

O-2.2 Hamilton Biological

- O-2.2-1** The County of San Diego (County) acknowledges the comment as an introduction to the comments that follow. This comment is included in the Final Environmental Impact Report (EIR) for review and consideration by the decision-makers prior to a final decision on the Newland Sierra Project (project or proposed project). No further response is required or necessary.
- O-2.2-2** The comment states that the biological resource mapping included within the Draft EIR, specifically Figures 2.4-5a, 2.4-5b, 2.4-5c, and 2.4-5-d and Figures 2.4-9a, 2.4-9b, 2.4-9c, and 2.4-9d, were difficult to read and interpret. A CD of the FEIR is available for use at the County of San Diego, which provides access to high resolution figures and allows for zooming in on particular figures for increased clarity.
- O-2.2-3** The comment states that project biologists found relatively few sensitive biological resources on the project Site and the “unusually dry conditions in 2013 and 2014, when most of the surveys were conducted, undoubtedly depressed populations of many plants and wildlife in the area.” The comment further states that if additional surveys were conducted in winter/spring 2016/2017, those surveys may have resulted in different results. The County disagrees with this comment and refers the commenter to **Responses to Comments O-1.5-5, O-1.6-3, O-1.6-6, and O-1.6-7**.
- O-2.2-4** The comment states that the mapping of coastal California gnatcatcher (*Poliophtila californica californica*) on the Site “does not indicate each of the locations on the site where this federally threatened species has been recorded over the years.” The County concurs with this comment. The locations of coastal California gnatcatcher shown on Figures 2.4-5a through 2.4-5e include the most recent and up-to-date locations of the species recorded during project-specific surveys and does not include historical occurrences. The Draft EIR provides a reference for the historical locations on and surrounding the Site (cited as CDFW 2014c and USFWS 2014 [Draft EIR pages 5-11 and 5-18]). Note that the sentence stating that “individuals have variously been anecdotally detected within other patches of sage scrub on Site” has been removed from Section 2.4, Biological Resources, in the Draft EIR and from Appendix H, Biological Resources Technical Report, of the Draft EIR; this change is reflected in the Final EIR.
- O-2.2-5** The comment re-states information from Appendix E, Draft Habitat Loss Permit Including 4(d) Findings, to Appendix H of the Draft EIR. The comment states that the acreage of conserved habitat on site (25.2 acres) does not compare favorably to the 56.7 acres of occupied habitat that would be impacted by the proposed project. The comment states that a significant impact to coastal California gnatcatcher would

Comment Letter Responses

remain following implementation of the proposed mitigation because the proposed project would impact two-thirds of the occupied habitat on site. The County does not concur with the assertion that impacts to coastal California gnatcatcher would be significant “simple because the remaining fragments would be maintained and monitored.”

The Draft EIR identified potentially significant impacts to coastal California gnatcatcher as Impacts W-1, W-2, and BI-C-2 (see Draft EIR Section 2.4.14). These impacts are restated below:

- Impact W-1** Direct loss of federally threatened coastal California gnatcatcher nesting individuals (including nests and/or young).
- Impact W-2** Significant long-term direct impacts to coastal California gnatcatcher as a result of removal of suitable habitat.
- Impact BI-C-2** Cumulative direct impacts to California gnatcatcher movement within the region would be significant.

To mitigate Impact W-1, the proposed project would implement mitigation measures (M-) “M-BIO-1, M-BIO-2, M-BIO-3, M-BIO-4, M-BIO-5, M-BIO-6, and M-BIO-7, which require biological monitoring during construction, temporary construction fencing, preparation of a biological monitoring report, review of landscape plans, preconstruction surveys for nesting birds and setbacks, and minimizing night lighting” (Draft EIR page 2.4-125).

To mitigate Impact W-2, the proposed project would implement “M-BIO-8A through M-BIO-8E, which would provide commensurate on- or off-site habitat management and conservation that is demonstrated to contain habitat for these species” (Draft EIR page 2.4-125).

Similarly, mitigation for Impact BI-C-2 would be to implement M-BIO-8A through M-BIO-8E (Draft EIR page 2.4-135).

Accordingly, mitigation for impacts to coastal California gnatcatcher includes the conservation of over 1,420 acres of habitat, including 1,209 acres of on-site open space (equal to approximately 61 percent of the project Site), as well as management, monitoring, construction fencing, preparation of monitoring reports, pre-construction surveys, and minimization of night light.

The following is indicated in Section 2.4.16, Conclusion, of the Draft EIR:

- Impact W-1** Direct loss of federally threatened coastal California gnatcatcher nesting individuals (including nests and/or young) would be

reduced to **less than significant** through implementation of mitigation measures **M-BIO-1, M-BIO-2, M-BIO-3, M-BIO-4, M-BIO-5, M-BIO-6, and M-BIO-7**, which require biological monitoring during construction, temporary construction fencing, preparation of a biological monitoring report, review of landscape plans, preconstruction surveys for nesting birds and setbacks, and minimizing night lighting. Biological monitoring and reporting would ensure that additional habitat is not impacted during construction, and that the best management practices (BMPs) outlined in the Storm Water Pollution Prevention Plan (SWPPP) are adhered to. Preconstruction surveys would identify locations of coastal California gnatcatchers and other migratory bird nests and implement construction limitations or provide suitable buffers between these locations and construction activities. Review of the conceptual landscape plan would ensure that native species are being used, thus reducing the potential for invasive species to encroach upon existing native habitat. PDS would confirm use of native species during approval of the final landscape plans prior to grading. Minimizing night and outdoor lighting would reduce disruption of nocturnal wildlife movement. Therefore, implementation of these mitigation measures would reduce these impacts to less than significant.

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 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 [North County Metropolitan Subregional Plan¹], 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 [habitat loss permit] process or through Section 7 consultation with the U.S. Army Corps of Engineers and the USFWS [U.S. Fish and

Comment Letter Responses

Wildlife Service]. 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 [Natural Communities Conservation Plan] Guidelines, County's draft North County Plan, and the Section 4(d) Rule.

Impact BI-C-2 Cumulative direct impacts to California gnatcatcher movement within the region would be reduced to **less than significant** through **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.

Accordingly, the Draft EIR concludes that impacts to coastal California gnatcatcher are mitigated to a less-than-significant level.

O-2.2-6 The comment states that the off-site mitigation located in Ramona is outside of the range for coastal California gnatcatcher. The County agrees with the commenter's assertion that the off-site mitigation site located in Ramona is outside of the range for coastal California gnatcatcher, and clarifies that the off-site Ramona parcel is not intended to mitigate for such impacts. The commenter is referred to **Response to Comment O-2.2-5** regarding mitigation for impacts to coastal California gnatcatcher, which are mitigated through M-BIO-1 through M-BIO-8. The Resource Protection Plan (RPP) has been revised in the Draft EIR to clarify that the off-site mitigation within Ramona does not apply to impacts to coastal California gnatcatcher. This revision is reflected in the Final EIR.

O-2.2-7 The comment states that the Draft EIR "vaguely" suggests that the draft North County Multiple Species Conservation Program (MSCP) may provide additional mitigation to reduce impacts to coastal California gnatcatcher to less than significant. The comment does not identify any defect in the Draft EIR and instead provides an introduction to additional comments provided in the letter. Therefore, the comment is addressed as follows. This comment is included in 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. The RPP discussion in the EIR has been revised to clarify that the off-site mitigation within Ramona does not apply to impacts to coastal California gnatcatcher.

Comment Letter Responses

O-2.2-8 The comment states that the Site is within a Pre-Approved Mitigation Area and occupies one of three remaining large plots of natural open space in San Diego County west of Interstate 5. The comment references two excerpts from a comment letter received from Dr. Megan Jennings (Letter O-1.5), specifically Comments O-1.5-6 and O-1.5-9. The comment restates information from page 2.4-125 of the Draft EIR regarding the proposed project's design being incorporated into the draft North County MSCP Plan and implies that the proposed project conforms to the NCCP preserve design principals. The comment concludes that the proposed project violates five of the eight NCCP preserve design principals, which are restated and discussed in Comments O-2.2-9 through O-2.2-4.

Regarding the statement that the proposed project is within a Pre-Approved Mitigation Area, the County agrees that the project site is within a draft PAMA in the draft North County MSCP Plan.

Regarding the references to the Dr. Jennings comment letter, the commenter is referred to **Responses to Comments O-1.5-6 and O-1.5-9**.

Regarding the statement that the proposed project violates five of the eight preserve design principals, the County does not concur and refers the commenter to **Responses to Comment O-2.2-9 through O-2.2-14**. No further response is required or necessary.

O-2.2-9 The comment states that the proposed project would impact two-thirds of the on-site habitat occupied by coastal California gnatcatcher and that the proposed mitigation would violate Principle 1 of the eight NCCP preserve design principles (Noss et al. 2001, as referenced in the comment). The County does not agree that this design principle would be violated because the proposed project would dedicate 1,209 acres, or 61 percent, of the project Site as permanent open space preserve. While the proposed project would include impacts to habitat for coastal California gnatcatcher, it would also provide for the preservation of two locations of the species, and additional requirements may be identified through the habitat loss permit or Section 7 process. However, the mitigation measures set forth in the Draft EIR are adequate to reduce impacts on coastal California gnatcatcher to a less-than-significant level without the need for additional mitigation imposed by the U.S. Fish and Wildlife Service or any other agency, as discussed in **Response to Comment O-2.2-5**. Therefore, the proposed project adheres to Principle 1, which is to conserve target species. The RPP has been revised to clarify that the off-site mitigation within Ramona does not apply to impacts to coastal California gnatcatcher. This revision is reflected in the Final EIR.

O-2.2-10 The comment states that the proposed project design would result in the creation of development "pods" that create landscape fragmentation and extensive development

Comment Letter Responses

edge effects and that the measure identified within the Draft EIR to reduce edge effects do not include “prohibiting non-native plant species from landscaping any exterior slope, and providing suitable undercrossings for all roads.” The comment also refers to the Dr. Jennings comment letter, which states that the Blocks 2 and 3 would be subject to edge effects, fragmentation, and road impacts, which, over time, would diminish their ecological functions.

The County does not concur with the overall comment assertion that “no matter how many measures are enacted, the configuration of the proposed project violates egregiously the principle of minimizing fragmentation and maintaining the integrity of large, contiguous blocks of natural habitat.” The commenter is referred to **Response to Comment O-1.5-7**, which discusses the edge buffering for corridors and edge effects. A response relating to Blocks 2 and 3 is provided in **Response to Comment O-1.5-9**, which addresses the issue of non-native species brought up by the commenter. Regarding providing undercrossings for roads, the Draft EIR (page 2.4-51) states that wildlife would make at-grade crossings over internal roads to connect to habitat within each block and associated corridors. Since wildlife would be able to cross at-grade, specifically designed wildlife undercrossings were not deemed necessary. The commenter is also referred to **Responses to Comments O-1.6-38 and O-1.6-39**.

- O-2.2-11** The comment states that the project proponent did not conduct a project-specific study of wildlife movement patterns through the project Site and that the lack of a wildlife movement study is a serious deficiency of the Draft EIR. The comment questions the validity of the Pacific Southwest Biological Services wildlife movement report cited in the Draft EIR, and references comments received from Dr. Jennings (see Comment Letter O-1.5).

The County does not agree that the lack of a wildlife movement study creates a “serious deficiency of the DEIR [Draft EIR].” As stated in the **Response to Comment O-1.5-5**, the County does not require that a specific wildlife movement study design be implemented for projects. The need for, and method of, a study is determined on a case-by-case basis in conjunction with the professional biologists performing the analysis. In this case, it was determined that the Site is currently unconstrained, and wildlife are free to use the Site. For larger species, this would likely have been concentrated within the network of dirt roads due to the density of the chaparral vegetation on the Site. Specific movement studies would not have provided much useful information. The Pacific Southwest Biological Services wildlife movement report was used as a source of information for species sightings and general movement within the Site and not as the primary resource to identify all wildlife movement. Section 2.4.10, Habitat Connectivity and Wildlife Corridors, in

Comment Letter Responses

the Draft EIR provides various references used in assessing potential wildlife movement on the Site.

O-2.2-12 The comment re-states preserve design Principal 4 and contains an excerpt from the Dr. Jennings comment letter. This excerpt is in **Response to Comment O-1.5-15**, and the commenter is referred to that response. No further response is required or necessary.

O-2.2-13 The comment states that increasing human population on the project Site beyond what was called for in the General Plan would result in greater encroachment into the preserve, beyond what was originally anticipated, by people and pets. The County acknowledges the comment and notes it expresses the opinions of the commenter and does not raise an issue related to the adequacy of any specific section or analysis of the Draft EIR. 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.

Nonetheless, the County acknowledges that the proposed project could result in human activity in the open space areas. The following is stated on page 2.4-100 of the Draft EIR:

The proposed project would involve development of seven neighborhoods, recreational facilities (e.g., parks), and designated open space. Increased human activity could result in trampling of vegetation and soil compaction outside of the impact footprint, and could affect the viability and function of suitable habitat for wildlife species. Trampling can alter an ecosystem, creating gaps in native vegetation either leading to soil erosion or allowing exotic, non-native plant species to become established. Trampling may also affect the rate of rainfall interception and evapotranspiration, soil moisture, water penetration pathways, surface flows, and erosion. An increased human population increases the risk for damage to suitable habitat for wildlife species. In addition, increased human activity can deter wildlife from using habitat areas near the proposed project Site. The cumulative indirect project impacts would be **significant (Impact BI-C-1)**.

The Draft EIR identifies M-BIO-8E as follows, which would reduce the above impact to less than significant:

M-BIO-8E BIOLOGICAL OPEN SPACE FENCING AND SIGNAGE: To protect the proposed open space easement from unauthorized entry or disturbance, permanent post and rail fencing, or similar permeable fence, shall be installed along the boundaries of the biological open space. Open space signage shall be placed

approximately every 200 feet along the fencing (Figure 2.4-11, Proposed Biological Open Space/Conceptual Signage and Fencing).

DESCRIPTION OF REQUIREMENT: Open space fencing or walls shall be placed adjacent to residential uses and roads as shown on figure 2.4-11. Open space signage shall be installed as shown on Figure 2.4-11, Proposed Biological Open Space/Conceptual Signage and Fencing, and shall be corrosion resistant, a minimum of 6 inches by 9 inches, on posts not less than 3 feet in height from the ground surface, and must state the following:

**Sensitive Environmental Resources
Area Restricted by Easement**

Entry without express written permission from the County of San Diego is prohibited. To report a violation or for more information about easement restrictions and exceptions, contact the County of San Diego, Planning & Development Services (Reference: PDS2015-ER-15-08-001)

Documentation: The applicant shall install the fencing or walls as indicated on Figure 2.4-11, Proposed Biological Open Space/Conceptual Signage and Fencing Plan, and include them on the building plans. The applicant shall install the signage as indicated on the Proposed Biological Open Space/Conceptual Signage and Fencing Plan, and have them photographed and verified by a California Registered Engineer or licensed surveyor.

Timing: Prior to occupancy, the fencing or walls and signs shall be in place.

Monitoring: The Department of Planning & Development Services shall verify compliance of the fencing or walls through review of the building permits and this condition. Evidence of the signage shall be photos and a statement from a California Registered Engineer or licensed surveyor that the biological open space signs have been installed in accordance with the Open Space Fencing and Signage Plan.

- O-2.2-14** The comment states that the project is inconsistent with Principle 5 (of the Draft NCCP preserve-design principles), which states that “the County should work with local fire agencies to develop fuel modification plant lists for specific developments adjacent to proposed reserve areas ... and should incorporate reserve-compatible, native, fire resistant plant species.” The comment further states that “the project should be conditioned with a requirement to minimize and mitigate fuel modification impacts to the maximum extent feasible, by specifying only appropriate, locally native plants within all fuel modification zones on slopes that interface with natural open space.” The County notes that the comment does not raise an issue within the

Comment Letter Responses

meaning of the California Environmental Quality Act and does not raise an issue related to the adequacy of any specific section or analysis of the Draft EIR.

Nonetheless, the County does not concur with this comment. The County and Deer Springs Fire Protection District worked with the applicant through the Fire Protection Plan (Draft EIR, Appendix N-1) review process to identify an appropriate list of plants for the fuel modification zone. The comment acknowledges that the list of plants from the County Fire Chiefs' Association's Fuel Modification Zone Plant Reference List includes "various native plants that would provide habitat of value [for] numerous native wildlife species" and notes that there are other landscapes that would be of limited value. The area within the fuel modification area is not counted as preserve. Rather, it is considered part of the impacted area, and no credit is taken for any habitat or function provided within this area.

O-2.2-15 The comment states that the proposed project violates five of the eight preserve design principles set forth to guide the draft North County MSCP planning and development process. The County disagrees with this assertion, and the commenter is referred to **Responses to Comments O-2.2-10** through **O-2.2-14**, which address each of those principles.

O-2.2-16 The comment states that approval of the proposed project could lead to impairment of the ecological function of the Gopher Canyon–Twin Oaks Planning Unit¹⁹¹ and, therefore, represents a potentially significant impact of the project not acknowledged by the Draft EIR. The County disagrees with this assertion that there is a significant project impact not acknowledged by the Draft EIR. As described in detail throughout Section 2.4.12.5, Local Policies, Ordinances, and Adopted Plans, of the Draft EIR, starting on page 2.4-80, the proposed project is designed in accordance with the draft North County MSCP Plan and would not impact coastal sage scrub vegetation in excess of the County's 5 percent habitat loss threshold as defined by the Southern California Coastal Sage Scrub NCCP Guidelines. Therefore, the proposed project would not preclude or prevent the preparation of the subregional NCCP because the project has been planned in accordance with the planning principles of the draft North County Plan. The proposed project has been analyzed in conjunction with the Draft North County Plan Preliminary Conservation Objectives and interim preserve design principles identified in the Planning Agreement for the draft North County Plan for which interim projects can be evaluated against during the period when the North

¹⁹¹ Note that the Gopher Canyon–Twin Oaks Planning Unit name is derived from earlier drafts of the draft North County MSCP, while the latest draft North County Plan uses "San Marcos-Merriam Mountains Core Area (Planning Unit 9)," which is referenced in the Draft EIR.

Comment Letter Responses

County Plan is in preparation.¹⁹² The proposed project has been determined to be in conformance with those planning and design principles and, thus, would not lead to impairment of the ecological function of the planning unit.

O-2.2-17 The comment reiterates the concerns stated in Comments O-2.2-5 and O-2.2-6. The commenter is referred to **Responses to Comments O-2.2-5 and O-2.2-6**.

O-2.2-18 The comment states that the approval of the project would set an “exceedingly damaging precedent” for future projects in the draft North County MSCP Plan area and questions how other property owners could be required to comply with the draft North County MSCP preserve design principles if those principles are “interpreted as mere suggestions that can be safely ignored.” The comment states that the project has potential to “undermine the capacity for maintaining long-term ecological functions and values in the numerous parcels of open space that must be assembled into the NCCP reserve system for northern San Diego County.” The County acknowledges the comment and notes that it addresses general subject areas (compliance with preserve design principles) that received extensive analysis in the Draft EIR, specifically Section 2.4. The comment does not raise any specific issue regarding that analysis, and therefore, no more specific response can be provided or is required. The County would 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.

Nonetheless, the County refers the commenter to **Topical Response BIO-1**, which concludes that Draft EIR, Section 2.4, demonstrates that the project has been planned consistently with the draft North County Plan and with regional conservation goals in mind. Based on the analysis in Section 2.4 of the Draft EIR, the project would consequently result in a less-than-significant impact because the project would not preclude or prevent completion of the draft North County MSCP.

O-2.2-19 The comment provides an excerpt of the RPP and outlines the impacts to Resource Protection Ordinance (RPO) resources as identified in the RPP and Draft EIR. The comment questions the County’s decision to allow impacts to RPO resources. The County acknowledges the comment and notes that it addresses general subject areas (RPO compliance), which received extensive analysis in the Draft EIR, specifically Section 2.4. The comment does not raise any specific issue regarding that analysis, 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

¹⁹² County of San Diego. 2008. “Planning Agreement by and among the County of San Diego, the California Department of Fish and Game, and the United States Fish and Wildlife Services Regarding the North and East County Multiple Species Conservation Program Plans: Natural Community Conservation Program Plans and Habitat Conservation Plan.” October 29, 2008.

Comment Letter Responses

decision-makers prior to a final decision on the project. No further response is required or necessary.

- O-2.2-20** The comment asks, “Is it not the actual intent of this Resource Protection Plan to permit and justify development on environmentally sensitive lands that would be otherwise off-limits under normal enforcement of the RPO?” The comment does not identify any defect in the analysis provided in the Draft EIR. Moreover, the County does not agree that the intent of the RPP is to justify development that would otherwise be off limits. The RPO states that impacts to sensitive habitat lands are permitted when all feasible measures necessary to protect and preserve the sensitive habitat lands are required as a condition of permit approval, and mitigation provides at least an equal benefit to the affected species.¹⁹³ The RPO analysis for wetlands within the RPP concluded that the project would be consistent with the County RPO with the exception of impacts to 2.13 acres of on-site RPO wetlands and 0.99 acres of off-site impacts (0.92 acres of which area impacts associated with Deer Springs Road, and essential public facility exempt from RPO requirements) with additional off-site impacts to the RPO buffers. These impacts are required given the project goals of concentrating development in the southern portion of the property to create a biological preserve in the northern portion of the property, creating large fuel modification zones for fire protection, providing a core habitat block in the Merriam Mountains, and improving Deer Springs Road, as well as other off-site improvements. As described in the RPP, the majority of RPO wetlands would remain within open space preserve, and the greatest impacts would result from fuel modification activities. Approximately 3 percent of the 30.2 acres of RPO wetlands on the project Site would be directly impacted by the proposed development.
- O-2.2-21** The comment provides an excerpt of the RPP, which states that “County Staff and the Wildlife Agencies agree that the proposed Newland Sierra Project (project) is not feasible to implement if the County RPO is strictly applied to areas outside of the designated biological open space.” The comment then states that the implication is that no RPO-compliant project is feasible on the project Site. The comment asks if this is accurate. The County concurs with the commenter. To respond to the comment, this sentence has been deleted from the RPP.
- O-2.2-22** The comment states that the RPP misleads decision-makers and the public by suggesting that the off-site mitigation area provides habitat for coastal California gnatcatcher. The County concurs with the commenter that the wording in the RPP is not accurate. Therefore, the RPP has been revised to clarify that the off-site

¹⁹³ County of San Diego. 2011a.

Comment Letter Responses

mitigation within Ramona does not apply to impacts to coastal California gnatcatcher. This revision is reflected in the Final EIR.

- O-2.2-23** The comment states that if the County grants the project an RPO exemption, it will be the second way that the project threatens to undermine the resource planning process in the County. The comment specifically points to the mitigation for impacts to coastal California gnatcatcher. As stated in **Response to Comment O-2.2-22**, the RPP has been revised to remove the statement that overall mitigation for coastal sage scrub within the Ramona site provides habitat for coastal California gnatcatcher. As previously stated in **Response to Comment O-2.2-20**, impacts to RPO resources are allowed when all feasible measures necessary to protect and preserve the sensitive habitat lands are required as a condition of permit approval and mitigation provides at least an equal benefit to the affected species. Therefore, the proposed project adheres to the requirements of the RPO through the creation of the RPP and Resource Management Plan designed for the proposed project.
- O-2.2-24** The comment states that M-BIO-10 does not provide detailed information to implement an effective invasive weed management program and recommends revising the measure to include more information on timing, personnel, methods, reporting, and enforcement. The comment recommends early detection and rapid response. M-BIO-10 has been revised in underline ~~strikeout~~ to incorporate timing, monitoring, and documentation requirements, which are consistent with the Resource Management Plan (Attachment L of Appendix H to the Draft EIR). See Section 2.4 of the Final EIR.
- O-2.2-25** The comment summarizes the previous comments, noting the commenter's opinion that the proposed project "violates five of the eight 'preserve-design principles' of the North County MSCP" and "would not mitigate the project's significant impacts to the California Gnatcatcher." The comment states that "the County and Wildlife Agencies will have little credibility or authority to require any other land owners in the draft North County MSCP area to ensure that their development plans conform to any such principles" if the proposed project is approved and a habitat loss permit is issued. 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, refer to **Responses to Comments O-2.2-1** through **O-2.2-24**. The County further notes that the statement regarding the credibility of the County and wildlife agencies expresses the opinions of the commenter and does not raise an issue related to the adequacy of any specific section or analysis of the Draft EIR. 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.

Comment Letter Responses

O-2.2-26 The comment states that if the “County [were] to allow the project proponent to replace the Resource Protection Ordinance (RPO) with an alternative plan that permits destruction of large areas that the RPO identifies as ‘fragile, irreplaceable resources that are vital to the general welfare of all residents,’ this would similarly set precedent that others could, and would, readily point to when submitting non-conforming projects for approval.” The County acknowledges the comment and notes the comment expresses the opinions of the commenter and does not raise an issue related to the adequacy of any specific section or analysis of the Draft EIR. 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.

Nonetheless, the proposed project includes a proposed exemption from the RPO; however, the following is noted in Section 2.4 of the Draft EIR:

The project footprint is not strictly in conformance with RPO; therefore, the project includes a proposed amendment to the RPO that would exempt the project from the requirements of the ordinance through implementation of superior regional resource protection. The project’s Resource Protection Plan (RPP) serves as the functional equivalent of the County RPO for the proposed project (Appendix H). The RPP is a comprehensive planning document addressing the preservation, enhancement, and management of sensitive resources (habitat, wetlands, slopes, cultural) within the 1,985-acre project Site. It was designed specifically for the proposed project as it relates to biological resources. The RPP provides assurances and funding for long-term resource protection, management, restoration, and enhancement of the proposed biological open space. As part of the proposed project, the on-site preserve would consist of 1,209.1 acres of habitat into three cohesive, contiguous blocks, and protect the biological open space from future encroachment through organized habitat management and land stewardship in perpetuity. An analysis of the project with application of the RPO is included in the RPP (Appendix H).”

Further, the following is noted in Section 2.4.16:

The RPP (Appendix H) provides information about the proposed project as generally consistent with the RPO, and where not consistent, it meets the RPO exemption because the project design concentrates development in the southern portion of the Site to create a biological preserve in the northern portion of the Site, provides a core habitat block in the Merriam Mountains, and requires improvements to Deer Springs Road. Since the County RPO

Comment Letter Responses

wetlands are also jurisdictional resources of the state, implementation of M-BIO-12, which requires permits from the appropriate federal and state agencies to impact jurisdictional resources, would identify additional mitigation through the permitting process to ensure that impacts to these resources are mitigated in accordance with state and federal laws and regulations.

- O-2.2-27** The comment states that “unless the mitigation measures set forth in the DEIR are clearly worded and contain mechanisms by which the County can verify their implementation, they have little chance of providing the levels of mitigation identified in the CEQA [California Environmental Quality Act] document.” The comment then provides an example for M-BIO-10 calling for an “Early Detection and Rapid Response program” to address potentially significant impacts due invasive weeds. The County does not concur that M-BIO-10 needs to be revised. The measure, through the Mitigation Monitoring and Response Plan, would be enforced by the County, and its implementation could be verified.
- O-2.2-28** The comment asks, “Given the project biologists’ demonstrably and flagrantly false claim that the off-site mitigation area ‘provides habitat for’ coastal California Gnatcatcher, how can decision-makers from the County or the Wildlife Agencies, or members of the general public, grant any credibility to the analyses and conclusions set forth in the DEIR?” The County does not concur with the comment for the reasons provided in **Responses to Comments O-2.2-5** and **O-2.2-6**. Refer to these responses.
- O-2.2-29** The comment states that the commenter appreciates the opportunity to provide comments on the Draft EIR 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 this reason, the County provides no further response to this comment.
- O-2.2-30** The comment presents the curriculum vitae of Robert A Hamilton. The County acknowledges the comment and notes it provides the background and experience of the commenter; the comment does not raise new or additional environmental issues concerning the adequacy of the Draft EIR. For this reason, the County provides no further response to this comment.