

## 4.3 BIOLOGICAL RESOURCES

### 4.3.1 SETTING

The program involves only the modification of existing natural gas lines for installation of empty conduit and would not carry with it any action to develop new utility rights-of-way. The proposed program will be located within a developed physical environment where the need and potential demand for FIG technologies are anticipated. Extensive natural habitats or communities typically are limited within developed environments. As a result, these developed areas are not likely to support sensitive species or otherwise protected biological resources. The exceptions typically consist of remnant areas of natural habitat (i.e. coastal sage scrub and chaparral) and streams with riparian habitat that could support special-status species.

#### ***VEGETATION COMMUNITIES AND WILDLIFE HABITATS***

Within developed areas that create the physical setting proposed for implementation of FIG technology, native plant communities are typically substantially modified or more likely absent. The program setting is generally full urban build-out with virtually no remaining natural habitat. The “urban and/or landscaped” and “ruderal” plant communities are created conditions and thus are not recognized terrestrial natural communities (e.g., by Holland, 1986).

#### **Urban and/or Landscaped**

Urban lands define over 80% of the study area that is comprised of SCG/SDG&E’s service territories. In particular, the study area includes highly developed locations that create optimal conditions for FIG technology implementation. Vegetation in urbanized settings may consist of ornamental trees and shrubs, lawns, landscaped road dividers, street trees, and flowerbeds. Urban lands provide little habitat for common plant and wildlife species, and particularly low values for rare, threatened, or endangered species. When landscaped areas become isolated within urban centers, away from natural habitats such as streams or wetlands, they provide little habitat for native wildlife and only rarely support listed species. Few common mammal species, and no amphibians or reptiles are expected in highly landscaped areas.

#### **Ruderal Habitats**

Due to extensive urbanization, ruderal habitats are expected to be relatively infrequent in the targeted locations within the study area. Ruderal habitat is generally associated with freeway and agricultural margins, the edges of roads, and other frequently disturbed areas. Where vegetated, these sites are dominated by weedy non-native species adapted to frequent disturbances. Ruderal habitats are prevalent in areas subject to frequent and often severe vegetation and soil disturbances by vehicles as a result of ongoing maintenance uses of freeway or railway corridors, and areas that have historically been used as equipment staging areas.

#### **Natural Communities**

Some program activities may be located in the vicinity of or adjacent to remnant natural habitat including streams and drainages, riparian and wetland habitats, and upland communities. However, program activities will avoid occurring directly within these natural habitats. Streams

and drainages in the study area may support riparian and wetland vegetation and various common and sensitive amphibian, reptile, fish species, and nesting birds. Fragments of natural grassland, scrubland, chaparral and woodland habitat within urbanized areas may support various common and sensitive plant and wildlife species including invertebrates, reptiles, small mammals, and nesting birds.

### 4.3.2 REGULATORY SETTING

This section briefly describes federal, state and regional regulations, permits, and policies that apply broadly to biological resources and wetlands within the study area. Local ordinances, policies and guidelines typically set forth in city general plans (i.e., local tree ordinances) that address biological resources are not discussed in detail in this document. Nonetheless, such local regulations are incorporated into this document by reference and would apply to program activities.

#### ***U.S. ARMY CORPS OF ENGINEERS AND U.S. ENVIRONMENTAL PROTECTION AGENCY REGULATION OF WATERS OF THE UNITED STATES, INCLUDING WETLANDS***

The Corps and Environmental Protection Agency (EPA) regulate the discharge of dredged or fill material into waters of the United States, including wetlands, under Section 404 of the Clean Water Act. Proposed activities that would result in the placement of dredged or fill material into waters of the United States require a Section 404 permit from the Corps. Some classes of fill activities may be authorized under general permits if specific conditions are met.

Utility line construction activities, such as modifications to existing utilities, that result in the placement of fill into waters of the United States generally are authorized under Section 404 Nationwide Permit No. 12 (at the discretion of the Corps). Nationwide permits do not authorize activities that are likely to jeopardize the existence of a Threatened or Endangered species (listed or proposed for listing under the federal Endangered Species Act) or that may affect properties listed or eligible for listing in the National Register of Historic Places (56 FR 59134-59138, November 22, 1991). In addition to conditions outlined under each nationwide permit, specific conditions may be required by the Corps as part of the Section 404 permitting process.

The federal government also supports a policy of minimizing “the destruction, loss, or degradation of wetlands.” Executive Order 11990 (May 24, 1977) requires that each federal agency take action to minimize the destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands.

#### ***FEDERAL POLICIES ON RIPARIAN COMMUNITIES IN CALIFORNIA***

Riparian communities have a variety of functions, including providing high-quality habitat for resident and migrant wildlife, streambank stabilization, and runoff water filtration. Throughout the United States, riparian habitats have declined substantially in extent and quality compared with their historical distribution and condition. These declines have increased concerns about

dependent plant and wildlife species, leading federal agencies to adopt policies to arrest further loss. USFWS mitigation policy identifies California's riparian habitats as belonging to resource Category 2, for which no net loss of existing habitat value is recommended (46 FR 7644, January 23, 1981).

### ***STATE POLICIES AND REGULATIONS ON STREAMS AND WETLANDS***

The CDFG 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 activities are regulated under the California Fish and Game Code (Section 1601 for public agencies and Section 1603 for private individuals). Requirements to protect the integrity of biological resources and water quality are often conditions of streambed alteration agreements. Requirements may include avoidance or minimization of the use of heavy equipment, limitations on work periods to avoid impacts on wildlife and fisheries resources, and measures to restore degraded sites or compensate for permanent habitat losses.

### ***FEDERAL ENDANGERED SPECIES ACT***

The USFWS (jurisdiction over plants, wildlife, and resident fish) and National Marine Fisheries Service (NMFS; jurisdiction over anadromous fish and marine fish and mammals) oversee the federal ESA. Section 7 of the Act mandates that all federal agencies consult with the USFWS and NMFS to ensure that federal agencies actions do not jeopardize the continued existence of a listed species or destroy or adversely modify critical habitat for listed species. The federal agency is required to consult with the USFWS and NMFS if it determines a "may effect" situation will occur in association with the proposed program. The federal ESA prohibits the "take"<sup>1</sup> of any fish or wildlife species listed as Threatened or Endangered, including the destruction of habitat that could hinder species recovery.

Section 3 of the Act requires the USFWS or NMFS to designate critical habitat for Threatened or Endangered species. Critical habitat is defined by Section 3 of the Act as habitat that is "essential to the conservation of the species." Section 7 of the Act protects USFWS- and NMFS-designated critical habitat for listed species and prohibits "destruction or adverse modification" of these designated areas. Under Section 9 of the federal ESA, the take prohibition applies only to wildlife and fish species. However, Section 9 does prohibit the removal, possession, damage or destruction of any Endangered plant from federal land. Section 9 also prohibits acts to remove, cut, dig up, damage, or destroy an Endangered plant species in nonfederal areas in knowing violation of any state law or in the course of criminal trespass. Candidate species and species that are proposed or under petition for listing receive no protection under Section 9 of the federal ESA.

Section 10 of the federal ESA requires the issuance of an "incidental take" permit before any public or private action may be taken that would potentially harm, harass, injure, kill, capture,

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<sup>1</sup> Take is defined as harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, collecting, or attempting to engage in any such conduct.

collect, or otherwise hurt (i.e., take) any individual of an Endangered or Threatened species. The permit requires preparation and implementation of a habitat conservation plan that would offset the take of individuals that may occur, incidental to implementation of the project by providing for the overall preservation of the affected species through specific mitigation.

### ***STATUTES, CODES AND POLICIES AFFORDING LIMITED PROTECTION TO BIRD SPECIES***

The federal Migratory Bird Treaty Act (16 U.S.C., Sec. 703, Supp. I 1989) prohibits killing, possessing, or trading in migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs. Birds of prey are protected in California under the State Fish and Game Code, Section 3503.5 (1992). Section 3503.5 states that it is “unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto.” Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered “taking” by the CDFG. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact. This approach would apply to red-tailed hawks, American kestrels, barn owls, and other birds of prey. FIG installation impacts to these species would not be considered “significant” in this IS/MND unless they are known or have a high potential to nest on the site or rely on it for primary foraging.

The federal Bald Eagle Protection Act prohibits persons within the United States (or other places subject to U.S. jurisdiction) from “possessing, selling, purchasing, offering to sell, transporting, exporting or importing any bald eagle or any golden eagle, alive or dead, or any part, nest or egg thereof.”

### ***CALIFORNIA ENDANGERED SPECIES ACT***

California implemented its own Endangered Species Act in 1984. The state act prohibits the take of Endangered and Threatened species; however, habitat destruction is not included in the state’s definition of take. Section 2090 of CESA requires state agencies to comply with endangered species protection and recovery and to promote conservation of these species. The CDFG administers the act and authorizes take through Section 2081 agreements (except for designated “fully protected species”).

Regarding rare plant species, CESA defers to the California Native Plant Protection Act of 1977, which prohibits importing of rare and endangered plants into California, taking of rare and endangered plants, and selling of rare and endangered plants. State-listed plants are protected mainly in cases where state agencies are involved in projects under CEQA. In this case, plants listed as rare under the California Native Plant Protection Act are not protected under CESA but can be protected under CEQA.

### ***CALIFORNIA COASTAL COMMISSION***

The California Coastal Commission is authorized by the *Coastal Act* to analyze, plan and regulate land and water uses in the coastal zone of California. The *Coastal Act* maintains specific standards for activities involving public access and recreation, commercial fisheries, wildlife and fisheries habitat preservation, industrial uses, power plants, and other land and water use issues. Through administration of the federally approved *Coastal Zone Management Act*, the Commission also regulates activities that affect coastal resources and require a federal permit, license or assistance. In addition, Local Coastal Plans (LCPs) may regulate development within coastal regions of the study area.

### ***REGIONAL HABITAT CONSERVATION PLANS / NATURAL COMMUNITY CONSERVATION PLANS***

Several multi-species Habitat Conservation Plans (HCPs) and Natural Community Conservation Plans (NCCP) are either under development or have been prepared in the general study area. These planning documents focus on the protection of agricultural lands and wildlife, and riparian enhancement. Regional HCPs and NCCPs, such as these, are administered by imposing a small, per-acre development fee on new projects in undeveloped areas. Concurrently, the HCPs and NCCPs establish one or more habitat reserves that are funded by development. If FIG installation were proposed within existing developed areas and within roads, would avoid waterways by design, and would not otherwise adversely affect biological resources within the scope of any existing or currently proposed HCP or NCCP, then they likely would be considered exempt or “covered” activities in the context of those HCPs or NCCPs.

### ***NATIVE AND HERITAGE TREE ORDINANCES***

Some cities and counties have adopted native or heritage tree ordinances or policies to protect large or native trees. Most ordinances or policies require the project applicant to obtain a tree removal permit and compensate for the removal of protected trees. Removal and indirect impacts on heritage and native trees will be avoided and minimized to the fullest extent possible during construction.

## **4.3.3 IMPACTS AND MITIGATION MEASURES**

### ***APPROACH TO ANALYSIS***

Implementation of FIG technology in developed areas is unlikely to adversely affect any sensitive species, plant community, wetland, migratory corridor, or conflict with any relevant conservation plan, policy, and/or regulation. However, construction activities could directly or indirectly affect biological resources during construction, and could result in temporary, short-term, or long-term disturbances to these resources. In assessing the magnitude of potential effects, the following assumptions were made regarding construction-related (i.e., conduit installation and associated facilities) impacts on biological resources:

- Installation of conduit using FIG technology would occur almost exclusively within existing roads in developed areas. Access to supporting existing natural gas lines within public road right-of-ways would occur in non-sensitive, developed or previously disturbed utility corridors.
- Though the study area in its entirety encompasses a wide range of sensitive biological and wetland resources (e.g., in coastal Irvine), sensitive resources within these areas would be avoided by:
  - accessing natural gas lines for installation of conduit systems in developed and/or disturbed areas and keeping inside SCG/SDG&E right-of-ways within existing roads, where feasible;
  - identifying specific pipeline access points well in advance of construction and performing preconstruction biological surveys in sensitive areas to identify and avoid potential biological and wetland resource constraints; and,
  - fully avoiding all sensitive natural communities (e.g., riparian and coastal sage scrub habitat), wetland features, and special-status species, either by redesigning FIG installation around sensitive resources or by timing construction activities to avoid significant effects in the case of some sensitive wildlife species (e.g., breeding birds).
- The construction site(s) would be accessible only from existing access roads. No new access roads would be constructed for FIG installation.
- All material stockpiling areas and staging areas would be located either within the construction corridor, on non-sensitive areas, or at designated disturbed sites outside FIG installation sites.
- Removing portions of common and widespread habitat types such as annual grassland during FIG installation activities would not lead to substantial local decreases in those habitat types.
- Construction activities would avoid or minimize removal of woody vegetation.
- Direct effects on sensitive habitats (e.g., riparian forest and scrub, freshwater marsh and coastal sage scrub) would be avoided as part of the proposed FIG installation activities through the following procedures:
  - having a biological monitor present daily during construction near natural areas, and;
  - limiting all activities to within a demarcated corridor to avoid effects on sensitive resources.

By design, no work would be performed in sensitive habitats, such as wetlands, and work in close proximity to these features would observe mitigation measures to avoid adverse effects to special-status plants and wildlife.

### ***SIGNIFICANCE CRITERIA***

The analysis of significance of program effects is based on the criteria described in the CEQA environmental checklist. Additionally, the following general criteria were also considered in determining whether an effect on biological resources would be significant and adverse:

- Federal or state legal protection of the resource or species,
- Federal or state agency regulations and policies,
- local regulations and policies,
- documented resource scarcity and sensitivity both locally and regionally, and
- local and regional distribution and extent of biological resources.

Based on the State CEQA Guidelines and the general criteria identified above, effects on biological resources were considered significant if the proposed program would result in any of the following:

- long-term degradation of a sensitive plant community because of substantial alteration of land form or site conditions (e.g., alteration of wetland hydrology);
- substantial loss of a plant community and associated wildlife habitat;
- fragmentation or isolation of wildlife habitats, especially riparian and wetland communities;
- substantial disturbance of wildlife resulting from human activities;
- avoidance by fish of biologically important habitat for substantial periods, which may increase mortality or reduce reproductive success;
- disruption of natural wildlife movement corridors;
- substantial reduction in local population size attributable to direct mortality or habitat loss, lowered reproductive success, or habitat fragmentation of:
  - species qualifying as rare and endangered under CEQA,
  - species that are state-listed or federally listed as Threatened or Endangered, or
  - portions of local populations that are candidates for state or federal listing and federal and state Species of Concern;
- substantial reduction or elimination of species diversity or abundance.

### ***IMPACT MECHANISMS***

Biological resources could be directly affected by construction activities during FIG installation, by construction of associated facilities (e.g., access holes), or by ongoing operational and maintenance activities within the study area.

Direct and indirect disturbance from construction activities could result in the loss or degradation of biological resources from FIG installation through the following ground-disturbing activities:

- excavation for natural gas pipeline access points;

- temporary stockpiling of soil or construction materials and side-casting of soil and other construction wastes;
- use of designated equipment staging areas (adverse effects on biological resources are unlikely because locations that are already heavily disturbed, including those that are paved or have compacted dirt and gravel, would be used as staging areas);
- soil compaction, dust, and water runoff;
- equipment access through non-sensitive stream channels (streams that do not support sensitive species, critical habitat, or riparian woody vegetation);
- vehicle traffic and equipment and materials transport within, to and from the construction site;
- noise disturbance to wildlife species from construction activities; and
- temporary parking of vehicles outside the construction area on sites that support sensitive resources (sites not designated as equipment staging areas).

The following analysis identifies the potential effects of the proposed program. The corresponding mitigation measures would apply to the entire study area.

The mitigation measures described for potential adverse effects to special-status species have not been developed through formal consultation or coordination with resource agencies (e.g., CDFG and USFWS). The mitigation measures may be modified during future coordination with the resource agencies. Additional mitigation measures that may be identified as part of the permit review process (e.g., Section 404, 1603 streambed alteration agreement, or biological opinion, if needed) would be implemented as part of the program and monitored during construction to ensure compliance. Throughout the life of the program, additional species may be listed or designated as special status. If so, mitigation measures provided in this section would be applied as well as any other applicable modification as mentioned above.

### ***IMPACT ASSESSMENT***

#### **Impact BIO-1: FIG installations located within or adjacent to areas that support natural habitat and special-status species may adversely affect these species.**

Project activities will be located within developed areas as defined in the Project Description (Chapter 2), the majority of which are devoid of natural habitat and special-status plant and wildlife species. A low potential exists for natural habitat fragments to be located adjacent to or in the vicinity of project activities. These habitats may support special-status plant and wildlife species. Though project activities will not directly affect natural habitats, some activities may directly impact transient individuals that enter the construction area or indirectly impact species through noise disturbance and adjacent human activity.

#### **BIO-1a: Prior to construction, a qualified biologist will conduct preconstruction surveys of proposed FIG installation locations which, may support special status species habitat.**

If the qualified biologist determines that project sites do not provide natural habitat with a potential to support special-status species, no further mitigation is required.

**Mitigation Measure BIO-1b: If the qualified biologist determines that FIG installation sites support natural habitat (i.e., wetlands, other water resources, upland communities) that may support special-status species, project activities will be relocated outside of these habitats. Natural habitat will be avoided by project activities that may impact special status species.**

**Mitigation Measure BIO-1c: If the qualified biologist determines that FIG installation sites are adjacent to natural habitat (i.e., wetlands, other water resources, upland communities) that may support special-status species, the following measures will apply:**

**A qualified biological monitor will demarcate the construction zone in the field to ensure that special-status species habitat is not disturbed during FIG installation activities.**

**A qualified biological monitor will be present for FIG installation activities adjacent to sensitive habitat or areas, which may support special-status species.**

**If preconstruction surveys determine that special-status wildlife species have the potential to enter the construction zone from adjacent natural habitat, exclusion fencing shall be constructed and maintained in good condition between construction areas and potential habitat for special-status wildlife species. The temporary fence shall be constructed with typical silt fencing, and shall be substantial enough to deter animals from entering the work area and to prevent parking construction vehicles or staging or storage of construction materials on road shoulders adjacent to habitat. The location of the fence shall be determined by the biological monitor.**

**If preconstruction surveys identify potential nesting habitat for special-status birds or roosting habitat for special-status bats adjacent to proposed project activities, a no-disturbance buffer zone would be established around active nests and roosts during the breeding season. If construction activities are scheduled to occur during the breeding season of birds (February through August) or bats (March through August), preconstruction surveys will be conducted within 500 feet of FIG installation activities. If construction activities are scheduled to occur during the non-nesting season, then no surveys would be required. If surveys indicate that nests/roosts are inactive or potential habitat is unoccupied during the construction period, no further mitigation would be required. If active nests/roosts are found, SCG/SDG&E would establish a no-disturbance buffer acceptable in size to CDFG around the active nest/roost.**

**Significance After Mitigation:** Less than significant.

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The proposed program could have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the CWA (including, but not limited to, marshes, vernal pools, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means, if wetlands are not accurately identified during preconstruction surveys, and if adequate protection

and avoidance measures are not implemented as part of construction and future maintenance activities.

**Impact BIO-2: Potential short-term disturbance of waters of the U.S. (including wetland communities).**

FIG installation activities could potentially result in direct disturbance of waters of the U.S., including wetland communities. Many of the wetland communities and associated wildlife habitat that occur along road rights-of-way have been previously disturbed but still maintain important habitat functions. Impacts on jurisdictional wetlands are considered short-term and minimal because the disturbances are relatively short in duration and would not substantially alter wetland hydrologic functions. Additionally, native soils and plant material would be replaced immediately after installation activities at the site, and natural landscape contours would be restored to pre-construction conditions.

**Mitigation Measure:** Implement Mitigation Measures **BIO-1a, BIO-1b, and BIO-1c.**

**Significance After Mitigation:** Less than significant.

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**Impact BIO-3: FIG installation could result in impacts to heritage or other significant trees in the project area.**

It is anticipated that no trees that are considered significant by project area municipalities would be damaged or removed by project construction. Street trees line many of the roads throughout the study area, however, because the project implementation would remain primarily within major roads no trimming or removal is anticipated.

All of the significant study area trees would be avoided by project design. As such, permits for tree removal would not be required for the proposed program. Standard tree protection measures (e.g., working outside tree driplines) would be followed to avoid and minimize tree damage.

If necessary, and on a case-by-case basis, SCG/SDG&E would pursue tree trimming or removal activities with local municipalities. In such an instance, mitigation for removal of protected trees would vary, depending on the local jurisdiction. The local City or County planning departments, or the City arborist for each municipality would provide guidelines for mitigation of impacts to heritage and mature trees. If potential conflicts with local policies or ordinances are identified during this process, the subject trees would not be removed.

For these reasons, this impact would be less than significant.

**Mitigation Measure:** No mitigation required.

**Impact BIO-4: FIG installation activities may conflict with provisions of Habitat Conservation Plans, Natural Community Conservation Plans, or other approved conservation plans.**

Several multi-species HCPs and NCCPs are either under development or have been prepared in the general project region. These plans provide a framework for the analysis of potential impacts of projects on a suite of special-status species or sensitive habitats. FIG installation activities within developed areas may conflict with conservation strategies in HCPs and NCCPs covering portions of the study area.

SCG/SDG&E would review maps of the FIG installation activity locations to determine proximity to lands incorporated in any Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. The proposed location for FIG installation would also be evaluated based on its proximity to the boundaries of any lands designated as a Wilderness Area by the Bureau of Land Management or as Wildlife Preserve or Critical Habitat by the U.S. Fish & Wildlife Service (USFWS). During development of a work plan, SCG/SDG&E will review provisions of local city and county policies, ordinances and conservation plans, and comply with all applicable requirements. This may include submittal of plans for review and approval by local agencies.

Compliance with provisions of relevant HCPs, NCCPs, and other approved conservation plans will ensure that project activities will not conflict with provisions of those plans.

**Significance After Mitigation:** No mitigation required.

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