

3.4 BIOLOGICAL RESOURCES

This section addresses common and sensitive biological resources that could be affected by implementation of the Cal Poly Humboldt Student Housing Project. This evaluation is based on data collected during a reconnaissance-level survey of the project site conducted on April 17, 2022; an aquatic resource field delineation conducted on April 16, 2022; a review of previously prepared environmental documents including The Village Student Housing Project EIR, Biological Review of The Village on APN 505-022-011, -012 by Natural Resources Management (NRM) Corporation (2016); a review of aerial photographs of the project area; species lists obtained from the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation planning tool (USFWS 2022) and searches of the California Natural Diversity Database (CNDDDB) (CDFW 2022) and California Native Plant Society Rare Plant Inventory (CNPS 2022); and other existing documentation pertaining to biological resources in the region.

No comments related to biological resources were received in response to the NOP.

3.4.1 Regulatory Setting

FEDERAL

Federal Endangered Species Act

The federal Endangered Species Act (ESA) requires formal or informal consultation with USFWS or the National Oceanic and Atmospheric Administration National Marine Fisheries Service (NMFS) when it is likely that a project could affect species federally listed as threatened or endangered. The purpose of the ESA is to conserve the ecosystems upon which listed species depend. The law's ultimate goal is to "recover" listed species such that the protections of the act are no longer needed.

The act also regulates the "taking" of species listed as threatened or endangered under the ESA. Under the ESA, the definition of "take" is to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." USFWS has also interpreted the definition of "harm" to include significant habitat modification that could result in take. If implementing a project would result in take of a federally listed species, either the project applicant must acquire an incidental take permit (ITP) under Section 10(a) of the ESA or, if a federal discretionary action is involved, the federal agency must consult with USFWS under Section 7 of the act.

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA), first enacted in 1918, provides for protection of international migratory birds and authorizes the Secretary of the Interior to regulate the taking of migratory birds. MBTA provides that it shall be unlawful, except as permitted by regulations, to pursue, take, or kill any migratory bird, or any part, nest, or egg of any such bird. Under the MBTA, "take" is defined as "to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or any attempt to carry out these activities." A take does not include habitat destruction or alteration, as long as there is not a direct taking of birds, nests, eggs, or parts thereof. The current list of species protected by the MBTA can be found in 50 CFR 10.13. The list includes nearly all birds native to the United States.

Clean Water Act

Section 404 of the Clean Water Act (CWA) requires a project applicant to obtain a permit before engaging in any activity that involves any discharge of dredged or fill material into waters of the United States, including wetlands. Fill material is material placed in waters of the United States that has the effect of replacing any portion of waters of the United States with dry land or changing the bottom elevation of any portion of waters of the United States. Waters of the United States include navigable waters; interstate waters; all other waters where the use, degradation, or destruction of the waters could affect interstate or foreign commerce; relatively permanent tributaries to any of these waters; and wetlands adjacent to these waters. Wetlands are defined as those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal

circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Potentially jurisdictional wetlands typically must meet three wetland delineation criteria: hydrophytic vegetation, hydric soil types, and wetland hydrology. Wetlands that meet the delineation criteria may be subject to federal jurisdiction under Section 404 of the CWA pending U.S. Army Corps of Engineers (USACE) verification.

Under Section 401 of the CWA, an applicant for a Section 404 permit must obtain a certificate from the appropriate state agency stating that the intended dredging or filling activity is consistent with the state's water quality standards and criteria. In California, the authority to grant water quality certification is delegated by the State Water Resources Control Board (SWRCB) to the nine regional water quality control boards (RWQCBs). Section 3.9, "Hydrology and Water Quality," includes further discussion of water quality regulations.

STATE

California Endangered Species Act

The California Department of Fish and Wildlife (CDFW) regulates the taking of species listed as threatened or endangered under the California Endangered Species Act (CESA), which prohibits the taking of state-listed endangered or threatened species, as well as candidate species being considered for listing, without the issuance of ITPs. Project proponents may obtain an ITP pursuant to Fish and Game Code Section 2081 if the impacts of the take are minimized and fully mitigated and if the take would not jeopardize the continued existence of the species. A "take" of a species, under CESA, is defined as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill" an individual of a species. The CESA definition of "take" does not include "harm" or "harass" as is included in the ESA definition. As a result, the threshold for take under CESA may be higher than under the ESA.

Porter-Cologne Water Quality Control Act

The Porter-Cologne Water Quality Control Act (Porter-Cologne Act) (Water Code, Section 13000 et seq.) requires that each of the nine RWQCBs prepare and periodically update basin plans for water quality control in their respective regions. Each basin plan sets forth water quality standards for surface water and groundwater and actions to control nonpoint and point sources of pollution to achieve and maintain these standards. Basin plans offer an opportunity to protect wetlands through the establishment of water quality objectives. The RWQCB's jurisdiction includes waters of the United States, as well as areas not federally protected under CWA Section 404, provided they meet the definition of "waters of the state." "Waters of the state" is defined as any surface water or groundwater, including saline waters, within the boundaries of the state. The SWRCB published a new set of procedures for discharges of dredged or fill material into waters of the state on March 22, 2019. The California Water Code generally regulates more substances contained in discharges and defines discharges to receiving waters more broadly than does the CWA. In addition, waters of the State cover a broader range of aquatic habitats than the CWA. Actions that affect waters of the State, including wetlands, must meet the RWQCB waste discharge requirements. Mitigation requiring no net loss of overall abundance, diversity, and condition of aquatic resources within the affected watershed is required by the RWQCB for any permanent loss of waters of the state.

The SWRCB has adopted the following definition of wetlands:

An area is wetland if, under normal circumstances, (1) the area has continuous or recurrent saturation of the upper substrate caused by groundwater or shallow surface water or both; (2) the duration of such saturation is sufficient to cause anaerobic conditions in the upper substrate; and (3) the area's vegetation is dominated by hydrophytes the area lacks vegetation.

Section 1602 of the California Fish and Game Code

All diversions, obstructions, or changes to the natural flow or bed, channel, or bank of any river, stream, or lake in California that supports wildlife resources are subject to regulation by CDFW under Section 1600 et seq. of the California Fish and Game Code. Under Section 1602, it is unlawful for any person to substantially divert or obstruct the natural flow or substantially change or use any material from the bed, channel, or bank of any river, stream, or lake designated by CDFW without first notifying CDFW of such activity and obtaining a final agreement authorizing such

activity. The removal or treatment of vegetation from the bed or banks of lake and stream features is considered a substantial change and is regulated under Section 1602. CDFW's jurisdiction in altered or artificial waterways is based on the value of those waterways to fish and wildlife.

Native Plant Protection Act

The Native Plant Protection Act (NPPA) (California Fish and Game Code Section 1900 et seq.) allows the California Fish and Game Commission to designate plants as rare or endangered. Sixty-four species, subspecies, and varieties of plants are protected as rare under the NPPA. The act prohibits take of endangered or rare native plants but includes exceptions for agricultural and nursery operations; for emergencies; and, after proper notification of CDFW, for vegetation removal from canals, roads, and other building sites, changes in land use, and other situations.

Fully Protected Species

Protection of fully protected species is described in Sections 3511, 4700, 5050, and 5515 of the California Fish and Game Code. The fully protected status prohibits take or possession of these species and generally does not provide for authorization of incidental take. "Fully protected" is a separate classification, distinct from a listing as endangered or threatened under CESA and the federal ESA. The fully protected species laws were enacted prior to CESA and the ESA. Several of the fully protected species are also protected by the federal and state endangered species laws. CDFW has informed nonfederal agencies and private parties that their actions must avoid take of any fully protected species. On October 8, 2011, the governor signed Senate Bill 618, authorizing CDFW to permit the incidental take of fully protected species if the species is covered and conserved in a natural community conservation plan (NCCP). An NCCP identifies and provides for the regional protection of plants, animals, and their habitats, while allowing compatible and appropriate economic activities. There are no NCCPs adopted within the project area.

Protection for Bird Nests and Raptors

Section 3503 of the California Fish and Game Code states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird. Section 3503.4 specifically states that it is unlawful to take, possess, or destroy any raptors (e.g., hawks, owls, eagles, and falcons), including their nests or eggs. Section 3513 of the California Fish and Game Code codifies the federal MBTA.

California Environmental Quality Act

Rare, threatened, or endangered plant species, subspecies, and varieties are specifically considered in various sections of CEQA and the State CEQA Guidelines. State CEQA Guidelines Section 15380(b) provides the criteria for endangered, rare, and threatened species. Section 15380(d) states that species that are not on state and federal lists but meet the criteria in Section 15380(b) "shall nevertheless be considered to be endangered, rare or threatened." California Rare Plant Rank 1A, 1B, 2A, and 2B species are presumed to meet these criteria. Additionally, under Section 15380, species will be considered endangered, rare, or threatened if they are listed as such under CESA or the ESA. Species designated as candidates for listing by the California Fish and Game Commission under CESA also are "presumed to be endangered." CESA presumes that candidate species meet the criteria for listing as endangered, rare, or threatened.

LOCAL

Cal Poly Humboldt is part of the CSU, which is a statutorily and legislatively created, constitutionally authorized State entity. As explained in the "California State University Autonomy" section in Chapter 3 of this EIR, the CSU is not subject to local government planning and land use plans, policies, or regulations. Nevertheless, in the exercise of its discretion, Cal Poly Humboldt does reference, describe, and address local plans, policies, and regulations where appropriate and for informational purposes. This evaluation is also intended to be used by local agencies for determining, as part of their permit processes, the project's consistency with local plans, policies, and regulations.

City of Arcata General Plan

The City of Arcata General Plan contains guidelines for biological resources within the Open Space Element, and Resource Conservation and Management Element. The following policies from the Arcata General Plan are relevant to the project's assessment of impacts to biological resources:

- ▶ **Policy OS-1: Overall Open Space System.** Designate, maintain, and enhance the quality, and increase the amount of permanently protected open space in the Arcata Planning Area, including natural resource areas; resource production areas; outdoor recreation areas; and areas subject to health and safety hazards. These areas are to be protected, linked together in a network wherever practical for accessibility, managed for resource production and maintained for enjoyment by City residents and visitors.
- ▶ **Policy OS-2: Natural Resources Protection & Enhancement.** Designate, maintain, and enhance natural resource areas, including sensitive habitat areas, necessary to sustain plant and animal life and native biological diversity.
- ▶ **Policy RC-1a: Maintain Biological and Ecological Integrity.** Maintaining ecological balance, system function, biological integrity, and natural diversity is the primary focus of the Resource Conservation and Management Element. Protecting ecological functions of natural habitats, and natural drainage and infiltration processes, will enhance natural ecosystems in the Planning Area. Ecological system functions elements and processes are maintained through the following measures:
 1. The structure and composition of ecological systems within the City shall contain the same native plant and animal species, in the same relative abundances and proportions, which are found in the least-disturbed natural ecosystems in the Planning Area.
 2. The ecological functions performed by ecological systems in the City shall resemble the functions of the least-disturbed natural ecosystems in the Planning Area.
 3. Ecological systems and natural processes are not disrupted by exotic organisms to a significant degree.
 4. Ecological systems and natural processes are not to be disrupted by land use activities to a significant degree (e.g., a culvert or other drainage device that blocks fish passage).
- ▶ **Policy RC-1c: Habitat Value Protection.** Environmentally sensitive habitat areas (ESHA) shall be protected against any significant disruption of their habitat values, and only uses dependent on and compatible with maintaining those resources shall be allowed within ESHAs. Proposed development in areas adjacent to ESHAs shall be sited and designed to prevent impacts which would significantly degrade such areas, and must be compatible with the continuance of such habitat areas.
- ▶ **Policy RC-1d: Sensitive Habitat Definition.** The City declares the following to be ESHAs within the Planning Area:
 1. Rivers, creeks, sloughs, and associated riparian habitats: Mad River; Jacoby Creek; Beith Creek; Grotzman Creek; Campbell Creek; Jolly Giant Creek; Janes Creek; Gannon Slough; Butcher Slough; and McDaniel Slough.
 2. Wetlands, estuaries, and associated riparian habitats: Arcata Bay; Mad River Slough; Liscom Slough; Butcher Slough; the Aldergrove marshes and ponds; and the Arcata Marsh and Wildlife Sanctuary.
 3. Other unique habitat areas: waterbird rookeries; shorebird concentration sites; habitat for all rare, threatened, or endangered species on federal or state lists; and vegetated dunes.
 4. Public Trust lands such as grazed or farmed wetlands (i.e., diked/reclaimed former tidelands).
- ▶ **Policy RC-3: Wetlands Management.** To protect existing wetlands areas and their functional capacities and values, maintain a standard of "no net loss" in area and value, restore degraded wetland areas, enhance wetlands functions, and create additional wetland areas to replace historical losses.

City of Arcata Land Use Code

The City of Arcata Land Use Code addresses biological resources within Chapters 9.58 (Tree Preservation and Hazardous Tree Removal) and 9.59 (Environmentally Sensitive Habitat Areas Protection and Preservation). Chapter 9.58 (Tree Preservation and Hazardous Tree Removal) provides procedures for the filing, processing, and approval or

disapproval of applications for tree removal. Establishes minimum standards and regulations to preserve and protect trees which are considered important to the character of the City of Arcata and its neighborhoods. Chapter 9.59 (Environmentally Sensitive Habitat Areas Protection and Preservation) establishes minimum standards and regulations to protect Environmentally Sensitive Habitat Areas (ESHA). Ensures that any proposed subdivision, land use or development adjacent to or capable of affecting ESHA will not degrade these resources or diminish their structure, function, and natural processes.

3.4.2 Environmental Setting

The 12.8-acre project site is located in the City on the northeast edge of the Sunset Neighborhood, near the intersection of the St. Louis Road and U.S. Highway 101 (US 101) overcrossing (Figures 2-1 and 2-2). The project site is bordered by US 101 on the east, single-family residences to the south and west, the Janes Creek Meadows riparian wetland/open space area and St. Louis Road to the north, and the Mad River Lumber Company to the northeast.

The project site includes the following Assessor's parcel numbers: 505-022-011, 505-022-012, 503-372-002, 503-372-003, 503-372-004, 503-372-005, 503-372-006, 505-011-002, 505-011-006, 505-011-007, 505-011-010, and 505-012-004. The project site housed a lumber mill until the 1970s. Currently and as shown in Figure 2-3, the project site consists primarily of Craftsman's Mall, a collection of wood-framed warehouse buildings housing artisan and light industrial rental spaces and outdoor storage areas for local contractors. Three single-family residences are also located within the northeast portion of the site. The northwestern portion and western edge of the site are grade-separated from the Craftsman's Mall and residential properties and are currently undeveloped. The majority of the site is unpaved.

Regionally, the project site is located within the North Coast subregion of the California Floristic Province (Baldwin et al. 2012). Regional natural plant communities surrounding the project site include those that are common to the northern California coast such as coniferous forests, coastal prairie, and coastal scrub. Elevations range from a high of nearly 62 feet above mean sea level at the eastern edge of the project site to a low of approximately 30 feet above mean sea level at the western edge of the project site.

VEGETATION AND HABITAT TYPES

Plant taxonomy follows *The Jepson Manual: Vascular Plants of California (Second Edition)* nomenclature (Baldwin et al. 2012) as revised by the Jepson eFlora (Jepson Flora Project 2022). Common names of plant species are derived from the USDA Plants Database (2022). The project site supports the following general habitat types: annual grassland, Himalayan blackberry scrub, seasonal wetland, riparian wetland, and urban (see Figure 3.4-1).

Grasslands

The northwest section of the project site consists of a vacant field dominated by non-native annual and perennial grasses and forbs with patches of willow (*Salix* sp.), Himalayan blackberry (*Rubus armeniacus*), and Fuller's teasel (*Dipsacus fullonum*). This habitat is disturbed and was previously used as animal pasture (NRM Corporation 2017). Grass species found in this habitat type include tall fescue (*Festuca arundinacea*), sweet vernal grass (*Anthoxanthum odoratum*), Kentucky bluegrass (*Poa pratensis*), common velvet grass (*Holcus lanatus*), and Italian ryegrass (*Festuca perennis*). Other species found in this habitat type include creeping buttercup (*Ranunculus repens*), California burclover (*Medicago polymorpha*), poison hemlock (*Conium maculatum*), English ivy (*Hedera helix*), and small patches of spreading rush (*Juncus patens*).

Himalayan Blackberry Scrub

There is a Himalayan blackberry scrub patch in the middle of the eastern boundary of the project site, adjacent to St. Louis Road. Himalayan blackberry is the dominant species in this area, with annual grasses and forbs occurring sporadically in the understory.



Source: Adapted by Ascent Environmental in 2022

Figure 3.4-1 Habitat Map of the Project Site

Developed/Disturbed

Most of the project site is composed of a developed storage facility that houses storage trailers, vehicles, and miscellaneous debris and materials. Developed areas are paved or otherwise developed or disturbed and generally lack natural vegetation. This area contains little to no vegetation and the few scattered plants present are nonnative grasses and weeds.

Riparian Wetland

The project boundary includes approximately 0.50 acres of riparian wetland habitat associated with a tributary to Janes Creek just south of St. Louis Road and west of Mad River Lumber. Vegetation in this area includes coast redwood (*Sequoia sempervirens*), grand fir (*Abies grandis*), bigleaf maple (*Acer macrophyllum*), red alder (*Alnus rubra*), Pacific wax myrtle (*Morella californica*), western skunk cabbage (*Lysichiton americanus*), redwood violet (*Viola sempervirens*), bristly oxtongue (*Helminthotheca echioides*), queen Anne's lace (*Daucus carota*), wild teasel, common vetch (*Vicia sativa*), Himalayan blackberry, and English ivy (*Hedera helix*). The edge of the project boundary is approximately 100 feet from the centerline of Janes Creek tributary. The Janes Creek tributary was classified as a Palustrine-Forested Wetland-Riparian Wetland.

Seasonal Wetland

The project site contains 0.0008 acre of seasonal wetland habitat in a depression within the historical floodplain terrace of Janes Creek/McDaniel Slough. Surface runoff from precipitation feeds the seasonal wetland and the wetland drains into a culvert that goes underneath the adjacent residential property. Associated wetland plant species identified in this feature include willow, tall fescue, creeping buttercup, and poison hemlock.

SENSITIVE BIOLOGICAL RESOURCES

Sensitive biological resources addressed in this ~~Draft~~ Final EIR include those that are afforded special protection or consideration through the California Fish and Game Code (including CESA), the ESA, the CWA, the Porter-Cologne Act, and CEQA.

Special-Status Species

Plants and animals may be special-status species because of declining populations, vulnerability to habitat change, or restricted distributions. Special-status species include those species legally protected under the CESA, the ESA, or other regulations, as well as species considered sufficiently rare by the scientific community to qualify for such listing. In this document, special-status species are defined as the following:

- ▶ Species listed or proposed for listing as threatened or endangered under ESA (50 CFR 17.12 for listed plants, 50 CFR 17.11 for listed animals, and various notices in the Federal Register for proposed species) or candidates for possible future listing as threatened or endangered under ESA (75 CFR 69222);
- ▶ Species listed or candidates for listing by the State of California as threatened or endangered under CESA (14 CCR Section 670.5);
- ▶ Animals fully protected under the California Fish and Game Code (Section 3511 for birds, Section 4700 for mammals, Section 5050 for reptiles and amphibians, and Section 5515 for fish);
- ▶ Plants listed as rare under the California Native Plant Protection Act (Fish and Game Code Section 1900 et seq.);
- ▶ Plants considered by CDFW to be "rare, threatened or endangered in California" (California Rare Plant Ranks of 1A, presumed extinct in California and either rare or extinct elsewhere; 1B, considered rare or endangered in California and elsewhere; 2A, presumed extinct in California but common elsewhere; and 2B, considered rare or endangered in California but more common elsewhere). Note, that while these rankings do not afford the same type of legal protection as ESA or CESA, the uniqueness of these species requires special consideration under Section 15380 of the CEQA Guidelines;
- ▶ Animals identified by CDFW as species of special concern;

- ▶ Species considered locally significant, that is, a species that is not rare from a statewide perspective but is rare or uncommon in a local context such as within a county or region (CEQA Section 15125 I) or is so designated in local or regional plans, policies, or ordinances (CEQA Guidelines, Appendix G); or
- ▶ Species that otherwise meets the definition of rare or endangered under CEQA Section 15380.

The term “California species of special concern” is applied by CDFW to animals not listed under ESA or CESA, but that are declining at a rate that could result in listing, or that historically occurred in low numbers and known threats to their persistence currently exist.

Appendix C provides a list of special-status species potentially occurring in the project vicinity and was developed based on review of the existing data sources described previously.

Plants

Query results of the CNDDDB and CNPS Inventory of Rare and Endangered Plants of California indicate that 37 special-status plant species have been recorded within the U.S. Geological Survey (USGS) topographic quadrangle containing the project site and the eight surrounding quadrangles, although no occurrences of these species have been recorded in the project site (see Appendix C). For each species listed, a determination was made regarding the potential for the species to occur on the project site based on information gathered during the reconnaissance-level biological survey and aquatic resources delineation survey, including the location of the site, habitats present, current site conditions, and past and present land use.

Due to the historical and ongoing disturbance of the site and lack of required habitat (i.e., coastal salt marsh, dunes, wet meadows, broadleaf forest, north coast coniferous forest) none of the special-status plants known to occur in the region, based on the database query and other sources, have potential of occurring within the project site.

Wildlife and Fish

Query results of the USFWS Information for Planning and Consultation (IPaC), and CNDDDB indicate that there are 39 special-status wildlife species that have been recorded within the USGS topographic quadrangle containing the project site and the eight surrounding quadrangles, although no occurrences of these species have been recorded in the project site (see Appendix C). Thirty-seven of these wildlife species were removed from additional consideration due to lack of habitat, or because the project site is outside the current known range of the species.

One species of special concern, northern red-legged frog (*Rana aurora*), and one fully protected species, white-tailed kite (*Elanus leucurus*), have potential for occurrence in the project site. These species, their status, habitat associations, and potential for occurrence on the project site are summarized in Table 3.4-1.

Table 3.4-1 Special-Status Species That May Occur on the Project Site

Name	Federal Status ¹	State Status/CRPR ¹	Habitat	Potential to Occur on the Project Site
AMPHIBIANS				
Northern red-legged frog <i>Rana aurora</i>	--	SSC	Klamath/North coast flowing waters, riparian forest, and riparian woodland. Humid forests, woodlands, grasslands, and streamsid es in northwestern California, usually near dense riparian cover. Generally near permanent water, but can be found far from water, in damp woods and meadows, during non-breeding season.	May occur: Although the project site does not support suitable aquatic habitat for this species; aquatic habitat is adjacent to the project site on Janes Creek tributary and thus there is potential for this species to wander onto the project site. The riparian wetland onsite may provide suitable upland habitat for this species.

Name	Federal Status ¹	State Status/CRPR ¹	Habitat	Potential to Occur on the Project Site
BIRDS				
White-tailed kite <i>Elanus leucurus</i>	--	FP	Cismontane woodland, marsh and swamp, riparian woodland, valley and foothill grassland, and wetlands. Rolling foothills and valley margins with scattered oaks and river bottomlands or marshes next to deciduous woodland. Open grasslands, meadows, or marshes for foraging close to isolated, dense-topped trees for nesting and perching.	May occur: Trees in the Janes Creek tributary riparian wetland habitat onsite may provide suitable nesting habitat for this species.

General references: Unless otherwise noted all habitat and distribution data provided by CNDDDB.

Note: CNDDDB = California Natural Diversity Database

¹ Legal Status Definitions

State:

FP Fully protected (legally protected)

SSC Species of special concern (no formal protection other than CEQA consideration)

Source: CDFW 2022; USFWS 2022

Sensitive Natural Communities and Habitats

Sensitive natural communities are those native plant communities defined by CDFW as having limited distribution statewide or within a county or region and that are often vulnerable to environmental effects of projects (CDFW 2018). These communities may or may not contain special-status plants or their habitat (CDFW 2018). CDFW designates sensitive natural communities based on their state rarity and threat ranking using NatureServe's Heritage Methodology. Natural communities with rarity ranks of S1 to S3, where S1 is critically imperiled, S2 is imperiled, and S3 is vulnerable, are considered sensitive natural communities to be addressed in the environmental review processes of CEQA and its equivalents (CDFW 2018).

Sensitive natural communities are generally identified at the alliance level of vegetation classification hierarchy using the Manual of California Vegetation (Sawyer et al. 2009). Known occurrences of sensitive natural communities are included in the CNDDDB; however, no new occurrences have been added to the CNDDDB since the mid-1990s when funding was cut for this portion of the CNDDDB program. Two sensitive natural communities were identified within the nine USGS quadrangles surrounding the project site through a query of the CNDDDB: northern foredune grassland and northern coastal salt marsh (CDFW 2022). These communities were mapped and classified in the CNDDDB prior to publication of the Manual of California Vegetation and are classified according to Holland 1986. No sensitive natural communities were identified as occurring within five miles of the project site during the desktop literature review or field surveys.

Forested Wetland - Riparian Wetland

There is approximately 0.50 acres of forested wetland along the northern boundary of the project site.

Wetlands and Other Waters of the United States and Waters of the State

As per the Aquatic Resource Delineation Report (Ascent 2022), the project site contains a single seasonal wetland comprising a total of approximately 0.0008 acre. This wetland is located in a low area along the western boundary of the project site against a fence line. The wetland is drained by a culvert connecting to the property to the west. The seasonal wetland within the project site is classified as palustrine emergent nonpersistent wetland using the *Classification of Wetlands and Deepwater Habitats of the United States* (FGDC 2013). Vegetation in this wetland is characterized by willow (*Salix* sp.) in the tree/shrub layer and herbaceous species in the understory, including tall fescue, creeping buttercup, and poison hemlock. Primary hydrology indicators noted in this wetland include the presence of a high water table (Indicator A2) and saturation in the upper 12 inches (Indicator A3). Hydric soils were indicated in these features by the presence of a redox dark surface (Indicator F6).

The seasonal wetland in the project site was delineated as a federally protected wetland based on a predominance of hydrophytic plant species, the presence of wetland hydrology, the presence of hydric soils, and adjacency and connectivity to other waters of the United States.

The study area contains a single riparian wetland comprising a total of approximately 0.50 acre. In the study area, riparian wetland habitat occurs as a narrow, dense grove of broad-leaved, winter deciduous trees and shrubs along the banks and adjacent floodplain of an unnamed tributary to Janes Creek/McDaniel Slough. The riparian wetland within the study is classified as palustrine forested broadleaved deciduous wetland using the *Classification of Wetlands and Deepwater Habitats of the United States* (Federal Geographic Data Committee 2013). This feature was mapped using remote sensing. Therefore, details regarding dominant plants species and the presence of hydric soils or wetland hydrology are not available. The riparian wetlands mapped in the study area are contiguous with Trout Creek. This feature was delineated as a jurisdictional wetland based on remote sensing of available data and adjacency and connectivity to other waters of the United States (i.e. the unnamed tributary to Janes Creek).

Designated Critical Habitat

There is no designated critical habitat within or in the immediate vicinity of the project site (USFWS 2022, NOAA NMFS 2022).

Wildlife Movement and Habitat Corridors

Effects on wildlife movement are an important consideration when assessing the potential impacts of any project. At a small enough scale, any project or activity can potentially affect the movement of wildlife, if wildlife are present at all. In general, however, the term “wildlife movement corridor” means an area of habitat that is important for the movement of wildlife between larger habitat areas. Wildlife movement corridors provide connections between two or more areas of habitat that would otherwise be isolated and unusable. Often drainages, creeks, riparian areas, ridgelines, or topographic contours at bases of slopes are used by wildlife as movement corridors as they can provide cover and access across a landscape. Wildlife movement corridors are important for maintaining population levels and genetic diversity.

Some of the important areas for habitat connectivity in California were mapped as Essential Connectivity Areas (ECA) for the California Essential Habitat Connectivity Project, which was commissioned by the California Department of Transportation and CDFW with the purpose of making transportation and land-use planning more efficient and less costly, while helping reduce dangerous wildlife-vehicle collisions (Spencer et al. 2010). The ECAs were not developed for the purposes of defining areas subject to specific regulations by CDFW or other agencies. The project site does not contain any portion of an identified ECA or Natural Landscape Block (CDFW 2022).

Although Janes Creek tributary is immediately north of the project site, this tributary is unlikely to serve as an important wildlife movement corridor as this tributary does not connect two or more areas of habitat what would otherwise be isolated and unusable. This tributary drains from one urban area to another, the Curtis Heights/Woodland Heights neighborhoods on the east side of US 101 to Westwood/Vasside neighborhoods on the west side of US 101.

The project site is unlikely to be of importance to wildlife movement for the following reasons:

- ▶ substantial existing anthropogenic site disturbance to habitats and
- ▶ the presence of US 101 immediately east of the project site.

3.4.3 Environmental Impacts and Mitigation Measures

METHODOLOGY

This impact evaluation is based on data collected during a reconnaissance-level field survey and aquatic resources delineation conducted by Ascent Environmental on February 17, 2022, an aquatic resource delineation conducted by Ascent Environmental on February 16, 2022, a review of aerial photographs, species database records, and information from several previously completed documents that address biological resources in the project vicinity.

This impact analysis assumes that no project construction would occur in the riparian wetland habitat located along the northwestern boundary of the project site.

THRESHOLDS OF SIGNIFICANCE

Based on Appendix G of the CEQA Guidelines, the project would normally have a significant adverse effect related to biological resources 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 CDFW or USFWS;
- ▶ have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by CDFW or USFWS;
- ▶ have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means;
- ▶ 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;
- ▶ 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 Habitat Conservation Plan (HCP), Natural Community Conservation Plan (NCCP), or other approved local, regional, or state HCP.

ISSUES NOT DISCUSSED FURTHER

Special-Status Plants and Certain Special-Status Wildlife

Section 3.4.2, "Environmental Setting," discusses the special-status plant and animal species evaluated in this analysis and summarizes the potential for each of these species to occur in the project site. Those plant and animal species considered not likely to occur because of lack of suitable habitat and lack of other occurrence records. With respect to the 37 special-status plant species identified in Appendix C, all project elements would occur on developed, ruderal grassland and blackberry patch habitat, which are not suitable habitat for any of the listed species. Further, no special-status plants were identified on the site during a floristic survey conducted for a similar project that was proposed on the same project site in 2016. After analysis of the special-status plants known to occur in the vicinity of the project and based on updated site evaluations/surveys, none of their required habitats occur on the project site. As a result, no impacts to special status plants and special-status wildlife considered not likely to occur onsite would occur as a result of project implementation. This issue is not addressed further in this EIR.

Conflict with Local Policies or Ordinances Related to the Protection of Biological Resources

Appendix G of the State CEQA Guidelines suggests evaluating whether a project would "conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect." Pursuant to the CSU's sovereign immunity, development and uses on property under control of Cal Poly Humboldt that are in furtherance of its educational purposes are not subject to local land use regulation, including City of Arcata General Plan policies regarding protection of biological resources or the City of Arcata Tree Preservation and Hazardous Tree Removal Ordinance. Although Cal Poly Humboldt is not subject to City policies and regulations and trees on University-owned property are not within City jurisdiction and are not subject to the City's ordinance related to tree preservation, the University strives to be consistent with local policies, where feasible. As noted in Chapter 2, "Project Description," the majority of trees within the project are located along the periphery of the site's developable area and would be maintained as part of the project. If any trees are required to be removed,

they would be replaced by Cal Poly Humboldt at a 1:1 ratio, ensuring no net loss of trees, consistent with the City's ordinance. As a result, no significant impacts are anticipated, and this issue is not addressed further in this EIR.

Conflict with Adopted Habitat Conservation Plan or Natural Community Conservation Plan

The project site is not within the plan area of any adopted HCP or natural community conservation plan. Therefore, potential conflicts with adopted HCPs or NCCPs would not occur, and this issue is not evaluated further.

ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES

Impact 3.4-1: Have a Substantial Adverse Effect, Either Directly or through Habitat Modifications, on Special-Status Amphibians

Implementation of the project could disturb northern red-legged frog due to ground disturbing activities in proximity to a northern red-legged frog occupied habitat area. This would be a **potentially significant** impact.

Although the project does not support aquatic habitat suitable for northern red-legged frog, presence and/or potential habitat for northern red-legged frog has been identified within the Janes Creek tributary north of the project site. This species is frequently found in woods or vegetated areas adjacent to streams, as such there is potential for frogs to be present in the riparian wetland habitat onsite and to venture onto the grassland habitat in the low area of the project site or the riparian edge closer to St Louis Road.

Although no development is planned immediately adjacent to the riparian wetland habitat west of St. Louis Road, except for an access road approximately 165 feet east of the riparian wetland habitat, implementation of the project could injure or kill metamorphs, juveniles, and adults if they were to be present, due to ground disturbing activities that crush, bury, smother, or otherwise harm these amphibians. This would be a **potentially significant** impact.

Mitigation Measures

Mitigation Measure 3.4-1: Northern Red-Legged Frog

A preconstruction survey shall be conducted for northern red-legged frog within 48 hours of planned ground disturbance. A report summarizing the results of the survey shall be prepared and submitted to the City of Arcata Community Development Department.

If the surveys are negative, no additional mitigation is required. Because this is a mobile species, a biological monitor shall be present during initial grading and a worker environmental awareness training shall be conducted with construction personnel to educate them on northern red-legged frog, their protective status (species of special concern), and avoidance measures to be implemented by all personnel, including looking under vehicles and equipment prior to moving. The training shall include steps to be taken should northern red-legged frog be observed on the construction site, including allowing the individual to leave the project site on its own accord.

If the survey is positive, a qualified biological monitor with a northern red-legged frog Scientific Collecting Permit, shall be retained to be present during initial grading to monitor activities. The biological monitor shall be authorized to move individual northern red-legged frogs out of harm's way if individual frogs do not move on their own.

Significance after Mitigation

Implementation of Mitigation Measure 3.4-1 would reduce potentially significant impacts on special-status reptiles to a **less-than-significant** level because it would require the project proponent to conduct pre-construction surveys for northern red-legged frog to see if they have moved onto the project disturbance areas, have a biological monitor present during initial grading or ground disturbing activities, create and implement a worker environmental awareness training for all personnel working on the project, and move frogs out of disturbance areas so they are not killed during construction. Such steps would ensure that the proposed project would not have a substantial adverse effect, either directly or through habitat modifications, on northern red-legged frog.

Impact 3.4-2: Have a Substantial Adverse Effect, Either Directly or through Habitat Modifications, on Special-Status Birds

Implementation of the project could disturb white-tailed kites or their nests as the result of ground-disturbing activities in proximity to suitable nesting habitat. This would be a **potentially significant** impact.

Although there is a limited number of trees on the project site that could provide suitable nesting habitat for white-tailed kite, the adjacent Janes Creek tributary riparian area and large trees surrounding the project site provide suitable nesting habitat for this and other migratory bird species. White-tailed kite has a moderate to high potential for occurrence in the project vicinity because suitable nesting and foraging habitat are present in the area.

If ground-disturbing activities associated with project construction occur during the nesting season (generally February 1 through August 31), project construction could result in direct and indirect impacts to special-status and other nesting birds, including the loss of nests, eggs, and young through direct removal of nesting substrates or visual or noise disturbances that cause adults to abandon nests and young. Loss of common migratory birds and raptors (those not meeting the definition of special-status as provided in Section 3.4) would not be a significant impact under CEQA; however, mitigation to avoid the loss of active nests of these species is required for compliance with the MBTA and California Fish and Game Code. Construction activities such as grading, vegetation removal, increase in activity (including noise), during the nesting season may result in disturbance or abandonment of nests, which could result in mortality of eggs and young and reduced reproductive success. Furthermore, white-tailed kite is a fully protected species, and there is no take authorization for this species. As such, impacts to nesting white-tailed kites would be a **potentially significant** impact.

Mitigation Measures

Mitigation Measure 3.4-2: White-tailed kite and other nesting birds

If construction activities occur within the raptor nesting season (February 1 through August 31), a pre-project nesting raptor survey shall be conducted within the project footprint and a 0.25-mile buffer for white-tailed kite and 500-foot buffer for other nesting birds no more than 14 days prior the start of ground disturbing activities or vegetation removal. Adjacent parcels under different land ownership shall be surveyed from public access areas (i.e., streets, trails, etc.) unless access is specifically granted. If construction activities lapse for more than two weeks during the breeding season, a follow up nesting bird survey shall be required. If no active nests are found, no further mitigation is required.

If an active nest is detected during the nesting bird survey, avoidance buffers shall be implemented as determined by a qualified biologist, except for white-tailed kite, which should remain at 0.25-mile buffer. The buffer for other nesting birds shall be of a distance to ensure avoidance of adverse effects to the nesting bird by accounting for topography, ambient conditions, species, nest location, and activity type. Monitoring of the nest by a qualified biologist during construction activities shall be required if the activity has the potential to adversely affect the nest. If construction activities cause the nesting bird to vocalize, make defensive flights at intruders, get up from a brooding position, or fly off the nest, then the no-disturbance buffer shall be increased until the agitated behavior ceases. The exclusionary buffer shall remain in place until the chicks have fledged or as otherwise determined by a qualified biologist.

If work within the designated 0.25-mile no-activity zone for nesting white-tailed kite cannot be delayed, a wildlife biologist with verifiable experience with white-tailed kite behavior shall evaluate site-specific conditions and, in consultation with CDFW, recommend a smaller buffer (if possible) that minimizes the potential to disturb the white-tailed kites (and is deemed to still allow reproductive success during the breeding season). The site-specific buffer shall consider the type and extent of the proposed activity occurring near the nest, the duration and timing of the activity, the sensitivity and habituation of the kites, and the dissimilarity of the proposed activity to background activities. Additional measures may be identified by the wildlife biologist or CDFW including regular monitoring of the kite nest by a qualified biologist, modified construction activity schedule in proximity to the kite nest.

Significance after Mitigation

Implementation of Mitigation Measure 3.4-2 would reduce potentially significant impacts on white-tailed kite, raptors and other nesting birds to a **less-than-significant** level because these measures would require that active nests in or near the project site be identified and avoided or monitored so that project construction would not result in nest abandonment and loss of eggs or young. Such steps would ensure that the proposed project would not have a substantial adverse effect, either directly or through habitat modifications, on special-status birds.

Impact 3.4-3: Result in Degradation or Loss of Riparian Habitat or Other Sensitive Natural Communities

Implementation of the project would not result in the disturbance or loss of riparian habitat. As proposed, the project would avoid the identified riparian habitat associated with the unnamed Janes Creek tributary and the project would have **less-than-significant** impact on riparian habitat or other sensitive natural community.

The westernmost edge of the project site includes approximately 0.50 acres of riparian wetland habitat, just southwest of St. Louis Road and west of the Mad River Lumber property. As noted above, there are no sensitive natural communities within or near the project site. As proposed, the project would include a driveway onto the project site situated closer to the existing residences along St. Louis Road, or approximately 165 feet east of the Janes Creek tributary riparian dripline, as such, the project would not result in the degradation or loss of riparian habitat or other sensitive natural community. The project would have a **less-than-significant** impact on riparian habitat or other sensitive natural community.

Mitigation Measures

No mitigation measures are required.

Impact 3.4-4: Result in Degradation or Loss of State or Federally Protected Wetlands

Implementation of the project would not result in disturbance or fill of state or federally protected wetlands. As proposed, the project would avoid the identified wetland and the project would have a **less-than-significant** impact on protected wetlands.

Per the project Aquatic Resource Delineation Report, the project site contains a single seasonal wetland of approximately 0.008 acre in area, and a single riparian wetland. The seasonal wetland is located in a low area along the western boundary of the project site against a fence line. This wetland is drained by a culvert that connects to a stormwater pipe, which extends in a north-south direction within the backyards of the single-family residences located along the western boundary of the project site. The seasonal wetland located within the boundaries of the project site was delineated as jurisdictional wetlands based on a predominance of hydrophytic plant species, the presence of wetland hydrology, the presence of hydric soils, and adjacency and connectivity to other waters of the United States.

The riparian wetland is along the northern border of the site and occurs as a narrow, dense grove of broad-leaved, winter deciduous trees and shrubs along the banks and adjacent floodplain of an unnamed tributary to Janes Creek. The riparian wetland within the study is classified as palustrine forested broadleaved deciduous wetland. This feature was delineated as a jurisdictional wetland based on remote sensing of available data and adjacency and connectivity to other waters of the United States (i.e., the unnamed tributary to Janes Creek).

As designed, implementation of the project would avoid these wetlands, and thus the project would have a **less-than-significant** impact on state or federally protected wetlands.

Mitigation Measures

No mitigation measures are required.

Impact 3.4-5: Interfere with Important Wildlife Movement Corridors and Nursery Sites

Implementation of the project would result in construction of a 256-unit apartment building. All project elements would occur on developed, ruderal grassland and blackberry patch habitat; however, the project site is adjacent to the riparian area of a Janes Creek tributary, which is not a significant wildlife movement corridor. This would be a **less than significant** impact.

The project site does not contain any portion of an identified ECA or Natural Landscape Block, and because of the developed/disturbed nature of the project site, it does not provide suitable habitat to serve as a nursery site for wildlife. Although a tributary to Janes Creek is immediately north of the project site, this tributary is unlikely to serve as an important wildlife movement corridor, as this tributary does not connect two or more areas of habitat that would otherwise be isolated and unusable. The tributary connects two urban areas to each other: the Curtis Heights/Woodland Heights neighborhoods on the east side of US 101 to Westwood/Vasside neighborhoods on the west side of US 101, and does not provide habitat connectivity. As proposed, development is concentrated on the east side of the project site providing a buffer between the residential uses to the west and the riparian corridor along Janes Creek tributary. As such, implementation of the project would not interfere with an important wildlife movement corridor or nursery site. This impact would be **less than significant**.

Mitigation Measures

No mitigation measures are required.

Impact 3.4-6: Substantially Reduce the Habitat of a Fish or Wildlife Species, cause a Fish or Wildlife Population to Drop Below Self-Sustaining Levels, Threaten to Eliminate a Plant or Animal Community, Substantially Reduce the Number or Restrict the Range of a Rare or Endangered Plant or Animal.

While implementation of the project includes construction of new buildings and the introduction of new light sources, these features would occur within a previously disturbed site, in an urban environment and immediately adjacent to US 101. Implementation of the project would not substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal. This would be a **less-than-significant** impact.

As previously mentioned, the project is located within a developed area of the City of Arcata, which covers approximately 11.44 square miles. The project itself would develop approximately 325,000 square feet (0.012 square miles) and although the project will include the construction of new buildings, light sources, and impervious surfaces, the project site would be located within an already developed and disturbed area and adjacent to a major thoroughfare, and the development of 0.012 square miles would not substantially reduce the habitat of any fish or wildlife species in the region. Furthermore, implementation of Mitigation Measures 3.4-1 and 3.4-2 require the project proponent to conduct surveys to identify, avoid and/or mitigate effects to special-status amphibians and birds, further minimizing potential impacts to these resources and take of animals such that the project would not substantially reduce the number or restrict the range of such species. Therefore, this impact would be **less than significant**.

Mitigation Measures

No mitigation measures are required.

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