SECTION 2.0
DETERMINATION

In conformance with the State CEQA Guidelines, the Water Authority, as lead agency, prepared an Initial Study and completed an Environmental Checklist Form (see Section 3.0) for the proposed Pipelines 3 and 4 Relining - State Route 52 to Lake Murray and Pipeline 3 30-Inch Interconnect to Lake Murray Control Valve. The Water Authority has elected to adhere to standards adopted by the applicable local land use and state and federal regulatory agencies and has adopted them as its own for use as thresholds of significance for the proposed project. During the Initial Study process, the Water Authority determined that, unless certain mitigation was implemented, the proposed project would have a significant impact on the following environmental factors: biological resources and noise. The significant impacts warranting mitigation are detailed below in Section 2.1. The project has been revised to include the specific measures listed below in Section 2.2, which would mitigate these impacts to below a level of significance. Analysis of all environmental issues is presented in the evaluation portion of the Initial Study Checklist, provided in Section 3.0.

2.1 ENVIRONMENTAL IMPACTS REQUIRING MITIGATION

**Biological Resources**

A Biological Technical Report (BTR) was prepared by HELIX in August 2010 (Appendix A) to assess the potential biological resources impacts that could occur with implementation of the proposed project. These can be classified as permanent or temporary impacts. Permanent impacts would result from activities that cause the removal of habitat that cannot be restored on-site through revegetation efforts. There are two types of temporary impacts: (1) impacts considered to be a one-time disturbance, or (2) impacts that may be repeated (known or expected to occur more frequently than the time period in which the restored area is scheduled to return to fully-restored status). Impacts resulting from this project are considered temporary and would occur within the ROW and outside the ROW.

The biological analysis in the BTR determined that the proposed project would:

1. Result in direct impacts to 7.0 acres of vegetation communities within the Water Authority’s permanent ROW, including 2.4 acres of Diegan coastal sage scrub (including disturbed and restored), 0.1 acre of non-native grassland, 0.1 acre of disturbed habitat, and 4.4 acres of developed land, as summarized in Table 2-1. Temporary impacts within the ROW could be repeated and are therefore treated as permanent impacts.

A BO issued by the USFWS at the outset of the CIP, of which the proposed project is a part, covered any future direct impacts to the coastal California gnatcatcher and its suitable habitat occurring within the ROW. Therefore, direct impacts to Diegan coastal sage scrub within the ROW were addressed in and authorized under the BO and mitigated off site; no further off-site mitigation is
required. Direct impacts to other declining habitats (i.e., non-native grassland) within the ROW would require mitigation. (Impact B-1)

<table>
<thead>
<tr>
<th>VEGETATION COMMUNITY</th>
<th>SDCWA TIER</th>
<th>Within ROW and Outside BSRA</th>
<th>Outside ROW and Outside BSRA</th>
<th>Outside ROW and Within BSRA</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Diegan coastal sage scrub (including disturbed and restored)</td>
<td>II</td>
<td>2.4</td>
<td>1.3</td>
<td>0.5</td>
<td>4.2</td>
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<tr>
<td>Non-native grassland</td>
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<td>0.1</td>
<td>0.0</td>
<td>0.2</td>
</tr>
<tr>
<td>Disturbed habitat</td>
<td>--</td>
<td>0.1</td>
<td>0.9</td>
<td>0.1</td>
<td>1.1</td>
</tr>
<tr>
<td>Developed</td>
<td>--</td>
<td>4.4</td>
<td>2.9</td>
<td>1.3</td>
<td>8.6</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>--</td>
<td><strong>7.0</strong></td>
<td><strong>5.2</strong></td>
<td><strong>1.9</strong></td>
<td><strong>14.1</strong></td>
</tr>
</tbody>
</table>

2. Result in direct impacts to 7.1 acres of vegetation communities within temporary construction and staging areas outside of the Water Authority’s ROW, including 1.8 acres of Diegan coastal sage scrub (including disturbed and restored), 0.1 acre of non-native grassland, 1.0 acre of disturbed habitat, and 4.2 acres of developed land, as summarized in Table 2-1. As temporary impacts outside the ROW are not expected to be repeated in the future, they are treated as one-time disturbances. Of the 7.1 acres described herein, impacts to 1.4 acres of declining habitat outside the Water Authority’s ROW and outside the Biologically Significant Resource Area (BSRA) would require mitigation as would impacts to 0.5 acre of declining habitat outside the Water Authority’s ROW and within the BSRA.

Direct impacts to sensitive habitats outside the Water Authority’s ROW would require mitigation. (Impact B-2)

3. Result in a temporary, yet potentially significant, indirect noise impact to the least Bell’s vireo.

Indirect effects of noise at the nest location of least Bell’s vireo at 60 A-weighted decibels (dBA $L_{EQU}$) or an increase of 3 dB above ambient noise levels, whichever is greater, if construction activities commence during the breeding season (March 15 to September 15) would be a significant impact. For the proposed project, in the absence of noise walls, indirect impacts to least Bell’s vireo would occur near Portals 1 and 5 and Access Location 1. (Impact B-3)

4. Result in a temporary, yet potentially significant, indirect impact to the coastal California gnatcatcher or other sensitive avian species.
If project construction commences during the breeding season of sensitive upland avian species, including coastal California gnatcatcher (February 15 to August 15), raptors (January 15 to July 31), or riparian avian species (March 15 to September 15), construction activities could cause significant indirect impacts to nesting birds by disrupting nesting behavioral patterns, displacing birds, or causing birds to flee. (Impact B-4)

As described in Section 1.3 above, in March 2010, the Water Authority issued the Draft EIR/EIS for its draft NCCP/HCP, which was designed in conjunction with the Wildlife Agencies, and which addresses impacts to biological resources associated with the Water Authority’s Covered Activities, including the proposed project. Anticipated for adoption in late 2010, the adopted Plan would result in issuance of an incidental take permit under Section 10 of the federal ESA and incidental take authorization under Section 2835 of the California Fish and Game Code, and would provide the Water Authority a mechanism for take authority consistent with the NCCP Act. Prior to development of its own draft NCCP/HCP, the Water Authority has sought Third Party Beneficiary status under the terms of the City’s MSCP Subarea Plan and associated Implementing Agreement, which also meets the requirements of the NCCP Act and ESA. Third Party Beneficiary status provides incidental take authority for those direct and indirect project impacts to listed species coastal California gnatcatcher that were not covered under the 1993 BO issued for the Water Authority’s CIP.

The analysis, impacts, and mitigation described herein assume adoption of the Water Authority’s NCCP/HCP prior to the initiation of proposed project activities. Should it appear that adoption of the Plan would be delayed beyond the initiation of project activities contract award, however, the Water Authority would notify the Wildlife Agencies. It would either avoid construction during the gnatcatcher breeding season or seek to obtain a Site Development Permit from the City for the proposed project to address the direct and indirect impacts to coastal California gnatcatcher not covered by the 1993 BO. Explained in detail in Appendix A to the BTR (HELIX 2010a), the City’s requirements for issuance of a Site Development Permit consist of (1) compliance with the planning policies and design guidelines of the MSCP Subarea Plan, including the MHPA Adjacency Guidelines, General Management Directives, Specific Management Directives, and Special Conditions for Covered Species; (2) adherence to a conservative 60-dBA threshold for construction noise impacts to least Bell’s vireo and coastal California gnatcatcher; (3) mitigation for direct and indirect impacts to least Bell’s vireo and coastal California gnatcatcher at ratios which vary depending on whether impacts would occur inside or outside the MHPA; and (4) mitigation for impacts to raptors if construction would occur during the raptor breeding season (February 1 to September 15).

If the Water Authority’s draft NCCP/HCP is not approved prior to contract award, the issuance of a Site Development Permit from the City would not confer Third Party Beneficiary status for the purpose of take of the least Bell’s vireo. Rather, in the event that the Water Authority’s NCCP/HCP is not approved prior to contract award, indirect impacts to the vireo would be avoided through installation of noise attenuation barriers.
Noise

A Noise Impact Analysis was prepared by HELIX in July 2010 (Appendix B) to assess the potential noise impacts that could occur during construction of the proposed project. The noise study determined that the proposed project would:

1. Result in temporary, significant noise impacts at some residences and other noise-sensitive land uses. With implementation of the proposed project, construction activities at these locations would exceed the City’s Municipal Code noise threshold (Section 59.5.0404) of 75 dBA time-averaged noise levels ($L_{EQ}$) at intermittent times during the 12-hour period from 7:00 a.m. to 7:00 p.m. Noise associated with construction activities is anticipated to exceed acceptable levels at Portals 1, 2, 8, 10, and 12 (refer to Noise Impact Analysis Figures 4e and 4f, respectively). Impacts to adjacent residences would be potentially significant. (Impact N-1)

2. Result in temporary indirect noise impacts at some portal and access locations to sensitive southern willow scrub habitat that is occupied by or suitable to support the federally listed endangered least Bell’s vireo. The Water Authority’s draft NCCP/HCP restricts noise levels from human activities at a least Bell’s vireo nest to less than 60 dBA $L_{EQ(1)}$ or the average ambient noise level plus three dBA (whichever is greater) during its breeding season (March 15 through September 15). With implementation of the proposed project, significant construction noise levels are projected to exceed the threshold at suitable or occupied least Bell’s vireo habitat adjacent to Portals 1 and 5, and Access Location 1 (refer to Figures A-2a and A-2b in the BTR). These impacts would be potentially significant. (Impact N-2)

2.2 MITIGATION MEASURES

Implementation of the following mitigation measures will reduce the identified impacts to below a level of significance.

Biological Resources

As noted above in Section 2.1, the project’s mitigation requirements included herein assume adoption of the Water Authority’s NCCP/HCP prior to initiation of project activities. Should adoption of the document not occur in time and the Water Authority seek a Site Development Permit from the City, the Water Authority would notify the Wildlife Agencies and the mitigation requirements would change from those below. Please refer to Appendix A of the BTR for a detailed description of the mitigation that would apply under the City’s Site Development Permit process.
Vegetation Impacts Within the ROW (Outside the BSRA)

**B-1a** Direct impacts to 2.4 acres of Diegan coastal sage scrub within the ROW were addressed in the BO and previously mitigated off site; therefore no further off-site mitigation is required.

Direct impacts to non-native grassland within the ROW shall be mitigated off-site at a 0.5:1 ratio resulting in use of 0.05 acre of off-site mitigation credits at the Crestridge Habitat Management Area (HMA) or San Miguel Conservation Bank.

Disturbed areas within the ROW shall be revegetated as detailed in Section 6.6.2 in the draft NCCP/HCP and Section 8.1.1 of the BTR, including specified procedures for seeding/planting, weed control, and soil and plant salvage.

Vegetation Impacts Outside the ROW and Outside the BSRA

**B-2a** As previously stated, areas to be temporarily impacted outside the ROW are not expected to be impacted in the future. Therefore, impacts to sensitive vegetation communities (1.3 acres of Diegan coastal sage scrub [including disturbed and restored] and 0.1 acre of non-native grassland) outside the ROW and outside the BSRA shall be mitigated through restoration and revegetation of the impacted area at a 1:1 ratio in compliance with the draft NCCP/HCP. A restoration plan shall be prepared and implemented by a qualified restoration specialist (e.g., Environmental Surveyor) under Water Authority supervision. The reports shall include items listed in Section 6.6.1 of the draft NCCP/HCP, as well as decompaction of soil during site preparation, as detailed in Section 8.1.2 of the BTR.

Vegetation Impacts Outside the ROW and Within the BSRA

**B-2b** Areas of sensitive habitat to be temporarily impacted outside the ROW and within the BSRA (0.5 acre of Diegan coastal sage scrub [including disturbed and restored]) shall be mitigated through restoration and revegetation of the impacted area at a 1:1 ratio. A restoration plan shall be prepared and implemented by a qualified restoration specialist (e.g., Environmental Surveyor) under Water Authority supervision. The restoration plan shall include items listed in Section 6.6.1 of the draft NCCP/HCP, as well as decompaction of soil during site preparation, as detailed in Section 8.1.3 of the BTR.

Construction Noise

Mitigation for indirect construction noise impacts (based on the Water Authority’s draft NCCP/HCP) is described below and is based on the Water Authority’s NCCP/HCP. If the Water Authority does not have an approved NCCP/HCP prior to award of construction contract, however, the Water Authority would notify the Wildlife Agencies. It would either avoid construction during the gnatcatcher breeding season or may seek to obtain a Site Development Permit from the City to address the direct and indirect impacts to coastal California gnatcatcher not covered by the 1993 BO. As such, habitat mitigation
required for a Site Development Permit is addressed in Appendix A of the BTR (HELIX 2010a).

**B-3a** Impacts to least Bell’s vireo shall be minimized by timing work in riparian habitat to avoid the nesting season for least Bell’s vireo whenever possible and/or ensuring that habitat is removed prior to the initiation of the least Bell’s vireo breeding season (March 15 to September 15). If construction activities must occur during the least Bell’s vireo breeding season, nest surveys shall be conducted within 300 feet of all proposed activities. If active nests are encountered and construction activities must occur during the least Bell’s vireo breeding season, noise levels from human activities at the nest shall be restricted to less than 60 dBA or the ambient noise level plus 3 dB (perceptible change threshold), whichever is greater. Noise levels shall be monitored, and monitoring reports shall be provided to the Water Authority to be included in the NCCP/HCP annual reports.

Twenty-foot-tall noise barriers are proposed at Portals 1 and 5 and Access Location 1 to attenuate noise levels at suitable nesting habitat for least Bell’s vireo and reduce construction noise impacts to below a level of significance.

**Avian Nesting**

**B-4a** Minimize impacts through timing of work to avoid the nesting season for sensitive avian species whenever possible, or ensure that habitat is removed prior to the initiation of the breeding season. If construction activities must commence during the upland avian breeding season (February 15 to August 15), raptor breeding season (January 15 to July 31), or riparian avian breeding season (March 15 to September 15), minimize impacts through conducting a preconstruction nest survey within 300 feet of all proposed activities. If active nests are encountered, no Covered Activity as set forth in the draft NCCP/HCP shall be implemented within a minimum distance of 100 feet of the nest. A greater setback (up to 300 feet) may be required, as determined by the Environmental Surveyor, based on the site specific considerations, phase of the nesting cycle, and species or other biological considerations. The Water Authority shall provide results of monitoring in its NCCP/HCP annual reports.

**Construction Monitoring**

**B-1b, B-2b, B-3b, B-4b** Monitoring by an Environmental Surveyor shall be provided by the Water Authority to ensure that the mitigation measures noted above are carried out and to ensure that inadvertent construction activities do not occur in sensitive areas outside the approved impact footprint. The Environmental Surveyor shall prepare a Pre-activity Survey Form (PSF) within 30 days prior to project ground disturbance. The Environmental Surveyor shall confirm location of sensitive biological resources and that the project Mitigation Monitoring and Reporting Program (MMRP) addresses current project conditions. The PSF shall include a description of any significant change compared to the biological resources documented in this IS/MND. Also, the PSF shall include a conclusion that the measures in the MMRP will achieve NCCP/HCP compliance and if not, what NCCP/HCP measures need to be added to achieve
compliance. The Environmental Surveyor shall attend the preconstruction meeting and weekly meetings with the contractor during project construction. The Environmental Surveyor also shall conduct random weekly inspections to ensure that mitigation measures are carried out. In addition, the Environmental Surveyor shall advise the contractor of the importance of maintaining all mitigation measures for the duration of the project and shall ensure that the construction activities, including all staging areas and access routes, comply with the approved plans.

**Noise**

**General Specifications for Sound Attenuation Barrier Construction**

Sound attenuation barriers must be constructed prior to the avian breeding season. All sound attenuation barriers shall be solid and constructed of masonry, wood, plastic, fiberglass, steel, or a combination of those materials, with no cracks or gaps through or below the wall. Any seams or cracks shall be filled or caulked. If wood is used, it can be tongue and groove or close butted seams and must be at least three-quarter-inch thick or have a surface density of at least 3.5 pounds per square foot. Sheet metal of 18-gauge (minimum) may be used, if it meets the other criteria and is properly supported and stiffened so that it does not rattle or create noise itself from vibration or wind. Noise blankets, hoods, or covers also may be used, provided they are appropriately implemented to provide the required sound attenuation.

N-1 To attenuate temporary construction noise levels to 75 dBA $L_{EQ}$ or less at the associated residential property boundaries, the contractor shall adhere to a performance specification and comply with the Water Authority’s 75-dBA $L_{EQ(12)}$ threshold for this project. Mitigation measures that will be available to the contractor, depending on the contractor’s means and methods of construction, may include the use of sound walls/barriers; noise attenuation devices/modifications to construction equipment; limiting hours of operation; or a combination of these measures.

Noise control barriers for potential impacts at residences is required at the following portals:

- **Portal 1**—minimum 12-foot high southwestern barrier, minimum 20-foot high northeastern barrier;
- **Portals 2, 8, and 12**—minimum 12-foot high barrier; and
- **Portal 10**—minimum 12-foot high southern barrier, minimum 16-foot high northern barrier.

N-2 To attenuate temporary construction noise levels to 60 dBA hourly average or less at currently occupied or suitable least Bell’s vireo habitat associated with Portals 1 and 5 and Access Location 1, the contractor shall erect a minimum 20-foot high temporary “U”-shaped noise control barrier around each location.