

A-3 California Department of Fish and Wildlife

- A-3-1** The comment states that the Department of Fish and Wildlife (Department) reviewed the DEIR, GPA, Specific Plan, Rezone, Tentative Map and Draft HLP and that the Department's comments are based on information from those documents, the Meghan Jennings review, and the Draft North County Multiple Species Conservation Program Plan (Draft NC MSCP Plan), as well as meetings and discussions with County staff and the project applicant. The comment then summarizes the Department's responsibilities and states the County has a signed Planning Agreement for the Draft NC MSCP Plan. The County acknowledges the comment as an introduction to comments that follow. The Draft NC MSCP Plan is a plan prepared under the auspices of the Natural Communities Conservation Planning (NCCP) Act of 1993 and Section 10(a) of the Federal Endangered Species Act. This comment is included in the Final EIR for review and consideration by the decision-makers prior to a final decision on the project.
- A-3-2** The comment summarizes general details about the proposed Project, including the project's size, scale, and location, the project's impacts to biological resources, proposed open space design and biological mitigation measures. The comment restates information contained in the project's DEIR and does not raise an environmental issue within the meaning of CEQA. The County will include the comment as part of the Final EIR for review and consideration by the decision-makers prior to a final decision on the project.
- A-3-3** The comment states the Department met with the County several times and provided tenets to guide any "hardline" agreement negotiations for the proposed project. The comment further states that "it was acknowledged that the Newland Sierra project would be evaluated independently of the previously proposed Merriam Mountains project, which was not approved by the County Board of Supervisors" The comment then states that the hardline agreement for the Merriam Mountains project, which the Wildlife Agencies (the U.S. Fish and Wildlife Service and the Department) previously approved, does not apply to the Newland Sierra project. The comment expresses the opinions of the Department with respect to past and current hardlines for development of the subject property, but does not raise any issue pertaining to CEQA impacts or the adequacy of the Draft EIR. The County will consider the comment, but no further response is required.

Nevertheless, the County notes that, as acknowledged by the Department, (i) the Wildlife Agencies previously supported the hardline agreement for the Merriam Mountains project and (ii) the Merriam Mountains project was included as a covered hardline project in the 2009 Draft of the NC MSCP Plan. These two facts are relevant in the case of the Newland Sierra project, which was included as a covered hardline

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project in the 2017 Draft of the NC MSCP Plan. Compared to the Merriam Mountains project, the Newland Sierra project significantly reduces biological impacts, including impacts to on-site habitat, off-site impacts, fragmentation, and wildlife movement, establishes 1,421 acres (1,209 acres on site, 212 acres off-site) of preserve land across 2,197 acres (1,985 acres on site, 212 acres off-site) of total land, and better maintains east-west and north-south wildlife movement across the project Site.

A-3-4 The comment states the Department understands the County intends to include the proposed Project as a “hardline area” (i.e., “covered hardline project”) in the Draft NC MSCP Plan. The comment then states that, because the Draft NC MSCP Plan is incomplete, it is premature for the County to assume that the proposed project footprint is consistent with the Draft NC MSCP Plan. The comment does not raise any CEQA impact issue or identify any defect in the Draft EIR; thus, no further response is required. Nonetheless, the County does not concur with this comment for the following reasons.

First, it is important to note that the proposed project has been identified as a proposed hardline area in the draft North County Plan (County of San Diego 2016). As a result, the proposed development areas and proposed biological open space areas have been incorporated into the overall conservation strategy of the County’s draft North County Plan. However, the hardline and associated Draft NC MSCP is not required for purposes of take of listed species. In order for the proposed project to obtain approval for the loss of coastal sage scrub and any associated incidental take of California gnatcatcher (the only federally listed species within the project Site) through the County’s Section 4(d) habitat loss permit (HLP) process, the proposed project must demonstrate conformance with overall programmatic goals and policies established for the San Diego County Natural Community Conservation Planning (NCCP) subregion and make the specific findings applicable to issuance an HLP. The Draft HLP including 4(d) findings is included in Appendix E to the BTR (Appendix H of the EIR). The proposed project may also obtain take authorization through Section 7 consultation with the USFWS.

By way of background, there is an established history for including covered hardline projects in NCCP/HCP-based plans in Southern California, including the first NCCP/HCP approved in the state for SDG&E in 1995, the Orange County Central Coastal NCCP/HCP (1996), the County of San Diego MSCP Subarea Plan (1997), the City of San Diego MSCP Subarea Plan (1997), the City of Chula MSCP Subarea Plan (2003), and the Carlsbad HMP (2004), a Subarea Plan of the Multiple Habitat Conservation Program (MHCP). In San Diego County alone, 65 projects/properties have been included as covered hardline projects in draft Subarea Plans. A compendium of these 65 projects along with a brief overview of the history of

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including covered hardline projects in draft MSCP/MHCP Subarea Plans can be found as Appendix JJ-1 to the EIR.

As summarized in the Draft EIR, “the proposed project would not preclude or prevent the preparation of the Subregional NCCP/HCP because the project has been planned in accordance with the planning principles of the draft North County Plan.” (Draft EIR, p. 2.4-82.) The project has been designed to be consistent with the conservation strategy for the North County MSCP plan (specifically, the NC MSCP Preliminary Conservation Objectives, the Interim Project Preserve Design Principles, San Marcos-Merriam Mountain Core Area Conservation Goals, and the Southern California Coastal Sage Scrub NCCP Conservation Guidelines). Specifically, the proposed project would:

- limit grading impacts to 540 acres (27%) of the project Site;
- permanently preserve and manage 1,209 acres onsite of native habitat;
- maintain an additional 235 acres onsite as native, unirrigated, and ungraded habitat selectively thinned for fuel modification purposes; and
- preserve 212 acres offsite of high quality habitat in a Biological Resource Core Area connecting the NC MSCP Subarea with the East County MSCP Subarea.

In total, the project would preserve 1,421 acres of native habitat (include 1,209 acres onsite and 212 acres offsite), limit impacts to an additional 235 acres of native habitat to thinning to an additional 235 acres of native habitat, and limit grading impacts to 498 540 acres of a 1,985-acre project Site.

In addition, the proposed Project would include Resource Management Plans (RMPs) for its onsite and offsite preserve areas and would establish funding mechanisms to ensure the maintenance and management of the onsite, 1,209-acre open space onsite preserve area and the 212-acre offsite preserve area in perpetuity.

Moreover, the proposed project has been identified twice as a proposed hardline area in previous drafts of the NC MSCP Plan, which means both the project’s development areas and biological open space areas have been incorporated into the overall conservation strategy of the draft plan. (Draft EIR, p. 2.4-82, 2.4-6.) And the project has been designed in accordance with this proposed hardline area. (*Ibid.*) The project has also been designed in accordance with the objectives, principles, and conservation goals established in the Draft NC MSCP Plan. (Draft EIR, p. 2.4-82) The Draft EIR evaluates the project’s consistency against the eight preliminary conservation objectives from the draft plan. (Draft EIR, p. 2.4-83, Table 2.4-26) and

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finds that the project would be consistent with these preliminary conservation objectives. (*Ibid.*)

The Draft EIR also evaluates the project against, and finds the project consistent with the “preserve design principles” established for Interim Project Review while the draft plan is being prepared. As described in Section 2.4.12.5 of the DEIR, habitat loss resulting from the proposed project would not preclude or prevent the County from preparing the North County Plan because the project was developed consistent with the interim project preserve design guidelines (see Draft EIR, p. 2.4-82 – 2.4-87). These principles include providing long-term biological benefit through on-site open space preservation, protecting on-site open space habitat of equal or greater value to that of habitat being impacted, contribution of on-site open space to regional conservation efforts, maintaining biological diversity through open space design, maintaining habitat connectivity between areas of higher quality habitat through open space design, protecting the most sensitive resources to maximize long-term viability, and minimizing edge effects and habitat fragmentation. (*Ibid.*) Consistency with each preserve design principle is addressed in the Draft EIR, at pages 2.4-83 through 2.4-87. (*Ibid.*)

Finally, the project was evaluated for consistency with the Draft NC MSCP Plan’s proposed conservation goals for the area applicable to the project Site: (the San Marcos- Merriam Mountains Core Area). (Draft EIR, p. 2.4-88- 2.4-89.) Conservation goals for this area include:

- a) Conserve oak woodlands, coastal sage scrub (particularly in Twin Oaks) to maintain populations and connectivity of coastal California gnatcatcher and other coastal sage scrub-dependent species, and chaparral on mafic or gabbro soils that support sensitive plant species, such as chaparral beargrass and Parry’s tetracoccus, San Diego thornmint (particularly in San Marcos Mountains), or California adolphia;
- b) Ensure that a core community of coastal California gnatcatcher and other coastal sage scrub-dependent species remains in the coastal sage scrub block in Twin Oaks;
- c) Conserve the north-south connectivity of coastal California gnatcatcher habitat along I-15 between the Riverside County line and the City of Escondido. Maintain the east-west connectivity of natural habitats on either side of I-15 for dispersal of coastal sage scrub community birds;
- d) Conserve the riparian and upland habitats of Gopher Canyon Creek for water quality and sensitive species, such as southwestern pond turtle and least Bell’s vireo; and

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- e) Ensure the San Diego thornmint population in the Palisades open space preserve is maintained and enhanced, if practicable. (Draft EIR, p. 2.4-88 – 2.4-90, 2.4-6.)

The Draft EIR finds the project would be consistent with each of these draft conservation goals. (Draft EIR, p. 2.4-90.)

It is important to note that the Draft NC MSCP Plan is not an adopted plan. Instead, it is a draft document, and CEQA does not require an agency to speculate on the future environmental consequences of a project where an environmental plan is still in draft form and is not yet adopted. In *Chaparral Greens v. City of Chula Vista* (1996) 50 Cal.App.4th 1134, 1144, the Court of Appeal considered whether the City of Chula Vista had erred in failing to include, in its Program EIR, an analysis of a project's impacts on a draft conservation plan in south San Diego County. (*Id.*) The court held draft plans did not need to be included in CEQA analysis as, "there is no express legislative or regulatory requirement under CEQA that a public agency speculate as to or rely on proposed or draft regional plans in evaluating a project." (*Id.* at p. 1145.) Rather, CEQA only requires that applicants and public agencies "engage in analysis of the impacts of the proposed project on the environment." (*Id.*)

This remains true even after *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal. 5th 918. There, the California Supreme Court found that an EIR should have considered the project's effect on environmentally sensitive habitat areas (ESHA) even if that designation was within the jurisdiction and control of the Coastal Commission. The Court found that CEQA required the City to integrate CEQA requirements with other environmental review procedures. (CEQA § 21003(a) and Guidelines §§ 15124(d)(1)(C) and 15006(g).) The court then reasoned that Coastal Commission staff had provided comment letters explaining where the ESHA would be, which information could be used in the EIR. This EIR is distinguishable. Here, the EIR addressed the environmental review procedures of the federal Endangered Species Act (ESA) and the California Endangered Species Act (CESA). The project will comply with the ESA and CESA by obtaining take for coastal California gnatcatcher by utilizing the County's Section 4(d) HLP process or Section 7 consultation with the ACOE and the USFWS. The project is not required to comply with the Draft MSCP because it is simply a draft, and unlike the Coastal Commission's unilateral determination of ESHA in Banning Ranch, the final MSCP will be a negotiated agreement. Nevertheless, the EIR addresses consistency with the Draft MSCP Plan by using its best judgment and discretion.

Thus, the EIR has fully complied with CEQA in evaluating and disclosing the project's potential impacts relative to the Draft NC MSCP Plan. The project also has

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incorporated the conservation objectives of the Draft NC MSCP Plan into the project's design. The open space preserve system proposed by the project, including the project's proposed preservation of 212 acres offsite of very high quality habitat connecting the North County and East County MSCP Subareas, will thus be consistent with the Draft NC MSCP Plan, serve as an open space contribution for the future establishment of a regional North County habitat preserve, and comply with regional open space planning objectives.

In closing, the Draft EIR's Biological Resources chapter demonstrates the project has been planned consistent with the Draft NC MSCP Plan and the regional conservation goals. Based on the analysis contained in the Biological Resources chapter, the project would consequently result in a less-than-significant impact as the project would not preclude or prevent completion of the Draft NC MSCP Plan.

- A-3-5** The comment states the following comments and recommendations are offered to “assist in avoiding, minimizing, and adequately mitigating Project-related impacts” and “to ensure the Project is consistent with the HLP process, Federal and State endangered species laws/regulations, and ongoing regional habitat conservation planning efforts.” The County acknowledges the comment as an introduction to comments that follow. This comment is included in the Final EIR for review and consideration by the decision-makers prior to a final decision on the project.
- A-3-6** The comment summarizes certain land use details pertaining to the Existing General Plan Alternative. The comment does not raise an environmental issue within the meaning of CEQA. The County will include the comment as part of the Final EIR for review and consideration by the decision-makers prior to a final decision on the project. No further response is required or necessary.
- A-3-7** The comment addresses the Existing General Plan Alternative and analyzes that alternative according to the Department's understanding of the County Conservation Subdivision Program (CSP), which the comment refers as the Conservation Subdivision Ordinance (CSO). The comment states that, based on the Department's understanding of the CSO, the analysis presented in the EIR for the Existing General Plan Alternative is incorrect and that the Existing General Plan Alternative should result in 1,539 acres of avoidance, or 330 acres more than the proposed project. The Department is stating that the Existing General Plan Alternative should result in 1,539 acres of preserve area.

The County does not concur with this comment. The Department is misinterpreting the avoidance requirements of the CSP and, as a result, is incorrectly calculating the amount of disturbance that would be allowed under the Existing General Plan Alternative. In accordance with the County's Subdivision Ordinance, fuel

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modification zones and leach fields are allowed in the “avoided area”. Subdivision Ordinance Section 81.401, Design of Major Subdivisions, subsection (r)(6)vii states:

*As part of the processing of a conservation subdivision, the following uses may be allowed in the avoided area: passive recreation, trails for non-motorized uses, native landscaping, resource preservation, project mitigation and buffers, MSCP preservation/mitigation, agriculture, wells, water storage tanks, utilities, pump stations, water and sewer facilities, or infrastructure and access roads necessary for any of these uses. **In addition to these uses, leach fields and brush clearing may be allowed in SR-10 and RL-20 designations only (emphasis added).***

Therefore, the avoided area that must be created under the CSP is not the same area that must be put into preservation under the CSP. The Existing General Plan Alternative, as designed and presented in the Project Alternatives Chapter of the EIR (Chapter 4.0), limits grading impacts to 213 acres (including the commercial/office development area—refer to Figure 4-2 in the EIR), which is approximately 11% of the project Site and less than half of the allowed impact from grading. The fuel modification areas (Zone 1, Zone 2, and Special Maintenance Areas) under the Existing General Plan Alternative amount to an additional 836.2 acres, resulting in a total impact area of 1049.2 acres. By comparison, the project would result in 776.5 acres of total impacts, which equates to 272.7 fewer acres of impacts compared to the Existing General Plan Alternative.

Thus, under the CSP and the County’s Subdivision Ordinance, these fuel modification areas would be an allowed use in the “avoided area” for the Existing General Plan Alternative. It’s also important to note that the fuel modification requirements applied under the Existing General Plan Alternative are consistent with those applied to the proposed project (e.g., the siting and use of Special Management Areas between more closely spaced developed areas and the Zone 1 and Zone 2 widths). They are also generally consistent with the fuel modification requirements applied to existing developed properties in the area.

Finally, and as discussed in **Response to Comments O-1-395** through **O-1-397**, the subdivision design presented in the Existing General Plan Alternative complies with the applicable provisions of the County’s Subdivision Ordinance governing conservation subdivision design and what uses are permitted inside the 75% and 80% conservation areas by limiting the grading impacts to approximately 11% of the project Site, by complying with the Rural Subdivision Design and Process Guidelines for the siting of the 99 home sites permitted under the Existing General Plan, and by complying with the County’s zoning, road, fire, and other regulatory requirements.

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A-3-8 The comment states the CSO contains requirements related to the design of open space including conserving the largest blocks possible of fragmented and interconnected open space, avoiding slivers or fingers of open space, creating connectivity between on- and off-site resource areas, maintaining patterns of diversity within the landscape, and preserving particularly unique and/or sensitive resources. The comment states these requirements are consistent with the preserve design guidelines outlined in the Planning Agreement, the NCCP Conservation Guidelines, and the NCCP Act of 2003, and that under the application of the CSO, “it is very possible that [the Department] would recommend the adoption of this alternative.” The comment states that, in the Department’s opinion, the Existing General Plan Alternative “would maximize on-site open space and lead to the most biologically sound preserve design alternative.” Based on this assessment, the Department states that it could “recommend adoption of this alternative.” As explained in **Response to Comment A-3-7** above, the Department has misinterpreted and/or misapplied the CSO avoidance criteria to the Existing General Plan Alternative and thus has incorrectly concluded that this alternative results in more preserve area than the proposed project.

A-3-9 The comment states that the three alternatives recommended by the Wildlife Agencies would minimize impacts to the draft PAMA and provide for a large, contiguous block of open space in the eastern and northern portion of the project Site and maintain connectivity between on- and off-site areas. The comment indicates that there are very few remaining areas in the Draft NC MSCP Plan Area that support blocks of native vegetation greater than 500 acres. The comment concludes by stating that “[r]etaining a core block of habitat on-site as well as connectivity for wildlife throughout the Project site is a primary concern to the Department.” The County acknowledges that the comment provides background information and notes that the comment restates information contained in the Draft EIR (Chapter 4.0). Specifically, Section 4.10, 4.11 and 4.12 of the Draft EIR analyze the three alternatives referenced by the comment. Section 4 concludes each of these alternatives “would primarily result in benefits to wildlife movement and preserve design” and would reduce impacts to biological resources compared to the proposed project. The comment does not raise any specific issue regarding the analysis contained in the EIR and, therefore, no more specific response can be provided or is required. The County will include the comment as part of the Final EIR for review and consideration by the decision-makers prior to a final decision on the project.

A-3-10 The comment states the project Site is between north-south coastal sage scrub patches along the I-15, and important east/west movement between the Merriam Mountains and the San Marcos Mountains. The comment states the Department concurs with the Dr. Megan Jennings assessment that the project design and mitigation as proposed do

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not adequately address direct and indirect project impacts to conserved habitat, connectivity and wildlife movement.

The comment further states the Department recognizes the NC MSCP Plan is already challenged due to small conserved habitat blocks and narrow corridors and asserts that the project Site offers significantly better opportunity to accommodate wildlife movement. The comment states the project design is “expected to further adversely affect wildlife movement...and compromises the ability to create a resilient reserve system in the area”. The County does not concur with this comment.

As an initial matter, the comment does not explain why the project’s design and/or mitigation measures are inadequate to reduce impacts on “conserved habitat, connectivity, and wildlife movement” to less than significant levels; nor does the comment identify which impacts on conserved habitat, connectivity and wildlife movement would, in the Department’s opinion, remain significant after implementation of the project design features and mitigation measures.

As it relates to the connectivity review prepared by Dr. Jennings on behalf of Golden Door Properties, LLC, addressing wildlife movement on and around the project Site, **Response to Comment Letter O-1.5** provides a complete series of responses to comments prepared by Dr. Jennings. Please refer to these responses for supplemental information regarding wildlife connectivity.

As it relates to the specific comment, the connectivity review conducted by Dr. Jennings acknowledges that east to west wildlife movement is already substantially compromised by the I-15 freeway and its associated right-of-way and graded slopes, some of which are between 300 and 500 feet wide. It is also important to note that Dr. Jennings, as stated in her connectivity review, based her opinions on previous research performed in other areas of San Diego County and prior research efforts and documents prepared by others for the project vicinity. Dr. Jennings did not conduct any wildlife movement studies or surveys specific to the project Site or the surrounding area to prepare or support her connectivity review. In addition, the Dr. Jennings connectivity review identifies only two potential wildlife movement areas near the subject property – the Lawrence Welk undercrossing northwest of the project Site and a marginally viable box culvert underneath the I-15 freeway. The Lawrence Welk undercrossing is described as a potential wildlife crossing area in Section 2.4.10 of the DEIR (page 2.4-51) and this information is also presented within Tables 2.4-11 and 2.4-12, and in Figure 2.4-8. That box culvert under the I-15 is approximately 830 feet in continuous length, and subject to frequent human activity (as evidenced by the heavy graffiti activity). The culvert includes roughly 4-foot by 9-foot openings and slopes down from the eastern entrance and under I-15, where it presumably continues

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across to the western exit (note that the western exit is fenced on private property and is inaccessible). The resulting box culvert only supports an openness factor of 0.01 (calculated in meters – $1.2 \times 2.7 / 253$ m). The minimum expected to support mule deer use is 0.6. Therefore, this culvert is unlikely to serve as an effective corridor for mule deer, coyotes, or other large mammals. This type of long culvert with no through-visibility would only be expected to provide movement opportunities for small rodents and certain urban-adapted mesopredators such as raccoons and striped skunks. Given the high level of human activity at the entrance to the culvert and the culverts minimal openness factor, the culvert is unlikely to support significant wildlife movement underneath the freeway.

As it relates to how the project design addresses wildlife movement across the project Site, the EIR describes existing conditions on the project Site with respect to wildlife corridors, and explains how the project's proposed open space maintains connections between blocks of habitat in the Draft EIR at Section 2.4.1, Proposed Open Space Design; Section 2.4.3, Existing Conditions; and Section 2.4.10, Habitat Connectivity and Wildlife Corridors. (Draft EIR, pp. 2.4-1– 2.4-5; pp. 2.4-50– 2.4-54.) As described in the Draft EIR, the project would preserve three connected blocks of habitat, including an 870-acre Block 1, 153.9-acre Block 2, and 185-acre Block 3. (Draft EIR, p. 2.4-2.) The project's proposed preserve area would be situated within the northern half and along the eastern boundary of the project Site, with a third large block of preserve in the center of the site that connects the above mentioned blocks to open space east and south. (Draft EIR, p. 2.4-2 – 2.4-3, Figure 2.4-1, Proposed Open Space Design and MSCP Preserves.) Block 3, in the south-central portion of the site, is particularly unique as it provides a diversity of topography and microhabitat features that few, if any, preserves in the vicinity provide; it is directly connected to adjacent pre-approved mitigation area (PAMA) lands; and it is larger than nearly all of the other preserves in the vicinity. (Draft EIR, p. 2.4-76 – 2.4-77.)

The project's preserve areas would provide live-in habitat as well as movement habitat for species. Blocks 2 and 3 would be directly connected by a 1,600-foot wide connection, which wildlife would be able to use for movement. These open space blocks of habitat would be “internally linked through Corridors A through D.” (Draft EIR, p. 2.4-51), as shown in Figure 2.4-8, Wildlife Connectivity, and described as follows:

“Corridor A would include an approximately 1,000-foot by 400-foot linkage. Corridor B would include an approximately 700-foot by 750-foot area. Corridor C would include an approximately 1,500-foot by 800-foot linkage. Corridor D would include an approximately 2,250-foot by 200-foot linkage.” (Draft EIR p. 2.4-51.)

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The Draft EIR analyzes the project's potential impacts with respect to wildlife corridors in Section 2.4.12.4, Wildlife Movement and Nursery Sites. Despite incorporating preservation of the above-described habitat blocks and internal corridors, the Draft EIR identifies the following significant impacts to wildlife movement and nursery sites: WM-1 (short-term direct impacts to potential foraging and nesting habitat), WM-2 (permanent, direct impacts to the loss of potential foraging and nesting habitat), WM-3 (impact to movement of large mammals from loss of wildlife corridors), WM-4 (impacts to habitat connectivity for larger wildlife species) and WM-5 (impacts to wildlife behavior resulting from noise and/or nighttime lighting in a wildlife corridor). (Draft EIR, p. 2.4-72 - 2.4- 80, 2.4-105.) Sections 6.2.2 and 6.2.3 of the Draft EIR Technical Appendix H, Biological Resources Technical Report, pages 6-4 through 6-10, further detail anticipated project effects to connectivity between blocks of habitat and the creation of non-natural movement corridors.

To reduce the project's impacts to a less-than-significant level relative to wildlife movement and nursery sites, the Draft EIR identifies the following mitigation measures, including M-BIO-1, M-BIO-2, M-BIO-3, M-BIO-6, M-BIO-7 and M-BIO-8A through M-BIO-8E as summarized below. (**Draft EIR, p. 2.4-106 – 2.1-119**)

As stated in Section 2.4.16.3,

“Impact WM-1 The significant short-term direct impacts to potential foraging and nesting habitat would be reduced to **less than significant** through implementation of mitigation measures **M-BIO-1, M-BIO-2, M-BIO-3, and M-BIO-6**, which require biological monitoring, preparation and implementation of a SWPPP, preparation of a biological monitoring report, and preparation of a revegetation plan for temporarily impacted areas. Temporary construction fencing, biological monitoring and reporting would ensure that additional habitat is not impacted during construction and that the BMPs outlined in the SWPPP are adhered to. Revegetation of temporary impacts would ensure that native vegetation would be restored, thus reducing the potential for invasive species to encroach upon existing native habitat.

Impact WM-2 The significant permanent, direct impact to the loss of potential foraging and nesting habitat would be reduced to **less than significant** through implementation of mitigation measures **M-BIO-8A through M-BIO-8E**, which provide commensurate

habitat management and conservation of open space areas. This would reduce the impact to less than significant because there would be adequate habitat to support wildlife species in perpetuity and in accordance with the County's *Guidelines for Determining Significance and Report Format and Content Requirements: Biological Resources* for habitat with equivalent function and value, as well as management of that habitat.

Impact WM-3 Short-term or long-term indirect impacts to suitable foraging and nesting habitat for wildlife species would be **less than significant** as a result of the proposed project, and no mitigation is proposed. The significant impact to movement of large mammals from loss of wildlife corridors would be reduced to **less than significant** through implementation of mitigation measures **M-BIO-8A** through **M-BIO-8E**, which would provide for commensurate habitat management and conservation of open space areas. This would reduce the impact to less than significant because there would be adequate habitat conserved within the open space available for wildlife movement to cross through the project Site to adjacent open space. In addition, the preserve created by the open space would constitute a core habitat for most species.

Impact WM-4 Significant impacts to habitat connectivity for larger wildlife species would be **less than significant** through implementation of mitigation measures **M-BIO-8A** through **M-BIO-8E**, which would provide for habitat management and conservation of open space areas that would allow for unimpeded wildlife movement and use. This would reduce the impact to less than significant because the proposed open space design consists of two large continuous blocks of key biological resources situated within the northern half along the eastern boundary of the project Site, and open space in the center of the proposed development that would connect the above-mentioned blocks of open space to regional open space located east and south of the project Site. This analysis demonstrates that there would be adequate habitat available for wildlife to use on Site or to move to available habitat areas outside of the project Site.

Impact WM-5 Significant impacts to wildlife behavior resulting from noise and/or nighttime lighting in a wildlife corridor would be reduced to **less than significant** through implementation of mitigation measure **M-BIO-7**, which would minimize nighttime and outdoor lighting, and **M-BIO-8A**, which would provide commensurate habitat management and conservation of open space areas. This would reduce the impact to less than significant because lighting would not interfere with nocturnal wildlife movements, and the proposed open space design consists of two large continuous blocks of key biological habitat that are buffered by FMZs where adjacent to residences. These features would help reduce the urban/wildland interfaces and allow wildlife to move through the open space areas relatively uninterrupted.

As stated in the EIR, with incorporation of these mitigation measures, impacts would be reduced to less-than-significant levels. (Draft EIR p. 2.4-125 - 2.4-127.)

Finally, the County notes that significant unauthorized human activity occurs on and around the project Site today in the form of hiking, off-roading, dirt-biking, mountain-biking, shooting, camping/camp fires, and other forms of human disturbance, trespass, and indirect impacts to wildlife movement on and around the project Site. The project applicant has implemented a number of measures to minimize the impact of this unauthorized human activity, including gating and fencing of all access points, installation of security cameras, onsite security patrols, and coordination with the Sheriff's Office to detain and arrest trespassers when they are caught. While the DEIR finds that the project design may affect wildlife movement through certain areas of the project Site, the establishment of a 1,209 acre preserve area in conjunction with the project's additional 232 acres of non-irrigated native open space (Fuel Modification Zone 2 and Special Management Areas) supporting selectively thinned native habitat (1441 acres total, approximately 73% of the project Site) substantially preserve wildlife movement corridors onsite. In addition to the mitigation measures outlined above, the project also includes fire walls along most of its perimeter areas adjacent to preserve areas which will serve to minimize indirect effects from human intrusion into preserve areas.

In conclusion, the permanent management of the 1,209-acre preserve area by a preserve management entity will help to minimize the project's effects on wildlife movement and that of unauthorized human activity, in particular the more disruptive forms such as off-roading, dirt-biking, shooting, and camping. The project's other open space areas would be managed by a Master Homeowners Association. Under

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the developed condition with preserve areas and other project open space areas being activity managed, these activity would not be allowed to occur anywhere on the project Site.

A-3-11 The comment addresses Land Use Planning Alternative A (Alternative A), which the comment describes as “one of three Wildlife Agency recommended alternatives.” In the comment, the Department recommends a scaled back alternative that would limit fragmentation and edge effects. The comment acknowledges that the Draft EIR identifies Alternative A as the Environmentally Superior Alternative (with the exception of the No Project/No Build Alternative), and that the Department would support the adoption of this Alternative. The County will consider the comment. The comment, however, does not raise any CEQA impact issue or identify any defect in the Draft EIR. Therefore, no further response is required. Nevertheless, it is important to understand that, Consistent with the Wildlife Agencies’ direction dating back to 2005, the project has been designed to (i) preserve the wildlife corridors located in the northern half the of the project site, (ii) provide east to west and north to south wildlife movement, (iii) and preserve connectivity between the project site’s proposed preserve areas and offsite preserve areas (e.g., San Marcos Mountains) and Preapproved Mitigation Areas to the north and west of the project Site. The entire northern half of the project Site would be preserved with the preserve width ranging from approximately 2,000 and 4,800 feet and averaging approximately 3,600 feet (nearly three-quarters of a mile wide).

A-3-12 The comment states (i) that the project is requesting an amendment to the Resource Protection Ordinance (RPO), (ii) provides a description of how RPO defines wetlands, and (iii) suggests that additional off-site mitigation should be offered to fully mitigate the project’s impacts to wetlands and wetland buffers covered under RPO, adding that onsite preservation/avoidance of RPO wetlands would not be suitable as mitigation. The County acknowledges the Department’s recommendation and notes that the project would result in the permanent loss of 0.2 acre of RPO wetlands onsite (3% of the RPO wetlands onsite) and 0.99 acres of RPO wetlands offsite. The offsite impacts are primarily related (0.92 acres) to the construction of an essential public facility (the widening of Deer Springs Road). Under RPO Section 86.605(c), such essential public facilities are exempt from the RPO requirements. An amendment to the County RPO is proposed as part of the remainder of the project to add an Exemption to Section 86.605 of the RPO (see Appendix H-2 of the EIR).

As stated in the Resource Protection Plan (Appendix H-2 of the Draft EIR), the majority of the on-site RPO wetlands are located within the biological open space (6.1 acres; 74% of RPO wetlands). An additional 2.0 acres (23% of RPO wetlands) are within Fuel Modification Zone 2 (FMZ 2). Only 0.2 acre (3% of RPO wetlands)

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are located within proposed development areas. The 2.0 acres of RPO wetlands within FMZ 2 are mapped as southern coast live oak riparian forest. As addressed in the Fire Protection Plan, sycamores (*Platanus racemosa*), coast live oaks (*Quercus agrifolia*), and Engelmann oaks (*Quercus engelmannii*) are allowed within Zone 2. Therefore, the oak trees within FMZ 2 would undergo thinning and removal of the bottom branches and ground cover underneath the canopies to prevent fire from spreading into the canopy of the tree, but in no case would these trees be removed or substantially thinned. In the case of oak trees, the removal of the bottom branches as a fuel modification measure also serves as a habitat management measure to protect the species against wild fires. Therefore, in practice, this measure would not impact the RPO resource but instead would protect it against wildfire. Nevertheless, as it relates to habitat impacts and mitigation, these RPO resources in FMZ 2 are assumed fully impacted.

As mitigation for the project's impacts to coast live oak riparian forest onsite, the project would preserve 212 acres of very high value habitat in a Biological Resource Core Area that contains 29 acres of open Engelmann oak woodlands and 7.9 acres of southern sycamore-alder riparian woodland. Further, since the County RPO wetlands are also jurisdictional resources of the state and federal government, implementation of M-BIO-12 requires, as a condition of the issuance of a grading permit that would impact jurisdictional resources, a 404 Permit, a 1602 Streambed Alteration Agreement, and a 401 Certification from the Army Corps of Engineers, the Department, and the San Diego Regional Water Quality Control Board (Resource Agencies), respectively, to impact jurisdictional resources. Those permitting processes will identify the specific jurisdictional resource mitigation ratios and requirements to ensure that impacts to these resources are mitigated in accordance with state and federal laws and regulations prior to impacts occurring on- or offsite. Contrary to the Department's contention that avoidance and preservation should not be used as mitigation, avoidance and permanent preservation of jurisdictional resources is often a component of the mitigation requirements related to these permits.

- A-3-13** The comment states the project's proposed amendment to the County's Resource Protection Ordinance (RPO) could impede the conservation goals and objectives of the Draft NC MSCP Plan. The comment further implies that the proposed amendment would allow "impacts to RPO wetlands without commensurate mitigation." According to the comment, such a change in the RPO would severely compromise the effectiveness of the RPO as an enforcement tool and would bring into question "the reliability of this tool to help build the NC-MSCP Preserve." The comment closes by recommending that the project be revised to avoid all impacts on wetlands and

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wetland buffers, on or offsite, other than those “caused by uses permitted under Sec. 86.604 of the RPO.” The County does not concur with this comment.

The Resource Protection Plan (Appendix H-2 of the EIR) provides information regarding the proposed Project’s consistency with the provisions of RPO (See RPP, Section 3.2), including allowances for increased impacts, subject to Board of Supervisors’ approval, to certain RPO resources to achieve a greater overall biological outcome or to accommodate an essential public facility (i.e., Deer Springs Road). Accordingly, the project design concentrates the development in the southern portion of the property to create a biological preserve in the northern portion of the property, providing a core habitat block in the Merriam Mountains while accommodating required improvements to Deer Springs Road, an essential public facility. The project’s improvements to Deer Springs Road have been designed to minimize impacts to RPO resources and the project’s grading footprint has been limited to 27% of the project Site.

As it pertains to Sensitive Habitat Lands, which include wetlands and wetland buffers, RPO Section 86.604(f) states “(t)he authority considering an application listed at Section 86.603(a) above may allow development when all feasible measures necessary to protect and preserve the sensitive habitat lands are required as a condition of permit approval and where mitigation provides an equal or greater benefit to the affected species.” Section 86.603 outlines the types of development applications covered by the Ordinance and includes Tentative Maps and other development approvals. The Resource Protection Plan (Appendix H-2 of the EIR) provides the analysis of the proposed project and its Sensitive Habitat Lands. The analysis provided in the Resource Protection Plan concludes that the project would be fully consistent with the County RPO, with the exception of impacts associated with RPO wetlands. These impacts are required in order to meet the project goals of concentrating development in the southern portion of the Site, creating a biological preserve in the northern portion of the Site, providing a core habitat block in the Merriam Mountains, and required improvements to Deer Springs Road. Finally, it’s important to note that the RPO was originally adopted in 1988 before the NCCP Act or the adoption of local multiple habitat, multiple species conservation planning. It was not originally set up to accommodate preserve planning criteria. Exemptions were later added to the RPO to allow for greater impacts to RPO protected areas in exchange for reduced impacts to biology and to accommodate preserve planning principles.

Additionally, as stated in **Response to Comment A-3-12**, the County RPO wetlands are also jurisdictional resources of the federal and state government, and implementation of M-BIO-12 requires permits from the appropriate federal and state

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- agencies to impact jurisdictional resources. The implementation of M-BIO-12 will ensure that the wetland and waters permitting processes (i.e., the 1602 Streambed Alteration Agreement, the 401 Certification, and the 404 Permit) under the authority of the Department, the Regional Water Quality Control Board, and the Army Corps of Engineers (Resource Agencies), respectively, are followed such that impacts to these resources are fully mitigated in accordance with state and federal laws and regulations prior to impacts occurring.
- A-3-14** The comment states that the proposed project should be modified to avoid impacts to RPO wetlands. See **Responses to Comments A-3-12 and A-3-13**, above.
- A-3-15** The comment addresses the proposed Project's request for an exemption from the RPO to allow development on Steep Slope lands. The comment states the enforceability of the RPO "is critical to the success of the NC MSCP". The comment states that the DEIR analyzes several less environmentally impactful alternatives and fails to demonstrate that the proposed project's encroachment into steep slopes in being undertaken to avoid environmental resources, as is otherwise required under the RPO. The comment recommends the proposed Project be modified to remove Steep Slope Lands from the development footprint to provide consistency with the RPO. The County acknowledges the project requires an exemption from the County's RPO Steep Slope standards, but has determined the exemption is appropriate in this case and authorized under RPO Section 86.604, subsections (e)(2)(bb) and (cc). Specifically, the RPO conditionally allows for additional encroachment into steep slopes when necessary to accommodate public and private roads, public and private utility systems, fuel modification/brush clearing and thinning, and trails and "in order to avoid impacts to significant environmental resources that cannot be avoided by other means". (RPO, Section 86.604, Permitted Uses and Development Criteria, subsections (e)(2)(bb) and (cc).) Because the project design concentrates the development in the southern portion of the property to create a biological preserve in the northern portion of the property, providing a core habitat block in the Merriam Mountains, the Project avoids impacts to significant environmental resources that cannot be avoided by other means, and the County's RPO exemption can be utilized. Please also see the **Response to Comment A-3-13** above.
- A-3-16** The comment states that the target level of conservation in the Draft NC MSCP Plan for lands within the PAMA is 75% and notes the proposed project would achieve 61% conservation onsite. The comment states that 75% is an average across the PAMA, but advocates that level of conservation prior to the completion of the NC MSCP permit. The comment states this level of conservation is the "starting point" as the Department reviews each project within the PAMA boundaries, but the Department also considers other factors. The County does not agree with the

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comment that the Draft NC MSCP Plan requires this conservation level at the project level.

There is no established starting point for conservation in the Draft NC MSCP Plan. Conservation objectives are project site- and area-specific and an overall conservation target has not been adopted yet for the Draft NC Plan. The proposed project meets high overall open space and habitat conservation objectives by limiting the project's grading footprint to 27% of the Site, by preserving 1,209 acres of open space preserve onsite (61% of the Site), by preserving 212 acres offsite of very high quality habitat through a North County—East County MSCP biological core connecting property, and by maintaining an additional 235 acres onsite as non-irrigated native open space subject to selective thinning for fuel modification purposes. The DEIR states the 212 acres of offsite mitigation property “has been identified as a conservation priority and is designated as a PAMA in the draft North County Plan,” (DEIR, p. 2.4-4). The offsite mitigation property provides a “block of continuous habitat situated between segments of the Cleveland National Forest and San Diego County Parks land,” (see DEIR, p. 2.4-76) “in a key natural gap in the adjacent agricultural (ranches, poultry farms) landscape amid cattle ranch lands and open space.” (see DEIR, p. 2.4-93). In total, the project would create 1,421 acres of open space preservation and additional 235 acres of native open space protection for a total open space contribution of 1,656 acres across 2,197 acres of land. These preserve areas in conjunction with the on-site open space areas equate to an overall open space percentage of 75.4% of the project Site and mitigation site combined).

A-3-17 The comment states that per the Wildlife Agencies response letters on the NOP for the proposed Project, any portion of the 75% conservation that cannot be achieved on site should be met by contributing land that adds value to the Merriam Mountains connection, preferably in the same NC MSCP Planning Unit. The comment acknowledges this property has conservation value, as it provides a block of habitat that supports very high value habitat and sensitive species, and aides in the build-out of the NC MSCP Preserve. This comment restates information contained in the DEIR and provides an introduction to the following comments regarding the suitability of this property to mitigate for impacts of the proposed project. Please see the following **Response to Comments A-3-18 through A-3-20**.

A-3-18 The comment states that the off-site mitigation property does not provide comparable habitat to offset the Project impacts. The County does not agree with this comment. The County conditionally allows for off-site mitigation areas that provide equivalent or higher quality vegetation communities and habitat types compared to the habitat being impacted by a project. As described in the Newland Sierra Off-Site Mitigation Memorandum (Appendix K to Appendix H of the Draft EIR), the mitigation site is

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comparable to or better than the habitat that is being impacted on the Newland Sierra Project Site. The mitigation site includes a variety of topographic relief, a comparable suite of vegetation communities, and rock resources and serves as an important connecting property for wildlife movement between the North County and East County MSCP Subareas. Therefore, it contributes to the vegetation community mitigation requirements described in **Table 2.4-27, pgs. 2.4-172 and 2.4-173** of the **Draft EIR**.

A-3-19 The comment states that the off-site mitigation lands do not contribute to conservation efforts in the Merriam Mountains core area. The County acknowledges the comment and notes that there is no requirement that offsite mitigation areas be within the immediate vicinity of a project site or its impacts, nor is this parcel intended to contribute specifically to the Merriam Mountains core area but to the overall PAMA. Rather than only mitigate within the immediate vicinity of a project's impacts, often times a greater biological outcome can be achieved by directing mitigation efforts/conservation to areas of higher biological significance, in terms of habitat quality and value and wildlife movement and connectivity. The project's proposed offsite mitigation property provides higher function and value habitat in a regionally significant wildlife corridor area compared to the location and quality of the habitat the project would impact onsite. Therefore, the County has determined that the off-site mitigation area is an important contribution to open space adjacent to the Cleveland National Forest and San Diego County Parks land that would achieve a higher overall biological outcome compared to mitigating in the immediate vicinity of the project Site. Further, the project's proposed onsite preserve areas would connect to adjacent offsite open space areas proposed as PAMA in the Draft NC MSCP Plan as well as existing preserve areas and thus would contribute to the conservation efforts in the Merriam Mountains core area.

A-3-20 The comment states that the off-site mitigation site does not support gnatcatchers. The County acknowledges the comment and agrees the Ramona property does not support California gnatcatcher; however, the off-site mitigation site is not being acquired for purposes of mitigating project-related impacts to coastal California gnatcatchers. Instead, the project's impacts on coastal California gnatcatchers will be mitigated through measure **M-BIO-8A** through **M-BIO-8E**. This is stated clearly in Section 2.4.16 of the Draft EIR:

Impact W-2 The significant long-term direct impacts to coastal California gnatcatcher as a result of removal of suitable habitat would be reduced to **less than significant** through implementation of mitigation measures **M-BIO-8A** through **M-BIO-8E**, which would provide commensurate on- or off-site habitat

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management and conservation that is demonstrated to contain habitat for these species. The proposed project has been incorporated into the overall conservation strategy of the County's draft North County Plan, and the development areas and biological open space areas of the proposed project are identified as proposed hardline areas in the draft North County Plan (County of San Diego 2016). Loss of coastal sage scrub and any associated incidental take of California gnatcatcher would be authorized through the County's Section 4(d) HLP process or through Section 7 consultation with the US Army Corps of Engineers and the USFWS. A Draft Habitat Loss Permit, including 4(d) findings has been provided in Appendix H of this EIR. As demonstrated by the incorporation of the proposed project as a proposed hardline area in the draft North County Plan and by the draft HLP findings provided in Appendix H, the loss of coastal sage scrub associated with the proposed project would be consistent with the NCCP Guidelines, County's draft North County Plan, and the Section 4(d) Rule.

Accordingly, impacts to California gnatcatcher are mitigated through M-BIO-8A through M-BIO-8E.

- A-3-21** The comment states that the DEIR does not adequately address impacts to wildlife from roads and traffic and recommends crossing structures and fencing to reduce wildlife fatalities both on the project Site and offsite in association with the widening of Deer Springs Road. The County does not agree with the comment. Wildlife collisions with vehicles were addressed in the Draft EIR and determined to be a less than significant impact. Thus, no mitigation measures (such as crossing structures or fencing) are required.

Nevertheless, as shown in Figure 2.4-8 of the DEIR, the project will include culverts, bridges, and fencing that will reduce traffic collisions with wildlife. Section 2.4.10, Habitat Connectivity and Wildlife Corridors (p. 2.4-50 - 2.4-54) and Section 2.4.12.4, Wildlife Movement and Nursery Sites (p. 2.4-75 - 2.4-76), of the Draft EIR provides detailed discussions of habitat connections and potential movement corridors under existing and post-development conditions on the project Site and in the project vicinity, including across Deer Springs Road and I-15.

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A-3-22 The comment states that the DEIR did not adequately address indirect effects from development, roads, and agricultural practices in the open space. The comment also indicates that “Argentine ants would be expected to intrude hundreds of feet from the irrigated urban edge,” and that this “typically leads to the loss of native species such as harvester ants, which is the primary prey of the San Diego horned lizard.” The County does not concur with this comment. The Draft EIR provides a summary list of the potential long-term indirect effects associated with development that is the analytic basis for the significance determination. The Biological Resources Technical Report (Appendix H of the Draft EIR) provides details regarding these potential long-term indirect effects. The introduction or increase in Argentine ants is specifically analyzed as a significant impact (Impact BI-C-1) in the DEIR, and mitigated through implementation of **M-BIO-8A** through **M-BIO-8E**, which would provide for habitat management and conservation of open space areas. Because Argentine ant infestation is closely correlated to moisture gradients, the project incorporates design and management features that will minimize (or preclude) expansion of moisture gradients into open space areas where native plants and wildlife, including harvester ants, might be affected by Argentine ants. Specifically, the project:

- limits grading to 540 acres (27% of the project Site);
- includes a minimum of 230 feet in width of Fuel Modification Zones 1 and 2 (outside of private lot areas) which serve as a buffer between the edge of the project’s neighborhoods and preserve areas;
- protects as non-irrigated open space 235 acres of thinned native habitat in Fuel Modification Zone 2 and Special Management Areas adjacent to preserve areas;
- implements a landscape strategy for Fuel Modification Zone 1 areas that uses 55% less water (less than half) compared to the County’s new reduced landscape water allowance (i.e., Maximum Applied Water Allowance) per the updated Landscape Ordinance/Water Efficient Landscape Design Manual; and
- implements weather- and seasonal-based irrigation technology and practices.

All of the project’s neighborhoods, including the project’s streets and residential lots, are designed to drain into separate storm drain and detention systems. Further, much of the project’s irrigated Fuel Modification Zone 1 areas are upslope and drain back toward the streets. In addition, all of the project’s residential pads, the project’s park, school site, and all commercial sites will be graded to have positive drainage into the project’s storm drain and stormwater management system. The project’s neighborhood and preserve design and stormwater management strategy in conjunction with substantial buffering of protect areas from the project’s grading

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footprint; the project's minimal water use strategy for Fuel Modification Zone 1 areas will minimize impacts associated with irrigation runoff. The project also includes a Resource Management Plan that will protect wildlife from human disturbance and minimize other anthropogenic effects on the project's preserve area.

A-3-23 The comment states that the additional neighborhoods proposed by the project cause habitat fragmentation which, in turn, reduces habitat quality and suitability for species. The comment does not explain the basis for this statement; nor does it indicate whether, in the Department's opinion, the project's impacts on habitat, after mitigation, remain significant as that term is used in CEQA. The comment also does not identify any defect in the Draft EIR's analysis of the project's impacts on habitat fragmentation, quality, or suitability for species. The County does not agree that the proposed project's impacts on habitat, once mitigated per the recommendations in the Draft EIR, would be significant. The Draft EIR provides a summary list of the potential long-term indirect effects associated with development that is the analytic basis for the significance determination. The Biological Resources Technical Report (Appendix H of the Draft EIR) provides details regarding these potential long-term indirect effects. Habitat fragmentation is specifically analyzed as a significant impact for multiple resources (Impact SP-4, Impact W-4, Impact V-6, Impact WM-3, and Impact BI-C-1) in the DEIR. These impacts are reduced through implementation of **M-BIO-8A** through **M-BIO-8E**, which would provide for habitat management and conservation of open space areas that would allow for unimpeded wildlife movement and use.

The project's proposed onsite preserve area would be a large, interconnected system of native habitat. The preserve area would be connected internally within the Site and to lands proposed as PAMA and existing preserve areas offsite. Both the size and configuration of the proposed biological open space would minimize edge effects and habitat fragmentation. In terms of open space patch size, the proposed project's biological open space system would include Block 1 (870.2 acres), Block 2 (153.9 acres), and Block 3 (185.0 acres). These are large open space patches on equal or higher elevations compared to the project's neighborhoods and compared to existing preserve areas in the San Marcos–Merriam Mountains Core Area of the draft North County Plan PAMA and will reduce the potential indirect effects from habitat fragmentation.

A-3-24 The comment states that selective clearing in the proposed open space preserve easement is not permitted because the MOU between the Wildlife Agencies and fire districts does not apply to future developments. The comment also states that future development should be conditioned to include all fuel modification zones within the development footprint, and that exception 1 should be removed from Mitigation Measure M-BIO-8B. After considering this comment, the County has deleted the

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exception as requested. Please see the revised M-BIO-8B on page 2.14-116 of Section 2.4.15.1 of the Final EIR.

A-3-25 The comment states that, in the event the County does not delete the “selective clearing” exception from the Biological Open Space Easement, “the Resource Management Plans (RMPs) for the designated open space should include assurances that compensatory mitigation will be provided for any future impacts that occur because of this exception.” As stated above in **Response to Comment A-3-24**, the County has deleted the “selective clearing” exception from the Biological Open Space Easement described in M-BIO-8B. Therefore, the comment’s alternative request does not apply. No further response is required.

A-3-26 The comment states that Chapter 5 of the DEIR references several versions of the Draft NC MSCP Plan, however the DEIR’s list of references did not include the 2014 and 2016 versions of the draft Plan. Chapter 5 of the Final EIR has been revised to include these additional references.

A-3-27 The comment states that the Department is concerned about the long-term viability of the proposed open space in the southern and eastern blocks due to potential indirect effects. The County does not agree with the comment. The County also notes that the eastern block of habitat is adjacent to and substantially elevated above the I-15 freeway (an existing condition that is not likely to change for the foreseeable future) and is also completely connected to the northern block of habitat. The project’s proposed southern block of preserve is predominantly above (in elevation) the project’s neighborhoods to the east, north, and west. The project’s preserve areas are also buffered by approximately 230 feet of fuel modification zones separating the project’s private residential lots and roads from the preserve areas.

Further, the DEIR analyzes the indirect impacts to the project’s proposed preserve areas, including those from adjacent development, roads, and other facilities (Impact WM-3). As described on pp. 2.4-83 and 2.4-84, 1,209.1 acres of open space would be established on site in three interconnected blocks: the 870.2-acre northern block (Block 1), the 153.9-acre eastern block (Block 2), and the 185.0-acre southern block (Block 3). Each of these blocks would be connected to adjacent open space within the draft North County Plan PAMA Core Areas and linkages. Block 3 constitutes a prominent ridgeline and slopes would be at a higher elevation than the adjacent development area, thereby minimizing edge effects. The proposed Project’s development areas and associated roadways and fuel modification zones were designed to maintain inter-connectivity within the project Site and retain the functionality of the preserve design for the Draft North County MSCP Plan.

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As the comment states, the DEIR describes the open space design as consistent with the Draft NC MSCP Plan even though the Draft NC MSCP Plan has not yet been adopted. However, as part of the County's guidelines, the DEIR must analyze whether the project would preclude the preparation of the MSCP; therefore, under County Guideline 4.5B, the DEIR analyzed the project using the best available information and the most recent version of the Draft NC MSCP Plan (County of San Diego 2016). The most recent version of the Draft NC MSCP Plan analyzed the proposed Project as a proposed hardline area, which means that the proposed Project's development areas and biological open space areas, including habitat connectivity within the project Site have been predetermined and hardlined for the purposes of preparing the Draft NC MSCP Plan (County of San Diego 2016) (p. 2.4-83 of the Draft EIR). See also Response to Comment A-3-4.

A-3-28 The comment states the Draft NC MSCP Plan is in development and the Department has not agreed to the hardline status of the proposed Project. The comment restates that the conclusion that the "proposed biological open space would provide long-term biological benefit" is premature. The County does not concur with this comment. Please see Response to Comment A-3-4, above.

A-3-29 The comment recommends bat surveys be conducted to ensure potential impacts to pallid bat and Townsend's big-eared bat have been thoroughly evaluated. The County does not agree with this comment. The EIR acknowledges that there is suitable roosting and foraging habitat for these species (see Table 2.4-6 of the DEIR, page 2.4-154). However, the potential for this species to occur on site does not trigger the need for focused surveys, since Townsend's big-eared bat is a non-listed species which does not have specific survey requirements. Typically the USFWS provides survey protocols for listed wildlife species such as coastal California gnatcatcher. Regardless, focused bat surveys only determine the presence of bats and identify the species. Surveys typically include 1) a visual inspection and assessment of the potential roost location for roosting bats and other bat roost signs, including exit count surveys, and 2) active acoustic monitoring at the potential roost location and immediate surrounding area. The active acoustic surveys would provide an indication of the species utilizing the designated survey location for roosting and the adjacent area for foraging. These surveys do not provide additional detail such as information regarding distribution, or numbers on site, and therefore would not provide any additional information beyond what the habitat assessment provided. If present, the proposed project would provide for suitable roosting and foraging habitat for the species and the mitigation for impacts to this suitable habitat would include the preservation of additional habitat within the open space (M-BIO-8A) as described in Section 2.4.15.1 of the DEIR (page 2.4-115).

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A-3-30 The comment restates information from the Biological Resources Technical Report (BTR, Appendix H-1 the EIR) that western spadefoot toad has been detected on site on two occasions, and that no impacts are expected, the BTR recognizes there is a high potential for spadefoot to occur and, therefore, the species has been considered impacted by the proposed Project (refer to Impact W-3 in Section 2.4, Biological Resources, of the EIR). The comment states that if western spadefoot toad breeding pools are found within 500 feet of the development footprint, the Project applicant should consult with the Department. The comment concludes that surveys are necessary to fully address adaptive management for this species in the Preserve.

The County acknowledges the comment and notes that it restates information contained in the Draft EIR and does not raise an environmental issue within the meaning of CEQA. The Draft EIR analyzed impacts to western spadefoot toad; the two pools where spadefoot toad were observed are nearly 1,000 feet from proposed grading. The Final EIR Figures 2.4-5A and 2.4-9A have been revised to show the Spadefoot Toad locations. Due to a lack of suitable ponding habitat, the Spadefoot Toad is not anticipated to occur within 500 feet of the development footprint.

A-3-31 The comment states mitigation measures require the development of several associated documents, including RMPs, a Relocation Plan for Ramona horkelia, a Revegetation Plan for the restoration of temporary impacts, and a Nesting Bird Management, Monitoring and Reports Plan. The comment requests the Department be provided the opportunity to review and provide comments on these documents, as well as the final biological open space easements and limited building zone easement, prior to approval by the County. CEQA, however, does not require that such plans be provided to the Department or any other agency prior to project approval. A summary of the requirements for these plans is provided in the descriptions for each mitigation measure in Section 2.4.15 of the DEIR. See the following mitigation measures: the Nesting Bird Management, Monitoring, and Reporting Plan (M-BIO-5); Revegetation Plan (M-BIO-6); and Horkelia Relocation Plan (M-BIO-9). In addition, the RMPs are provided as Appendix L and M of the BTR while the conceptual revegetation plan is provided Appendix J of the BTR. The County will include the comment as part of the Final EIR for review and consideration by the decision-makers prior to a final decision on the project.

A-3-32 The comment states that as part of the final monitoring report described in M-BIO-3, the project biologist provide monthly updates available to the County and Wildlife Agencies. The County acknowledges the comment and has revised M-BIO-1 as requested to provide for monthly updates until such time as the North County MSCP Plan is adopted, after which the MSCP plan provisions will replace this measure. Please see Section 2.4.15 of the Final EIR.

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- A-3-33** The comment states the DEIR did not consider the San Marcos Highland Project as part of the cumulative analysis, and requests that this project be included in an updated cumulative impact analysis in the Final EIR. The County does not agree with this comment. The San Marcos Highlands Project was included in the DEIR's cumulative project's list (refer to cumulative project #103 in Table 1-10 of the DEIR) and cumulative impact analyses for the various impact areas of the DEIR. Therefore, no revisions to the cumulative impact analyses contained in the DEIR are required.
- A-3-34** The comment states the Department looks forward to further coordination with the County on the proposed Project and provides contact information. The County acknowledges the comment and notes it provides concluding remarks that do not raise new or additional environmental issues concerning the adequacy of the Draft EIR. For that reason, the County provides no further response to this comment.