

**O-4 BUENA VISTA AUDUBON SOCIETY**

**O-4-1** The comment provides introductory remarks. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

**O-4-2** The comment expresses the opinions of the commenter regarding the ecological importance of the “Proctor Valley parcels” and describes them as “essentially inholdings within the San Diego National Wildlife Refuge.”

The Project Area is not located within the San Diego National Wildlife Refuge. The Project Area is part of the Otay Ranch General Development Plan/Otay Subregional Plan, Volume II (Otay Ranch GDP/SRP) area. The Proposed Project is consistent with the Multiple Species Conservation Program (MSCP) County Subarea Plan and Otay Ranch Resource Management Plan (RMP), as described in Sections 2.4.3.5 and 3.1.3.2.3 of the Draft EIR. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

The County notes that the Otay Ranch GDP/SRP and Otay Ranch RMP were approved in 1993, prior to establishment of the San Diego National Wildlife Refuge in 1996. The County further notes that the Proposed Project would mitigate all impacts to biological resources to less than significant through implementation of mitigation measures M-BI-1 through M-BI-21, as determined in Section 2.4.7, Conclusion, of the Draft EIR.

**O-4-3** The comment provides an introductory remark to comments that follow and states that “the project threatens the survival of golden eagles in an important territory for this species.” Refer to **Responses to Comments O-4-5** through **O-4-17**, below.

Impacts to golden eagle were analyzed in Section 2.4, Biological Resources, of the Draft EIR. More specifically, golden eagle is addressed in the following subsections of the Draft EIR: Section 2.4.1.6 Special-Status Wildlife Species; 2.4.2.1, Federal Regulations; Section 2.4.3.1, Guideline 4.1: Candidate, Sensitive, or Special-Status Species; and Section 2.4.3.5, Guideline 4.5: Local Policies, Ordinances, and Adopted Plans; and Section 2.4.4 Cumulative Impact Analysis.

Impacts to golden eagle are discussed in Section 2.4.3.1 of the Final EIR. As explained therein,

The key determination when assessing the Proposed Project’s impacts to golden eagle is whether the Proposed Project is consistent with the impact and

conservation assumptions of the MSCP Plan, the MSCP County Subarea Plan, and the Otay Ranch RMP, and whether it complies with the protective conditions set forth in Table 3-5 of the MSCP Plan and in the Section 10 permit. The impact analysis focuses on consistency with the MSCP Plan because golden eagle is a Covered Species under the MSCP Plan and MSCP County Subarea Plan, both of which were adopted after the Otay Ranch GDP/SRP and Otay Ranch RMP. Table 3-5 of the MSCP Plan includes conservation standards for golden eagle to ensure its continued viability within the MSCP planning area. This EIR uses those conservation standards as the criteria for determining the significance of the Proposed Project's impacts on golden eagle.

The golden eagle is a Covered Species under the MSCP County Subarea Plan. As explained in Sections 2.4.3.5 and 3.1.3.2.3 of the Draft EIR, the Proposed Project is consistent with the MSCP County Subarea Plan, and, thus, Proposed Project-related impacts to the species and its habitat were accounted for in the Otay Ranch RMP Preserve and MSCP County Subarea Plan. Because the Proposed Project is consistent with the habitat preservation requirements of MSCP Plan Table 3-5 and the County's Section 10 permit, the Proposed Project's impacts on golden eagle foraging habitat were found to be **less than significant**.

The Draft EIR discloses that the Project Area supports 1,325.5 acres of golden eagle foraging habitat, of which 780.8 acres would be impacted by the Proposed Project (Impact BI-6). The Proposed Project would reduce this impact to less than significant by preserving golden eagle habitat on site and by conveying 740.8 acres of suitable golden eagle habitat to the Otay Ranch RMP Preserve (see mitigation measures M-BI-3 (habitat conveyance and preservation) and M-BI-4 (biological open space easement) of the Draft EIR). In addition, mitigation measure M-BI-5 (permanent fencing and signage) would mitigate for potential long-term impacts by deterring unauthorized human activity within the Preserve. As a result, the Draft EIR determined that impacts to golden eagle would be less than significant with implementation of mitigation.

Cumulative impacts to golden eagle are analyzed in Section 2.4.4, Cumulative Impacts, on pages 2.4-125 through 2.4-128 of the Draft EIR, which determined the following (emphasis added):

The Proposed Project also would not impede the MSCP conservation goal of conserving 53% (approximately 139,000 acres) of the suitable golden eagle foraging/nesting habitat. Thus, the Proposed Project would make a *less than*

*cumulatively considerable contribution* to cumulative impacts on golden eagle or golden eagle foraging/nesting habitat.

Please also refer to **Thematic Response – Golden Eagle**.

- O-4-4** The comment provides an introduction to comments that follow and expresses the commenter’s opinion that there are deficiencies in the Draft EIR that need to be corrected. This comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- O-4-5** The comment states that parts of the Proposed Project were anticipated for development and other parts included in the MSCP Preserve. The comment expresses the commenter’s opinion that “the entire MSCP assembly and mitigation program is in jeopardy.”

It is assumed that the commenter is referring to areas of the Proposed Project known as PV1, PV2, and PV3. The County disagrees that PV1, PV2, and PV3 were included in the MSCP Preserve and that the assembly of the MSCP Preserve is in jeopardy. Please refer to **Thematic Response – Baldwin Letter and PV1, PV2, and P3**. As described therein, the Implementing Agreement clearly indicates that the three parcels were not part of the MSCP Preserve at the time the Permit and Implementing Agreement for the MSCP County Subarea Plan were approved, but that they could be added to the Preserve in the future if agreements between the parties were reached. Per the Implementing Agreement (pages 29–30), “Additional lands associated with agreements, as outlined in the letter attached to the south County Segment from the Baldwin Company Dated November 10, 1995, will be included *if the agreements are reached*” (emphasis added). No such agreements were reached regarding PV1, PV2, and PV3, and, accordingly, they were never incorporated into the Preserve.

Further, the Otay Ranch RMP Preserve, as described in the Implementing Agreement, was to be 11,375 acres. Specifically, Section 10.5(A)(2) of the Implementing Agreement (pages 29–30) indicates that the County’s mitigation obligation with respect to Otay Ranch is as follows: “Protection of the areas identified as preserved in the boundaries of the Otay Ranch project including approximately 11,375 acres.” That 11,375 acres is the exact acreage of the Otay Ranch Preserve identified in the Otay Ranch RMP approved in 1993. Section 5.1 and Figure 24 of the Phase 1 RMP, define the 11,375-acre Otay Ranch Preserve and clearly indicate that PV1, PV2 and PV3 are not included as Preserve. They remain developable under the Otay Ranch GDP/SRP and County General Plan. Subsequently, there has been no action taken by the County to remove these areas from development; rather, the 2011 County General

- Plan Update is consistent with the Otay Ranch GDP/SRP as approved in 1993, which shows these areas as development with zoning as Specific Plan S-88. Accordingly, the development of PV1, PV2, and PV3 is consistent with the mitigation requirements of the MSCP and does not impede assembly of the 11,375 acre Otay Ranch RMP Preserve to the South County Segment of the MSCP County Subarea Plan.
- O-4-6** The comment states the Draft EIR wrongly applies the Biological Mitigation Ordinance to these parcels, violating the MSCP. The County disagrees that the Biological Mitigation Ordinance does not apply to PV1, PV2, and PV3. Please refer to **Thematic Response – Baldwin Letter and PV1, PV2, and PV3, Responses to Comments A-3-15, and A-3-19.**
- O-4-7** The comment asserts that impacts to golden eagle, Quino checkerspot butterfly, and spadefoot toad were not disclosed or mitigated. Impacts to golden eagle, Quino checkerspot butterfly and spadefoot were analyzed in Section 2.4, Biological Resources, of the Draft EIR. Accordingly, the Draft EIR adequately and appropriately analyzed and disclosed all impacts to golden eagle, Quino checkerspot butterfly, and spadefoot toad. Refer also to **Responses to Comments O-4-8 through O-4-10**, below for additional information.
- O-4-8** The comment states the extent and quality of Quino checkerspot butterfly habitat was incorrectly portrayed. The Draft EIR and Appendix 2.4-1, Biological Resources Technical Report, adequately address impacts to Quino checkerspot butterfly. Quino habitat assessments and focused surveys are discussed in Section 2.4.1 of the Draft EIR. Impacts to Quino checkerspot butterfly habitat were fully analyzed in Section 2.4, Biological Resources, of the Draft EIR, specifically on pages 2.4-77 through 2.4-79, page 2.4-84, and page 2.4-121. Cumulative impacts are analyzed in Section 2.4.4, pages 2.4-122 through 2.4-124. Section 2.4.5 determined that Impact BI-1, the loss of 793.7 acres of Quino checkerspot butterfly potential habitat, was a potentially significant impact. With implementation of mitigation measures M-BI-8 (Quino take authorization), M-BI-9 (Quino habitat preservation), and M-BI-10 (Quino Management/Enhancement Plan), as well as M-BI-3 (habitat conveyance and preservation), M-BI-4 (biological open space easement), and M-BI-5 (permanent fencing and signage), impacts to Quino checkerspot butterfly habitat would be reduced to less than significant.
- Please also refer to **Thematic Response – Quino Checkerspot Butterfly.**
- O-4-9** The comment states that spadefoot toad impacts are more severe than described in the Draft EIR.

In response to this comment, the project biologist reviewed the impact area associated with the proposed improvements to Proctor Valley Road, as this is the location where most of occupied western spadefoot features are located. Proctor Valley Road is located in the hardline Otay Ranch RMP/MSCP Preserve; accordingly, the road's impacts – including those relating to the proposed improvements to the road – were assumed and addressed in the Otay Ranch RMP, MSCP Plan, and the MSCP County Subarea Plan, as well as the Draft EIR. Based on the project biologist's updated review of the habitat maps and impact area for Proctor Valley Road, 4 features identified in the Draft EIR as being located in the Otay Ranch RMP/MSCP Preserve (A21, A27, D6, and AA4) will be affected by the proposed improvements to the existing Proctor Valley Road. Thus, the Proposed Project would adversely affect 12 of the 16 features occupied by western spadefoot on-site, 4 more than the 8 previously disclosed in the Draft EIR. Section 2.4.1.6, Existing Conditions, Special-Status Wildlife Species, of the Final EIR have been shown in ~~strikeout~~/underline to clarify the existing conditions and impacts to western spadefoot. (See also, **Response to Comment O-6.1-42 through A-6.1-45**).

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 and 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 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 which were not included within the 2017 focused survey. Further, the Proposed Project would realign a portion of Proctor Valley Road to avoid direct impacts to vernal pools and would also provide a 100' buffer to the vernal pool watershed to avoid indirect impacts. 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.

- O-4-10** The comment states that habitat loss due to edge effects were not disclosed for the eagle. The County does not agree with this comment. As stated on page 2.4-71 of the Draft EIR, edge effects are characterized as a subset of “indirect impacts.” Impact BI-11, which is entitled “Temporary Indirect Impacts to Special-Status Wildlife Species,” indicates that the Project would have a potential temporary significant impact “to avian foraging and wildlife access to foraging, nesting, and/or water resources” (page 2.4-130). Impact BI-12, entitled “Permanent Indirect Impacts to Special-Status Wildlife Species,” states the Proposed Project would have potentially significant, permanent indirect impacts (see page 2.4-131). The Draft EIR determined these impacts would be reduced to less than significant through implementation of mitigation measures M-BI-1, M-BI-2, M-BI-5, M-BI-14, M-BI-15, M-BI-16, M-BI-17, M-BI-18, M-BI-19, and M-BI-20 (Draft EIR, Section 2.4.7, pages 2.4-152 through 2.4-153). Note also that golden eagle is a covered species under the MSCP Plan and the MSCP County Subarea Plan. Therefore, the Proposed Project’s impacts, both direct and indirect, would be addressed through implementation of RMP Conveyance Obligation and specific mitigation measures. Refer to **Thematic Response – Golden Eagle**.
- O-4-11** The comment states that impacts to pollution to Otay Lakes were not disclosed or mitigated. The County does not agree with this comment. Section 3.1.2, Hydrology and Water Quality, of the Draft EIR analyzes the Proposed Project’s potential water quality impacts. The Upper and Lower Otay Reservoirs were discussed on pages 3.1.2-23 and 3.1.2-24 of the Draft EIR. The Draft EIR determined that the Proposed Project is not expected to cause adverse effects to the Upper and Lower Otay Reservoirs. Overall, water quality impacts from the Proposed Project would be less than significant; thus, no mitigation is required. Please also refer to **Responses to Comment Letter O-6.3**, prepared by Horner on behalf of the Endangered Habitats League.
- O-4-12** The comment expresses the commenter’s opinion that the GHG mitigation relies on a flawed carbon offsets scheme that will not address impacts. Please refer to **Thematic**

**Response – Carbon Offsets** for an explanation of why the use of carbon offsets complies with CEQA for purposes of reducing the Proposed Project’s impacts to greenhouse gas emissions.

- O-4-13** The comment expresses the commenter’s opinion that visual impacts are analyzed in a cursory, inadequate manner. The County disagrees with this comment. The Proposed Project’s visual impacts were adequately analyzed in Section 2.1, Aesthetics, of the Draft EIR.

Specifically, Section 2.1.2.2, Visual Character or Quality, analyzed impacts to scenic landscapes. This analysis, which is found on pages 2.1-26 through 2.1-31, includes 12 visual simulations (Draft EIR Figures 2.1-3 through 2.1-14) that depict the pre- and post-development simulations of the Proposed Project. As stated on page 2.1-31, “development ... would introduce features that would create contrast with existing features in the landscape, and impacts concerning degradation of the existing visual character and quality of the Project Area and surrounding areas would be potentially significant (Impact AE-2).” Mitigation measure M-AE-2 requires preparation of a Landscape Master Plan; however, impacts to the visual character and quality of the Project Area would remain significant and unavoidable (Draft EIR page 2.1-44). As stated in the Draft EIR on page 2.1-2:

The certified Otay Ranch PEIR [Program EIR] determined that impacts to visual character, alteration of landforms, and development in highly visible areas as a result of development planned in the 1993 Otay Ranch GDP/SRP would be significant and unmitigable. Mitigation measures were provided to reduce impacts; however, they would not have reduced impacts to below a level of significance.

In summary, the Proposed Project is consistent with the Otay Ranch GDP/SRP as analyzed in the Otay Ranch Program EIR. Visual impacts of the Proposed Project were previously determined to be significant and unavoidable, and mitigation measures were recommended that the Proposed Project complies with.

- O-4-14** The comment expresses the commenter’s opinion that the DEIR fails to disclose serious fire hazards and the inability to evacuate residents on overcrowded roads. The County does not agree that the Draft EIR fails to disclose fire hazards and does not agree that the Proposed Project would be unable to evacuate in the event of a wind-driven fire.

With respect to the disclosure of fire hazards, Appendix 3.1.1-2, Fire Protection Plan (FPP), of the Draft EIR, discusses fire hazards. The FPP, page 2, discloses the Proposed Project's location is "within an area statutorily designated as a Very High Fire Hazard Severity Zone." Please also refer to Section 2.2.6, Fire History, of Appendix 3.1.1-2, specifically Table 2, Fire History in the Proposed Project Area, which provides the fire history for the Project Area and notes that there have been 17 fires since 1910 that have burned in the Project Area.

Section 3.1.1.2.4 of the Draft EIR analyzes wildland fire hazards. As discussed therein, specifically on pages 3.1.1-24 through 3.1.1-29, impacts to wildfire hazards were determined to be less than significant because the Proposed Project would implement "the code-required fire safety features." It would also implement "additional features, including heat-deflecting landscape walls at strategic perimeter locations to augment the FMZs [fuel modification zones] and to provide additional perimeter protection for homes with a downslope at the edge of a rear yard (Appendix 3.1.1-2)" (Section 3.1.1.2.4). As such, the "Proposed Project demonstrates compliance with applicable fire codes, consistency with the Proposed Project's FPP [Fire Protection Plan], and the ability to meet the County's emergency response objectives" (Section 3.1.1.2.4 of the Draft EIR).

With respect to evacuation, please refer to Appendix 3.1.1-3, Wildland Fire Evacuation Plan, and Section 3.1.1.2.5 of the Draft EIR. Evacuation is also discussed in the **Thematic Response – Wildland Fire Evacuation and Protection**, and the responses to **Comment Letter O-6.5** (from Griffin Cove Transportation PLLC). Based on the improvements to Proctor Valley Road, the number of homes and residents within the Project Area, and the measures contained in Appendix 3.1.1-2, Fire Protection Plan, the Proposed Project's impacts to evacuation plans were determined to be less than significant because the Proposed Project would be able to evacuate in approximately 3 hours. Appendix 3.1.1-2 also anticipates that the incident command or other decision maker during a wildfire event may decide either of the following:

- If a wildfire occurs during a peak-hour period, law enforcement may suspend traffic entering the area from the north and/or the south, minimizing the potentially unsafe, additional flows of vehicles into the area and opening the road to residents.
- If roads are considered impeded, law enforcement and fire personnel may direct residents of the Proposed Project to remain in their homes, shelter at the school, or shelter in another designated area on site and remain alert until it is safe to evacuate.



Accordingly, the Draft EIR adequately evaluated wildfire hazards and evacuation.

- O-4-15** The comment expresses the commenter’s opinion that the Draft EIR fails to protect current and future use of the area by golden eagles through avoidance. The County does not agree that the Draft EIR fails to protect the current and future use of the area by golden eagle. Please refer to **Thematic Response – Golden Eagle**. In addition, as noted in Draft EIR Section 2.4.1.6, Existing Conditions, Special-Status Wildlife Species, “[g]olden eagles do not nest within the Project Area” (page 2.4-37). The Project Area is used for foraging, as disclosed in the Draft EIR under Guidelines 1E on pages 2.4-86 through 2.4-88. Section 2.4.1 of the Draft EIR includes an analysis of impacts to suitable golden eagle foraging habitat in the Project Area (Impact BI-6). As stated on page 2.4-151 of the Draft EIR, the Proposed Project’s individual impacts on golden eagle, including golden eagle nests and foraging habitat, would be less than significant, because (i) golden eagle is a Covered Species under the MSCP, (ii) the Proposed Project is consistent with MSCP Plan, County Subarea Plan, and Otay Ranch RMP, and (iii) the Proposed Project would implement golden eagle protection and habitat preservation measures as required by those plans.

As stated in **Response to Comment O-4-3**, cumulative impacts to golden eagle were analyzed in the Draft EIR in Section 2.4.4, Cumulative Impacts, on pages 2.4-125 through 2.4-128. The Draft EIR determined that such cumulative impacts would be less than significant. Further, mitigation measure M-BI-3 requires approximately 778 acres be conveyed to the Otay Ranch Preserve Owner/Manager in satisfaction of the Otay Ranch Preserve Conveyance Obligation required by the Otay Ranch Resource Management Plan, and mitigation measure M-BI-4 requires a biological open space easement. Conveyance of 778 acres of Preserve Open Space would help ensure future foraging habitat for golden eagle in compliance with the MSCP County Subarea Plan. Additionally, mitigation measure M-BI-5 (permanent fencing and signage) would mitigate for potential long-term impacts by deterring unauthorized human activity within the Preserve.

- O-4-16** The comment expresses the opinions of the commenter that the assessment for golden eagles is inadequate and unacceptable and fails to utilize all relevant data about past, present, and future use of golden eagles and other at-risk species in the area. The County does not agree with this comment. Impacts to golden eagles and “other at-risk species” were adequately analyzed in Section 2.4, Biological Resources, of the Draft EIR. Also, please refer to **Thematic Response – Golden Eagle**. The comment does not provide any of the “relevant data,” and does not raise an issue regarding the adequacy of the Draft EIR. Therefore, no further response is required or provided.

- O-4-17** The comment expresses the opinions of the commenter that the County must require a significant change to the Proposed Project to avoid impacts to golden eagles and other environmental impacts. The County does not agree with this comment. Please to **Responses to Comments O-4-5** through **O-4-16** above for more specific responses to concerns raised by the commenter. The commenter does not provide any specific detail regarding why the analysis of golden eagle in the Draft EIR, or other analyses, are not adequate; therefore, no further response is required or provided.
- O-4-18** The comment provides concluding remarks. The comment addresses a general subject area, “long-term sustainability of local wildlife,” that received extensive analysis in Section 2.4 of the Draft EIR. As stated in **Response to Comment O-4-2**, above, the Proposed Project would mitigate all impacts to biological resources to less than significant through implementation of mitigation measures M-BI-1 through M-BI-21, as determined in Section 2.4.7, Conclusion, of the Draft EIR. No further response is required or provided.