

FINAL ENVIRONMENTAL IMPACT REPORT Responses to Comments

Otay Ranch Village 14 and Planning Areas 16/19 Project

State Clearinghouse # SCH 2016121042

**GPA 16-008, SP 16-002, REZ 16-006, TM 5616,
ER-16-19-006 and STP 16-027**

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A-1 U.S. FISH AND WILDLIFE SERVICE

- A-1-1** The comment provides an introduction to comments that follow. This comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A-1-2** The comment states that the Proposed Project includes development of three parcels – known as PV1, PV2, and PV3 – which the U.S. Fish and Wildlife Service (USFWS) believes should be treated as Preserve. The commenter indicates that its position is based on various documents pertaining to the Multiple Species Conservation Program (MSCP) Plan and the County MSCP Subarea Plan.

The County of San Diego (County) does not agree with the comment. Please refer to **Thematic Response – Baldwin Letter and PV1, PV2, and PV3**, and to **Response to Comments A-3-5 through A-3-58 (California Department of Fish and Wildlife)**. As explained in these responses, the three parcels in question were never incorporated into the MSCP Preserve. The proposal to eliminate development entitlements and designate the parcels as part of the MSCP Preserve, often referred to as the “Baldwin Letter” proposal, was never executed or otherwise reduced to a formal agreement.

The commenter supports its position with references to various MSCP related documents, but makes no reference to the MSCP County Subarea Plan Implementing Agreement that actually controls “in the event of any direct contradiction, conflict, or inconsistency between the MSCP Plan or the Subarea Plan on the one hand and [the Implementing Agreement] on the other...” (Implementing Agreement, Section 3.2). As discussed in **Thematic Response – Baldwin Letter and PV1, PV2, and PV3**, the Implementing Agreement clearly indicates that the three parcels were not part of the Preserve at the time the Section 10(a) Permit and Implementing Agreement were approved, but could be added to the MSCP Preserve in the future if agreements between the parties were reached. (Implementing Agreement pages 29-30, “Additional lands associated with agreements, as outlined in the letter attached to the south County Segment from the Baldwin Company Dated November 10, 1995, will be included *if the agreements are reached.*” (Emphasis added.) No such agreements were reached regarding PV1, PV2, and PV3; accordingly, these parcels were never added into the MSCP Preserve.

Further, the Otay Ranch RMP Preserve, as described in the Implementing Agreement, was to be 11,375 acres in size. Section 10.5(A)(2) of the Implementing Agreement (pages 29–30) indicates the County’s mitigation obligation with respect to Otay

Ranch is: “Protection of the areas identified as preserved in the boundaries of the Otay Ranch project including approximately 11,375 acres....” That 11,375-acre figure did not assume or rely on PV1, PV2, and/or PV3 being included in the RMP Preserve. Moreover, the Proposed Project will assist in the assembly of the 11,375-acre RMP Preserve through project conveyance required by Mitigation Measure M-BI-3 (see Draft EIR, Section 2.4.6, Mitigation Measures).

Thus, the three areas are not ‘Preserve’ as part of the MSCP County Subarea Plan (or Otay Ranch General Development Plan/Otay Subregional Plan, Volume II [Otay Ranch GDP/SRP] or Otay Ranch RMP) and should not be treated as such. The Draft EIR, including Section 2.4, Biological Resources and Section 3.1.3, Land Use and Planning, and the Biological Mitigation Ordinance (BMO) analysis (Appendix A to Appendix 2.4-1) accurately characterize and analyze these three areas and the proposed development within each area.

Subsequent to this comment letter, the County is having ongoing discussions with the USFWS regarding the status of PV1, PV2 and PV3.

A-1-3 The comment states that, in the opinion of USFWS, “any changes to preserve areas need to maintain habitat values that were established by the MSCP.”

As a general matter, the County agrees that the MSCP mandates changes to Preserve areas should maintain the habitat values established by the MSCP. The County does not agree that PV1, PV2, and PV3 are Preserve areas. On this point, please refer to **Response to Comment A-1-2**, above. The Proposed Project does not propose to amend or boundary adjust existing Preserve areas because PV1, PV2 and PV3 were never incorporated into the Preserve. The Baldwin Letter was never executed as a legal contract agreement and the Proposed Project is consistent with the underlying land uses in the Otay Ranch GDP/SRP and County General Plan for PV1, PV2, and PV3.

A-1-4 The comment implies that PV1, PV2, and PV3 are Preserve areas and “were established to protect a wildlife corridor and large blocks of coastal sage scrub; important of coastal California gnatcatcher.” The comment then recommends that the EIR analyze the “proposed changes to the existing preserve” and address how those changes will affect the habitat values in Proctor Valley.

The County does not agree that PV1, PV2 and PV3 are Preserve areas. Please refer to **Response to Comment A-1-2** and **Thematic Response – Baldwin Letter and PV1, PV2, and PV3**. As discussed in those responses, the three parcels in question were never incorporated into Preserve and, thus, were not “established to protect a wildlife

corridor and large blocks of habitat.” The Proposed Project is consistent with the underlying land uses in the Otay Ranch GDP/SRP and County General Plan for PV1, PV2, and PV3.

The protection of the wildlife corridor and large blocks of habitat in the vicinity of PV1, PV2 and PV3 is discussed in the Draft EIR at Sections 2.4.3.1, Guideline 1G (see Draft EIR, page 2.4-89) Section 2.4.3.4, Wildlife Movement and Nursery Sites, Section 2.4.4 Cumulative Impact Analysis (see Draft EIR at page 2.4-129) and the BMO Analysis at Section 2.2.5, Preserve Design Criteria and Design Criteria for Linkages and Corridors. As indicated therein, the Proposed Project is consistent with the Otay Ranch GDP/SRP development footprint which was specifically designed to protect the wildlife corridor and large blocks of habitat.

A-1-5 The comment expresses the commenter’s willingness to work “to develop a plan moving forward.” This comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-1-6 The comment states that USFWS would like to discuss potential impacts to Quino checkerspot butterfly and how the Proposed Project could contribute to a potential Quino amendment.

Impacts to Quino checkerspot butterfly were analyzed in Section 2.4 of the Draft EIR. The Draft EIR determined that impacts (to potential Quino suitable habitat (Impact B-1) would be less than significant with implementation of recommended mitigation measures, including M-BI-3 (habitat conveyance and preservation), M-BI-4 (biological open space easement), M-BI-5 (permanent fencing and signage), M-BI-8 (Quino checkerspot butterfly take authorization), M-BI-9 (Quino checkerspot butterfly habitat preservation), and M-BI-10 (Quino checkerspot butterfly management/ enhancement plan).

Please also refer to **Thematic Response – Quino Checkerspot Butterfly**.

A-1-7 The comment provides concluding remarks. The comment does not raise an issue regarding adequacy of the Draft EIR; therefore, no further response is required or provided.

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