlife to be
19 temporarily displaced from nesting, roosting, or foraging areas. If vegetation removal is
20 needed for maintenance activities, wildlife may lose small areas of habitat that may be
21 important for cover, foraging, or other activities. Ground dwelling species could be
22 entrapped in trenches during Project implementation or maintenance. However, **MM**
23 **BIO-1, MM BIO-2, and MM BIO-3** will avoid and minimize these impacts to wildlife. The
24 Project would result in native habitat and backwater creation for the long-term benefit of
25 fish and wildlife species.

26 Indirect impacts to wildlife from the Project can occur as a result of human activities and
27 disturbance in the area. Reproduction could be interrupted or delayed if they are forced
28 to leave their nests or abandon young for long periods of time; however, because
29 construction and vegetation removal would be scheduled outside of the migratory bird
30 breeding season or would begin prior to spring occupation by breeding/nesting birds
31 (Phase 1), or would be preceded by surveys for breeding birds with an avoidance buffer
32 established around any nests until the young have fledged (Phase 3 onward) these
33 impacts are anticipated to be negligible and avoided. Maintenance activities may also
34 cause temporary restrictions to accessing forage or foraging areas but most species will
35 be able to circumvent any temporary barriers to movement. Prey species may also be
36 temporarily displaced and may cause wildlife to spend more time locating prey species
37 or foraging.

38 Positive impacts to wildlife can also occur as a result of maintenance activities. Minor
39 routine maintenance can prevent large emergency repairs with bigger disturbance
40 footprints which could result in more habitat loss.

1 ESA Section 7 consultation was completed for the LCR MSCP in 2005. Project specific
2 notification was sent to the USFWS on January 28, 2015 (Appendix F). The letter
3 restated that the creation of new habitats for covered species could have minor impacts
4 on existing low-value habitat in the LCR MSCP project area. Incidental take is provided
5 for in the BO (File No.22410-2004-F-0161) in addition to avoidance and minimization
6 measures, particularly avoiding the migratory bird breeding season during construction
7 activities to the extent feasible. There is no designated critical habitat within the Project
8 area; however, directly adjacent to the Project area, the Park Moabi Channel, is
9 designated critical habitat for the bonytail chub. A concurrence request letter will be sent
10 to CDFW with the Habitat Restoration and Management Plan and the Monitoring,
11 Research, and Adaptive Management Plan for review and approval, as stated in the
12 provisions of the Incidental Take Permit issued by CDFW (Incidental Take Permit File
13 No. 2081-2005-008-06) (Appendix G).

14 **Cumulative Impacts**

15 The analysis area to determine cumulative impacts to Biological Resources is the area
16 within the Park boundary. Activities that may impact wildlife and fish include recreation
17 activities and development. Recreation activities and development can result in
18 additional habitat loss for wildlife; however, the Project would recreate additional habitat
19 in the long-term. Native fish like the razorback sucker are being stocked in the Park
20 Moabi Channel and flannelmouth sucker is the target species to benefit from the
21 Project. Increased human activity can impact wildlife and result in avoidance of an area
22 and competition for resources. The long-term benefit of the backwater creation would
23 provide native habitat for wildlife and backwater habitat for native fish. Cumulative
24 impacts from activities within the analysis area are not expected to reach the level of
25 significance.

26 **3.4.5 Mitigation Summary (CEQA Only)**

27 Implementation of the following mitigation measures would reduce the potential for
28 Project related impacts to Biological Resources to less than significant.

- 29 • MM BIO-1: Worker Environmental Awareness Program (WEAP)
- 30 • MM BIO-2: Designated Project Biologist
- 31 • MM BIO-3: Bird Breeding Season Avoidance
- 32 • MM BIO-4: Reduce Terrestrial Invasive Species
- 33 • MM BIO-5: Reduce Aquatic Invasive Species