

A-3 CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

- A-3-1** The comment summarizes the California Department of Fish and Wildlife’s (CDFW) role in the CEQA process and its jurisdiction with respect to provisions within the California Fish and Game Code. The comment does not address an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A-3-2** In this comment, CDFW describes its role in the adoption of the San Diego County Multiple Species Conservation Program (MSCP) Subarea Plan and the City of Chula Vista MSCP Subarea Plan. The comment explains the purpose of the MSCP Subarea Plans and the function of the Plans’ Implementing Agreements. The comment does not address an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A-3-3** This comment provides a brief description of the Proposed Project but does not address an issue regarding the adequacy of the Draft EIR. Therefore, no further response is required or provided.
- A-3-4** This comment briefly describes the sensitive plant and wildlife species in the Project Area, as reflected in the Biological Resources Technical Report, Appendix 2.4-1 of the Draft EIR. The comment does not address an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A-3-5** The comment criticizes the Draft EIR’s Regional Regulations section for failing to mention the so-called “Baldwin Letter,” which is attached to the County and City of Chula Vista MSCP Subarea Plans.

As explained further in subsequent responses, the Baldwin Letter was never executed as an agreement and, thus, there was no memorialization of a land exchange. The Baldwin Letter itself states, “The following are elements of a proposed Agreement.” Also CDFW’s and U.S. Fish and Wildlife Service’s (USFWS’s) (collectively the “Wildlife Agencies”) response to the Baldwin Letter, dated February 22, 1996, rejected certain elements of the proposal and offered only qualified acceptance of others. There was never any meeting of the minds. Thus, although the MSCP County Subarea Plan, when adopted in 1997, attached a copy of the Baldwin Letter to document continuing negotiations as related to the November 1995 Baldwin Letter proposal under the assumption that an agreement, or agreements, would be reached in the future, that agreement, as related to the Proposed Project and PV1, PV2, and PV3, was never finalized and the assumption proved false. For this reason, the Baldwin Letter—including whatever terms, conditions, or proposals are contained therein—

does not constitute any portion of the MSCP County Subarea Plan and has no regulatory function. The Baldwin Letter articulated a proposal that the Wildlife Agencies never accepted. It has no effect on the MSCP County Subarea Plan or the ongoing management of the MSCP Preserve; nor does it bear upon the County's land use decisions with respect to this Proposed Project or any other. The County is aware of the Wildlife Agencies' noted concerns (since 2014) in regards to the Proposed Project regarding PV1, PV2, and PV3. For this reason, the County has required the applicant to prepare a site-specific analysis for these three parcels under the Biological Mitigation Ordinance (BMO) demonstrating adequate protection of habitat and species. This led to additional mitigation, including placing some of PV2 and PV3 into Conserved Open Space subject to open space easements. The BMO analysis is provided at Appendix A of the Biological Resources Technical Report, Appendix 2.4-1 of the Draft EIR. Also, please refer to **Thematic Response – Baldwin Letter and PV1, PV2, PV3 and Responses to Comments A-3-6 through A-3-26, A-3-35 through A-3-37, and A-3-40 through A-3-53.**

A-3-6 The comment purports to describe the Baldwin Letter and the Wildlife Agencies' response thereto.

As stated in **Response to Comment A-3-5** however, the negotiations between the Baldwin Company (the former owner of Village 14 and other properties in Otay Ranch) and the Wildlife Agencies failed to result in a final agreement. This is clear from the Wildlife Agencies letter, dated February 22, 1996, to Baldwin titled "Comments on the Baldwin Company's *proposed* Otay Ranch MSCP Plan Agreement dated November 10, 1995." In that letter, the Wildlife Agencies repeatedly refer to Baldwin's offer as a "*proposed Otay Ranch MSCP Plan Agreement dated November 10 1995.*" In addition, the Wildlife Agencies did not accept—in fact, expressly rejected—key elements of the Baldwin Letter proposal and demanded that other elements be revised before any agreement could be finalized. The last paragraph in the February 22, 1996, Wildlife Agencies letter, states, "We look forward to finalizing the Agreement as soon as possible and suggest we set a target date for completion of the Agreement by March 30, 1996." Baldwin lost ownership of PV1, PV2, and PV3 in May 1997 without the two parties reaching an agreement; thus, the development entitlements remain.

A-3-7 The comment states that "[o]ne of the elements identified in these letters" between Baldwin and the Wildlife Agencies "was the need to eliminate development entitlements, and enact corresponding designation as 'MSCP Preserve' for parcels in central Proctor Valley, which were part of the Village 14 development."

As noted previously, however, the exchange of letters did not result in an agreement in 1996 or any time thereafter. Whatever proposed “elements” were discussed in those letters never became an agreement or part of the MSCP County Subarea Plan and do not constitute a “need” or obligation on the County’s part. The Baldwin Letter is an offer for a desired result that was never agreed to in regard to PV1, PV2, and PV3. Thus, PV1, PV2, and PV3 remain entitled for development.

A-3-8 The comment attempts to identify those parcels within Village 14 which, according to the commenter, were supposed to be removed from development per the proposal set forth in the Baldwin Letter (i.e., PV1, PV2, and PV3). Again, however, the Baldwin Letter did not result in an agreement. Therefore, whatever the letter may have proposed in the way of exchanging development entitlements for MSCP Preserve is no longer applicable.

A-3-9 The comment states that when the County adopted the MSCP Subarea Plan on October 22, 1997, the Baldwin Letter was attached to Section 3 of the South County Segment of the MSCP County Subarea Plan.

The County agrees the Baldwin Letter was attached to the County Subarea Plan; however, it is never cited or directly referenced in the MSCP Subarea Plan, other than by implication in the general description of negotiations in Section 3.3.3.7 Otay Ranch (page 3-16), which states “Since the adoption of the General Development Plan, negotiations are continuing between Village Development and the Wildlife agencies which would result in additional lands in Proctor Valley, east of the approved resort, and additional lands south of Lower Otay Lake being placed in open space.” Therefore, attaching the Baldwin Letter was for the purpose of reflecting the then-current state of “continuing” negotiations between Baldwin and the Wildlife Agencies.

It is worth noting, however, that only the Baldwin *Letter* was attached and not the Wildlife Agencies’ response, which did not fully accept the proposals in the letter. There was, as yet, no *agreement* to append to the MSCP County Subarea Plan, because no agreement had been reached by the time the County adopted the Subarea Plan. In May 1997 and prior to adoption of the MSCP County Subarea Plan, Baldwin lost ownership and control of the PV1, PV2, and PV3 parcels in question and was not able to continue negotiations with the Wildlife Agencies. Consequently, no agreement regarding PV1, PV2, and PV3 was ever executed.

A-3-10 The comment states that “the relevance of the Baldwin Letter should be obvious as to the Wildlife Agencies’ intentions and the need to address Preserve design considerations for the MSCP Preserve.” The comment contends that Preserve design

“was linked to a commitment at that time to issue permits expeditiously for impending projects in Otay Ranch.”

The County does not agree with this characterization of the facts. While the Baldwin Letter may provide evidence of the Wildlife Agencies’ intentions during the 1995–1996 negotiation, those intentions cannot be grafted on to the MSCP County Subarea Plan, for the obvious reason that Baldwin and the Wildlife Agencies could not come to final terms and the Baldwin Letter was never reduced to a formal agreement. Thus, there was no “commitment” on the part of Baldwin, the County, the Wildlife Agencies, or any other person or entity. Ultimately, it is the Implementing Agreement, dated March 17, 1998, which, as a matter of law, reflects the intentions of all parties and governs implementation of the MSCP County Subarea Plan. That document clearly indicates that the Baldwin Parcels may, *in the future*, be placed in to the MSCP Preserve, but that no agreement for eliminating development and designating those parcels MSCP Preserve had been reached at that point in time. The relevant language appears in Section 10.5(A)(2) of the Implementing Agreement (pages 29 and 30) where the Implementing Agreement indicates that 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....” The Implementing Agreement then goes on to say: “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 agreements were reached and, as a result PV1, PV2, and PV3 were not designated as MSCP Preserve and remain entitled for development. As noted in **Response to Comment A-3-5**, the County required the applicant to prepare a site-specific analysis under the BMO demonstrating protection of habitat and species. The BMO analysis is provided in Appendix A of the Biological Resources Technical Report, which is Appendix 2.4-1 of the Draft EIR.

A-3-11 The comment states the Baldwin Letter was “signed by Mr. Kim Kilenny [sic] of the Baldwin Company” and quotes one statement from the Baldwin Letter regarding a proposal to amend the Otay Ranch General Development Plan/Otay Subregional Plan, Volume II (Otay Ranch GDP/SRP) to eliminate development on PV1, PV2, and PV3.

Mr. Kilkenny’s signature on the Baldwin Company’s *proposed* Otay Ranch MSCP Plan Agreement dated November 10, 1995, does not constitute an agreement because it was rejected, and negotiations were not finalized. Again, however, the Baldwin

Letter and any element of the proposal contained therein are no longer applicable and does not control land use decisions in Village 14.

A-3-12 The comment notes that the MSCP County Subarea Plan includes two figures—Figure 1-2 (South County Segment) and Figure 1-3 (South County Segment)—which reflect the “no take” designation for PV1, PV2, and PV3. The comments also states that, in 1998, “the Final MSCP Subregional Plan (MSCP Plan) was adopted and incorporated the terms of the Baldwin Letter.” In addition, the comment states that Figure 3-2 of the Subregional Plan shows PV1, PV2, and PV3 as 100% conserved, and Figure 3-3 shows the parcels as being within the Multiple Habitat Planning Area (MHPA).

The various figures described in the comment and attached to the MSCP County Subarea Plan and MSCP (Subregional) Plan were prepared while negotiations were “continuing.” As such these figures reflect a partial attempt to depict what the Baldwin Letter had proposed. The parties, however, could not reach agreement on all deal points and the expected outcome, as depicted in the figures, did not materialize. It is for this reason that the Implementing Agreement discusses the *potential* for the Baldwin parcels to be placed in the MSCP Preserve “if the agreements are reached” (Implementing Agreement, Section 10.5A2). An agreement was not reached for PV1, PV2, and PV3. Consequently, the development entitlements for PV1, PV2, and PV3 remain; the areas are not MSCP Preserve. Figures attached to the County Subarea Plan and the MSCP Plan and described in the comment merely reflect an expectation that was not realized. As such, they have no legal effect. And, to the extent there is a disparity or inconsistency between the plans and figures in question and the Implementing Agreement, it is the Implementing Agreement that controls. (Implementing Agreement, Section 3.2; “In the event of any direct contradiction, conflict or inconsistency between the MSCP Plan or the County Subarea Plan on the one hand, and this Agreement on the other, the terms of this Agreement shall control.”)

Moreover, with respect to MSCP Plan Figures 3-2 and 3-3 referenced by the commenter, not only does the language of the Implementing Agreement prevail over the inconsistent depiction in the figures, but the commenter fails to note the large disclaimer at the upper right corner of the figures, which reads “This map depicts areas within which the MSCP Preserve *may* be created. This map is *not* intended to regulate land use or to provide *site-specific data*. Some lands within the lines *will* be allowed to be developed as provided for in individual subarea plans other implementing plans and regulations” (emphasis added). Therefore, these figures do not define the MSCP Preserve within the County Subarea. In addition, it is important

to note that Figure 1.1 MSCP Plan, as referenced in the Section 10 permit issued for the MSCP Plan, shows these parcels as “no take” and not “preserve.” This figure is included in the Final EIR as Figure 18a.

Two other points bear on this issue. First, in the absence of an agreement formalizing the Baldwin Letter proposal, the County cannot preclude development on PV1, PV2, and/or PV3.

Second, the Implementing Agreement identifies the size of the Otay Ranch Preserve (which the Implementing Agreement identifies as the County’s required mitigation contribution to the MSCP) as 11,375 acres, a figure that does *not* include acreage from PV1, PV2, and/or PV3 (see Section 5.1 and Figure 24 in the Otay Ranch Resource Management Plan [RMP], incorporated herein by reference, depicting the 11,375-acre Otay Ranch RMP Preserve and clearly showing PV1, PV2, and PV3 as developable, not Preserve). The MSCP County Subarea Plan is consistent with the Implementing Agreement in this regard and also uses this same 11,375-acre figure (MSCP County Subarea Plan page 3-15). The development footprint currently contemplated under the Proposed Project is consistent with the footprint of the 11,375-acre Otay Ranch Preserve, just as the Implementing Agreement requires. Thus, the Proposed Project is consistent with the Implementing Agreement, the County Subarea Plan, and the MSCP Plan.

The Implementing Agreement recognized the contingent and continuing nature of Baldwin’s negotiations with the Wildlife Agencies and accommodated that uncertainty accordingly. In short, the 11,375-acre Otay Ranch/MSCP Preserve described in and governed by the Implementing Agreement does not require or assume conveyance of PV1, PV2, and PV3 into the MSCP Preserve system. On the contrary, the Otay Ranch Preserve can be assembled without conveyance of these three parcels. In fact, the Proposed Project will facilitate assembly of the Otay Ranch Preserve through conveyance of 426.7 acres within the Project Area and 350.1 acres off site.

Given that the Implementing Agreement contemplates an 11,375-acre RMP Preserve in the South County Segment, and given that such a Preserve can and will be assembled without inclusion of PV1, PV2, and/or PV3, neither the County nor the Wildlife Agencies can require that these three parcels be placed in the MSCP Preserve.

A-3-13 The comment notes that the MSCP Plan includes the following statement: “Preserve boundary lines are shown for the Lake Hodges and South County segments.” The

County acknowledges the comment. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-14 The comment states that, according to the MSCP Plan, development and conservation land within the Metro-Lakeside-Jamul segment “will proceed based on preserve design criteria, implemented through a Biological Mitigation Ordinance (BMO).” The County acknowledges the comment. The County notes, however, that the sentence quoted in the comment is from the MSCP Plan and not the County’s MSCP Subarea Plan and does not preclude the BMO from being applied to all MSCP County Subarea Plan segments as expressly allowed in the Implementing Agreement. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-15 The comment states that the “DEIR’s BMO analysis for impacts to PV1, PV2, and PV3 is not appropriate and is inconsistent with the MSCP Plan” because, under that plan, take of Covered Species in the South County Segment cannot be authorized through a BMO analysis. As an initial matter, take authorization is beyond the scope of CEQA. The issue of “take” falls under the federal Endangered Species Act (ESA) and the California Endangered Species Act (CESA) and is governed by rules and standards different from those in CEQA. Nevertheless, in an effort to clarify matters, the following response is provided.

By the terms of the BMO itself, the BMO applies to all properties within the boundaries of the MSCP County Subarea Plan as shown in Exhibit A of the BMO (See BMO, Section 86.502). PV1, PV2, and PV3 are within that boundary. Some properties are exempt from the BMO, as they received hardline “take” authority when the County’s Subarea Plan was adopted (BMO, Section 86.503). Such properties are shown on Exhibit B to the BMO. PV1, PV2, and PV3 are not among the exempted properties (although the remainder of Village 14 and Planning Areas 16/19 *are* shown as take authorized and, therefore, exempt). When read together, Exhibits A and B demonstrate that the BMO applies to PV1, PV2, and PV3 (see BMO, Section 86.503(4)).

In addition, as indicated in **Response to Comment A-3-12**, the Implementing Agreement governs how the County Subarea Plan will be implemented. The Implementing Agreement defines the BMO as “the Ordinance adopted by the County of San Diego which establishes mitigation standards for biological resources and implements, in part, the Subarea Plan” (Implementing Agreement, Section 2.3). As this definition indicates, the BMO is the primary vehicle for implementing the Subarea Plan as a whole, not just the Metro-Lakeside-Jamul Segment, as the

commenter contends (see also Implementing Agreement, Section 9.12). The Implementing Agreement reiterates this same point in Section 10.5A.1: “The County shall apply mitigation ratios in the Biological Mitigation Ordinance to *all* lands within the County’s Subarea consistent with the Ordinance” (emphasis added; Implementing Agreement, Section 10.5A.1; emphasis added). In addition, the Implementing Agreement provides that the County will utilize the BMO, along with the CEQA process, “to achieve the conservation goals listed in table 1-2 of the Subarea Plan for the County” (Implementing Agreement, Section 10.5A). Consistent with this directive, the County has incorporated a BMO analysis and findings for PV1, PV2, and PV3 into the Draft EIR as Appendix A to the Biological Resources Technical Report (Appendix 2.4-1 to the Draft EIR), thereby using both CEQA and the BMO, in concert, to achieve the Subarea Plan’s conservation goals and the Implementing Agreement to determine MSCP Subarea Plan consistency.

- A-3-16** The comment states that “[a]reas not authorized for take within the South County segment ‘may be authorized only after such an area has become part of the Segment Plan through the appropriate amendment process.’”

Although the comment includes no citation, the quoted language appears to come from Section 1-8 of the MSCP County Subarea Plan, which addresses major and minor amendment areas. PV1, PV2, and PV3 are not within the MSCP County Subarea Plan’s identified major or minor amendment areas, so the quoted language does not apply to these parcels. More fundamentally, however, issues involving take authorization are beyond the scope of CEQA and this EIR. Take authorization for development of PV1, PV2, and PV3, if necessary, will be addressed through separate processes under the applicable state and federal statutes. Whether the applicant would need an ESA and/or CESA incidental take permit and can secure such permits is beyond the scope of CEQA and, thus, beyond the scope of this EIR.

- A-3-17** This comment states that “[a]lthough a lengthy BMO analysis is included in Appendix A of the Draft EIR, which indicates an additional 24.6 acres of mitigation is required, the Project apparently does not propose incorporating this additional mitigation.”

The County disagrees with the comment that the Proposed Project does not propose incorporating additional mitigation. The additional BMO mitigation is included in the Draft EIR. The BMO analysis contained in Appendix A to the Biological Resources Technical Report (Appendix 2.4-1 to the Draft EIR) states several times throughout the analysis that the Proposed Project is required to provide additional mitigation beyond the 1.188 Otay Ranch RMP Preserve Conveyance Obligation. The following

are statements regarding additional mitigation required by the BMO for impacts to PV1, PV2, and PV3:

- Beyond the mitigation requirements of the Otay Ranch RMP, the BMO mitigation ratios would require an additional 24.6 acres to mitigate the impacts of development on PV1, PV2, and PV3 for a total mitigation requirement of 228.1 acres (BMO Analysis, page 26).
- Additional mitigation as a result of the BMO analysis may be satisfied through on-site or off-site conveyance or Conserved Open Space within the overall Project Area, including PV2 and PV3 (BMO Analysis, page 26).
- As described previously, because the BMO mitigation requirements are more stringent for certain types of habitat, the BMO would require an additional 24.6 acres of mitigation beyond the 203.5 acres required by the Otay Ranch RMP Preserve Conveyance Obligation for a total of 228.1 acres (BMO Analysis, page 74).
- Note that the 228.1 acres of BMO-calculated mitigation for PV1, PV2, and PV3 exceeds the 1.188 Otay Ranch RMP Preserve Conveyance Obligation by approximately 24.6 acres (171.3 acres of impacts mitigated at the 1.188 ratio totals 203.5 acres). The 228.1 acres of required mitigation would be met through the Proposed Project's overall conveyance of 776.8 acres of habitat to the Otay Ranch RMP Preserve and preservation of 72.4 acres of additional habitat designated as Conserved Open Space for a total of 849.2 acres (BMO Analysis, page 91).

The BMO Analysis is carried over into the Biological Resources Technical Report and Draft EIR, which provide the following statements regarding additional mitigation required for impacts to PV1, PV2, and PV3:

- Since the Biological Mitigation Ordinance requirements are more stringent for certain types of habitat, the Biological Mitigation Ordinance requires an additional 24.6 acres of mitigation, in addition to the 776.8 acres of conveyance (Biological Resources Technical Report, Summary, page xvii).
- Beyond the mitigation requirements of the Otay Ranch RMP, the BMO mitigation ratios would require an additional 24.6 acres to mitigate the impacts of development on PV1, PV2, and PV3 for a total mitigation requirement of 228.1 acres. These 228.1 acres of mitigation would be located in either the on-site Otay Ranch RMP Preserve or the Conserved Open Space

areas on site and would be like-kind (or up-tiered) habitat (Biological Resources Technical Report, page 26).

- The BMO would require an additional 24.6 acres of mitigation. Impacts to City of San Diego Cornerstone Lands would require an additional 11.3 acres of mitigation. Therefore, the total required mitigation for the Proposed Project is 812.7 acres (Biological Resources Technical Report, page 521; Draft EIR, page 2.4-136).
- Approximately 228.1 acres of mitigation is required for impacts to 173.5 acres of sensitive upland vegetation. Conveyance of land to the Otay Ranch RMP Preserve within the Project Area as well as preservation of areas otherwise designated as development would cover the mitigation required by the BMO analysis (Draft EIR, page 2.4-111; Table 10-1 of the Biological Resources Technical Report; and Table 1 of the BMO Findings).

In order to provide additional clarity regarding the mitigation requirements, Section 2.4.3.5 of the Draft EIR has been revised to state the following in the Final EIR (additional text in underline):

- Approximately 228.1 acres of mitigation is required for impacts to 173.5 acres of sensitive upland vegetation. The 228.1 acres of BMO-calculated mitigation for PV1, PV2, and PV3 exceeds the 1.188 Otay Ranch RMP Preserve Conveyance Obligation by approximately 24.6 acres (171.3 acres of impacts mitigated at the 1.188 ratio totals 203.5 acres). Conveyance of land to the Otay Ranch RMP Preserve within the Project Area (208 acres) as well as preservation of areas otherwise designated as development (20.1 acres) would cover the additional mitigation required by the BMO analysis. The 208 acres of required conveyance land will be in the tier of habitat required by the BMO. Thus, these 208 acres will satisfy both the 1.188 Otay Ranch Resource Management Plan (RMP) conveyance requirement and most of the BMO mitigation requirement. The additional 20.1 acres of preservation land will satisfy the remainder of the BMO mitigation requirement.

A-3-18 The comment states that the Proposed Project, rather than providing the mitigation otherwise required under the BMO, will mitigate its impacts at PV1, PV2, and PV3 “using only the Otay Ranch Resource Management Plan (RMP) conveyance requirement of 1.188 acres of conveyance for every acre of impact.”

The County disagrees with the comment. As explained in **Response to Comment A-3-17**, the Proposed Project will mitigate its biological resource impacts for development within PV1, PV2, and PV3 at the levels required under the BMO, which are greater than those required under the Otay Ranch RMP.

A-3-19 The comment states that the Draft EIR assumes PV1, PV2, and PV3 are “take authorized,” but that the County’s BMO analysis would not apply if these parcels already possessed take authorization. The comment then reiterates CDFW’s position that PV1, PV2, and PV3 “were designated hardline Preserve pursuant to the approved MSCP Plan,” and that the designation was necessary to achieve the Preserve design standards required under the California Natural Communities Conservation Planning (NCCP) Act. The comment also states that issuance of the NCCP permit “required a conservation strategy analysis, which included preservation of the PV-associated acres.” According to the comment, this makes a BMO analysis inappropriate.

The County notes that “take” authorization is not a CEQA issue. As explained in **Response to Comment A-3-15**, the BMO is applicable to PV1, PV2, and PV3 as they are within the MSCP County Subarea Plan boundary (BMO Section 86.502, but were not exempt when the County’s Subarea Plan was adopted (BMO, Section 86.503). Therefore, the BMO is applicable. However, PV1, PV2, and PV3 are also required to comply with the Otay Ranch RMP Conveyance requirement. Thus, *both* the BMO mitigation and the 1.188 RMP Conveyance requirement are analyzed in the BMO, and both mitigation requirements are included in the Mitigation Monitoring and Reporting Program (MMRP). The BMO analysis is provided in Appendix A of the Biological Resources Technical Report, which is Appendix 2.4-1 of the Draft EIR.

As explained in **Response to Comment A-3-10**, both the MSCP County Subarea Plan and the Implementing Agreement established the Otay Ranch mitigation and hardline Preserve at 11,375 acres. As noted in **Response to Comment A-3-12** and **Thematic Response – Baldwin Letter and PV1, PV2, PV3**, this acreage figure did *not* include any land from PV1, PV2, or PV3. Thus, the commenter is incorrect to say that designating PV1, PV2, and PV3 as hardline MSCP Preserve “was necessary to achieve the Preserve design standards required” under the NCCP Act. On the contrary, those standards were met by the agreed-upon 11,375-acre Otay Ranch Preserve described in the Implementing Agreement. Moreover, the Proposed Project facilitates assembly of, and is consistent with, the 11,375-acre Preserve. Calculation of the Otay Ranch 1.188 Preserve conveyance requirement includes PV1, PV2, and PV3 acreage in the denominator and not the 11,375-acre numerator. The Implementing Agreement states:

the CDFG has found ... that the MSCP, the Subarea Plan and this Agreement (1) adequately provide for the conservation and management of the Covered Species Subject to Incidental Take and their habitat within the MSCP Area and the Subareas, (2) satisfy all legal requirements under the NCCP Act necessary for the CDFG to issue a CESA/NCCP Authorization for the Covered Species Subject to Incidental take, and (3) are consistent with the NCCP Process and Conservation Guidelines. (Implementing Agreement Section 12.5 page 35)

- A-3-20** The comment states that it would be inappropriate for the applicant to pursue “separate Endangered Species Act (ESA) and/or California Endangered Species Act (CESA) permits in order to receive approval to develop PV1, PV2, and PV3.”

Whether the applicant would need an ESA and/or CESA incidental take permit and can secure such permits is beyond the scope of CEQA and, thus, beyond the scope of this EIR. Nevertheless, there is nothing in the Implementing Agreement or any state or federal statute that would prevent the applicant from seeking separate take authority under ESA or CESA. The Implementing Agreement for the MSCP County Subarea Plan itself recognizes this fact (see, e.g., Implementing Agreement, Section 13.1; see also, Implementing Agreement, Section 9.16).

- A-3-21** The comment states that “the issue is not the isolated take of listed species on these parcels, but rather the spatial value of these properties within the matrix of conserved land near the Project, and their importance to the design and function of the overall MSCP Preserve.”

The County notes that the 11,375-acre Otay Ranch Preserve contemplated under the MSCP County Subarea Plan and the Implementing Agreement did not require that PV1, PV2, and PV3 be included in the MSCP Preserve. Thus, the Subarea Plan and the Implementing Agreement determined that the “spatial value” of PV1, PV2, and PV3 were not necessary for the successful function of the MSCP design. Additionally, the BMO analysis and the Biological Resources Technical Report address impacts to species, habitat, corridors, linkages and edge effects. Thus, the Proposed Project— including development of PV1, PV2, and PV3—would not impede assembly of the 11,375-acre RMP Preserve, or harm the Preserve design and function. To the contrary, the Proposed Project is designed to facilitate assembly of that 11,375-acre RMP Preserve. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

- A-3-22** The comment states that any Project development of PV1, PV2, and/or PV3 would require a Boundary Line Adjustment (BLA) and concurrence by the Wildlife Agencies. The County does not agree with the comment.

The County notes that BLAs are described in Section 10.11 of the Implementing Agreement and would only apply to PV1, PV2, and/or PV3 if those parcels were designated as hardline MSCP Preserve areas. As discussed previously, Section 10.5.A.2 of the Implementing Agreement makes it clear that PV1, PV2, and PV3 are not designated as hardline MSCP Preserve. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required provided.

- A-3-23** The comment reiterates CDFW's position that it disagrees with the applicant pursuing take authorization through means other than the MSCP County Subarea Plan and Implementation Agreement (i.e., through the federal ESA or CESA). The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

- A-3-24** The comment states that CDFW has communicated its concerns regarding the manner in which take authorization for PV1, PV2, and PV3 is secured. The comment also indicates that CDFW is "disappointed that the County would release the Draft EIR with Project alternatives that are inconsistent with the MSCP Plan/County SAP [Subarea Plan], and without engaging us in pre-project meetings to discuss the merits of the applicant's position."

The County disagrees with the comment. The County has determined that the Proposed Project and alternatives can be implemented in a manner that is consistent with the MSCP Plan, the County Subarea Plan, and Implementing Agreement.

- A-3-25** The comment states that the County in 2001 adopted a General Plan Amendment that included a briefing document, which, according to the comment, indicated "all the component parts of the November 10, 1995 [Baldwin] letter related to the expansion or reduction of developable areas, are included in the MSCP as adopted by the County of San Diego (including those areas not owned by The Otay Ranch Company.)"

The comment reflects a misunderstanding of the controlling land use documents in the County and how they are amended. Currently, the governing land use document is the County's 2011 General Plan Update, which identifies PV1, PV2, and PV3 as developable. In fact, the 2011 General Plan Update retained the land use designations

originally assigned to these parcels in the 1993 Otay Ranch GDP/SRP—i.e., Low Density Residential (L) and Low Medium Village Density Residential (LMV). In other words, the land use designations for PV1, PV2, and PV3 have not changed since they were originally established in 1993.

Consequently, the 2001 “briefing document” referenced in the comment did not change the land use designation or zoning for PV1, PV2, or PV3. Nor could it have effected such a change. Per Government Code and County policy, proposed changes to land use designations and/or zoning must be publicly noticed as such, and in the case of the 2001 General Plan Amendment, there was no public notice indicating that the County was considering a change to the land use designations and zoning for PV1, PV2, and PV3. Nor was there any resolution formally approving any such re-designation or rezoning. This is because there was never any intent by the County—in 2001 or anytime thereafter—to change PV1, PV2, and/or PV3 from developable parcels to “preserve” parcels. The County further notes that the 2001 General Plan Amendment was processed as a requirement of a separately negotiated agreement regarding a separate owner in the Otay Ranch in Villages 13 and 15 to which the County was not a party, and which was a condition of an Interim Habitat Loss Permit issued in Chula Vista, as further described in **Thematic Response – Baldwin Letter and PV1, PV2, PV3**.

A-3-26 This comment reiterates CDFW’s position that development of PV1, PV2, and/or PV3 would require a BLA. The comment also states that a BLA involves a different analysis than the BMO and requires “making the Preserve whole on an acre-for-acre basis.” According to the comment, a BLA also requires that the added acreage have the same or better function and values as those areas removed from the MSCP Preserve.

The County disagrees with the comment, largely because the comment proceeds from an incorrect premise. PV1, PV2, and PV3 are not part of the MSCP Preserve. Consequently, no BLA is necessary to remove them from the MSCP Preserve. In addition, the Implementing Agreement describes the Otay Ranch Project as including 11,375 acres of MSCP Preserve (page 29). As pointed out in **Responses to Comments A-3-12, A-3-19, and A-3-21**, that acreage figure does not assume or require inclusion of PV1, PV2, and/or PV3 in the MSCP Preserve. The Proposed Project, once implemented, would facilitate assembly of the 11,375-acre Otay Ranch Preserve while honoring the hardline MSCP Preserve boundary.

- A-3-27** The comment indicates that “PV1 is considered important Quino [checkerspot butterfly] habitat and its conservation contributes to enhanced corridor connectivity and function for both Quino and California gnatcatcher.”

The County notes that the Draft EIR and the BMO analysis thoroughly assessed the Proposed Project’s impacts on Quino checkerspot butterfly and its habitat, including habitat located in PV1 (pages 2.4-77 and 2.4-78 of the Draft EIR, and pages 19, 20, 25, 87, and 88 (PV1 specific) of the BMO analysis, Appendix A to the Biological Resources Technical Report). The Draft EIR, Section 2.4-1, Biological Resources, also evaluated Project-related impacts, including PV1, on corridor connectivity and function for Quino checkerspot butterfly (page 2.4-78 of the Draft EIR). The Biological Resources Technical Report and BMO analysis addressed corridor function and connectivity for California gnatcatcher (page 468 of the Biological Resources Technical Report, and pages 62 and 63 of the BMO analysis, Appendix A to Appendix 2.4-1). The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

- A-3-28** The comment states that development of PV1 requires a stream crossing and would introduce substantial edge effects to the Preserve. The comment also states that “less than 200 meters from the northern boundary of PV1 is the only known late summer/fall water source within Proctor Valley,” and that various wildlife species including southern mule deer—an important prey species for mountain lion—use the water source.

The comment provides information regarding the Proposed Project’s potential to affect wildlife use of water sources located on and/or near PV1. The County would point out, however, that there is no stream or creek on PV1. The only water course located adjacent to PV1 is an intermittent drainage that carries water during storm events. As for the water source located in the Preserve, the County is unaware of a water source 200 meters north of PV1. A water source is located 200 meters west of the area of Preserve west of R-11 (see Figure 2.4-2 of the Draft EIR). The water source is within the CDFW-owned and managed portion of Village 14. This water source is almost a mile northeast of PV1. The water source is within the L4 wildlife corridor and, following project construction, will be located approximately 150 feet below and 750 to 800 feet to the west of development within Village 14, not PV1. Impacts to this corridor as the result of development of PV1 received extensive analysis throughout the BMO. As discussed in detail in the BMO analysis, the Proposed Project will maintain a width for L4 of 200 to 300 feet more than is recommended in the Wildlife Corridors Studies Report (Ogden 1992), and provides measures to reduce human disturbances on the corridors, required wildlife crossings

to maintain connectivity between corridors and habitat, and a 100-foot buffer between the corridors and habitable structures. There is no evidence that wildlife use of this water source would be impeded or adversely affected by development of PV1. According to the Project biologists, the development envelope is far enough away from the water source to preclude significant impacts on wildlife attempting to use it.

In addition, the mitigation measures for potential indirect impacts to wildlife resources, including increased human activity, noise, lighting, and altered hydrology, will further reduce potential impacts to wildlife use of the water source. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

- A-3-29** The comment states that photographs show water in the pool as late as August 25, 2016 (a drought year), and contends that Project encroachment on the water source “would be considered significant to habitat function and value well beyond the boundary of PV1.”

The County disagrees with the comment. First, as stated above, the County is unaware of a water source “200 meters from the northern boundary of PV1,” it almost a mile northeast of PV1. This water source is located 200 meters west of the northern portion of the Village 14 property boundary. The water source is located within the L4 wildlife corridor and following project construction, will be located approximately 150 feet below, and 750 to 800 feet to the west of development in Village 14, not PV1. Impacts to this corridor as the result of development of PV1 received extensive analysis throughout the BMO. As discussed in detail in the BMO analysis, the Proposed Project will maintain a width for L4 of 200 to 300 feet more than is recommended in the Wildlife Corridors Studies Report (Ogden 1992) and provides measures to reduce human disturbances on the corridors, provides the required wildlife crossings to maintain connectivity between corridors and habitat, and also provides a 100-foot buffer between the corridors and habitable structures.

- A-3-30** The comment states that PV2 connects CDFW-owned and managed Rancho Jamul Ecological Reserve to Bureau of Land Management (BLM) public land and Otay Ranch Preserve, and supports at least one pair of gnatcatcher and numerous sensitive plant species.

The County acknowledges the comment. However, the BMO analysis (Appendix A to the Biological Resources Technical Report) does not report California gnatcatcher in PV2; the BMO reports a male in PV3. Nonetheless, the BMO analysis addressed the Proposed Project’s potential to adversely affect sensitive species and regional

habitat connectivity. The BMO analysis determined that development of PV2, as proposed within the context of the entire Project, would not adversely affect habitat connectivity, which would include connectivity between the Ecological Reserve and BLM land or the Otay Ranch RMP Preserve (pages 59 through 62 of Appendix A to the Biological Resources Technical Report). The BMO findings for California gnatcatcher and sensitive plants for PV1, PV2, and PV3 were incorporated into the Draft EIR on pages 2.4-110 through 2.4-112, which determined that Project's potential impacts (including PV1, PV2, and PV3) on sensitive plant and wildlife species and habitat connectivity would be mitigated to less-than-significant levels.

- A-3-31** The comment states that PV3 is important “for maintaining connectivity and providing substantially improved design (i.e., less edge effects) between the Otay Mountain/Marron Valley Core Resource Area and the Sweetwater Reservoir/San Miguel Mountain/Sweetwater River Core Resource Area (Figure 2-2 in MSCP Plan Volume 1) for species such as California gnatcatcher.”

The County acknowledges the comment. The BMO adequately analyzes connectivity. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

- A-3-32** The comment states that development of PV3 would severely reduce the significant block of habitat that generally provides for unrestricted movement along a lower elevation route to upper Otay Reservoir as well as a broader connection to the more rugged ridgeline north of Lower Otay Reservoir. The County refers the commenter to **Responses to Comments A-3-185, A-3-186, and A-3-190**, which discuss wildlife movement for the Proposed Project.

- A-3-33** The comment states development of PV3 would introduce edge substantial effects to the Preserve by adding development into a large block of conserved land, of which a conservation requirement was negotiated in the Baldwin Letter.

The County has addressed the Baldwin Letter and issues related to PV1, PV2, and PV3 in detail above in **Responses to Comments A-3-5 through A-3-12**. Also refer to **Thematic Response – Baldwin Letter and PV1, PV2, PV3**.

With respect to potential indirect edge effects resulting from development in PV3, this parcel was analyzed in the Draft EIR in the context of potential indirect impacts of the Proposed Project as a whole. Summaries of potential indirect impacts to various biological resources are provided in the Draft EIR in Section 2.4.3, Analysis of Project Effects and Determination as to Significance, including special-status plant

species (page 2.4-89), special-status wildlife species (pages 2.4-89 and 2.4-90), jurisdictional aquatic resources (page 2.4-98), sensitive habitats (pages 2.4-99 and 2.4-100), and habitat connectivity and wildlife corridors (pages 2.4-104 and 2.4-105). All of these indirect impacts were analyzed per the County's Guidelines for Determining Significance and Report Format and Content Requirements: Biological Resources (County of San Diego 2010). County Guideline 1H is very specific as to the potential indirect effects that must be analyzed in the Draft EIR:

Would the project cause indirect impacts, particularly at the edge of proposed development adjacent to proposed or existing open space or other natural habitat areas, to levels that would likely harm sensitive species over the long term? The following issues should be addressed in determining the significance of indirect impacts: increasing human access; increasing predation or competition from domestic animals, pests, or exotic species; altering natural drainage; and increasing noise and/or nighttime lighting to a level above ambient that has been shown to adversely affect sensitive species. (Pages 2.4-88 and 2.4-89 of the Draft EIR.)

Indirect impacts to biological resources were determined to be less than significant with implementation of the following mitigation measures: M-BI-1 (biological monitoring), M-BI-2 (temporary construction fencing), M-BI-5 (permanent fencing and signage), M-BI-14 (stormwater pollution prevention plan [SWPPP]), M-BI-15 (erosion and runoff control), M-BI-16 (prevention of invasive plant species), M-BI-17 (prevention of chemical pollutants), M-BI-18 (noise), M-BI-19 (fire protection), and M-BI-20 (lighting).

In addition, edge effects specific to PV3 are analyzed in the BMO analysis provided as Appendix A of the Biological Resources Technical Report. The findings for Criterion 5, Preserve Design Criteria, states the following:

Within PV2 and PV3, development would not occur within 20.1 acres that are adjacent to the significant blocks of habitat in the existing Otay Ranch RMP Preserve. These 20.1 acres were previously designated for development in the Otay Ranch GDP/SRP and County General Plan; however, they are now proposed to be protected from development as Conserved Open Space with a biological open space easement and, as such, would reduce the Preserve/development interface and contribute to large adjacent blocks of habitat. PV1, PV2, and PV3 would include a 100-foot buffer along the Otay Ranch RMP Preserve, as required in the Preserve Edge Plan to assist in

regulating access, non-native predators, non-native species, illumination, drain water, and urban runoff. In addition, the alignment of Proctor Valley Road has been shifted onto PV3. These actions would reduce edge effects along the Preserve/development interface and contribute to the preservation of additional lands adjacent to existing MSCP Preserve lands. As noted previously, the Otay Ranch Preserve is a component of the larger MSCP Preserve, which interconnects to other open space blocks under agency ownerships. Thus, the proposed development of PV1, PV2, and PV3 would be consistent with this criterion (page 29).

- A-3-34** The comment notes that PV1, PV2, and PV3 were identified in the MSCP Plan as having “Very High” and “High” habitat values. The comment states that the conservation value of the three PV parcels and the cumulative benefits of their location among Preserve lands is “dramatically higher” than would be achieved by the proposed removal of development within the 100-foot buffer as part of the Preserve Edge Plan.

The comment expresses an opinion and does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

- A-3-35** The comment states that the balancing provisions of the Baldwin Letter (i.e., increased development densities in the City of Chula Vista) have been enacted. The comment also indicates that, in total, “the Baldwin Letter reduced development in Villages 13, 14, and 15 by approximately 750 units and added a total of approximately 1,230 units to Villages 1, 2, 4, 10, and 11.” According to the comment, the City of Chula Vista has processed and approved project developments consistent with the Baldwin Letter, and in doing so has received public comments from Rob Cameron, representative for the Village 14 Project, which made reference to the “Baldwin Letter Agreement.”

The comment is incorrect in stating that the Baldwin Letter “balancing provisions” have been enacted and that the “Baldwin Letter reduced development in some villages and increased them in others.” The Baldwin Letter was not an agreement on these land use decisions. To the contrary, implementation of any of the proposed elements contemplated in the Baldwin Letter did not occur through agreements reached as part of the MSCP County Subarea Plan or related take permits. Rather they occurred by subsequent landowner negotiations, separate permits, and/or the separate processing of City of Chula Vista Subarea Plan. The density adjustments noted in the comment were made as a result of separate negotiations with the property owners wholly independent of, and without any connection to, the MSCP County

Subarea Plan, the Implementing Agreement and/or the County's MSCP take permits. As described in **Thematic Response – Baldwin Letter and PV1, PV2, and PV3**, these separate negotiations resulted in additional terms, mitigation requirements, and payments that were not contemplated or included in the Baldwin Letter. To ascribe those changes solely to the Baldwin Letter proposal is simply error. That the density adjustments may be consistent with some of the proposals set forth in the Baldwin Letter is not dispositive. The reference to the correspondence from Mr. Cameron is noted. This comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-36 The comments states that “the Wildlife Agencies have honored the negotiations and outcome of the Baldwin Letter and require the County/Project to do the same.”

As stated previously, the Baldwin Letter never resulted in an actual agreement. Neither the County nor the Project applicant nor anyone else is bound by it. Thus, no one is bound by its proposed terms. Moreover, at no time were the proposed terms of the Baldwin letter built into the Section 10 permit; nor was issuance of the Section 10 permit ever conditioned upon “compliance” with the Baldwin Letter proposals. The Section 10 permit Condition E incorporates, and requires compliance with, the MSCP Plan, the MSCP County Subarea Plan, and the Implementing Agreement. As the plenary land use authority over the Project Area, the County cannot remove property rights, including the right to develop, absent an agreement that provides additional development rights elsewhere to the landowner in exchange for placing PV1, PV2, and PV3 into MSCP Preserve. The Baldwin Letter proposal, without more, does not qualify. Moreover, contrary to the commenter's statement, there are terms in the Baldwin Letter that have not been implemented by the Wildlife Agencies (see **Thematic Response – Baldwin Letter and PV1, PV2, and PV3**), which further demonstrates that no agreement was reached.

A-3-37 The commenter disagrees with the Biological Resources Technical Report, Appendix 2.4-1 to the Draft EIR (referred to as the BTR in the comment) statement that “[f]urther reduction in the proposed Development Footprint of PV1, PV2, and PV3 would limit the ability of the Project to achieve the density and land use policies set forth in the County's General Plan and Otay Ranch GDP/SRP.” According to the comment, this statement from the Biological Resources Technical Report contradicts efforts by the Wildlife Agencies to retain land value and development units per the provisions of the Baldwin Letter. The comment goes on to reiterate CDFW's position that the MSCP required the County and the City of Chula Vista to amend their respective General Plans to reflect the changes proposed in the Baldwin Letter. The

comment closes by reiterating its claim that the City of Chula Vista has made the changes identified in the letter.

The County disagrees with the comment, which assumes incorrectly that the Baldwin Letter constitutes an agreement on land use in Village 14. If, on the basis of the Baldwin Letter, the City of Chula Vista made changes to its General Plan—and there is no evidence provided that it did so—that decision does not bind the County. As explained in the Biological Resources Technical Report, the density and land use policies set forth in the County’s General Plan, as well as those in the Otay Ranch GDP/SRP, would be satisfied if the Proposed Project, including development of PV1, PV2, and PV3, is implemented. Additionally, the County disagrees that “land value and development units [were retained] resulting from implementing the provisions of the Baldwin Letter” since any implementation of the Baldwin Letter terms occurred through subsequent landowner negotiations, separate permits, and/or the separate processing of the City of Chula Vista Subarea Plan, not through agreements reached as part of the County Subarea Plan or related take permits.

A-3-38 The County acknowledges the comment and refers the commenter to **Response to Comment A-3-37**. No further response is required or provided.

A-3-39 The County acknowledges the comment and refers the commenter to **Response to Comment A-3-37**. No further response is required or provided.

A-3-40 The comment states that CDFW provided a letter to the County, dated January 30, 2009, in which CDFW recommended that “all existing and planned NCCP/HCP conserved lands that contribute to biological preservation . . . be redesignated to open space-conservation (OC) as part of the GP [General Plan] planning and implementation program.”

The County acknowledges the comment and is aware of the letter to which it refers. As indicated in **Thematic Response – Baldwin Letter and PV1, PV2, and PV3**, and **Responses to Comments A-3-5 through A-3-10**, PV1, PV2, and PV3 were identified for development, not MSCP Preserve, and as such were not part of the then “existing or planned NCCP/HCP conserved lands” referred to by CDFW in the letter. Therefore, the areas were not redesignated to open space conservation.

A-3-41 The comment states that CDFW “believe[s] the County should have made the revisions to the Village 14 PV1, PV2, and PV3 lands during the 2011 General Plan Update to reflect the adopted MSCP and the conditions of the Baldwin Letter, however, the County neglected to do so.”

The County disagrees with this comment. Please refer to **Response to Comment A-3-40**. As the comment acknowledges, PV1, PV2, and PV3 were not identified as open space-conservation in the County General Plan prior to the 2011 Update. To the contrary, the 1993 Otay Ranch GDP/SRP designated these parcels as Low Density Residential (L) and Low Medium Village Density Residential (LMV). Thus, the parcels have been approved for development since 1993. The County, when it completed its 2011 General Plan Update, elected not to re-designate the parcels as Preserve, despite CDFW's request that it do so. (Note that CDFW's request applied to a number of parcels and was not specific to PV1, PV2, and PV3.) The 2011 General Plan Update and its accompanying EIR are no longer subject to challenge.

- A-3-42** The comment states that, "if it had been the County's intent to negate the MSCP conservation of PV1, PV2, and PV3, there were no conversations, meetings, letters, or emails with/to the Wildlife Agencies in this regard."

The County did not "negate" anything in the MSCP regarding PV1, PV2, and/or PV3. The proposal to move those three areas into the MSCP Preserve was never finalized into an agreement; thus, there was nothing to "negate." The County's intentions regarding land use designations in Village 14, as expressed in the 2011 General Plan Update, were clear; and had CDFW expressed concerns regarding those intentions, the County would have addressed them. This comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

- A-3-43** The comment states CDFW disagrees with statements in the Draft EIR that development of PV1, PV2, and PV3 is necessary to guarantee compliance with the 2011 General Plan. According to the comment, CDFW considers such statements inappropriate and misleading.

The County disagrees with the comment. The 2011 General Plan Update shows PV1, PV2, and PV3 approved for development. In addition, the County found the 2011 General Plan to be in conformance with the MSCP County Subarea Plan. Thus, development of PV1, PV2, and PV3 fulfills the land use prerogatives set forth in the 2011 General Plan.

- A-3-44** The comment states that, "[r]egardless of past inaction, the County committed through their MSCP SAP to perform the necessary steps to implement the Baldwin Letter." The comment also indicates that the "designations of PV1, PV2, and PV3 as Preserve remain a County obligation."

The County disagrees with the comment. The County did not commit to implementing the Baldwin Letter proposal. Instead, the County (along with CDFW and USFWS), committed to complying with the County's Section 10 incidental take permit through the MSCP County Subarea Plan and the Implementing Agreement. As described in previous responses, the Implementing Agreement clearly indicates that (i) the Otay Ranch Preserve contribution to the MSCP is to be 11,375 acres in size, and (ii) the Baldwin parcels (PV1, PV2, and PV3) may be added to that MSCP Preserve in the *future* if agreements covering those parcels can be reached. As to the first issue, the Proposed Project is consistent with, and facilitates assembly of, the 11,375-acre RMP Preserve identified in the Implementing Agreement; therefore, the Proposed Project is consistent with the Implementing Agreement and the County Subarea Plan. As to the second issue, PV1, PV2, and PV3 were not added to or ever made part of the MSCP Preserve, as the Wildlife Agencies and Baldwin were never able to reach a final agreement regarding those areas. In light of these facts, the County has no obligation to designate PV1, PV2, and/or PV3 as RMP Preserve. The MSCP Preserve, as it was contemplated in the Section 10 permit, the MSCP County Subarea Plan, and the Implementing Agreement, can be assembled without PV1, PV2, and PV3.

A-3-45 The comment states that in 2001 the County adopted General Plan Amendment 98-003, which reduced the density of Village 13 and 15 by removing the development rights from portions of those villages, and that these changes came at the request of the Otay Ranch Company. The comment reflects CDFW's (mis)understanding of certain events. The County notes, however, that the Otay Ranch Company did not own PV1, PV2 or PV3 when the 2001 changes were requested and that these changes were implemented in actions separate and apart from the Baldwin Letter's proposed terms as further outlined in **Thematic Response – Baldwin Letter and PV1, PV2, and PV3**. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-46 The comment contends that the County, in approving General Plan Amendment (GPA) 00-01(2) on August 7, 2002, demonstrated “[a]nother effort toward validating the conserved status of PV1, PV2, and PV3.” The comment then quotes language from the GPA which, in the opinion of CDFW, supports its position regarding these three areas.

The County does not agree with the comment. As explained in **Response to Comment A-3-25**, the 1993 Otay Ranch GDP/SRP identified PV1, PV2, and PV3 as developable and assigned them the following land use designations: Low Density Residential (L) and Low Medium Village Density Residential (LMV). No GPA since

1993, including the 2002 GPA referenced in the comment, operated to change these land use designations. For this reason, the current and controlling land use document in the County—the 2011 General Plan Update—retained the (L) and (LMV) designations for PV1, PV2, and PV3.

The comment references “the County’s approval of GPA 00-01(2) on August 7, 2002” as an action “validating the conserved status of PV1, PV2 and PV3.” The comment makes specific reference to “Revised Attachment B1, also identified as Exhibit 14” in the 2002 GPA. Although the referenced “Exhibit 14” correctly reflects the actual action taken by the Board of Supervisors (i.e., amending the boundaries of the Conveyance Plan), the Exhibit 14 graphic is in error regarding the base map used for the Preserve boundaries. No action was taken to amend the Preserve boundaries to include PV1, PV2, and PV3. Placing these properties into the Preserve would have required a change to their underlying land use designations, which did not occur and could not have occurred without proper public notice and CEQA review. In this case, the only action taken by the Board of Supervisors with the 2002 GPA was to bring the RMP Conveyance Plan boundaries into conformity with the revised Conveyance Plan boundaries that had previously been adopted by the City of Chula Vista in 1998. CDFW and the USFWS acknowledged and supported the modification of the conveyance plan in correspondence dated June 28, 2002.

Further, the County adopted an updated RMP 2 in September 2018 and corrected the figure in question.

A-3-47 The comment states that CDFW “appreciates that obtaining a supportable conveyance schedule of Otay Ranch Preserve lands has proven difficult.” The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-48 The comment cites another County-approved General Plan Amendment—GPA 06-012—as another example of what CDFW believes was the County’s acknowledgment of the Preserve-status of PV1, PV2, and PV3. According to the comment, “[t]here were no changes to lands that had been identified as required for conservation, and Attachment B1, referenced above, therefore remains relevant.”

The comment reflects CDFW’s opinion as to certain factual matters. The County, however, notes that neither GPA 00-01(2) nor GPA 06-012 designated PV1, PV2, or PV3 as MSCP Preserve. Nor did either GPA make any specific reference to these parcels. The source of CDFW’s error is its mistaken assumption that the Baldwin Letter effectively designated PV1, PV2, and PV3 as MSCP Preserve in the 1997

MSCP County Subarea Plan. As explained above, that assumption is incorrect. These three parcels were not added to the MSCP Preserve. Thus, GPA 00-01(2) and GPA 06-012 had no effect on their status. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-49 The comment quotes part of the resolution adopting GPA 06-012 and claims this language further supports CDFW’s position that PV1, PV2, and PV3 are designated as Preserve. The comment reflects CDFW’s interpretation of certain language taken from County documents. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-50 The comment states that, based on the language of the two GPAs cited and the resolution adopting GPA 06-012, “the conservation assumptions of the MSCP remain intact.” The comment also states that the “elimination of the Coastal Sage Scrub restoration requirement included in GPA 06-012 was one aspect of the Baldwin Letter, which we [CDFW] continue to honor.”

The County agrees that the conservation assumptions of the MSCP remain intact to the extent described in the Implementing Agreement. The Implementing Agreement does *not* assume that PV1, PV2, and/or PV3 are in the MSCP Preserve. Instead, the Implementing Agreement describes these as additional lands that may be added to the 11,375-acre Otay Ranch RMP Preserve in the future, provided an agreement between the landowner and the Wildlife Agencies can be reached. No such agreement was ever executed. As to the Coastal Sage Scrub restoration requirement, the County takes no position as to why CDFW eliminated that requirement in 2006. The County would point out, however, that the projects exempted from the requirement relinquished significant development rights through separate agreements with the City of Chula Vista—agreements which, unlike the proposals in the Baldwin Letter, were executed and made final. Thus, the “elimination” of the Coastal Sage Scrub restoration requirement was not a function of the Baldwin Letter. See **Thematic Response – Baldwin Letter and PV1, PV2, and PV3**.

A-3-51 The comment states that “nothing has transpired that would negate the commitment and expectation that PV1, PV2, and PV3, were identified as necessary conservation pursuant to the MSCP and would become Otay Ranch/MSCP Preserve.”

The County disagrees with the comment. While the Wildlife Agencies engaged in negotiations with Baldwin to place PV1, PV2, and PV3 into the MSCP Preserve, those negotiations failed to result in a final agreement as to the disposition of PV1, PV2, and PV3. Thus, they were not added to the MSCP Preserve. The County

appreciates that CDFW expected these three areas to become part of the MSCP Preserve, but that expectation was disappointed by the failed negotiations between the Wildlife Agencies and Baldwin, not by any action of the County since 1997. Additionally, no subsequent agreement was reached between the owner of PV1, PV2, and PV3 and the Wildlife Agencies.

A-3-52 The comment states that CDFW “strongly disagrees with the Draft EIR assertion that the Project is entitled to develop PV1, PV2, and PV3.” The comment reiterates CDFW’s position and provides no new information. The County has addressed this issue above in **Responses to Comments A-3-3** through **A-3-51**. Also refer to **Thematic Response – Baldwin Letter and PV1, PV2, PV3**.

A-3-53 The comments states that CDFW has “provided documentation that shows these three areas [PV1, PV2, and PV3] were specifically not authorized for development in the documents analyzed by the County, adopted by the County, or in the NCCP and HCP permits issued by the Department and the Service, respectively.” The comment reiterates statements made previously in CDFW’s comment letter.

The County has addressed the issues repeatedly in these responses, including and especially **Responses to Comments A-3-3** through **A-3-51**. The prevailing and controlling document with respect to the Otay Ranch Preserve is the Implementing Agreement for the MSCP County Subarea Plan, and as the County has shown, that document did not assume that PV1, PV2, or PV3 were included in the 11,375-acre MSCP Preserve. It merely identified PV1, PV2, and PV3 as areas that could be added to the MSCP Preserve in the future.

A-3-54 The comment contends that the Draft EIR is inaccurate in stating that the Proposed Project “is consistent with the MSCP Plan, MSCP County Subarea Plan, and Otay Ranch RMP.” The County disagrees with the comment for the reasons stated in **Responses to Comments A-3-4** through **A-3-53**, above.

A-3-55 The comment states that CDFW recognizes the need to update RMP Phase 2. The County acknowledges the comment and notes that the County and City of Chula Vista are in the process of preparing an updated RMP Phase 2. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-56 The comment states the Wildlife Agencies “continue to support flexibility in the manner in which the Otay Ranch Preserve is assembled.” The County acknowledges

the comment. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-57 The comments states that CDFW’s flexibility regarding assembly of the MSCP Preserve was confirmed in a letter from CDFW to Gary Pryor, the Planning Director of the County’s Department of Planning and Land Use. The County acknowledges the comment. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-58 The comment quotes a sentence from the letter to Planning Director Pryor. The comment then states that CDFW “continues to be available to work with the County concerning conveyance issues.” The County acknowledges the comment. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-59 The comment refers to a joint comment letter from the Wildlife Agencies regarding the Village 13 Draft EIR in which the agencies recommended a meeting with the County and the City of Chula Vista to discuss revising Otay Ranch RMP. The comment then reiterates this recommendation. The County acknowledges the Wildlife Agencies’ recommendation to meet regarding the Otay Ranch RMP. This comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-60 The comment raises CDFW’s concerns regarding a deficit in acreage to build out the Otay Ranch Preserve. The comment notes the Otay Ranch RMP’s assumption that a conveyance obligation of 1.188 acres conveyed per acre of development was sufficient. The comment further states that a recent analysis by the City of Chula Vista suggests this ratio will not be sufficient to complete conveyance of the 11,375-acre Otay Ranch RMP Preserve.

The County acknowledges CDFW’s comments regarding the conveyance ratio. The Proposed Project is subject to the 1.188 conveyance ratio, per the currently approved Otay Ranch RMP. This comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-61 The comment states that the analysis by the City of Chula Vista identified the conveyance requirement would result in an 869-acre deficit. The comment further notes the City’s belief as to why there is a deficit.

The County acknowledges CDFW’s concerns regarding the Otay Ranch RMP Preserve deficit identified by the City of Chula Vista. This comment does not raise an

- issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A-3-62** The comment notes that the Proposed Project’s conveyance of 777 acres combined with the state and federal acquisitions within Village 14 and Planning Areas 16/19 totals 1,565 acres. The comment further notes that this total is 303 acres less than the 1,868 acres projected by RMP Phase 2. This comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A-3-63** The comment recommends that the County address the 303-acre deficit associated with the Proposed Project prior to final approval of the Proposed Project and that CDFW remain available to discuss this matter. The Proposed Project will convey the required amount of acreage based on the requirements of the Otay Ranch RMP. This comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A-3-64** The comment summarizes the acreages of off-site impacts and indicates that some of these impacts occur on “Department-owned and managed lands” that are part of the Ecological Reserve. The comment states that the Draft EIR does not address how the Proposed Project will acquire development rights to the off-site properties not under its ownership. The comment refers not only to CDFW-owned and managed lands but also to off-site impacts on City of San Diego and private lands.

The comment does not raise any issue as to the adequacy of the Draft EIR but instead addresses issues related to the acquisition of development rights over off-site properties. Because property right/right-of-way acquisition is not a CEQA issue, the Draft EIR does not address it. The County notes, however, that the Project applicant will have to obtain from CDFW, and any other relevant landowner, the right to construct upon and use the off-site lands in question.

The County would also add that, as stated in the Draft EIR, the majority of off-site impacts are associated with realignment and improvements to Proctor Valley Road. Section 1.9.3.3(a) of the County’s MSCP Subarea Plan indicates that “Infrastructure necessary and incidental to development projects and identified in the projects within the South County and Lake Hodges Segments of the Subarea Plan that contribute open space to the MSCP Preserve are permitted within the MHPA.” Proctor Valley Road is a Mobility Element road within the County’s General Plan and is identified in the MSCP as a planned facility through the Preserve. (See, e.g., Otay Ranch RMP Figures 14–18 which are incorporated into the County’s MSCP Subarea Plan at

MSCP Section 3.3.3.7). As such, construction of Proctor Valley Road is allowed through the MSCP Preserve (including portions of the Preserve not owned by the Project applicant), provided it is designed in conformance with the MSCP facility siting criteria (see Tables 2.4-17, 2.4-18, and 2.4-19 of the Draft EIR). The alignment of Proctor Valley Road through the Proposed Project is consistent with the County's Mobility Element alignment.

In addition, even though the CDFW-owned land within Village 14 and Planning Area 16 is being managed as an ecological reserve, it is nonetheless approved for development by the Otay Ranch GDP/SRP. As shown on Exhibit 27, Otay Ranch Open Space Map, of the Otay Ranch GDP/SRP, portions of Village 14 and Planning Area 16 have been acquired for open space, but the underlying development designations still remain (see also Exhibits 68 and 73, Land Use Maps, of the Otay Ranch GDP/SRP and Figure 1-5 of the Draft EIR). While the CDFW acquired the property and is operating them as a "reserve," the underlying approved land uses on those properties set forth in the GDP/SRP and reaffirmed by the County in the Update of the County's General Plan in 2011 are still in effect. They have never been amended or removed. Proctor Valley Road remains within both the approved Otay Ranch development footprint and the boundaries of the MSCP hardline take authorized area regardless of the acquisition by CDFW.

See also **Thematic Response – Proctor Valley Road and Other Off-Site Roads**.

A-3-65 The comment states that CDFW "cannot provide Ecological Reserve-designated land for roadways or other infrastructure that facilitates development without first completing a Land Conversion Evaluation in conjunction with the California Wildlife Conservation Board." The comment also indicates that the Land Conversion Evaluation "is a required process that evaluates the Department's risk associated with a land transfer/sale."

The County acknowledges the comment and notes that it reflects CDFW's position regarding the legal and administrative processes it must complete before approving a land transfer or sale involving land designated as Ecological Reserve. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-66 The comment states that CDFW, when considering the conversion of reserve land to another use, must also ensure that the impact of the lost habitat is appropriately mitigated. The comment relates to CDFW's process for allowing impacts within the

Ecological Reserve. However, the comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-67 The comment states that the Ecological Reserve properties in Proctor Valley were purchased using both state and federal (public) funds. The comment further states that CDFW has responsibility to ensure any land use changes on those properties are evaluated and adequately mitigated. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-68 The comment states that the process is similar to a BLA (i.e., Boundary Line Adjustment) in that CDFW must look at acreage and functions and values of the lands being sold/exchanged/acquired. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-69 The comment describes the portion of the Ecological Reserve adjacent to the Project Area and identifies the types of habitat it provides for various wildlife species. The comment then states that CDFW-owned and managed lands within Otay Ranch, cannot be mitigated at the 1.188:1 ratio, as replacement of the Ecological Reserve's functions and values would be required, as opposed to a general Otay Ranch land impact consideration.

The County responds as follows: The MSCP Plan, the MSCP County Subarea Plan, the Implementing Agreement, and the Otay Ranch RMP assumed development of the Proposed Project and the resultant "hardline" MSCP Preserve consisting of 11,375 acres (see, e.g., Draft EIR Section 2.4.2.3, pages 2.4-61 through 2.4-71). Thus, these documents assumed the proposed levels of development and corresponding habitat loss, and determined that such levels of development and habitat loss would not impede assembly of the 11,375-acre hardline MSCP Preserve. USFWS and CDFW concluded the MSCP Preserve, which includes the 11,375-acre Otay Ranch RMP Preserve, was satisfactory to mitigate development impacts within the MSCP County Subarea Plan. This finding, among others, provided the basis on which USFWS made the decision to issue a Section 10(a) take permit to the County for incidental take of species covered under the MSCP plan. This finding is incorporated into Section 9.3 of Implementing Agreement for the MSCP Plan (Implementing Agreement, Section 9.3, page 12):

Implementation of the MSCP through the Subarea Plan in accordance with this Agreement will adequately provide for the conservation and protection of the Covered Species Subject to Incidental Take and their habitat in the Subarea in perpetuity. This conclusion is based on the biological analysis

performed by the USFWS and the CDFG [now CDFW] of the species evaluated by the MSCP Plan, and their resulting determination of which of those species are adequately protected so as to qualify as Covered Species and Covered Species Subject to Incidental Take.

Therefore, under the County's laws and regulations, the mitigation for impacts to CDFW-owned lands within the purview of the MSCP County Subarea Plan and Otay Ranch RMP is the conveyance of 1.188 acres of land for every 1 acre of land impacted, regardless of the resources present on either the impacted land or the conveyed land. The County understands that the Project applicant, to acquire CDFW-owned lands for the additional right-of-way, may be required to provide CDFW with additional consideration. Whether and to what extent CDFW will request such consideration is subject to negotiation between the parties, and is outside the purview of CEQA.

Please also refer to **Thematic Response – Proctor Valley Road and Other Off-Site Roads**.

A-3-70 The comment indicates that the Draft EIR is in error when it states that improvements to Proctor Valley Road within CDFW owned lands would not require mitigation. The comment further contends that CDFW-owned and managed lands are not subject to the development provisions of the Otay Ranch RMP, and are not exempt from required mitigation.

To clarify, the improvements to Proctor Valley Road were anticipated in the Otay Ranch RMP, the MSCP Plan, and the MSCP County Subarea Plan. As a result, impacts from those improvements have already been mitigated through measures (including habitat preservation) set forth in those plans and their accompanying EIRs. The Proposed Project is consistent with those plans and the mitigation measures described therein. Thus, no additional mitigation is required under the County's requirements; however, as explained in **Response to Comment A-3-69**, CDFW may request additional consideration from the applicant as part of the right-of-way acquisition for improvements to Proctor Valley Road. To the extent the comment suggests otherwise, the County disagrees.

With respect to whether CDFW-owned and managed lands are subject to the development provisions of the Otay Ranch RMP, the County responds as follows: Although CDFW owns the areas in question, CDFW elected to contribute the areas in question to the MSCP Preserve in satisfaction for CDFW's obligations set forth in the Implementing Agreement. The portions of CDFW-owned and managed land affected

by the Proposed Project are located within areas designated for development in the Otay Ranch RMP, which is a component of the MSCP County Subarea Plan. For example, Section 3.3.3.7 of the MSCP County Subarea Plan states, “All conditions and exceptions listed in the Otay Ranch approval documents, including the Resource Management Plan (Volume I) are hereby incorporated by reference, with respect to easement requirements, revegetation requirements, allowed facilities within the Preserve area, etc.” (County of San Diego 1997). Since CDFW has not removed the development rights on those portions of Village 14 and Planning Areas 16/19, these areas are still subject to the provisions provided in the MSCP Plan, County MSCP Subarea Plan, and Otay Ranch RMP. See also **Thematic Response – Proctor Valley Road and Other Off-Site Roads**.

A-3-71 The comment cites Policy 6.6 of the Otay Ranch RMP Phase 1, which provides that “CEQA mitigation requirement for impacts associated with infrastructure shall be reviewed by the appropriate jurisdiction and the Preserve owner/Manager if such improvements are located within the Preserve.” The comment then states that, “[s]ince the Project proposes improvements to Proctor Valley Road on Department-owned land, the Department is the appropriate jurisdiction under the RMP Policy.”

CEQA provides CDFW an opportunity to review the proposed mitigation for infrastructure impacts associated with Proctor Valley Road. If CDFW objects to the proposed mitigation or would like to provide input regarding the mitigation measures, it may do so as part of this CEQA process. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-72 The comment states that the Draft EIR “needs to recognize that impacts proposed to City of San Diego Cornerstone Bank lands must be offset to the satisfaction of the City of San Diego (which is not a signatory to the Otay Ranch RMP).” The comment reflects CDFW’s position regarding mitigation of impacts to City of San Diego Cornerstone Bank lands. The County refers the commenter to **Response to Comment Letter X-1**, which addresses comments submitted by the City of San Diego.

A-3-73 The comment states that the City of San Diego Cornerstone Lands have land value and biological value, both of which should be considered when evaluating and mitigating project-related impacts to such lands. The comment then requests that the analysis consider habitat types, presence of sensitive species, and locations of the mitigation lands.

The County acknowledges the comment. Impacts to City of San Diego Cornerstone Lands are described in Section 2.4.3.5 of the Draft EIR. Page 2.4-116 states:

As an Essential Public Project (described in Section 2.7 of the MSCP City of San Diego Subarea Plan (City of San Diego 1997)), the Proctor Valley Road improvements would require mitigation for impacts within the MHPA Preserve. As shown in Table 2.4-12, direct impacts to City of San Diego Cornerstone Lands as a result of the realignment and widening of Proctor Valley Road South and Central would total 33.7 acres, of which 11.1 acres would be permanent impacts that require mitigation (Table 2.4-14). Temporary impacts would total 22.6 acres and would be restored upon Proposed Project completion. Based on the Proposed Project design and associated mitigation, the Proposed Project is consistent with the requirements of the MSCP City of San Diego Subarea Plan and Land Development Code Biology Guidelines (City of San Diego 2012) (see Table 2.4-18).

The County notes that the Proposed Project would realign a portion of Proctor Valley Road to avoid impacting vernal pools and provide a 100-foot buffer around the vernal pool watershed. In addition, placement of roads within the City of San Diego's MHPA must be in compliance with the policies identified in Section 1.4.2 of the City of San Diego's Subarea Plan (see Table 2.4-18). Impacts to San Diego Cornerstone Lands would be mitigated through City of San Diego mitigation requirements and may include the use of Conserved Open Space (mitigation measure M-BI-4).

A-3-74 The comment states that the “majority of impacts to California gnatcatcher are associated with the Proctor Valley Road improvement on lands within the MSCP Preserve owned by the Department, City of San Diego, and City of Chula Vista.” The comment further states that the off-site improvements would affect 7 of the 11 gnatcatcher pairs documented in the Project Area. The comment is correct that the majority of impacts to coastal California gnatcatcher are related to improvements to Proctor Valley Road within the City of Chula Vista and City of San Diego. However, coastal California gnatcatcher was not observed along the portions of Proctor Valley Road through CDFW-owned lands (see Figure 2.4-4 of the Draft EIR). This comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-75 The comment states that the Draft EIR relies on the County Subarea Plan coverage for coastal California gnatcatcher, but that the majority of the take is on Preserve lands not owned by the Project applicant.

The County acknowledges that the majority of the take for gnatcatcher would occur on Preserve lands not owned by the applicant. CEQA, however, is not concerned with who owns the land where the coastal California gnatcatchers occur. Instead, CEQA is concerned with the actual impacts on the species themselves, regardless of who owns the land where those impacts take place. In this case, the Draft EIR properly disclosed the Proposed Project's impacts on coastal California gnatcatcher. No further response is required or provided.

- A-3-76** The comment recommends that “the Final EIR include a revised impact analysis for this species [the coastal California gnatcatcher], and include consideration of this species in addressing impacts to lands owned by the Department and City of San Diego, which are not subject to the Otay Ranch 1.188:1 provision.”

The Draft EIR includes a thorough analysis of all Project-related impacts to coastal California gnatcatcher. Thus, for CEQA purposes, no further analysis is required. In addition, the coastal California gnatcatcher is a Covered Species within the City of San Diego MSCP Subarea Plan. Therefore, impacts to this species stemming from improvements to Proctor Valley Road within the City of San Diego do not need to be revised.

- A-3-77** The comment requests that the Final EIR “clarify if there are segments of existing Proctor Valley Road and/or existing utilities on the Ecological Reserve that would be removed.” The comment also asks that the Final EIR disclose how the Proposed Project would ensure these areas be restored to pre-Project conditions.

The Proposed Project does not propose to remove existing utilities from lands within the State's ownership. While segments of Proctor Valley Road within the state's ownership may be vacated, the pre-Project condition is an existing dirt road. Accordingly, no additional CEQA mitigation is required to “ensure that these areas be restored to pre-Project conditions” as their condition will remain the same pre- and post-Project; however, as explained in **Response to Comment A-3-69**, CDFW may request additional consideration from the Project applicant as part of the right-of-way acquisition for improvements to Proctor Valley Road.

- A-3-78** The comment states that abandonment of portions of Proctor Valley Road that occur on the Ecological Reserve would also include the removal of an existing steel barrier installed to prevent unauthorized uses such as off-road vehicles from entering conserved lands. The comment recommends the new sections of Proctor Valley Road include equivalent or better protective measures to ensure Preserve lands adjacent to

RMP Preserve lands are protected and that maintenance of these protections would be responsibility of the Preserve Owner/Manager (POM).

The steel barrier would be removed because the road is being realigned at this particular location to avoid vernal pool feature B2. Under the proposed realignment, the road bed and curb would be at an elevation substantially above that of the surrounding Preserve land. This elevation differential will make it nearly impossible for any vehicle—even an OHV—to gain access to the Preserve from Proctor Valley Road. Further, the Specific Plan (Section C, III – Circulation Plan) and Tentative Map (Sheet 3) depict street sections on Proctor Valley Road that include landscape parkways on either side of the street, landscape medians, No Parking, and a split-rail fence (along the community pathway) to restrict access to the Preserve land.

A-3-79 The comment notes the Proposed Project includes installation of utility infrastructure on and adjacent to the Ecological Preserve. The comment further states impacts on Department-owned lands cannot be simply offset using 1.188:1 mechanism. The County acknowledges the comment and refers the commenter to **Responses to Comments A-3-64** and **A-3-69**.

A-3-80 The comment recommends that the Final EIR include measures beyond the Preserve Edge Plan’s proposed 100-foot buffer to ensure that adjacent conserved lands are protected from Project-related introduction of invasive, non-native weeds. The comment also states that the entity, presumably the POM, responsible for maintaining these measures should be clarified in the Final EIR.

The Draft EIR evaluated the Proposed Project’s potential to introduce or spread invasive plant species, including weeds, into the Preserve (see **Responses to Comments O-5-53** and **O-5-54**). The Draft EIR states that the POM “is responsible for management of resources, restoration of habitat, and enforcement of open space restrictions for the entire Otay Ranch RMP Preserve once the Preserve is formally established and title to the land is conveyed to the POM” (page 2.4-66). The Otay Ranch RMP Preserve management strategies are dictated annually based on the findings of the Preserve Biologist and the requirements of the Otay Ranch RMP as determined by the City of Chula Vista and County acting jointly as the POM.

A-3-81 The comment states the Proposed Project includes improvements to Proctor Valley Road within areas designated as hardline Preserve. The comment also refers to Section 1.9.3 Infrastructure, and specifically Section 1.9.3.2, of the County’s Subarea Plan. The comment further states that Section 1.9.3.2 provides a list of required

findings that the County must meet to receive/provide take authorization associated with infrastructure projects.

Consistency with the MSCP County Subarea Plan – Roads and Section 1.9.3.2 is discussed in Section 2.4.3.5 of the Draft EIR under Guideline 4.5. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-82 The comment states that CDFW does not agree that the Proposed Project is consistent with the County Subarea Plan since the Proposed Project includes development of PV1, PV2, and PV3. Please refer to **Response to Comment A-3-5** and **Thematic Response – Baldwin Letter and PV1, PV2, and PV3**.

A-3-83 The comment states that the County, per Section 1.9.3.2 of the County Subarea Plan, must find that feasible mitigation measures have been incorporated into the Proposed Project and “that a feasible less damaging alternate alignment” has been considered.

The findings required under Section 1.9.3.2 of the County Subarea Plan mirror those required under CEQA. As a result, the Draft EIR reviewed the proposed alignment of Proctor Valley Road and determined that all feasible mitigation measures have been incorporated into the Proposed Project and that no other location, alignment, or non-structural alternative can feasibly meet the Proposed Project’s objectives.

First, it should be noted that two portions of Proctor Valley Road would be substantially consistent with the road alignment shown in the MSCP Plan and in the Mobility Element of the County’s General Plan, but would be moved to avoid impacts to vernal pools. As stated in Sections 2.4.2.3 and 2.4.7 of the Draft EIR, approximately 0.3 miles of Proctor Valley Road, between South Village 14 and Central Village 14, would be realigned to the east to provide a 100-foot buffer from the watershed of all vernal pools that are located in the City of San Diego Cornerstone Lands. The remaining portion of Proctor Valley Road through the City of San Diego’s Cornerstone Lands (approximately 1.5 miles of roadway between the City of Chula Vista boundary and south Village 14) is located in an area where there are no adjacent take-authorized areas onto which the road could be realigned per the commenter’s recommendation. In addition, a small portion of Proctor Valley Road within CDFW-owned and managed lands would be realigned to avoid vernal pool B2.

Second, the segment of Proctor Valley Road through the CDFW ownership in Central Village 14 is within the approved “take authorized” area of the County’s MSCP Subarea plan (See, e.g., Otay Ranch RMP Figures 14–18, which are incorporated into

the County's MSCP Subarea Plan at MSCP Section 3.3.3.7). The portion of the proposed Proctor Valley Road north of Village 14, which is through the CDFW property, is in substantially the same alignment as the existing dirt road and, therefore, will be located primarily in an already disturbed area.

Third, the alignment of proposed Proctor Valley Road through the applicant's ownership is substantially within the take-authorized areas.

In sum, of the approximately 4.5 miles of Proctor Valley Road proposed between Chula Vista and Jamul, approximately 0.3 miles have been realigned to avoid vernal pools; 1.5 miles are located in "take authorized" areas; 1.5 miles are in an area where there is no viable alternative involving take-authorized areas; and the remaining 1.2 miles are substantially within an already disturbed area.

A-3-84 The comment recommends that the Final EIR include an alternative that confines the majority of the Proctor Valley Road improvements to take-authorized areas.

As discussed in **Response to Comment A-3-83**, the Proctor Valley Road improvements are located within the "take authorized areas" where feasible. Note also that the Proposed Project largely leaves the existing road in its current location. The only area where the road will be realigned consists of one 0.3-mile segment near vernal pool complex B2. The road is being realigned at this location to avoid B2, which would avoid direct impacts and minimize indirect impacts to it. The alternative alignment suggested by the comment would require a substantial rerouting of the road and thus would be inconsistent with existing planning documents. Moreover, such a rerouting would likely result in other impacts to biological resources. For these reasons, it is not necessary to consider the alternative road alignment recommended by the comment.

A-3-85 The comment accurately quotes the Draft EIR. The comment then states that CDFW disagrees that impacts to sensitive vegetation communities within the City of San Diego Cornerstone Lands would be mitigated to less than significant. This comment serves an introduction to comments that follow. Please refer to **Responses to Comments A-3-86 through A-3-91**.

A-3-86 The comment states that Proctor Valley Road was not excluded from the Cornerstone Conservation Bank Agreements, and therefore, any loss of acreage within the Cornerstone Lands resulting from construction of Proctor Valley Road must be deducted from available conservation credits.

The Project applicant and the City of San Diego are currently discussing the mitigation requirements for impacts to Cornerstone Lands. The Proposed Project is required to obtain a site development permit from the City of San Diego for impacts stemming from construction of Proctor Valley Road within the City's jurisdiction. The site development permit will include all required mitigation per the City's standards and may include additional mitigation above what was described in the Draft EIR. Mitigation proposed within the Draft EIR included mitigation for sensitive habitats per the MSCP City of San Diego Subarea Plan and Land Development Code Biology Guidelines (City of San Diego 2012) (see Table 2.4-14).

A-3-87 The comment recommends a minimum 100-foot buffer surrounding Proctor Valley Road (within Cornerstone Lands) to mitigate for indirect impacts to covered species. The County acknowledges the comment; however, the City of San Diego shall determine any additional mitigation required for Cornerstone Lands. The County refers the commenter to the responses to the City of San Diego-provided letter on the Draft EIR (**Comment Letter X-1**). No further response is required or provided.

A-3-88 The comment states the City of San Diego's Cornerstone Conservation Bank must be made whole by the addition of land back into the Preserve and refers to previous projects that have had to meet this requirement.

The County acknowledges the comment; however, the comment does not raise an issue regarding the adequacy of the Draft EIR. Therefore, no further response is required or provided.

However, the County refers the commenter to the responses to the City of San Diego provided letter on the Draft EIR, specifically **Response to Comment X-1-21**. The Draft EIR and Appendix 2.4-1, Biological Resources Technical Report have both been revised in ~~strikeout~~underline and reflected in the Final EIR to acknowledge that a boundary adjustment may be required as a part of the site development permit process. The following text has been added to Section 2.4.2.3 of the Draft EIR and Section 2.4.1 of the Biological Resources Technical Report:

Although the construction of Proctor Valley Road is allowed within Cornerstone Lands, impacts outside of the existing road may require a boundary adjustment. The determination for a boundary adjustment will be made in conjunction with the City of San Diego during the site development process.

- A-3-89** The comment states the Draft EIR does not disclose the requirement to make the City of San Diego Cornerstone Conservation Bank whole (see **Response to Comment A-3-88**). The comment then quotes the Draft EIR (page 2.4-200) and states that take is not authorized without the deduction of available credits from the bank and making the Preserve whole. Please refer to **Responses to Comments A-3-86** and **A-3-88**.
- A-3-90** The comment states that the Proposed Project should mitigate impacts within Cornerstone Lands at a minimum of 2-to-1 ratio and that mitigation must be directly adjacent to the impacted Cornerstone Lands. Please refer to **Response to Comment A-3-86**.
- A-3-91** The comment states that the RMP Preserve Conveyance Obligation, by itself, is not sufficient to mitigate impacts to City of San Diego Cornerstone Lands to less than significant. The comment further states the Final EIR should acknowledge the County must meet and coordinate with the City of San Diego to resolve this issue. The Proposed Project does not intend to utilize the RMP Preserve Conveyance Obligation for impacts to Cornerstone Lands. Please refer to **Responses to Comments A-3-86** and **A-3-88**.
- A-3-92** The comment describes the four alternatives analyzed in the Draft EIR and restates information regarding CDFW’s negotiations with the County and Project applicant regarding the Land Exchange Alternative. The comment then states that the Draft EIR does not “discuss the biological value and function of the lands proposed for the exchange.”
- The County disagrees that the Draft EIR does not discuss the biological value and function of the lands proposed for the exchange. The Draft EIR includes an entire Biological Resources Technical Report for the Land Exchange Alternative. The Biological Resources Technical Report (Appendix 4.1-4 of the Draft EIR) includes The Boundary Adjustment Equivalency Analysis for Otay Ranch Village 14 and Planning Areas 16/19 and Proposed Land Exchange Functional Equivalency Analysis for Otay Ranch Village 14 and Planning Areas 16/19 as Appendix A.
- A-3-93** The comment generally describes the biological function and value of the CDFW-owned land which the applicant is proposing to exchange. This comment does not address an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A-3-94** The comment states the CDFW-owned lands are adjacent to the Wildlife Refuge and provide connectivity to BLM and state lands to the east. The comment does not

address an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

- A-3-95** The comment describes the quality of the applicant's lands proposed for exchange. The comment also expresses the opinion that the lands proposed for exchange provide connectivity but would not support the same habitat values and functions without significant and costly restoration. The comment states a 1:1 acre-for-acre land exchange is not considered an equitable trade.

The County disagrees that the biological equivalency is not adequate but acknowledges that any land exchange would be subject to approval by the state. The Biological Equivalency Analysis demonstrates that the Land Exchange Alternative is equivalent or superior. The Land Exchange Alternative Biological Resources Technical Report is provided as Appendix 4.1-4 of the Draft EIR. The Biological Equivalency Analysis is contained within Appendix A of Appendix 4.1-4.

- A-3-96** The comment provides information regarding the Land Conversion Evaluation process required before CDFW lands can be sold or exchanged. The County acknowledges the state's process. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

- A-3-97** The comment provides background information regarding the MSCP Plan as it relates to the Rancho San Diego golden eagle nesting territory and the anticipated viability of the territory as it relates to the Proposed Project. The comment states that "the Project is located within the Rancho San Diego (now referred to as San Miguel) golden eagle nesting territory identified in Table 3-5 of the Final MSCP Subregional Plan." The comment also states that the MSCP Plan "expected the nesting territory to remain viable because development would result in less than 10 percent impact to habitat within the territory."

The County agrees that the Proposed Project is located within the historic golden eagle nesting territory referred to as "Rancho San Diego" in the MSCP Plan (now known as the "San Miguel Mountain" breeding territory). However, as explained in the **Thematic Response – Golden Eagle**, the only nest(s) located within the Rancho San Diego/San Miguel Mountain territory were destroyed in the 2007 Harris Fire. The fire also caused the substrate on which the nests were built to collapse. Since 2007, there is no evidence that golden eagles have attempted to re-establish a nest or breeding territory in Rancho San Diego/San Miguel Mountain. Raptor specialists H.T. Harvey & Associates conducted periodic 2-day surveys in 2016 and 2017 during the golden eagle breeding season to document activity at San Miguel Mountain, the

Jamul Mountains, and Proctor Valley areas and to determine whether any new nests had been built and found none. Moreover, H.T. Harvey & Associates observed no golden eagles in Rancho San Diego/San Miguel Mountain area exhibiting courtship or breeding behavior during these seasons. Given that no nesting activity has taken place at or near this location in more than 10 years suggests that the nesting territory identified in Table 3-5 of the MSCP Plan, and referenced in the comment, is no longer active.

The County would also point out that the Table 3-5 entry for golden eagle includes a note describing the expected effects of the MSCP Plan on the Rancho San Diego nesting territory. It states that “development under the plan will result in <10% loss of habitat in the nesting territory; nesting territory should remain viable” (MSCP Plan, Table 3-5, page 3-76). Thus, as the quoted language makes clear, the MSCP Plan anticipated that once the plan was implemented and the “hardline” MSCP Preserve was established, less than 10% of the then-existing Rancho San Diego nesting territory would be lost, thereby allowing the breeding territory to remain viable. As explained in the Draft EIR and in the **Thematic Response – Golden Eagle**, the Proposed Project does not alter the “hardline” MSCP Preserve established through the MSCP. Accordingly, the Proposed Project will not cause habitat losses in the Rancho San Diego/San Miguel Mountain nesting territory to exceed 10%. In addition, because the Proposed Project is consistent with the analyses and assumptions that informed the MSCP Plan, the nesting territory at Rancho San Diego/Mount San Miguel, if it were ever re-established, should remain viable even after the Proposed Project is implemented, just as indicated in the notes to Table 3-5 of the MSCP Plan.

A-3-98 The comment states that “[b]ecause the DEIR predicates the Project’s take for golden eagle on compliance with the County SAP [Subarea Plan] and the MSCP Subregional Plan, we recommend the County conduct GIS analysis of the San Miguel territory to confirm that 90 percent of the habitat within the territory will remain undeveloped, and therefore viable, based on current and future MSCP implementation.”

The County does not agree that such a Project-specific analysis is required and refers to **Thematic Response – Golden Eagle**. As explained therein, there is no evidence that the Proposed Project will actually “take” any golden eagle. Moreover, there is no reason to conduct a “GIS analysis” for the San Miguel territory to confirm the amount of habitat that will remain undeveloped. That work was already conducted when the MSCP Plan was being prepared and adopted. Revisiting the analysis would suggest that the MSCP’s habitat determinations for all 84 covered species must likewise be re-evaluated, rescored, and then re-inserted into the plan. This is not a requirement of the MSCP Plan itself. Finally, there is no means to assess the current size and

boundaries of the Rancho San Diego/San Miguel Mountain breeding territory, as no breeding pair of eagles has nested at this location since 2007. Without nesting birds, there is no way to define a nesting territory. Delineation of a relevant “territory” would be based solely on projecting a coarse-scale domain of some arbitrary shape based on the expected average home-range size of golden eagles in the region. Such an arbitrary analysis could easily lead to highly biased results.

The County further notes that the anticipated 10% impact to this territory assumed buildout of all development projects in the area. However, the amount of developable land in this breeding territory has in fact been reduced due to purchases of land by CDFW and others for conservation purposes. Based on these reductions of developable land, there will be fewer impacts to foraging habitat than what was assumed in the MSCP County Subarea Plan (see Appendix C of the Biological Resources Technical Report, Appendix 2.4-1 of the Draft EIR).

A-3-99 The comment requests a GIS analysis of the San Miguel golden eagle territory be included in the Final EIR.

The comment states that if more than 10% of the territory “has been or will be lost to development due to MSCP implementation, then, we recommend the County work with the Wildlife Agencies to identify measures to reduce impacts to golden eagle.” The County refers the commenter to **Response to Comment A-3-98** and **Thematic Response – Golden Eagle** regarding the MSCP Plan and golden eagle impacts.

A-3-100 The comment states that “[p]reliminary golden eagle data collected by the U.S. Geological Survey (USGS in review) suggests that indirect effects due to fragmentation of habitat within the territory may result in a greater percentage of the mapped territory becoming unusable for eagles, which may cause abandonment of the territory.”

The USGS data to which the comment refers is a golden eagle telemetry study. As such, it does not explicitly evaluate habitat fragmentation within the Rancho San Diego/Mount San Miguel territory. Nor does the USGS study assess the Proposed Project for its potential to fragment habitat and thereby disrupt golden eagle behavior. Instead, the USGS study shows that golden eagles tend to avoid urban and exurban development and tend to favor more rural areas for purposes of foraging and other behaviors. This study confirmed what biologists have acknowledged for many years, which is that golden eagles prefer areas with little human activity. According to the USGS modeling results (not clearly reflected in the published analysis), golden eagles in the study area require a 300-foot urban avoidance buffer. In any event, the results

of the USGS study do not support the comment's suggestion that the habitat preserved in the MSCP Plan and MSCP County Subarea Plan is inadequate to support a breeding pair of golden eagles in the Rancho San Diego/Mount San Miguel Mountain territory. For further information on this issue, see **Thematic Response – Golden Eagle**.

A-3-101 The comment suggests the Proposed Project would create a potential development barrier between Otay Ranch RMP lands to the south and the Wildlife Refuge lands to the northwest, further fragmenting the territory. Please refer to **Response to Comment A-3-100** and **Thematic Response – Golden Eagle**.

A-3-102 The comment states that the USGS data show that golden eagles avoid habitat within 300 feet of urban development, rendering it unsuitable. The comment then suggests that habitat within 300 feet of developed areas should be included in the recommended GIS analysis, and that the 300 feet around developed areas should be included as part of the 10% take.

The Proposed Project is consistent with the habitat preservation requirements of MSCP Plan Table 3-5 and the County's Section 10 permit. Further, the County notes the MSCP does not include any reference to a 300-foot buffer around developed areas. Please refer to **Responses to Comments A-3-97** through **A-3-100** and **Thematic Response – Golden Eagle**.

A-3-103 The comment recommends the Draft EIR includes these indirect and cumulative effects when assessing whether the Proposed Project has a significant effect on golden eagle, and whether the impact has been reduced to less than significant.

The Draft EIR, Section 2.4, Biological Resources, analyzed the Proposed Project's impacts on golden eagle. The Draft EIR determined that the Proposed Project is consistent with the habitat preservation requirements of MSCP Plan Table 3-5 and the County's Section 10 permit, and therefore impacts would be less than significant. Please also refer to **Response to Comment A-3-100** and **Thematic Response – Golden Eagle**.

A-3-104 The comment states that implementation of the Otay Ranch Trails Plan and future development such as Village 13 should be included in an additional analysis of direct, indirect and cumulative impacts to golden eagle. Development within Village 13 is encompassed within the MSCP Plan and County Subarea Plan. Therefore, Village 13 development is already factored into the cumulative effects. With respect to the Otay Ranch Trails Plan, that plan is still in draft form, and its contents are still being

developed and negotiated. Therefore, it would be highly speculative to gauge what impacts, if any, it would have on golden eagle.

- A-3-105** The comment states that the Draft EIR mentions other impacts but fails to provide a thorough biological analysis of their effects on golden eagle that rely on Proctor Valley for foraging and nesting. Please refer to **Response to Comment A-3-104** and **Thematic Response – Golden Eagle**.

The comment states that the Draft EIR fails to analyze the effects of other projects, such as Village 13 and the Otay Ranch Trails Plan, on golden eagles that rely on Proctor Valley for foraging and nesting. The County refers the commenter to **Response to Comment A-3-104** regarding future development impacts on golden eagle and **Thematic Response – Golden Eagle**. There is no documentation of eagles relying on the Proctor Valley Parcel for nesting, only for foraging. The former nest at Rancho San Diego/San Miguel Mountain was not located in the Proctor Valley Parcel.

- A-3-106** The comment correctly states the Draft EIR concludes the Proposed Project will mitigate its impacts on golden eagle to less than significant because it is consistent with the Otay Ranch GDP/SRP and the County Subarea Plan. The comment then states, however, CDFW disagrees that the Proposed Project is consistent with the County Subarea Plan. The Draft EIR analyzes the Proposed Project's consistency with the MSCP County Subarea Plan and determined the Proposed Project is consistent. Refer to **Thematic Response – Golden Eagle** and **Thematic Response – Baldwin Letter and PV1, PV2, and PV3** with regard to MSCP consistency.

- A-3-107** The comment states that the Draft EIR does not address how the existing mitigation measures in the Otay Ranch GDP/SRP have been (or will be) complied with in order to minimize impacts to golden eagle and help ensure that the San Miguel territory remains viable as anticipated by the MSCP. Please refer to **Thematic Response – Golden Eagle**.

- A-3-108** The comment states the Otay Ranch GDP/SRP required the development and implementation of a long-term raptor management plan. The comment further states CDFW is unaware of any raptor management and monitoring efforts since Ogden prepared a Raptor Management Study (1992). The comment does not raise a specific issue regarding the adequacy of the analysis contained in Draft EIR; therefore, no further response is required or provided.

- A-3-109** The comment refers to recommendations in the 1992 Otay Ranch Raptor Management Study, including monitoring, habitat enhancement, protection of raptor habitat from human disturbance, and development of an environmental awareness program. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A-3-110** The comment suggests that portions of the Otay Ranch Preserve and areas yet to be conveyed have substantially degraded since the 1980s (heavily impacted by public trespass, off-road vehicles, and other unauthorized recreational uses). The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A-3-111** The comment states that the Draft EIR should address the unauthorized uses in the Preserve (described in Comment A-3-110), since they may result in a lower quality of habitat value conveyed into the Preserve than was expected/required under the Otay Ranch RMP. First, the Proposed Project includes a Preserve Edge Plan which dictates the treatment of the 100-foot perimeter around the Development Footprint. Second the Draft EIR considered indirect impacts and recommended mitigation measures. Refer to **Response to Comment O-6.1-24**.
- Further, the POM, not the Project applicant or County, is the entity responsible for managing the Otay Ranch RMP Preserve. As stated in Section 2.4.2.3 of the Draft EIR, the POM is responsible for management of resources, restoration of habitat, and enforcement of open space restrictions for the entire Otay Ranch RMP Preserve once the Preserve is formally established and title to the land is conveyed to the POM. The Otay Ranch RMP indicates that the POM “will oversee the day-to-day and long-range activities within the Management Preserve [and] will take an active role in the maintenance of biological resources ... and the implementation of RMP policies related to management of the Preserve” (Otay Ranch RMP Section 4.5). Refer to **Response to Comment A-3-78**.
- A-3-112** The comment states that the unauthorized uses described in **Comment A-3-110** could have implications to habitat use by golden eagle, Quino checkerspot butterfly, and Hermes copper butterfly. Please also refer to **Responses to Comment A-3-78** and **A-3-111**.
- A-3-113** The comment states CDFW disagrees with the conclusion in the Draft EIR that 89 acres of chaparral habitat within the Proposed Project footprint is not suitable for golden eagle foraging habitat. The comment further states the reasons why CDFW believes the chaparral habitat is suitable for golden eagles. Please refer to **Responses**

to Comments O-6.1-52, O-6.1-53, and O-6.1-54 (Hamilton Biological). See also **Thematic Response – Golden Eagle**.

- A-3-114** The comment states that, based on recent site visit by CDFW staff in Proctor Valley, the on-site chaparral habitat in the Proposed Project footprint was not found to be comprised of dense closed canopy as stated in the Draft EIR. The comment further states the chamise chaparral on site was low growing with openings. Please refer to **Responses to Comments O-6.1-52, O-6.1-53, and O-6.1-54** (Hamilton Biological). See also **Thematic Response – Golden Eagle**.
- A-3-115** The comment states black-tailed jackrabbit were observed in openings in the vegetation during the CDFW site visit. The comment also states that jackrabbit is a favored prey species of golden eagle and are known to occur throughout the Project Area. Please refer to **Responses to Comments O-6.1-53 and O-6.1-54** (Hamilton Biological). See also **Thematic Response – Golden Eagle**.
- A-3-116** The comment challenges the Draft EIR's statement that the Development Footprint likely supports relatively few breeding pairs of jackrabbits. The comment then asserts there is no evidence to substantiate this claim and refers to comments above that CDFW observed jackrabbits in the Project Area. The County does not dispute that jackrabbits likely occur throughout much of the Project Area and that Proctor Valley as a whole serves as foraging habitat for golden eagles. That said, the habitat assessment by H. T. Harvey & Associates eagle biologists shows that there are specific portions of the proposed Development Footprint where the qualified biologist determined the chaparral is too tall and dense to support eagle foraging in those habitat patches. H.T. Harvey & Associates eagle biologists also note that, although such habitat patches may not provide opportunities in which eagles can actually capture prey, they may still provide important cover habitat for eagle prey animals such as hares and rabbits. The biologists from H.T. Harvey & Associates performed multiple on-site surveys of the habitat affected by the Proposed Project, and the County believes there is substantial evidence to support the conclusions drawn in the Draft EIR. Please also refer to **Responses to Comments O-6.1-53 and O-6.1-54** (Hamilton Biological).
- A-3-117** The comment refers to anecdotal observations that the numbers of jackrabbits in the Project Area may be rebounding. This comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A-3-118** The comment expresses the commenter's opinion that because on- and off-site habitats are similar, the commenter expects the likelihood of black-tailed jackrabbits

breeding on and off the Project Area to be similar. The County acknowledges that the Project Area provides cover habitat for black-tailed jackrabbits. This comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-119 The comment states that the observation described in the comments above support CDFW's opinion that the entire Project Area supports suitable golden eagle habitat. Please refer to **Response to Comment A-3-116**.

A-3-120 The comment restates information contained in Section 2.4, Biological Resources, of the Draft EIR regarding golden eagle foraging habitat. This comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-121 The comment states that "USGS personnel have only trapped a sub-set of the golden eagle population that occurs within the County," and that "[a]lthough USGS has not captured a golden eagle within the Mt. Miguel territory, this does not prove a pair is not occupying that area ... and/or that the territory is not capable of supporting a pair of eagles in the future."

As discussed in the Draft EIR in Section 2.4, Biological Resources, breeding season surveys in 2016 and 2017 of the San Miguel Mountain and Jamul Mountain areas conducted by H.T. Harvey & Associates revealed no evidence of any territorial activity in these areas. Further, the surveys resulted in only a few golden eagle observations, including both subadults and adults. None of these eagles were observed on top of or along the eastern and northeastern flanks of San Miguel Mountain.

The County believes the surveys conducted by H.T. Harvey were adequate to determine that no eagles were actively maintaining a breeding territory in the area. The intent of the assessment was not to confirm that the historic San Miguel Mountain breeding territory is no longer capable of supporting a breeding pair of golden eagles; rather, the intent was to confirm that currently the area is not supporting an active/territorial breeding pair whose core territory area is centered on San Miguel Mountain (or in the Jamul Mountains).

A-3-122 The comment states that, according to Dr. Fisher, "transmitter-equipped golden eagle individuals appear to be avoiding the Mt. Miguel territory, suggesting it is occupied, and the territorial pair is defending the area."

According to H.T. Harvey & Associates, Dr. Fisher's contention is conjecture not supported by compelling observational data. There are alternative explanations for such a pattern, including disturbance factors that may have contributed to the cessation of breeding activity in the territory in the mid-2000s before the Harris Fire claimed the last existing historic nest site. H.T. Harvey & Associates stands by its conclusion that there was no pair of golden eagles breeding or nesting in the San Miguel Mountain territory.

A-3-123 The comment states that during CDFW's visit on April 4, 2018, a golden eagle was observed riding the thermals above Mt. Miguel. The County acknowledges this observation; however, the County also notes that early April is a time when migratory eagles easily could still be moving through the area. Thus, absent definitive territorial behavior, a single observation at that time of a lone eagle soaring on a thermal above the mountain is not compelling evidence of potential territory holder. This comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-124 This comment accurately reflects the conclusions in the Draft EIR regarding survey results for Quino checkerspot butterfly and the presence and potential future occupation of suitable habitat in the Project Area/Project footprint. This comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-125 The comment discusses climate conditions affecting the 2015, 2016, and 2017 Quino checkerspot butterfly flight seasons.

The County notes that HELIX conducted protocol surveys for Quino checkerspot butterfly adults following the USFWS survey guidelines on the Village 14 portion of the Development Footprint in 2015 (HELIX 2015) and on the Development and Conserved Footprints in 2016 (HELIX 2016). There were multiple documented Quino checkerspot butterfly sightings less than 1 mile from the Proposed Project survey area in 2016. This indicates that conditions in 2016 were suitable for Quino checkerspot butterfly presence and activity during the survey year in which the entire Project Area was surveyed; yet, no Quino checkerspot butterfly were observed at the Project Area. The USFWS acknowledged the results of the 2016 surveys.

A-3-126 The comment states that protocol Quino checkerspot butterfly surveys were not performed for the Project Area in 2017 and that USFWS biologists were not allowed to survey the property during 2017.

As stated in **Response to Comment A-3-127**, the USFWS acknowledged the results of the 2016 surveys and agreed that further surveys were not needed for the Proposed Project. The Quino checkerspot butterfly observed in the Proposed Project vicinity in 2017 were discussed on page 2.4-45 of the Draft EIR. The Project applicant has reviewed its correspondence and is not aware of having received a request from the CDFW or USFWS to conduct protocol surveys within the boundaries of the Project Area in 2017.

A-3-127 The comment expresses CDFW’s opinion that the Draft EIR “is significantly undervaluing the Village 14 property relative to the Quino checkerspot butterfly.”

The Draft EIR correctly describes the Quino checkerspot butterfly habitat as “limited to scattered patches throughout the valley” and that the “region is included in the metapopulation structure for the species.” The Project Area was not identified as Core habitat in the Quino checkerspot butterfly Recovery Plan adopted by the USFWS,¹ and Project-specific surveys have confirmed that Quino checkerspot butterfly are either absent or at best present in low numbers based on the Quino checkerspot butterfly habitat resources on the Project Area. Please also refer to **Thematic Response – Quino Checkerspot Butterfly**.

A-3-128 The comment accurately restates Appendix D of the Biological Resources Technical Report for the Proposed Project regarding host plant expression. The comment then notes that 2015 and 2016 were below average years for Quino adults and larval host plant expression. The comment also states that CDFW cautions against concluding Quino do not occur within the Project Area after only 2 years of data.

The statement regarding patchy host plant distribution across the site is accurate based on the Biological Resources Technical Report authors’ and field biologists’ experience with Quino checkerspot butterfly resources across a range site assessments and surveys conducted throughout San Diego and Riverside Counties. As stated in **Response to Comment A-3-125**, the surveys in 2016 were considered adequate by the USFWS.

A-3-129 The comment states that, because the site was not surveyed during a high-rainfall year, the property could support much higher amounts of host plant and other resources in high-rainfall years. The comment further expresses the commenter’s

¹ The Quino Checkerspot Butterfly Recovery Plan does not consider the Proctor Valley Region a core area for Quino checkerspot butterfly, but does identify portions of Proctor Valley Region (including the southern portion of the Project Area) as containing Quino Occurrence Complexes (see Figure 9 of the Recovery Plan).

opinion that owing to the metapopulation dynamics of the species, “good years” could be extremely important to the local population.

The County does not agree with the comment. The County notes that surveys were conducted in 2015, which was an above average rainfall year. Based on San Diego Water Authority data collected at Lindberg Field, the area experienced 11.91 inches of rainfall in 2015, 8.18 inches in 2016, and 12.73 inches in 2017. The 30-year average rainfall in the area is 9.9 inches. Therefore, based on rainfall data for San Diego, 2015 and 2017 were actually above-average rainfall years, while 2016 was slightly below average. Moreover, CEQA does not require that biological surveys take place during average to above-average rainfall years.

A-3-130 The comment objects to the Biological Resources Technical Report’s use of the term “exceptional year” to describe 2015 and the number of Quino checkerspot butterfly host plants observed throughout the region. The comment does not raise any issue as to the adequacy of the Draft EIR. Therefore, no response is required. The County notes the term “exceptional” was used based on input from consultants and agency staff as noted in **Response to Comment A-3-128**.

A-3-131 The comment relates to discussions between CDFW and the County regarding a proposed “Quino Amendment” to the MSCP Plan. According to the comment, these discussions “have resulted in designating the SDNWR [San Diego National Wildlife Refuge]/Proctor Valley Area as a core population, and highlight the importance of the area in the metapopulation dynamics of the species.” The “Quino Amendment” to which the comment refers has been in development for many years and continues to be discussed/debated among the agencies affected by it, including CDFW and the County. Ongoing negotiations regarding the Quino Amendment are not germane to the Draft EIR now under review.

A-3-132 The comment states that the habitat described in the Biological Resources Technical Report as “‘patchy in distribution within a matrix of chaparral and sage scrub communities’ may in fact be highly suitable for Quino in the local landscape.” The comment also indicates that 502.4 acres of the Project Area are located within designated critical habit by the USFWS.

The County acknowledges that higher value Quino checkerspot butterfly habitat occurs as a patchy distribution of host plants. These higher value areas, however, have more large patches of host plants compared to the Project Area. The majority of the host plant patches found on the Project Area contain 1–100 individual dwarf plantain. For year 2016 survey data, the majority of the host plant locations within the

- Development Footprint (292 of the 380 mapped locations; 77%) were mapped as point locations ranging from a few square feet to 250 square feet in size. Furthermore, of the 292 point locations, the majority of these (280 of the 292 locations; 96%) were Low density (1–100 plants) or Medium density (100–1,000 plants), and most occurred within a matrix of chaparral and coastal sage scrub habitats. The open space on the Project Area has a similar patchy distribution of host plants. The assessment in the Draft EIR is correct in describing the Quino checkerspot butterfly habitat as “limited to scattered patches throughout the valley” and that the “region is included in the metapopulation structure for the species.” Please also refer to **Thematic Response – Quino Checkerspot Butterfly**, and **Response to Comment A-3-127**.
- A-3-133** The comment states that “[d]iscounting Proctor Valley area as currently unoccupied and not a core is also not consistent with recent discussions between the Wildlife Agencies and the County for the proposed MSCP Quino Amendment.” See **Response to Comment A-3-131** regarding discussion surrounding the proposed “Quino Amendment.” The Draft EIR’s description of existing conditions is accurate based on the available Quino survey data.
- A-3-134** The comment states that the Biological Resources Technical Report discusses three years of host plant surveys, “but does not incorporate the maximum extent into the analysis.” The comment also recommends the Final EIR include a figure that shows the cumulative maximum extent of all Quino host plants. The County acknowledges the recommendation; however, the County has not adopted the “maximum extent” analysis. Therefore, maximum extent analysis was not included in the Draft EIR, and no additional figures of Quino host plants will be included in the Final EIR.
- A-3-135** The comment expresses CDFW’s opinion that the Proposed Project impacts and associated mitigation should be based on maximum extent analysis. The County does not agree with this recommendation. As noted in **Response to Comment A-3-134**, the maximum extent analysis has not been adopted by the County. Therefore, impacts and mitigation in the Draft EIR should not be based on maximum extent analysis.
- A-3-136** The comment states that CDFW disagrees that the RMP 1.188:1 mitigation requirement is sufficient to reduce impacts to Quino checkerspot butterfly to less than significant. According to the comment, “Quino was not a species addressed in the Otay Ranch RMP and is not a covered species under the County MSCP Subarea Plan,” and thus “direct impacts to the species’ habitat should require more mitigation than what is required under the Otay Ranch GDP/SRP.”

The County disagrees with the comment. Based on the analysis in the Draft EIR, the County has determined that impacts to Quino checkerspot butterfly habitat—both Project-specific and cumulative—have been sufficiently mitigated under CEQA through the conveyance of suitable habitat per the RMP requirements. Note, however, that the Project applicant has agreed to consult with USFWS, either directly or through the appropriate acting federal agency, to determine if take authorization for Quino checkerspot butterfly is required (see mitigation measure M-BI-8). If the Proposed Project requires authorization under the federal ESA to take Quino checkerspot butterfly, the applicant will have to obtain such authorization from USFWS pursuant to either Section 7 or Section 10 of the federal ESA. That process, however, is beyond the scope of CEQA and this EIR. Please also refer to **Thematic Response – Quino Checkerspot Butterfly**.

A-3-137 The comment recommends additional mitigation for impacts to Quino checkerspot butterfly, and states that the mitigation lands should support host plant resources and hilltopping areas.

As stated in Sections 2.4.3.1 and 2.4.4 of the Draft EIR (pages 2.4-79 and 2.4-125), the on-site mitigation lands do provide host plant resources and hilltopping resources, and the additional 350.1 acres of conveyance required shall be selected to include suitable Quino checkerspot butterfly habitat. Mitigation measure M-BI-9 specifically states: “For the off-site mitigation parcel(s) to be acceptable as mitigation for sensitive plant and wildlife species, including Quino checkerspot butterfly, vegetation within the off-site parcel must be mapped and the site must have suitable habitat to support Quino checkerspot butterfly per the survey guidelines definition of habitat.” Please also refer to **Response to Comment A-3-136**.

A-3-138 The comment recommends additional mitigation “at a minimum 3:1 ratio, similar to mitigation requirements included in previously issued HCPs [habitat conservation plans] covering Quino.”

The County disagrees with the comment. As an initial matter, the Proposed Project does not seek approval of an HCP. Therefore, the 3:1 ratio mentioned in the comment is not applicable. Moreover, as explained in **Response to Comment A-3-136**, the County has determined that the Proposed Project’s impacts to Quino checkerspot butterfly would be mitigated to less than significant through the conveyance requirements set forth in the RMP (1.188 acres of preservation for each 1 acre of impact). Thus, for purposes of CEQA, no further mitigation is required. Note, however, that the Project applicant has agreed to consult with USFWS, either directly or through the appropriate acting federal agency, to determine if take authorization

for Quino checkerspot butterfly is required. In the event take authorization is required, USFWS may impose additional protective measures pursuant to either Section 7 or Section 10 of the federal ESA. For additional information on Project impacts to and mitigation for Quino checkerspot butterfly habitat, please also refer to **Responses to Comments A-3-136** and **A-3-137**, and **Thematic Response – Quino Checkerspot Butterfly**.

A-3-139 The comment accurately restates mitigation measure M-BI-8 regarding take authorization for Quino. This comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-140 The comment addresses the “take” authorization requirements specific to the federal ESA. The comment notes that federal take includes the take of suitable habitat and that there is a high likelihood that there would be impacts from on- and off-site development.

The County acknowledges that USFWS administers implementation of the federal ESA and will determine whether the Proposed Project requires take authorization under federal law. This federal ESA “take authorization” process is outside the purview of CEQA. Please also refer to **Thematic Response – Quino Checkerspot Butterfly**.

A-3-141 CDFW recommends obtaining take authority under Section 10 of the ESA in order to avoid violations of Section 9 of the ESA.

The County acknowledges CDFW’s recommendation regarding the federal take authorization process. Mitigation measure M-BI-8 in the Draft EIR addresses that take authorization may be required for impacts to Quino checkerspot butterfly. As stated in **Response to Comment A-3-140**, the federal ESA “take authorization” process is beyond the scope of CEQA.

A-3-142 The comment addresses the process by which the applicant may obtain take authorization for Quino checkerspot butterfly under Section 7 of the federal ESA. The comment discusses the role that federally designated critical habitat plays in the Section 7 context. However, take authorization under the federal ESA—which is a determination made by the USFWS, not the County—is beyond the purview of CEQA and this Draft EIR. See also **Thematic Response – Quino Checkerspot Butterfly**.

A-3-143 The comment states the Draft EIR acknowledges that in 2017, USFWS staff documented multiple Quino individuals adjacent to and interspersed within the

Project Area, “yet somehow dismisses these sighting as incidental.” The comment further adds that the Draft EIR’s speculation about the incidental nature of the sightings does not negate that Quino were present on the site.

The County disagrees with the comment’s characterization of the data. It is not correct to say that Quino checkerspot butterfly were observed “interspersed within the Project Area” in 2017 (Martin, pers. comm. 2017). The Draft EIR correctly states that Quino checkerspot butterfly were observed immediately off site of the Project Area at several locations. These sightings are in the same general vicinity of previous Quino checkerspot butterfly sightings noted in the Draft EIR. These observations are consistent with the Draft EIR’s conclusion that the Project Area and immediate vicinity may support scattered individuals intermittently. The term “incidental” was used in the Draft EIR not to dismiss the sighting, as the commenter suggested, but to indicate that the sighting was incidental and not part of a protocol survey for the species.

- A-3-144** The comment restates information contained in the Draft EIR regarding the presence/absence of Quino. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A-3-145** The comment states that two Quino adult sightings were observed during a limited CDFW survey effort of CDFW-owned land in immediate proximity to the Village 14 property. The comment does not raise an issue regarding the adequacy of the Draft EIR, therefore, no further response is required or provided. The County points out, however, that CDFW’s “limited” survey effort did not conform to any established protocols for surveys of this species. Please also refer to **Response to Comment A-3-143**.
- A-3-146** The comment states that CDFW staff observed one Quino checkerspot butterfly fly from CDFW-owned land onto the adjacent Village 14 property. The comment also expresses that it is reasonable to expect that Quino occupy the Project Area. The comment further outlines preliminary measures for considering addition of Quino to the MSCP. These CDFW staff observations of Quino are consistent with the Draft EIR’s conclusion that the Project Area and immediate vicinity may support scattered individuals intermittently.
- A-3-147** The comment suggests that the Draft EIR treat the Project Area as “occupied” for purposes of assessing impacts to Quino checkerspot butterfly. The comment also states that neither the Draft EIR nor the Biological Resources Technical Report and associated appendices “discuss the possibility of Quino traversing property

boundaries, although that likelihood seems obvious.” The comment does not provide any evidence or substantiation for the assertion that the Project Area is “occupied” by Quino checkerspot butterfly; rather, it relies on the incidental observations of CDFW staff. As explained in the Draft EIR, Section 2.4.1, focused and protocol surveys for Quino checkerspot butterfly were performed in 2015 and 2016 by Helix and did not detect the presence of Quino. Please refer to **Response to Comment A-3-146**.

A-3-148 The comment states that due to the abundance of host plant and nectar sources, and recent observations, CDFW recommends that the Final EIR include a revised Quino checkerspot butterfly analysis that incorporates the value of the Project Area in terms of its habitat and site resources, along with the property geographic location between known population centers.

The County does not agree that a revised Quino checkerspot butterfly analysis is required for the Final EIR since the Draft EIR already analyzed the Proposed Project in relation to Quino checkerspot butterfly core areas to the south and southwest including Village 13, Otay Lakes, and Otay Mountain, as well as Preserve lands to the north including San Miguel Mountain and Sweetwater Reservoir. The Draft EIR in Section 2.4.3.1 specifically addresses habitat connectivity for the Quino checkerspot butterfly and states: “The Quino checkerspot butterfly habitat within the Otay Ranch RMP Preserve and non-impacted areas (LDA [Limited Development Areas] and Conserved Open Space) contains a mosaic of open habitat communities along with some chaparral areas, hilltop areas, cryptogamic soils, and scattered host plant areas. The habitat is also connected to other large blocks of preserved habitat that is considered suitable for Quino checkerspot butterfly (Figure 2.4-21, Preservation of Documented QCB Sightings in County Subarea Plan). As shown in Figure 2.4-21, the preserved lands that occur adjacent to Village 14 include portions of the Rancho Jamul Ecological Preserve, City of San Diego Cornerstone Lands, and a parcel to the east that was acquired by BLM as conserved lands. The preserved lands that occur adjacent to Planning Areas 16/19 include portions of the Rancho Jamul Ecological Reserve. There have been substantial numbers of Quino checkerspot butterflies documented to the south of the Development Footprint, to the east of the Otay Reservoir System, and also farther south (CDFW 2017; USFWS 2017). The Proposed Project’s design would maintain contiguous habitat with these locations with areas to the north on San Miguel Mountain; provide widespread Quino checkerspot butterfly resource areas, including hilltops and nectaring resources; and provide host plant patches to help maintain metapopulation dynamics for the species.”

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

A-3-149 The comment provides additional information regarding CDFW’s opinion that the Project Area is important to maintaining the population dynamics of the Quino checkerspot butterfly. The County acknowledges the comment and refers the commenter to **Response to Comment A-3-148** and **Thematic Response – Quino Checkerspot Butterfly** regarding metapopulation dynamics. This comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-150 The comment states that PV3 provides an important habitat connection for Quino checkerspot butterfly. The comment also states that impacts to Quino were not analyzed under the Otay Ranch GDP/SRP, the MSCP Plan, the MSCP County Subarea Plan or associated environmental documents; therefore direct effects to this broad connection have not been analyzed and/or mitigated.

The County acknowledges the comment. The County notes that the Draft EIR and Biological Resources Technical Report for the Proposed Project conducted an evaluation of impacts within PV3. The County has required the applicant to prepare a site-specific analysis for PV1, PV2, and PV3 under the BMO demonstrating adequate protection of habitat and species. This led to additional mitigation, including placing some of PV2 and PV3 into Conserved Open Space subject to open space easements. The BMO analysis is provided at Appendix A of the Biological Resources Technical Report, which is Appendix 2.4-1 of the Draft EIR.

A-3-151 The comment states that although the Proposed Project may seek approval through Section 7 of the federal ESA for impacts to Quino, the resulting Biological Opinion and associated Jeopardy/Non-Jeopardy decision may not be sufficient to mitigate impacts to Quino checkerspot butterfly to less than significant for purposes of CEQA which requires the County to assess the Proposed Project’s impacts to Quino checkerspot butterfly on a cumulative basis.

Although the comment expresses an opinion, the County refers the reader to **Responses to Comments A-3-136** and **A-3-138**, which address the issue of consultation with USFWS. See also **Thematic Response – Quino Checkerspot Butterfly**. As explained therein, from a metapopulation perspective, the Proctor Valley region provides suitable habitat for the species to expand into during good reproductive and flight years. The Otay Ranch RMP Preserve within the Project Area allows for contiguity of suitable habitat and Quino checkerspot butterfly resource areas with adjacent Preserve lands (Figure 2.4-21 of the Draft EIR). The majority of the Otay Ranch RMP Preserve, Conserved Open Space and non-graded LDA are composed of open coastal sage scrub that is also contiguous with other sage scrub

habitats off site. There have been substantial numbers of Quino checkerspot butterflies documented south of the Village 14 Development Footprint, east of the Otay Reservoir System, and farther south toward the Otay Mesa area. The Proposed Project would maintain contiguous habitat with these locations with areas to the north on San Miguel Mountain; would provide widespread Quino checkerspot butterfly resource areas, including hilltops and nectaring resources; and would provide host plant patches to help maintain metapopulation dynamics for the species.

- A-3-152** The comment summarizes information in the Biological Resources Technical Report (Draft EIR, Appendix 2.4-1) regarding the burrowing owl and states that the observed burrow is shown on Figure 4-1I and Figure 4-m, but not on Figure 3-3, suggesting that the observed burrow was outside the 2014 burrowing owl survey area.

As described in Section 3.3.4 of the Biological Resources Technical Report, in 2014 Dudek biologists conducted a burrowing owl habitat assessment and subsequent focused surveys within the Project Area. During the 2014 habitat assessment, areas with essential habitat were mapped and subsequently surveyed. “Essential habitat for the burrowing owl in California must include suitable year-round habitat, primarily for breeding, foraging, wintering and dispersal habitat consisting of short or sparse vegetation (at least at some time of year), presence of burrows, burrow surrogates or presence of fossorial mammal dens, well-drained soils, and abundant and available prey within close proximity to the burrow” (CDFG 2012). Burrowing owl sign was observed in 2015 in an area that during the 2014 survey did not exhibit features of “essential habitat.” Thus, while burrowing owl sign may have been evident, the habitat itself did not qualify as essential, suggesting that the owl(s) in question were transient to that area. Areas excluded from the focused surveys included tall, dense vegetation and those areas which lacked burrow, burrow surrogates or dens.

Based on the limited observation of burrowing owl sign and the lack of observations of burrowing owls during focused surveys in 2014, as well as no observations in several thousand hours of field surveys for other resources, this highly visible species likely does not occur regularly within the Project Area. However, mitigation measure M-BI-13 requires a pre-construction survey be conducted throughout the entire Development Footprint. If occupied burrows are detected, the County-approved biologist would prepare a passive relocation mitigation plan subject to review and approval by the Wildlife Agencies and the County, including any subsequent burrowing owl relocation plans to avoid impacts from construction-related activities.

Further, mitigation for potential impacts and on-site preservation of suitable habitat for burrowing owl would be consistent with the Biological Performance Standards in

Exhibit 41 of the Otay Ranch Phase 2 RMP (1996, Phase 2 RMP), which was prepared as a component of the Otay Ranch GDP/SRP, which addresses conservation of a metapopulation of burrowing owl Ranch-wide. The performance standard states “Include within the open space Preserve, occupied breeding and foraging habitat and sufficient potential habitat to maintain and enhance a viable metapopulation” (Exhibit 41, page 212 of the Phase 2 RMP). According to Exhibit 41, 56% of habitat is preserved Ranch-wide and the performance standard force it met. Therefore, with mitigation measures M-BI-3 (habitat conveyance) and M-BI-4 (biological open space easement) impacts to occupied burrowing owl habitat would be less than significant.

A-3-153 The comment states that burrowing owl has been observed during the breeding season in the vernal pool restoration area on the City of San Diego Cornerstone Lands in the Project Area and that CDFW staff have observed numerous ground squirrel burrows in the restoration area. The comment also expresses CDFW’s opinion that the area could support breeding owl. The comment further states that because the 2014 survey is out of date and seems to exclude areas that support suitable habitat, the Draft EIR’s claim that the burrowing owl does not occur regularly in the Project Area is unsubstantiated.

The County would also point out that, although no burrowing owls were observed during the 2014 focused surveys, or during extensive field surveys for other resources, the Draft EIR recognizes that burrowing owl has potential to occur within the Project Area, and therefore requires pre-construction surveys throughout the entire Development Footprint (mitigation measure M-BI-13). If occupied burrows are detected, the County-approved biologist would prepare a passive relocation mitigation plan subject to review and approval by the Wildlife Agencies and the County, including any subsequent burrowing owl relocation plans to avoid impacts from construction-related activities. Therefore, while the 2014 surveys were negative, impacts to burrowing owl habitat (and individual owls) were analyzed and, with incorporation of the mitigation measures, would be less than significant. Refer to **Response to Comment A-3-152** for information regarding survey areas.

A-3-154 The comment states that if pre-construction surveys (mitigation measure M-BI-13) determine that the Proposed Project would impact occupied burrowing owl habitat, a burrowing owl habitat enhancement plan must be prepared to mitigate impacts to occupied habitat.

As stated in the Draft EIR, burrowing owl is a Covered Species under the MSCP, and impacts to suitable habitat are mitigated through conveyance of habitat in the Otay Ranch RMP Preserve. The RMP requires performance standards that are consistent

with the MSCP, and includes enhancement of preserved populations and establishment of new populations in suitable, unoccupied areas, which is consistent with the comment's suggestion that a habitat enhancement plan be prepared for burrowing owl. The Otay Ranch RMP includes habitat enhancement of burrowing owl. Should the Project Area become occupied prior to construction, a relocation plan will be developed in conjunction with USFWS, CDFW, the County, and Project applicant. This plan will include a passive relocation mitigation plan to safely remove burrowing owls from the Development Footprint to an area which contains suitable habitat. As a part of this relocation effort, these individuals may be relocated to areas identified in the Otay Ranch RMP as habitat enhancement areas for burrowing owls. Since, based on the 2014 focused surveys, the Project Area is not currently occupied, a separate burrowing owl habitat enhancement plan is not necessary at this time.

A-3-155 The comment states that a passive relocation plan would not be sufficient to mitigate impacts to occupied burrowing owl habitat to less than significant; the habitat enhancement plan must improve suitable burrowing owl habitat within RMP Preserve lands.

Please refer to **Responses to Comments A-3-152, A-3-153, and A-3-154.**

A-3-156 The comment correctly restates information in the Biological Resources Technical Report regarding Otay tarplant habitat. The comment then states that CDFW disagrees with the Biological Resources Technical Report's conclusion that the Project Area lacks clay soils. The comment also states the Biological Resources Technical Report refers to clay soils in the Project Area.

Section 2.1.1 of the Biological Resources Technical Report, Appendix 2.4-1 to the Draft EIR, has been revised in underline/strikeout to clarify that the portion of the Project Area mapped as critical habitat for Otay tarplant within a portion of the Project Area—and not the entire Project Area—lacks clay soils and thus is unsuitable habitat for Otay tarplant:

Additionally, USFWS describes Otay tarplant as found on clay soils in grasslands, open coastal sage scrub, and maritime succulent scrub. The critical habitat within ~~the~~ this portion of the Project Area lacks clay soils and these vegetation communities; therefore, ~~it~~ the designated critical habitat is not suitable for Otay tarplant.

A-3-157 The comments states that the presence of vernal pools in the Project Area indicate that clay soils are present in the Project Area and that coastal sage scrub is one of the

dominant habitats. The County acknowledges the comment and refers the commenter to **Response to Comment A-3-156**.

A-3-158 The comment states although focused surveys were conducted for Otay tarplant, the species is an annual plant that exhibits extreme year-to-year variability. The County notes that the comment provides background information. This comment does not raise an issue regarding the adequacy of the Draft EIR, therefore, no further response is required or provided.

A-3-159 The comment cites examples of large inter-annual fluctuations in observed Otay tarplant populations on Otay Mesa and Rice Canyon from the San Diego Management and Monitoring website. The County notes that the comment provides background information. This comment does not raise an issue regarding the adequacy of the Draft EIR, therefore, no further response is required or provided.

A-3-160 The comment notes that surveys for Otay tarplant were conducted in drought years with below normal precipitation.

As discussed in the Draft EIR, Section 2.4.1, Existing Conditions, on page 2.4-8, focused surveys for special-status plant species began in spring 2014. These surveys addressed the main suite of special-status plants with potential to occur in the Project Area. The County acknowledges that the spring surveys alone would not be adequate for Otay tarplant, a later blooming species. Therefore, in late spring/early summer 2015, rare plant surveys were conducted with a focus on Otay tarplant across the entire Project Area. As noted in Section 3.4 of Appendix 2.4-1, Biological Resources Technical Report, nearby reference sites were visited to determine the bloom status of this species, and surveys were initiated within the Project Area based on detection of blooming plants within the reference sites. Therefore, surveys were conducted within the appropriate time to detect Otay tarplant. Further, page 2.4-74 of the Draft EIR states that Otay tarplant was observed within the Proctor Valley Road South improvement area. These populations were observed during the 2015 focused survey.

In addition to the specific surveys for Otay tarplant, focused surveys for special-status plant species were conducted over a 3-year period between 2014 and 2017. Multiple passes during variable seasonal conditions increases the probability of detecting special-status plant species, including Otay tarplant. Otay tarplant was not observed during the multiple surveys other than along Proctor Valley Road in the City of Chula Vista. In addition, as explained in **Response to Comment A-3-129**, 2015, 2016, and 2017 were not drought years.

- A-3-161** The comment states that Otay tarplant is likely present in the Project Area given the presence of suitable habitat. The comment then recommends that pre-construction surveys be conducted for Otay tarplant in suitable habitat.

Page 2.4-74 of the Draft EIR states that Otay tarplant was observed within the Proctor Valley Road South improvement area within the City of Chula Vista. Additionally, as explained in **Response to Comment A-3-160**, surveys were conducted throughout the Project Area after reference population checks confirmed this species was blooming. Otay tarplant was not observed during the multiple surveys other than along Proctor Valley Road in the City of Chula Vista. Therefore, the County is not requiring pre-construction surveys for Otay tarplant.

The County notes, as described on page 2.4-74 of the Draft EIR, that Otay tarplant observed within the proposed Proctor Valley Road improvement area located within the City of Chula Vista is also defined as the “easternmost reach” of the Rolling Hills Ranch project. Rolling Hills Ranch is a Covered Project with hardline designations in the MSCP City of Chula Vista Subarea Plan. As explained in the Draft EIR, these impacts have been fully analyzed and mitigated as part of the Rolling Hills Ranch (also known as “Salt Creek Ranch”), a Covered Project.

- A-3-162** The comment states that if Otay tarplant is found during pre-construction surveys in the Development Area impact zone, including off-site locations, avoidance and minimization measures consistent with the MSCP Plan should be provided.

The County acknowledges the comment and refers the commenter to **Responses to Comments A-3-160** and **A-3-161**.

- A-3-163** The comment states that if impacts to Otay tarplant cannot be avoided and/or minimized, then mitigation above the required RMP Preserve Conveyance Obligation should be included in the Final EIR.

The County acknowledges the comment and refers the commenter to **Responses to Comments A-3-160** through **A-3-162**.

- A-3-164** The comment correctly restates information in the Draft EIR and Biological Resources Technical Report that vernal pools/features occupied by San Diego fairy shrimp will be avoided and no significant impacts to the species are expected. The comment then states that occupation by San Diego fairy shrimp is not the only criteria that determines if a “seasonally wet feature” qualifies as a vernal pool.

To determine whether a given feature qualifies as a vernal pool, the Draft EIR uses the criteria set forth in the 1992 Dudek & Associates document Report on the Flora of the Otay Ranch Vernal Pools, 1990-1991. Pursuant to those criteria, a vernal pool requires at least one indicator plant species “whose distribution in coastal California is completely or substantially restricted to vernal pool basins” (page 5). Only one feature (B2) met this criterion of a vernal pool; B2 is located off site and would not be directly or indirectly impacted by the Proposed Project because it is approximately 300 feet from the realigned Proctor Valley Road and upslope of any impacts related to construction of the road or Village 14. None of the surveyed features (road ruts and ephemeral basins) in the Project Area support a vernal pool plant indicator species, and thus did not meet the applicable criteria discussed above. Accordingly, they were not classified as vernal pools for the purpose of the Draft EIR analysis.

- A-3-165** The comment states that vernal pools are seasonally wet habitats of high levels of diversity that are generally defined by a suite of mostly rare endemic plant and animal species.

The County notes that the comment provides background information. Please refer to **Response to Comment A-3-164** for vernal pool criteria used in the Draft EIR analysis. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

- A-3-166** The comment states that San Diego vernal pools are important for a number of species besides fairy shrimp, including San Diego button-celery, a state and federal endangered species.

The County notes that the comment provides background information. The County notes that had button-celery been found in a feature in the Project Area, the feature would have qualified as a vernal pool (refer to **Response to Comment A-3-164**). However, button-celery was not found in any feature in the Project Area. This comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

- A-3-167** The comment states that, although Appendices F and I2 to the Biological Resources Technical Report recognize that San Diego button-celery occurs in the Project Area adjacent to Feature B2, the Draft EIR fails to include button-celery in the impact analysis. The comment states that although San Diego button-celery was not observed in the Project Area in during 2014 through 2016 focused surveys, these negative findings are not sufficient to discount its potential for occurrence given its historical and presence in the Project Area. The comment recommends that the Dudek 1992

occurrences of button-celery from Otay Ranch surveys and an April 2018 occurrence observed by Department Staff on CDFW land near the proposed Proctor Valley Road alignment be added to the special-status plant figures in the Final EIR.

The County disagrees with the comment that “San Diego button-celery occurs in the Project Area.” As noted in the Appendix I2 to the Biological Resources Technical Report (Appendix 2.4-1 of the Draft EIR) and in the comment itself, approximately 85 individuals were mapped at vernal pools *north* of the Project Area during the 2015 focused plant surveys (emphasis added). The population was mapped adjacent to Feature B2, which is located outside of the Project Area. This species was not observed on the Project Area itself during focused surveys in 2014, 2015, or 2016, all of which were conducted during the appropriate time to detect this plant. The County disagrees that a 3-year survey period is insufficient to determine the current status of a plant population on site.

- A-3-168** The comment states that the Final EIR should include a discussion of San Diego button-celery and identify avoidance and minimization measures, such as pre-construction surveys and appropriate species-specific mitigation above the required acreage conveyance.

As explained in **Response to Comment A-3-167**, button-celery was not observed within the Project Area during 3 years of focused plant surveys or during focused vernal pool surveys for branchiopods and western spadefoot. The fact that it was detected off site in 2015 indicates that it was detectable at least that year, and the western spadefoot surveys were conducted in 2017, a wet year, so the negative surveys in the Project Area are considered to be valid. The County therefore disagrees that a 3-year survey period is insufficient to determine the current status of a plant population on site. The County also disagrees that additional analysis of this species is required in the Final EIR.

- A-3-169** The comment notes states that many pools in Proctor Valley have been documented prior to and after the 2014–2015 vernal pool surveys conducted by Helix and included in the Biological Resources Technical Report. The comment then states that these additional pools were not included in the fairy shrimp analysis. As a result, the comment suggests that 1 year of focused wet season fairy shrimp surveys in what the commenter characterizes as a dry year may not accurately represent San Diego fairy shrimp occupancy in the Project Area.

First the County would like to note that the comment incorrectly identifies HELIX as the consultant who conducted the USFWS protocol surveys for listed branchiopods.

Dudek conducted 2 years of protocol surveys (2014/2015 and 2015/2016) for the Proposed Project. Although a separate survey report was inadvertently excluded from Appendix F to the Biological Resources Technical Report (Appendix 2.4-1 of the Draft EIR) for the 2016 surveys, the methods and results are included in the Draft EIR. The Final EIR, Section 2.4.1.6, has been revised to include the 2016 wet season survey report. Therefore, the Draft EIR relies on two consecutive years of protocol fairy shrimp surveys (including both wet and dry season surveys), rather than one wet season survey as the comment indicates. The County determined these surveys and the subsequent analysis of fairy shrimp to be adequate for the purposes of CEQA. For information regarding efforts to field verify the vernal pools described in the 1992 Dudek study and the 2012 AECOM/Hogan vernal pool restoration plan, see **Response to Comment O-8-8**.

A-3-170 The comment states that areas that may pond during normal to above-normal precipitation may not have ponded in 2014–2015. Therefore, the impact analysis may be underestimating the impacts to San Diego fairy shrimp. The comment states that compliance with the MSCP requires avoidance of vernal pools to the maximum extent practicable regardless of occupancy by San Diego fairy shrimp.

As explained in **Response to Comment A-3-169**, two consecutive years of wet and dry season protocol fairy shrimp surveys were conducted within the Project Area. Furthermore, the Proposed Project was designed to avoid all nine features supporting San Diego fairy shrimp (i.e., A12, A22, A23, A27, B2, C14, C21, D4, and D9). See also **Response to Comment A-3-164**.

A-3-171 The comment states that the Draft EIR does not include discuss avoiding any vernal pools beyond those found to be occupied by San Diego fairy shrimp.

The County acknowledges the comment and refers the commenter to **Response to Comment A-3-164**. No vernal pools were detected in the Project Area, and therefore, no avoidance is required.

A-3-172 The comment states that some of the vernal pools in the Project Area contained “*Branchinecta* species unknown.” According to the comment, such pools could, in fact, be occupied by San Diego fairy shrimp and other sensitive species and thus should be included in the impact analysis and avoided to the maximum extent practicable.

The County acknowledges the comment and refers the commenter to **Response to Comment A-3-169** regarding focused surveys. None of the features within the

Project Area support Branchinecta species unknown (see Figures 2.4-8a through 2-4.8i). In addition, the Proposed Project was designed to avoid all nine features supporting San Diego fairy shrimp (i.e., A12, A22, A23, A27, B2, C14, C21, D4, and D9).

- A-3-173** The comment states that the Draft EIR does not include an analysis of the vernal pool watersheds in the Project Area, with the exception of those in the City of San Diego Cornerstone Lands. The comment further states many vernal pools are important for other species besides fairy shrimp, including sensitive species such as western spadefoot and numerous associated plants.

The County acknowledges the comment and refers the commenter to **Response to Comment A-3-164**. No vernal pools were detected in the Project Area, and therefore, no impact analysis of watersheds in the Project Area is required. However, please refer to **Responses to Comments O-8-17 through O-8-19** regarding the Chaparral Lands Conservancy vernal pool restoration area west of Village 14 and potential watershed impacts.

- A-3-174** The comment states that the Draft EIR does not include avoidance or minimization measures for vernal pool watershed impacts.

The County acknowledges the comment and refers the commenter to **Response to Comment A-3-164**. No vernal pools were detected in the Project Area, and therefore, no impact analysis of vernal pool watersheds in the Project Area is required. The County further refers the commenter to **Responses to Comments O-8-17 through O-8-19** regarding the Chaparral Lands Conservancy vernal pool restoration area west of Village 14 and potential watershed impacts. Also, the County refers the commenter to **Response to Comment O-7-15** for a discussion of buffers as they relate to vernal pools. As stated in Section 2.4.2.3 of the Draft EIR, approximately 0.3 miles of the road between the South Village 14 and Central Village 14 would be realigned to the east to provide a 100-foot buffer from the watershed for vernal pools that are located in the Cornerstone Land properties. In addition, several mitigation measures in the Draft EIR will be implemented to address potential temporary construction-related and permanent indirect effects to protect off-site resources such as vernal pools and San Diego fairy shrimp, including M-BI-1 (biological monitoring), M-BI-2 (temporary construction fencing), M-BI-14 (SWPPP), M-BI-15 (erosion and runoff control), M-BI-16 (prevention of invasive plant species), and M-BI-17 (prevention of chemical pollutants). These mitigation measures are described in detail in Section 2.4.6, Mitigation, of the Draft EIR.

A-3-175 The comment states that CDFW recommends a minimum of 2 to 4 acres of conservation for every 1 acre of impact to vernal pools.

The County acknowledges the comment and refers the commenter to **Response to Comment A-3-164**. No vernal pools were detected in the Project Area, and therefore, no impact analysis of vernal pool watersheds in the Project Area is required.

A-3-176 The comment states that the Final EIR vernal pool impact analysis should include the acreage and quality of the off-site vernal pools and their associated watersheds impacted/conserved and proposed mitigation beyond what is included in mitigation measure M-BI-7 (San Diego Fairy Shrimp Authorization).

The County acknowledges the comment and refers the commenter to **Response to Comment A-3-174** regarding off-site vernal pools.

A-3-177 The comment quotes part of mitigation measure M-BI-7 in relation to take of San Diego fairy shrimp in off-site areas and quotes the City of San Diego Vernal Pool Habitat Conservation Plan (VPHCP) regarding the entitlement process for private owners and third-parties, including the need for a site-specific management and monitoring plan consistent with the VPHCP and Vernal Pool Management and Monitoring Plan and the City's Biology Guidelines for approval by the City and the Wildlife Agencies. The comment states that the Draft EIR does not describe how the Proposed Project would be consistent with the VPHCP and therefore qualify for take.

As indicated in the Draft EIR, no San Diego fairy shrimp-occupied features were found in off-site areas in the City of San Diego and City of Chula Vista jurisdictions. In addition, the Proposed Project avoids all features identified through site-specific protocol surveys and habitat assessments within the City of San Diego Cornerstone Lands. Features were not identified within the City of Chula Vista portions of the Development Footprint. For this reason, the Proposed Project will not result in conflicts with the City of San Diego VPHCP or the City of Chula Vista's Subarea Plan.

A-3-178 The comment states that the VPHCP consistency analysis should be included in the Final EIR, and take coverage under the City of San Diego VPHCP will require Wildlife Agency approval.

The County disagrees that the VPHCP consistency analysis should be included in the Final EIR. If take is needed under the VPHCP, the required entitlement process will be followed and Wildlife Agency approval will be sought. Refer to **Response to Comment A-3-177**. The Project applicant has agreed to consult with USFWS, either

directly or through the appropriate acting federal agency, to determine if take authorization for San Diego fairy shrimp is required. In the event take authorization is required, USFWS may impose additional protective measures pursuant to either Section 7 or Section 10 of the federal ESA. In addition, per mitigation measure M-BI-7, if take authorization is required for impacts to San Diego fairy shrimp suitable habitat, the Proposed Project shall demonstrate, to the satisfaction of the Director of Planning & Development Services (or his/her designee) and prior to the issuance of the first grading permit that impacts suitable San Diego fairy shrimp habitat, that it has secured from any necessary take authorization from the USFWS (Draft EIR, Section 2.4.6, page 2.4-140).

- A-3-179** The comment states that to be consistent with the City of Chula Vista Subarea Plan, mitigation for impacts to vernal pools must meet the higher ratios given above (i.e., a minimum 2:1 ratio), regardless of occupation by San Diego fairy shrimp.

Neither the habitat assessment nor the 2 years of USFWS protocol level surveys conducted for the Proposed Project identified any features (i.e., vernal pools, road ruts, or basins) within the portion of the Proposed Project located within the City of Chula Vista. Therefore, the mitigation ratios for vernal pools stated within the City of Chula Vista Subarea Plan do not apply to the Proposed Project.

- A-3-180** The comment states that the Draft EIR fails to disclose that the USFWS received a petition to list the western spadefoot and that the petition is currently under review. The comment cites the Draft EIR's statement that the Project Area supports 57 pools with the potential to support western spadefoot. The comment also restates the Draft EIR's determination that 16 pools are occupied, of which 8 will be directly impacted and 8 will be conserved. The comment states that the Draft EIR concludes that this mitigation, along with best management practices, will be sufficient to reduce impacts to less than significant. The comment states that CDFW disagrees with this assessment.

The Final EIR, Section 2.4.1.4, has been revised to indicate that USFWS has received a listing petition for this species. However, this does not mean that it receives protection as a listed or candidate species under the ESA. This merely means that a petition has been filed, and the petition is under review.

With respect to the remainder of the comment, the County would like to refer the commenter to **Response to Comment O-6.1-45**, which clarifies the impacts to features occupied by western spadefoot. The Draft EIR incorrectly identified 8 pools

as being impacted by the Proposed Project, when the correct total is 12 features. Regarding mitigation, refer to **Response to Comment O-6.1-42**.

This revised information, however, does not alter any significance determination set forth in the Draft EIR. Specifically, with respect to assessing impacts on western spadefoot, the Draft EIR applies County Guideline 1B, which covers County List A and B plants, County Group I animal species, and state Species of Special Concern (SSC). The Draft EIR concludes that the Proposed Project would have significant permanent impacts on County Group I animal species and state SSCs, including western spadefoot. The Draft EIR, however, then states that such impacts would be mitigated to less than significant through “[c]onservation provided through the Otay Ranch RMP, MSCP Plan, and MSCP County Subarea Plan” (Draft EIR, Section 2.4, pages 2.4-83 through 2.4-84). The Draft EIR goes on to explain that Project-related impacts to County-sensitive species not otherwise covered under the MSCP—a category that includes western spadefoot—would be significant but mitigated “through the Proposed Project applicant’s contribution to the MSCP and Otay Ranch RMP Preserve (M-BI-3), which provides suitable habitat for these species in a configuration that preserves genetic exchange and species viability, and contribution of additional habitat through M-BI-4” (Draft EIR, Section 2.4, page 2.4-84). That the Proposed Project will affect 12 rather than 8 occupied western spadefoot pools does not change this conclusion. The mitigation is adequate to reduce the impact to a less-than-significant level.

Further, during the 2017 focused surveys, western spadefoot were observed in features outside of the Project Area. Specifically, western spadefoot was observed in four features within CDFW-owned and managed lands (B2, B3, D1, and D2) and five features within City of San Diego Cornerstone Lands (C8, C10, C14, C17, and C18). There are several other features within these ownerships that could support the species that were not included within the 2017 focused survey. Preservation of habitat and known locations within the Project Area, CDFW-owned and managed lands, and Cornerstone Lands would contribute to the overall preservation of the species.

A-3-181 The comment notes that western spadefoot is not an MSCP Covered Species, and direct impacts were not analyzed in the associated CEQA documents; therefore, the Draft EIR requires more species-specific information regarding impacts and conservation.

The County acknowledges the comment and refers the commenter to **Response to Comment A-3-180**. In addition, the Draft EIR includes an analysis of Project-related impacts on the western spadefoot toad (see Section 2.4.1.6, pages 2.4-34 and 2.4-35;

Section 2.4.31, pages 2.4-85 and 2.4-87; Section 2.4-5, pages 2.4-130 and 2.4-151; and Table 2.4-10 in the Draft EIR).

- A-3-182** The comment recommends that the Final EIR provide more information regarding the acreage and quality of western spadefoot-occupied pools being impacted and conserved.

The County acknowledges the comment and refers the commenter to **Response to Comment A-3-180**. In addition, it is the County's position that the Draft EIR's analysis of Project-related impacts on western spadefoot toad, and its habitat, is adequate and does not require more information.

- A-3-183** The comment states that the western spadefoot analysis should include a discussion of the watershed and connectivity among and between the conserved pools, and their distribution across the Preserve. The comment states that the Final EIR should ensure that the conserved pools will pond and be maintained.

The County acknowledges the comment and refers the commenter to **Response to Comment A-3-180**.

- A-3-184** The comment states the Final EIR should ensure that post-construction, the conserved occupied pools will pond and be maintained. The comments recommends that the mitigation be revised to include habitat enhancement for conserved pools if they are identified as degraded.

The County acknowledges the comment and refers the commenter to **Response to Comment A-3-180**.

- A-3-185** The comment cites the Draft EIR's conclusion that impacts to wildlife movement/habitat linkages will be less than significant because the functions and values of the corridors identified in the Otay Ranch Wildlife Corridors Studies (Ogden 1992) would be maintained. The comment states that this conclusion is "highly speculative and short-sighted" because existing conditions include limited low-speed traffic.

The County disagrees with the comment. An objective of the Ogden (1992) wildlife corridor studies was to document wildlife movement corridors within areas of Otay Ranch, as well as wildlife movement to adjacent off-site areas, and to make recommendations relating to their *continued function* in light of proposed development patterns; i.e., future conditions and not existing conditions (page 1-1 of Ogden 1992; italics added for emphasis). Importantly, in order to evaluate what

effects proposed development in the Ranch-wide study area would have on wildlife movement, the Ogden study included information from a wildlife corridor study conducted in an already constrained setting—the Peñasquitos Canyon/NAS Miramar area of central-coastal San Diego—that could be used as baseline for potential effects of development on wildlife movement in the Otay Ranch region. This baseline study thus included areas with high traffic volumes and speeds and collected 28 months of roadkill data for three target species—mule deer, mountain lion and bobcat—as well as coyote (page 3-5 of Ogden 1992). Recommendations for corridor and wildlife crossing designs for Otay Ranch therefore considered changes in traffic patterns, including increased speed and higher traffic volumes, and what effects such changes could have on potential vehicle collisions with the three target species and coyotes.

- A-3-186** The comment states that the corridors identified in the 1992 Ogden study would have been difficult to delineate because the unrestricted wildlife movement conditions at the time did not concentrate wildlife movement into discrete areas of movement. The comment states that increased traffic volumes and higher speeds on improved Proctor Valley Road will “essentially bisect very high habitat quality on either side of Proctor Valley, including CDFW and BLM lands and future MSCP Preserve lands.”

The comment implies that the Ogden (1992) study is deficient and that the Draft EIR should not have relied upon it when analyzing the Proposed Project’s impacts on habitat linkage and wildlife movement. The comment also suggests that wildlife movement patterns in principle cannot be studied in an unconstrained landscape and ignores the availability of basic information on the natural history and behavioral patterns of many species that naturally select specific areas of an unconstrained landscape for movement and dispersal based on factors such as habitat suitability (e.g., availability of cover, water, topography).

The County does not agree with the commenter’s characterization of the Ogden study. The Ogden study employed several criteria for delineating key wildlife movement areas on Otay Ranch. First, the Ogden study conducted on-the-ground field studies on Otay Ranch (as opposed to modeling potential movement patterns using remotely-sensed landscape data such as vegetation, topography, and land uses) to empirically document areas of habitat actually used by target species including mountain lion, bobcat, and mule deer, as well as coastal California gnatcatcher and cactus wren; i.e., the study does identify areas where target species use is concentrated and thus likely to be key for maintaining local and regional movement. Notably, species such as coyote, gray fox, opossum and raccoon were not chosen as target species because they adapt well to human modified landscapes (page 1-5 of Ogden 1992). Second, the study considered the target species habitat requirements

and other natural history, and behavioral factors related to movement (e.g., tolerance of humans, primary mortality causes), and thus, recommendations were species-specific. Field data included scat and tracks (i.e., sign), and rarer visual sightings for target species and all other terrestrial vertebrates. Areas with the most target species sign were considered corridors (page 2-1 of Ogden 1992). In addition, trail cameras were set up at selected locations. Third, the study incorporated information about what adjacent off-site areas are likely to remain undeveloped because of factors such as public ownership and steep topography that constrains development; the study focused on maintaining connectivity between the San Ysidro, Jamul, and San Miguel Mountains (page 1-9 of Ogden 1992). Based on data collected in the field, Section 2 of the Ogden study describes the biological and physical conditions at each identified corridor, including vegetation, potential den sites (e.g., rocky areas), water sources, etc. that would be relevant for the function of the corridors for wildlife movement. For these reasons, the County considers the Ogden study to be adequate for the assessment of impacts to wildlife movement and habitat connectivity in the Project Area.

As explained in **Response to Comment A-3-185**, the Ogden study considered the future effects of increased traffic volumes and speeds when recommending designs for wildlife corridors and crossings. These designs were then incorporated into the Proposed Project. Implementation of corridor protection and wildlife crossing designs consistent with the Ogden recommendations, and in conformance with the Otay Ranch GDP/SRP and Otay Ranch RMP (Draft EIR, Section 2.4.3.4, Guideline 4.4: Wildlife Movement and Nursery Sites, page 2.4-102), will ensure that high quality habitat on either side of Proctor Valley will not be functionally bisected and that wildlife movement across the valley will be maintained via regional corridor R1, shown in Draft EIR Figure 2.4-16, Wildlife Corridor and Habitat Linkages.

To respond to this comment, Dudek conducted a review of recent studies of wildlife movement corridors and road crossings potentially relevant to the Otay Ranch Village 14 and Planning Areas 16/19 Project (“Proposed Project”) and the Project Area. This memorandum is provided as Appendix L of Appendix 2.4-1, Biological Resources Technical Report.

A-3-187 The comment notes that the proposed improvements to Proctor Valley Road presents a low concern from some species. The comment further notes most birds are expected to be able to fly over the road during seasonal dispersal.

The County acknowledges the comment. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-188 The comment states that many species will be more challenged to either survive attempted road crossings or to find safe passage using culverts or undercrossings.

The County acknowledges the comment and refers the commenter to **Response to Comment A-3-190**. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-189 The comment notes that both large and small wildlife will likely continue to attempt crossing the road at-grade at numerous locations since there is line-of-sight to native habitat.

The County acknowledges the comment and refers the commenter to **Response to Comment A-3-190**. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

A-3-190 The comment states that the magnitude of the improved Proctor Valley Road impact warrants much greater attention, not only for the major corridors identified in the 1992 Ogden study, but also at a much finer scale in order to protect or create locations for wildlife travel routes or habitat use near the road.

With respect to the major corridors (i.e., RI, L3, and L4) identified in the 1992 Ogden study, the County disagrees with the comment that much greater attention is required to protect or create appropriate locations for wildlife travel routes. As contained in the Otay Ranch RMP (City of Chula Vista and County of San Diego 1993b), revisions to the Proctor Valley Development Footprint were specifically made as part of the original Otay Ranch GDP/SRP approval in 1993 for purposes of resolving general Otay Ranch RMP Preserve design and wildlife habitat connectivity issues (page 462 of the Biological Resources Technical Report, Appendix 2.4-1 of the Draft EIR). Therefore, the major wildlife corridors identified in the 1992 Ogden study will be protected by providing three wildlife crossings along Proctor Valley Road and one at an internal road in Village 14, as described on page 2.4-102 of the Draft EIR, Section 2.4.3.4, Guideline 4.4: Wildlife Movement and Nursery Sites.

In response to this comment, additional information on planned culverts under Proctor Valley Road is provided below. This information is based on the preliminary grading plan (Hunsaker & Associates 2018). In addition to the four designated wildlife crossings of Proctor Valley Road, five storm drains are planned under Proctor Valley Road that may help facilitate wildlife passage under the road. From north to south, these storm drains include:

- No. 1. A 42-inch drainage pipe at the southern boundary of Planning Area 16 that connects Conserved Open Space on either side of the road and is located just north of CDFW-owned land.
- No. 2. A 5-foot x 6-foot box culvert located about mid-way between the southern portion of Village 14 and wildlife crossing 4 as shown on Figure 5-3 of the Biological Resources Technical Report, and which connects Public Lands on either side of the road.
- No. 3. A 30-inch drainage pipe located approximately 1,500 feet south of wildlife crossing 4 and which connects undeveloped land west of the road to Public Lands east of the road.
- No. 4. A 24-inch drainage pipe located approximately 800 feet south of drainage No. 3 and which connects undeveloped land west of the road to Public Lands east of the road.
- No. 5. Three side-by-side, 6-foot x 6-foot box culverts located approximately 1,500 feet west of drainage No. 4 that conveys runoff from a tributary to Proctor Valley Creek and which connects Public Lands north and south of the road.

The larger box culverts, No. 2 and No. 5, may be used by a variety of small to mid-sized terrestrial taxa, including mammals, reptiles, and amphibians. The smaller drainage facilities would serve a more limited suite of species. The 36-inch drainage pipe and box culverts (5-foot by 6-foot and three side-by-side, 6-foot by 6-foot) may be used by small carnivores, including badger, raccoon, skunk, weasel, and fox, as well as smaller mammals, reptiles, and amphibians, which may also use even smaller drainage pipes (Ruediger 2007). In addition to these five undercrossings of Proctor Valley Road, other planned roads in the Project Area would have drainage crossings that may provide wildlife passage between open space areas. The planned road between the two northern development areas in Village 14 would have a 36-inch drainage pipe connecting Conserved Open Space on either side of the road, which in turn connects directly to CDFW-owned lands to the west and BLM lands to the east. The road connecting the central and eastern portions of Planning Areas 16/19 would have a 36-inch drainage pipe that would connect CDFW-owned lands north and south of the road, which then connects to Conserved Open Space and Public Lands south of the CDFW-owned lands. Finally, the north-south road leaving the eastern portion of Planning Areas 16/19 would have a 24-inch drainage pipe under the road connecting CDFW-owned lands on either side of the road.

A-3-191 The comment states that the locations of undercrossings for wildlife must also occur at sufficiently close distances that they would be used by various wildlife.

Three wildlife crossings were placed along Proctor Valley Road and one was placed along an internal road to ensure that the major wildlife corridors will be protected. The distance between the crossings isn't as important as the function of the crossings, which is to maintain the functions of the wildlife corridors. Each crossing was developed by project engineers in conjunction with a wildlife biologist with 25 years of experience. The crossings were designed to meet both the Otay Ranch RMP and MSCP standards along with incorporating more recent crossing design standards such as the openness ratio (see **Response to Comment A-3-204**).

A-3-192 The comment states that directional fencing must be integrated with the undercrossings and road design to prevent wildlife from entering the roadway. The comment states that the Draft EIR only addresses wildlife movement at the major points along Proctor Valley Road and appears to ignore that wildlife inhabiting areas near the road will be killed. The comment further states while the 1992 Ogden study's identification of major corridors was important, wildlife movement will not be restricted to only those corridors, or that preserving the major corridors will provide a safer Preserve overall. The comment recommends that wildlife movement be addressed at a finer scale, including coordination with roadway design and implementing planning and actions, in order to reduce road kill.

As described on page 2.4-102 of the Draft EIR, Section 2.4.3.4, Guideline 4.4: Wildlife Movement and Nursery Sites, directional fencing will be used to funnel wildlife to the four crossings of Proctor Valley Road and the internal road in Village 14. With respect to wildlife movement in areas besides the four crossings, refer to **Response to Comment A-3-190**.

A-3-193 The comment states that CDFW "strongly recommends" that a plan be required to identify appropriate locations for undercrossings/culverts, and that associated fencing be designed to maximize effectiveness of the undercrossings. The comment indicates that a model for the recommended approach is the study for SR-94 (CBI 2016).

The preparers of the Draft EIR have reviewed the report cited in the comment. The County refers the commenter to **Responses to Comments A-3-185, A-3-190, and A-3-192**. The locations of the four wildlife crossings within the Project Area were chosen to maintain wildlife movement within the major wildlife corridors identified in the 1992 Ogden study.

A-3-194 The comment states that Final EIR should also clarify whether the POM will be responsible for monitoring and management of a fencing/roadway design. The

comment states that CDFW emphasizes that monitoring of roadways, corridors, undercrossings, and roadkill is an important component of Preserve monitoring and adaptive management.

As stated in Section 2.4.2.3 of the Draft EIR, the POM is responsible for management of resources, restoration of habitat, and enforcement of open space restrictions for the entire Otay Ranch RMP Preserve once the Preserve is formally established and title to the land is conveyed to the POM. The Otay Ranch RMP indicates that the POM “will oversee the day-to-day and long-range activities within the Management Preserve [and] will take an active role in the maintenance of biological resources ... and the implementation of RMP policies related to management of the Preserve” (Otay Ranch RMP Section 4.5).

The Otay Ranch POM is responsible for management and monitoring of the Otay Ranch RMP Preserve. Any management and monitoring on non-Otay Ranch RMP Preserve Land would be the responsibility of the underlying property owner. The County of San Diego, as the land use jurisdiction, would be responsible for coordinating any improvements, including fencing and roadway design, within the right-of-way for Proctor Valley Road. Fencing design outside of the right of way for Proctor Valley Road is the responsibility of the underlying property owner. No further response is required.

- A-3-195** The comment notes that the Proposed Project will directly impact a portion of L3 through construction of an internal access road to connect Planning Areas 16/19, and that the Draft EIR states that an alternative route for L3 would be provided. The comment further states this alternative route should be analyzed for the incorporation of culverts or undercrossings and associated fencing, and monitoring must also be a requirement for this area of the Preserve.

The alternative route referred to in the Draft EIR is the northwest–southeast habitat linkage on CDFW-owned land that connects directly to a large expanse of public lands to the southwest, as shown in Figure 5-3, Wildlife Corridors and Habitat Linkages, in the Biological Resources Technical Report (Appendix 2.4-1 of the Draft EIR). Wildlife would access habitat on either side of the realigned Proctor Valley Road via Crossing 1 shown in Figure 5-3. Winged retaining walls would be included at this crossing to direct drainage flows and wildlife into the crossing.

- A-3-196** The comment states that the Draft EIR cumulative effects analysis does not discuss how future projects will affect landscape connectivity or wildlife corridors, and states

that development of Village 13 and implementation of the Otay Trails Plan could affect regional wildlife movement and connections to Proctor Valley.

As shown in Draft EIR Figure 2.4-22, Cumulative Analysis, in addition to Village 13, all of the other cumulative projects evaluated in the Draft EIR are located well south of the Project Area and tend to be located on the eastern edge of existing development. Thus, the Proposed Project combined with these projects would not have a significant cumulative effect on habitat connectivity and wildlife movement along the regional (R1) and local corridors (L3, L4) associated with the Proposed Project.

Village 13 is included in the Otay Ranch GDP/SRP as an approved “hard line” project. Through Village 13’s participation in the MSCP Plan, County Subarea Plan, and through its land conveyance to Otay Ranch RMP Preserve, Village 13 would retain the functions and values of the corridors identified in Baldwin Otay Ranch Wildlife Corridors Studies (Ogden 1992) and the Biological Resource Core Areas (BRCAs) identified in the MSCP Plan.

Further, as described on pages 2.4-122 and 2.4-128 of the Draft EIR, Section 2.4.4, Cumulative Impact Analysis, through compliance with the MSCP Plan, County Subarea Plan, and the Otay Ranch RMP conveyance of compensatory mitigation lands to the POM, as well as construction of Proctor Valley Road undercrossings, the functions and values of the large habitat block in the Project Area and adjacent lands providing regional connectivity between the Jamul Mountains and San Miguel Mountain will be maintained.

The Otay Trails Plan does not provide a connection between Village 13 and Village 14. All trails are currently designed within the development footprint for both projects. The County acknowledges the comment and refers the commenter to **Response to Comment A-3-215**.

A-3-197 The comment states that impacts of human activity and domestic animals at the edge of development and on trails within open space should be accounted for. The comment also cites prior studies that bobcats are detected less frequently on trails with high human use, and bobcat and coyote relative abundance is higher in open space without recreation.

The County acknowledges the comment. The Draft EIR analyzed human activity and other indirect effects from development as both temporary and permanent impacts (see Draft EIR page 2.4-105). These impacts are mitigated through the following mitigation measures: M-BI-1 (biological monitoring), M-BI-2 (temporary

construction fencing), M-BI-3 (habitat conveyance and preservation), M-BI-4 (biological open space easement), M-BI-5 (permanent fencing and signage), M-BI-18 (noise), and M-BI-20 (lighting). The County notes while bobcats clearly tend to avoid areas with high human activity, coyotes are much more tolerant and flexible in their behavior patterns in response to humans; coyotes were not target species in the Ogden (1992) corridor studies because they adapt well to human-modified landscapes.

- A-3-198** The comment states that improvements to Proctor Valley Road and internal connector roads will result in additional fragmentation and increase the risk of wildlife-vehicle collisions. The comment also cites recent studies showing “mortality hotspots” of mesocarnivores such as bobcats along secondary roads.

Habitat fragmentation effects are discussed in detail in **Response to Comment O-6.1-24** explaining that regional landscape-level habitat fragmentation impacts were anticipated in the preparation of the MSCP Plan (1998) and design of the MHPA and Preserve system, including wildlife corridors and linkages to address potential fragmentation effects. Also refer to **Response to Comment A-3-190** regarding the landscape-level planning effort that culminated in the Otay Ranch Preserve design and wildlife crossing locations. Please refer to **Responses to Comments A-3-185** and **A-3-192**.

- A-3-199** The comment cites a personal communication with Dr. Megan Jennings, a local expert on wildlife movement and corridors in San Diego County, that Proctor Valley Road improvements and connector roads will result in cumulative effects to connectivity and wildlife corridors in the areas, and that existing lands providing connectivity be more carefully considered in broader regional and temporal contexts.

The County acknowledges the comment and refers the commenter to **Responses to Comments A-3-190, A-3-196, and A-3-198**.

- A-3-200** The comment states that the Draft EIR indirect and cumulative impacts analysis fails to fully evaluate and mitigate potential impacts to wildlife species and movement once the Proposed Project is completed, and specifically edge effects from increasing development and human activity adjacent to open space.

The County acknowledges the comment and refers the commenter to **Response to Comment A-3-197**.

- A-3-201** The comment states that an analysis of 25 studies (Environmental Law Institute 2003) describing edge effects found that negative edge effects are biologically significant up

to approximately 1,000 feet in terrestrial systems, which is far beyond the 100-foot buffer the Draft EIR included as mitigation for Project-related edge effects.

The County acknowledges this factual information regarding the analysis of 25 studies. It is important to understand that indirect impacts were anticipated in the preparation and analysis of the MSCP Plan (1998) (including by the Wildlife Agencies and other Plan participants) and design of the Preserve system, including Preserve edge guidelines and management activities. As required by the Otay Ranch RMP, the Proposed Project would include a 100-foot Preserve edge buffer between the Otay Ranch RMP Preserve and development. The Preserve Edge Plan addresses drainage, toxic substances, lighting, noise, fuel modification, fencing, and invasive species.

Management of long-term indirect impacts are addressed in the MSCP Plan in Section 6.3, Guidelines for Preserve Management, including Section 6.3.1, Preparation of Framework Management Plans; Section 6.3.2, Responsibility for Preserve Management and Biological Monitoring; 6.3.3, Preserve Management on Private Lands; 6.3.4, Fire Management; 6.3.5, Restoration; 6.3.7, Hydrology; 6.3.7, Fencing, Signage, and Lighting; Section 6.3.8, Predator and Exotic Species Control; 6.3.9, Species Reintroduction; and 6.3.10, Enforcement. Specifically, the MSCP states that “through the subarea plans and regulations, the participating jurisdictions and other take authorization holders will ensure that that direct and indirect impacts of new development on the will be minimized using good land planning and design principles and preserve management provisions” (page 6-3).

The RMP and the 11,375-acre Otay Ranch RMP Preserve serve as mitigation of biological impacts identified in the Otay Ranch GDP/SRP Final Program EIR (Otay Ranch PEIR, Implementing Agreement Section 10.5.2). The Otay Ranch RMP requires preparation of a Preserve Edge Plan “for all [Sectional Planning Areas] SPAs that contain areas adjacent to the Preserve” (1993 RMP, Chapter 3, page 114). The Preserve Edge Plan for Village 14 and Planning Areas 16/19 complies with the Otay Ranch RMP requirements.

A-3-202 The comment states that a threat to wildlife adjacent to the Development Footprint is the risk of exposure to toxicants, and particularly anticoagulant rodenticides. The comment then states predators, such as raptors and mammalian carnivores, are most at risk as their prey can be affected.

The Draft EIR includes a mitigation measure M-BI-17 (prevention of chemical pollutants) described on pages 2.4-145 and 2.4-146 in Section 2.4.6, Mitigation, of the Draft EIR. In the Final EIR, this mitigation measure has been supplemented to

include language prohibiting rodenticides within the 100-foot buffer. Specifically the measure has been revised as follows (underlined text):

M-BI-17 Prevention of Chemical Pollutants. Weed control treatments shall include all legally permitted chemical, manual, and mechanical methods applied with the authorization of the County of San Diego (County) agriculture commissioner. The application of herbicides shall be in compliance with all state and federal laws and regulations under the prescription of a Pest Control Adviser and implemented by a licensed applicator. Where manual and/or mechanical methods are used, disposal of the plant debris shall follow the regulations set by the County agriculture commissioner. The timing of the weed control treatment shall be determined for each plant species in consultation with the Pest Control Adviser, the County agriculture commissioner, and the California Invasive Plant Council, with the goal of controlling populations before they start producing seeds. A manual weeding program shall be implemented on the manufactured slope adjacent to the Preserve to control weeds that are likely to be encouraged by irrigation within the 100-foot Preserve edge/fuel modification zone. Weed control efforts shall occur quarterly or as needed to prevent weeds on the manufactured slopes from moving into the adjacent Preserve. Either the homeowner's association or County's landscape monitoring firm shall be responsible to check the irrigated slopes during plant establishment to verify that excessive runoff does not occur and that any weed infestations are controlled.

During Proposed Project operation, all recreational areas that use chemicals or animal by-products, such as manure, that are potentially toxic or impactful to sensitive habitats or plants shall incorporate best management practices on site to reduce impacts caused by the application and/or drainage of such materials into the Otay Ranch Resource Management Plan Preserve. In addition, use of rodenticides will not be allowed within the 100-foot Preserve edge.

A-3-203 The comment states that the Draft EIR directs the reader to the Preserve Edge Plan for detail on toxic substances and other indirect effects associated with the Proposed Project, but no mitigation measures are proposed in the Draft EIR other than incorporation the 100-foot buffer between the Preserve and Development.

The County acknowledges the comment and refers the commenter to **Response to Comment A-3-202**.

A-3-204 The comment cites the Draft EIR's statement on page 2.4-102 that the RMP does not provide specific design requirements for wildlife crossings, but it incorporates the 1992 Ogden study, which states that any crossing of Corridor 1 through Proctor Valley needs to be bridged (page 4-16); that bridges must have a length-to-width ratio of less than or equal to one; that the bridge crossing must be at least 12 feet high and preferably higher; and that there should be an open space or gap between the two traffic directions to allow light to filter below and promote vegetation growth. The comment states that only the southernmost wildlife crossing is consistent with these requirements, and that CDFW recommends that the other crossings be redesigned to be consistent with the RMP.

The Proposed Project is designed to minimize impacts to wildlife corridors and crossings. Guidelines for culverts or wildlife crossings, according to the MSCP County Subarea Plan, include minimizing roads that cross wildlife corridors; installing fencing that channels wildlife to underpasses or culverts; designing underpasses such that the length-to-width ratio is less than 2; using bridges rather than tunnels; installing sound insulation, including a natural substrate that is vegetated; providing line-of-sight through the tunnel; and including low-level illumination, if needed (County of San Diego 1997).

As described on page 2.4-102 of the Draft EIR, each crossing has been designed to create an openness ratio (calculated as $W \times H/L$ of the crossing in meters) of greater than 0.6, which is the minimum "openness" for crossings to facilitate the movement of mule deer (Reed et al. 1979). The openness ratio provides a quantitative standard for likely success of a wildlife crossing that also considers the factor of height in the openness ratio. Providing a movement corridor suitable for mule deer ensures that other large mammals, as well as many other smaller terrestrial wildlife species, would use the corridor. One of the MSCP County Subarea Plan design criteria guidelines is to provide a crossing with the size and height of opening so that there is direct line of sight from one end to the other. Since the openness ratio was designed to measure ambient light in the passage, all crossings were designed to meet the minimum openness ratio rather than relying solely on the 2:1 length to width ratio suggested in the MSCP County Subarea Plan.

A-3-205 The comment cites the Draft EIR statement that "The Development Footprint does not encroach upon the Proctor Valley regional wildlife corridor (R1). Where R1 crosses Proctor Valley Road, a wildlife crossing would be provided" (page 2.4-

104). The comment states that this wildlife crossing is not in alignment with the R1 corridor identified in the 1992 Ogden study and states that more discussion and justification should be provided in the Final EIR why the undercrossing was moved farther to the north.

The comment is unclear as to what crossing CDFW is referring to as having been moved away from the R1 crossing. The crossing to the north, as referenced in the comment, is Crossing 2 of a Rural Residential Road over L4 shown on Figures 5-3 and 5-5 of the Biological Resources Technical Report, Appendix 2.4-1 of the Draft EIR. This crossing is a culvert 84 feet wide and 15 feet high with a soft bottom, which would provide an adequate corridor for wildlife to move along corridor L4. Crossing 3 is located south of R1 within the 1,670-foot-wide habitat linkage between the central and southern development areas in Village 14. The R1 alignment is conceptual, and it is assumed that wildlife could move throughout the habitat linkage. The crossing is a culvert 34 feet wide and 12 feet high with an openness ratio of 0.78.

- A-3-206** The comment cites the Draft EIR statement that the L4 corridor follows the Proctor Valley drainage and would largely be avoided by the Proposed Project, with the exception of the road crossing connecting the small area of development to the west (R12) (page 2.4-105). The comment notes that R12 development occurs entirely in the PV1 parcel, which CDFW considers to be hardline Preserve.

The County acknowledges the comment; however, the County disagrees that PV1 is hardline Preserve. Please refer to **Response to Comment A-3-10** and **Thematic Response – Baldwin Letter and PV1, PV2, and PV3**.

- A-3-207** The comment refers to Draft EIR Figure 2.4-10 and notes that the colors used to identify sensitive plant species are difficult to interpret and recommends that the figure be revised in the Final EIR with more distinct colors.

Figure 2.4-10 has been clarified in the Final EIR to be more readable.

- A-3-208** The comment states that areas with 10% or greater cover of San Diego County needle grass should be considered native grassland, which are considered sensitive under the County Subarea Plan. The comment then indicates that the Draft EIR does not discuss native grassland or its density where it occurs. The comment states that the Final EIR should include such a discussion/analysis of native grassland and mitigation for impacts.

San Diego County needle grass individuals were identified in several locations in the Project Area, as described on page 2.4-32 in Section 2.4.1.5, Special-Status Plant

Species, of the Draft EIR. However, no areas supported 10% or greater cover and thus needle grass grassland was not mapped in the Project Area. Because this species is a County List D plant, impacts to individuals were considered to be less than significant, as described on page 2.4-85 of the Draft EIR.

- A-3-209** The comment describes certain improvements to portions of Proctor Valley Road, including improvements within CDFW-owned land. The comment states that any Project-related impacts “associated with Proctor Valley Road improvements in these areas should mitigate the loss of habitat outside the County ROW, within Department-owned lands.”

The comment does not relate to activities or components of the Proposed Project. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

- A-3-210** The comment states that “the County should cease all placement asphalt on Proctor Valley Road, especially on the portions located on Department-owned lands, without a more comprehensive planning and review as it appears the use of asphalt is resulting in greater erosion into the Preserve in some areas.” The comment also mentions that illegal dumping is occurring along Proctor Valley Road. Finally, the comment recommends more signage and patrols along the road “to dissuade illegal uses in the Preserve.”

The comment does not relate to activities or components of the Proposed Project. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

- A-3-211** The comment notes that Table 5-5 of the Draft EIR includes golden eagle observations, but these observations were not included in Figures 4.1-a through 4.1-cc. CDFW recommends that the observations be included on a figure in the Final EIR.

Specific point locations on figures can sometimes imply that a species only uses that particular area, which would be incorrect in the case of golden eagles. Since golden eagles were typically observed flying overhead throughout the Project Area, and since golden eagles likely use the majority of the Project Area, specific locations were not added to Figures 4.1a through 4.1cc.

- A-3-212** The comment recommends that more detailed information about the golden eagle observations be included in the Final EIR.

See **Responses to Comments A-3-97** through **A-3-123**. See also **Thematic Response – Golden Eagle**.

- A-3-213** The comment requests that County GIS mapping inconsistencies discussed in the Draft EIR be quantified in acres and clarify whether the inconsistencies will result in a reduction of RMP Preserve.

The referenced County GIS mapping inconsistencies will not result in a reduction in the RMP Preserve size. As described in Chapter 1, Project Description of the Draft EIR, the change to the County General Plan graphics correct GIS inconsistencies between the Otay Ranch GDP/SRP and the County General Plan because the County General Plan GIS line-work is slightly different from the Otay Ranch GDP/SRP. Because the Otay Ranch RMP Preserve is based on the line-work contained in the Otay Ranch planning documents, including the Otay Ranch GDP/SRP and Otay Ranch RMP, the revisions to the County General Plan do not change the size of the Otay Ranch RMP Preserve.

- A-3-214** The comment states that a figure similar to Exhibit 1 of the Preserve Edge Plan showing fuel modification zones should have been included in the Draft EIR to facilitate review by the public.

The County acknowledges the comment and notes that the Preserve Edge Plan was available for review during the public review period, and that the analysis contained in the Draft EIR, including Appendix 2.4-1, Biological Resources Technical Report, was prepared based on the 100-foot modification zone. Nonetheless, in response to the request, please refer to Appendix G, Fuel Modification Zone Exhibits, of Appendix 3.1.1-2, Fire Protection Plan of the Draft EIR, which shows the fuel modification zones for the Proposed Project as requested. No further response is required or provided. Please also see Figure 6a of Appendix 3.1.1-2.

- A-3-215** The comment states the Biological Resources Technical Report mentions two Preserve trail options that would be located within existing disturbed trails, and requests clarification if unauthorized uses within native habitat created these trails and, therefore, their formalization requires mitigation. The comment also requests the acreage associated with trails be quantified.

The two trail options are described in the Project Description on pages 1-14 and 1-15 in Section 1.2.1.1, Specific Plan/Site Utilization Plan, of the Draft EIR, and includes the Preserve Trails Option which would provide connections to regional trails through

the Otay Ranch RMP Preserve and a Perimeter Trail Option, which would be a loop trail option in Village 14.

The County, in conjunction with the City of Chula Vista, City of San Diego, CDFW, USFWS, National Wildlife Refuge, BLM, U.S. Border Patrol, and the Otay Water District, is conducting a planning study (Trail Study) of new trail systems in Otay Ranch and surrounding lands, including the Project Area. The Project applicant is participating in this Trail Study as an interested property owner and stakeholder. The Preserve Trails Option would provide easements to facilitate connectivity to potential future off-site trails that may be identified in the Trail Study across the on-site Otay Ranch RMP Preserve land. The Preserve Trails Option would retain these portions of trails in their existing conditions, which meet the Community Trails Master Plan primitive trail standard (County of San Diego 2005). These easements and trails, and maintenance of these trails, must be deemed to be permitted uses within the RMP Preserve as contemplated by the Otay Ranch RMP; otherwise, the Preserve Trails Option will not be allowed. No improvements to these Preserve trails are contemplated for the Proposed Project; therefore, no direct impacts would be attributed to the Proposed Project, and no mitigation would be required. Because the Preserve Trails Option is still under study, no quantified acreages are available

The Perimeter Trail Option would be an approximately 3.6-mile-long perimeter trail located within the Development Footprint of South and Central Village 14. The Perimeter Trail Option would be situated primarily within the Otay Ranch RMP 100-foot-wide Preserve Edge. The Perimeter Trail Option would be designed to Community Trails Master Plan primitive trail standards. The Perimeter Trail Option would be graded as part of overall Proposed Project grading, and would not encroach into the RMP Preserve. The Perimeter Trail Option would be accessed at public parks and trailheads, and would be maintained by the County of San Diego. Therefore, no additional impacts beyond those already analyzed in the Draft EIR would occur.

A-3-216 The comment requests that a figure showing the open space designation and underlying landowner should be provided in Section 3.1.3, Land Use and Planning, or Section 2.4.1, Biological Resources, of the Final EIR. The comment suggests a figure similar to Exhibit 4 in the Preserve Edge Plan showing ownership adjacent to the Project.

The County acknowledges the comment and notes that it expresses a request from the commenter. Figure 2.4-16 of the Draft EIR depicts the Project Area, Project applicant-owned Otay Ranch RMP/MSCP Preserve lands, and public lands identified by ownership (CDFW, BLM, USFWS, and U.S. Department of Defense). The

comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

- A-3-217** The comment states that Table 5 of the Project's Specific Plan concisely identifies the conveyance obligation and requests that a similar table be provided in the Final EIR.

The County acknowledges the comment and notes that it expresses a request from the commenter. Table 2.4-20 has been included in the Final EIR for further clarification, which calculates the estimated conveyance obligation of the Proposed Project based on the required conveyance; however, actual conveyance totals are calculated at the Final Map recordation when final engineering is complete and exact acreage calculations are available to be provided by the engineer of record. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

- A-3-218** The comment states that Figure 3.1.3-7 does not show the most recent Otay Trails plan prepared by the County and should be updated. The cumulative impacts section of Section 2.4, Biological Resources, should be updated to include these trail alignments.

Refer to **Response to Comment A-3-215**.

- A-3-219** The comment states that portions of the Project are adjacent to BLM lands and states that the Final EIR should confirm that the Project is in conformance with BLM public land adjacency guidelines.

The County has attempted to locate the guidelines referenced in the comment letter, including contacting the BLM Palm Springs/South Coast Field Office. Neither the County nor the BLM field office are aware of such guidelines. Since the guidelines were not included within the comment letter, the County cannot address the comment.

- A-3-220** The comment references a potential badger den in the Project Area Development Footprint, although badger was not directly observed, and recommends that USGS be allowed to inspect the burrow and provide recommendations as how to ensure that the species can be safely relocated out of the construction footprint.

The potential badger den was observed in Planning Area 16 just east of Proctor Valley Road, as shown on Figure 4-1a of the Biological Resources Technical Report. The County will provide USGS access to inspect the potential burrow and provide recommendations for safe relocation from the Development Footprint.

A-3-221 The County acknowledges the comment and notes that it provides concluding remarks. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.