

O-6.1 BIOLOGICAL REVIEW

- O-6.1-1** The comment restates information contained in Chapter 1, Project Description of the Draft EIR. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required.
- O-6.1-2** The comment summarizes the purpose of the commenter’s review and serves as an introduction to comments that follow. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required.
- O-6.1-3** The comment provides information related to a site visit conducted by the commenter. The comment does not raise an issue as to the adequacy of the Draft EIR; therefore, no further response is required.
- O-6.1-4** The comment states the County seeks take authorization for PV1, PV2, and PV3 through the County Subarea Plan and the County’s 10(a) permit. The comment does not raise any issue as to the adequacy of the Draft EIR; therefore, no further response is required.
- O-6.1-5** The comment states that the “Subarea Plan incorporates into its requirements the Baldwin Agreement, which takes the form of a letter from The Baldwin Company dated November 10, 1995” and that “the County is aware that the Subarea Plan specifies that PV1, PV2, and PV3 are to be designated “as part of the MSCP Preserve” in exchange for allowing development in other areas that were originally intended for preserve.” The comment reflects the opinion of the commenter. The County does not agree that the Baldwin Letter is an agreement, or that PV1, PV2, and PV3 are designated as Preserve. Please refer to **Thematic Response – Baldwin Letter and PV1, PV2, and PV3**.
- O-6.1-6** The comment states that the City of Chula Vista has already permitted development to expand into areas, which otherwise would have been preserved as part of the Otay Ranch Preserve without the “Baldwin Agreement”; and as a result, USFWS and CDFW have issued the “take” permits to both the County of San Diego and the City of Chula Vista for new development anticipated by the Subarea Plan and the “Baldwin Agreement.” The County does not agree that the Baldwin Letter authorized any changes to land uses in Chula Vista. Please refer to **Response to Comment A-3-35** and **Thematic Response – Baldwin Letter and PV1, PV2, and PV3**.
- O-6.1-7** The comment refers to a Notice of Preparation (NOP) comment submitted by the Wildlife and Habitat Coalition regarding the “Baldwin Agreement.” The comment states the Draft EIR did not respond to the comment, rather the Draft EIR is written as

- if the Subarea Plan does not preserve PV1, PV2, and PV3. The comment also expresses an opinion that the County's position on this point will have implications far beyond this one project, and the County cannot cast off the terms of the Plan without throwing the future of the MSCP itself into doubt. The County does not agree that the MSCP County Subarea Plan preserves PV1, PV2, and PV3. Please refer to **Thematic Response - Baldwin Letter and PV1, PV2, and PV3**. The Draft EIR analyzed the impacts associated with these areas through application of the BMO. The analysis in the Draft EIR has determined that the Proposed Project is consistent with the MSCP County Subarea Plan, as well as the MSCP Plan, County General Plan, Otay Ranch GDP/SRP, and Otay Ranch RMP. Further, as noted in **Response to Comment A-3-16**, 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.
- O-6.1-8** The comment states that the Draft EIR fails to discuss the planning issues surrounding the proposed development of PV1, PV2, and PV3 and thus deprives the public of a good-faith, reasoned analysis of the issue, which the public asked to be considered in comments on the NOP. The comment further states that, in omitting the referenced discussion, the Draft EIR violates CEQA Guidelines Section 15146 (b), which addresses the level of analytical detail required of an EIR when assessing the proposed adoption of a comprehensive zoning ordinance or a local general plan. As explained in **Response to Comment O-6.1-7**, the Draft EIR accurately characterizes PV1, PV2, and PV3 as “developable” under the County General Plan and Otay Ranch GDP/SRP, and analyzes the potential impacts and consistency with the MSCP and the BMO. Please also refer to **Thematic Response – Baldwin Letter and PV1, PV2, and PV3**. Thus, the level of detail provided in the Draft EIR complies with CEQA Section 15146(b).
- O-6.1-9** The comment expresses an opinion that the County's decision to abandon the Baldwin exchange without providing equivalent compensatory mitigation may be seen that the County has stopped implementing the MSCP and this action would “mark the effective dissolution of the MSCP as a coherent and reliable planning document.” The County does not agree with this comment. The County does not consider the Baldwin Letter an agreement as explained in **Thematic Response – Baldwin Letter and PV1, PV2, and PV3**. Further, the Proposed Project is consistent with the MSCP Plan and the MSCP County Subarea Plan. The Draft EIR accurately and adequately analyzes the Proposed Project's impacts, including impacts from the proposed development of PV1, PV2, and PV3.

O-6.1-10 The comment introduces comments to follow regarding the Biological Mitigation Ordinance Findings for PV1, PV2, and PV3 Located in the Otay Ranch Village 14 and Planning Areas 16/19 Proposed Project – also referred to as the “BMO Analysis and Findings Report.” The comment also states that the BMO is improperly applied to PV1, PV2, and PV3. The comment then introduces additional comments which, according to the commenter, evaluates PV1, PV2, and PV3 against the BMO criteria, in the event the County determines the BMO does in fact apply to these three parcels. The County does not agree with the comment that the BMO does not apply to PV1, PV2, and PV3. As stated in Section 1.3 (page 2) of the Biological Mitigation Ordinance Findings for PV1, PV2, and PV3 Located in Otay Ranch Village 14 and Planning Areas 16/19 (Appendix A of the Biological Resources Technical Report) and Section 2.4.2.3 of the Draft EIR (page 2.4-63), the BMO is applicable to PV1, PV2, and PV3 for the following reasons:

1. Section 86.502, Application of Regulations, of the Biological Mitigation Ordinance (BMO) states that, unless exempt, the BMO “shall apply to all land within San Diego County shown on the MSCP Boundary Map (Attachment A of Document No. 0769999 on file with the Clerk of the Board).”
2. Section 86.503 outlines instances when an exemption applies from the BMO requirements.
 - a. Item a(4) provides an exemption for “any Take Authorization Area approved by the Board of Supervisors and the Wildlife Agencies as part of the County Subarea Plan, as shown on Attachment B of Document No. 0769999 on file with the Clerk of the Board or any approved Habitat Loss Permit issued pursuant to 16 U.S.C. [United States Code] Sec. 1533(d)” (County of San Diego 2010, Section 86.503, Item a[4]). PV1, PV2, and PV3 are not shown as Take Authorized Areas.
 - b. Section 86.503 of the BMO, Exemptions, identifies 11 other criteria for exemptions. PV1, PV2, and PV3 do not qualify for any of these exemptions.
 - c. In addition, Attachment B of the BMO shows the entire approved Otay Ranch GDP/SRP Development Footprint for the Proposed Project, not including PV1, PV2, and PV3, as exempt from the BMO.

- Accordingly, because PV1, PV2, and PV3 do not qualify for an exemption, the BMO is applicable as analyzed in Section 2.4 of the Draft EIR and Appendix 2.4-1, Biological Resources Technical Report.
- O-6.1-11** The comment restates information regarding PV1, PV2, and PV3 contained in the Draft EIR, specifically from Appendix A to Appendix 2.4-1, Biological Resources Technical Report. The comment does not raise an issue as to the adequacy of the Draft EIR; therefore, no further response is required or provided
- O-6.1-12** The comment restates information from Appendix A to the Biological Resources Technical Report (Appendix 2.4-1 to the Draft EIR) regarding PV1, PV2, and PV3. The comment also expresses the opinion that the County is ignoring language in the MSCP County Subarea Plan that PV1, PV2, and PV3 shall be incorporated as “part of the MSCP Preserve.” The comment further expresses an opinion that any development of these parcels would first require mitigation to compensate for the development actions already taken as part of the Baldwin Letter, and then additional mitigation for loss of PV1, PV2, and PV3. The County does not agree with this comment as explained in **Thematic Response – Baldwin Letter and PV1, PV2, and PV3**, which clarifies that PV1, PV2, and PV3 are not Preserve. Development of these parcels does not require additional mitigation (beyond what is analyzed and contained in the Draft EIR) because the Proposed Project, including PV1, PV2, and PV3, is consistent with the MSCP Plan, MSCP County Subarea Plan, County General Plan, and Otay Ranch GDP/SRP and RMP.
- O-6.1-13** The comment is critical of the Draft EIR’s application of BMO criterion 1 (project shall be sited to minimize impacts on habitat) to PV1, PV2, and PV3. According to the comment, the Draft EIR refers to small areas of coastal sage scrub that would be avoided on the edges of PV2 and PV3, and then uses this avoidance “to enable a claim of technical compliance with Criterion 1.” The comment then states that the purpose of developing PV1, PV2, and PV3 is “to increase the feasibility of developing the Village 14 site in the middle of Proctor Valley, which would increase the project’s impacts to habitat, not minimize them.” The comment reflects the opinion of the commenter. The comment does not provide specific evidence supporting the commenter’s assertion that the Proposed Project violates BMO Criterion 1. In addition, the County disagrees that the purpose of developing PV1, PV2, and PV3 is to increase the feasibility of developing the Village 14 site and thereby increase impacts to habitat. To the contrary, PV1, PV2, and PV3 were and remain developable parcels within Village 14 under the County General Plan and Otay Ranch GDP/SRP; they are not “add-ons” as the comment suggests. Development proposed for PV1, PV2, and PV3 has been designed to minimize

- impacts to habitat, as is explained in both Draft EIR Section 2.4-1, Biological Resources, and the BMO Findings and Analysis Report.
- O-6.1-14** The comment states that for reasons detailed in the comment letter, including reasons provided by conservation biologists, “establishing a large development in the middle of Proctor Valley is expected to be disastrous” for species such as Quino checkerspot butterfly, golden eagle, and western spadefoot. Impacts to these species received extensive analysis in Section 2.4, Biological Resources of the Draft EIR. Please also refer to **Responses to Comment Letter O-6.2** (Osborne and Ballmer) regarding impacts to Quino checkerspot butterfly as well as **Thematic Response – Quino Checkerspot Butterfly; Response to Comments O-6.1-47 through O-6.1-60** and **Thematic Response – Golden Eagle** regarding impacts to golden eagle; and **Responses to Comments O-6.1 40 through O-6.1-46** regarding impacts to western spadefoot. The comment does not raise an issue regarding the adequacy of a specific analysis in the Draft EIR; therefore, no further response is required or provided.
- O-6.1-15** The comment restates information contained in the BMO Analysis and Findings report regarding Quino checkerspot butterfly host plants on PV1, PV2, and PV3. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required.
- O-6.1-16** The comment refers to comments provided by Ken Osborne and Gregory Ballmer addressing Quino checkerspot butterfly host plants. According to the comment, Osborne and Ballmer are of the opinion that “the preserved host plants would remain close to the edge of the development area where they would be compromised by edge effects not mitigated by the project.” Please refer to **Response to Comment O-6.2-11**.
- O-6.1-17** The comment states that “adding PV1, PV2, and PV3 to the proposed development in Village 14 would substantially increase impacts to sensitive habitat areas.” The comment also expresses an opinion that the “minor pull-backs along the edges of PV2 and PV3 should be seen as efforts to achieve some nominal claim to having satisfied Criterion 1 of the BMO.” Please refer to **Response to Comment O-6.1-13**. The comment does not raise an issue regarding the adequacy of the Draft EIR, therefore, no further response is required or provided. The County would point out that PV1, PV2, and PV3 have not been “added” to the Village 14 development. Rather, PV1, PV2, and PV3 have always been part of Village 14 and have retained, without interruption, the development designations assigned to them in the Otay Ranch GDP/SRP approved in 1993.

O-6.1-18 The comment addresses the Proposed Project’s compliance with BMO Criterion 2, which provides that, where necessary to achieve avoidance of habitat, the County shall consider clustering projects to the maximum extent permitted by County regulations. The comment notes that, according to the BMO Analysis and Findings Report, it “is not feasible to further cluster development [on PV1, PV2, and PV3] and still meet land use designations. The commenter then states that “[p]resumably, an important reason for adopting the Baldwin Agreement was to avoid such poorly sited development within an important Biological Resources Conservation Area.” The comment reflects the opinion of the commenter.

The County reiterates that the Baldwin Letter is not an agreement, and thus there is no Baldwin “Agreement” as stated in the comment. The Proposed Project is consistent with the MSCP Plan and the MSCP County Subarea Plan. Please also refer to **Thematic Response – Baldwin Letter and PV1, PV2, and PV3**.

O-6.1-19 The comment restates information from Appendix A of the Biological Resources Technical Report (Appendix 2.4-1 to the Draft EIR) regarding the Proposed Project’s consistency with BMO Criterion 3 and notes that the commenter concurs with the analysis. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

O-6.1-20 The comment restates information from Appendix A of the Biological Resources Technical Report (Appendix 2.4-1 to the Draft EIR) regarding the Proposed Project’s consistency with BMO Criterion 4 and notes that the commenter concurs with the analysis. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

O-6.1-21 The comment addresses the Proposed Project’s consistency with BMO Criterion 5 (compliance with applicable design criteria in the MSCP County Subarea Plan). The comment expresses an opinion that the BMO Analysis and Findings Report “continues the earlier charade of attempting to demonstrate that creating new bubbles of development connected by extensive roads within a largely undisturbed core habitat area somehow contributes to achieving applicable preserve design criteria.” The comment then states that development of PV1, PV2, and PV3 would result in extensive habitat fragmentation and edge effects. Please refer to **Responses to Comment O-6.1-24** and **O-6.1-28** regarding habitat fragmentation and edge effects. The comment expresses the commenter’s opinions on the BMO analysis. The comment does not raise an issue regarding the adequacy of the analysis in the Draft EIR; therefore, no further response is required or provided.

- O-6.1-22** The comment expresses the commenter’s opinion that reliance on the Preserve Edge Plan to achieve compliance with Criterion 5 of the BMO is “farfical.” Please refer to **Response to Comment O-6.1-28**. The comment expresses the commenter’s opinions on the BMO analysis. The comment does not raise an issue regarding the adequacy of the analysis in the DEIR, therefore, no further response is required or provided.
- O-6.1-23** The comment provides a summary of comments and opinions regarding the BMO analysis, as previously stated in comments O-6.1-13, O-6.1-18 and O-6.1-21. Please refer to **Response to Comments O-6.1-13, O-6.1-18 and O-6.1-21**, above. The comment expresses the commenter’s opinions on the BMO analysis. The comment does not raise an issue regarding the adequacy of the analysis in the DEIR, therefore, no further response is required or provided.
- O-6.1-24** The comment states the Proposed Project has a very high ratio of perimeter to development area, with extensive areas subject to fuel modification disturbance. The comment generally refers to research describing the adverse effects to native plant and wildlife populations resulting from proximity of human settlements near open space and fragmentation of natural landscape. The comment asserts the Draft EIR fails to adequately describe or analyze any of these effects within the context of relevant published research.

Both the MSCP Plan (1998) and the MHPA and Preserve system anticipated and addressed edge and habitat fragmentation effects of the MSCP. For this reason, the MSCP Preserve was designed to be large enough to absorb edge effects and prevent them from having a substantially adverse effect on covered species. The Preserve also includes wildlife corridors and linkages to address potential fragmentation impacts. As explained in the Draft EIR on pages 2.4-61 through 2.4-71, Section 2.4.2.3, Regional Regulations, the hardline MSCP Preserve boundaries of the Proposed Project were previously approved in the MSCP Plan, the County MSCP Subarea Plan, and the Otay Ranch RMP. Moreover, the Proposed Project can be implemented consistent with the MSCP Preserve, which the MSCP Implementing Agreement determined to be sufficient to adequately provide for the conservation and protection of covered species and their habitat in perpetuity (Implementing Agreement Section 9.3). The MSCP Preserve, which includes the RMP Preserve, was deemed to be satisfactory per the County’s Section 10 permit, the MSCP, and the Implementing Agreement to mitigate for development impacts, including edge effects and fragmentation impacts, within the MSCP County Subarea Plan.

With respect to habitat fragmentation and maintaining habitat connectivity for wildlife movement (i.e., dispersal or periodic movements between large habitat areas)

and plant movement (i.e., dispersal, pollinator movements), the Draft EIR addresses habitat fragmentation and habitat connectivity in multiple sections. In the Draft EIR detailed discussions and analyses of the local and regional wildlife corridors in the Project Area and immediate vicinity occur on page 2.4-54 of Section 2.4.1.8, pages 2.4-101 through 2.4-107 of Section 2.4.3.4, Guideline 4.4: Wildlife Movement and Nursery Sites; pages 2.4-115 through 2.4-117 and 2.4-120 of Section 2.4.3.5, Guideline 4.5: Local Policies, Ordinances, and Adopted Plans; page 2.4-128 in Section 2.4.4, Cumulative Impact Analysis; pages 2.4-133 and 2.4-134 in Section 2.4.5, Significance of Impacts Prior to Mitigation (Impacts BI-25 through BI-28); and page 2.4-156 in Section 2.4.7, Conclusion.

Management of long-term indirect impacts, including edge effects, 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; Section 6.3.3, Preserve Management on Private Lands; Section 6.3.4, Fire Management; Section 6.3.5, Restoration; Section 6.3.7, Hydrology; Section 6.3.7, Fencing, Signage, and Lighting; Section 6.3.8, Predator and Exotic Species Control; Section 6.3.9, Species Reintroduction; and Section 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 preserve will be minimized using good land planning and design principles and preserve management provisions” (page 6-3). As such, by incorporating the vast majority of the Proposed Project as a hardline area that was previously analyzed and approved in the MSCP Plan and Otay Ranch RMP, which assumed this level of development and corresponding habitat loss, the Proposed Project can be implemented consistent with the habitat loss findings set forth in Table 3-5 of the MSCP Plan and incorporated by reference into the USFWS-issued Section 10 permit. The MSCP Preserve was deemed to be satisfactory per the Biological Opinion (USFWS 1998) to mitigate for development impacts within the MSCP County Subarea Plan.

Summaries of potential indirect impacts, including edge effects, 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 (2.4-89), special-status wildlife species (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).

While the Draft EIR provides summaries of the indirect impacts, the Biological Resources Technical Report (Appendix 2.4-1 of the Draft EIR) provides more detailed descriptions of indirect impacts, and which descriptions are the basis for the summarized indirect impacts analyses in the Draft EIR. Relevant sections of the Biological Resources Technical Report include Section 5.1.2, Indirect Impacts to Riparian Habitat or Sensitive Vegetation Communities, page 421; Section 5.2.2, Indirect Impacts to Special-Status Plants, page 422; Section 5.3.2, Indirect Impacts to Special-Status Wildlife Species, page 455; Section 5.4.2, Indirect Impacts to Jurisdictional Aquatic Resources, page 460; and Section 5.5.2, Indirect Impacts to Habitat Connectivity and Wildlife Corridors, page 476. Based on the indirect impact information presented in these sections, the Biological Resources Technical Report provides indirect impact summaries in Section 6.2.8, Project Effects Relevant to Guideline 4.1.H (Indirect Impacts) (County Guideline 1H cited above), on pages 507 through 509 (that are restated in the Draft EIR); and Section 2.4.3, Analysis of Project Effects and Determination as to Significance, on pages 2.4-88 through 2.4-90.

- O-6.1-25** The comment is an introductory comment to the following comments regarding the range of effects and their potential significance to the CEQA analysis of a large development project between the identified BRCAs. This comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- O-6.1-26** The comment provides introductory remarks regarding means to address habitat fragmentation and edge effects. The comment states that “Some effects, such as the excessive habitat fragmentation and creation of new edge that accompany a sprawling project design, must be addressed by avoidance, because even the most ecologically sensitive edge treatments cannot be expected to work miracles. Other effects, such as fragmentation and loss of habitat, can be partially mitigated by planting slopes

adjacent to natural areas exclusively with appropriate, locally native plant species.” The comment then indicates that more comments on this topic will follow.

The comment does not raise an issue as to the adequacy of the Draft EIR; therefore, no further response is required or provided. See also **Response to Comment O-6.1-24**.

O-6.1-27 The comment provides a scientific literature review of habitat fragmentation and edge effects. The comment and material cited within the comment provides background information regarding edge and fragmentation effects. The Draft EIR preparers have reviewed the literature cited in the comment. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

O-6.1-28 The comment expresses an opinion that the Draft EIR fails to discuss and evaluate each type of biological effect resulting from development edges and habitat fragmentation, and then fails to analyze whether each effect would be potentially significant. The comment asserts that the Draft EIR simply lists a number of effects on page 2.4-72 and asserts that the Proposed Project’s Preserve Edge Plan will ensure that each will be avoided or mitigated to below the level of significance. The comment further states a simple listing of effects does not actually disclose their nature or potential severity, and developing a Preserve Edge Plan does not necessarily cause potentially significant effects to become less significant. The comment contends that the Preserve Edge Plan, which is not a CEQA mitigation measure, essentially amounts to a series of landscaping and design guidelines not geared specifically for avoiding, minimizing, and compensating for the Proposed Project’s significant edge and fragmentation effects.

The County disagrees the Draft EIR fails to adequately discuss and evaluate edge effects and fragmentation. Please refer to **Response to Comment O-6.1-24**.

The Preserve Edge Plan was required by the Otay Ranch GDP/SRP and included as a mitigation measure in the Program EIR for the GDP/SRP. Moreover, implementation of components of the Preserve Edge Plan is a required element of several mitigation measures designed to avoid and minimize adverse edge effects, including mitigation measures M-BI-5 (permanent fencing and signage), M-BI-14 (SWPPP), M-BI-16 (prevention of invasive plant species) and M-BI-18 (noise).

Further, the Preserve Edge Plan was prepared to be in compliance with the MSCP Plan, MSCP County Subarea Plan, and applicable Otay Ranch GDP/SRP and RMP

policies. The Preserve Edge Plan is intended to avoid and minimize adverse edge effects to biological resources in the Otay Ranch RMP Preserve, which is essentially consistent with the MSCP Preserve within in the Otay Ranch Project Area.

The Preserve Edge Plan, Section I, Introduction (page 1) specifically states that, “The Otay Ranch RMP requires preparation of a Preserve Edge Plan for all 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 RMP requirements. Section III, Compliance with MSCP policies and MSCP County Subarea Plan Guidelines, includes discussions of landscape materials (page 27), uses within the RMP Preserve edge (page 28), lighting (page 29), access controls (page 30), buffers (page 35), temporary construction impacts to the RMP Preserve (page 40), typical conditions at the RMP Preserve edge (page 41), and drainage (page 51).

- O-6.1-29** The comment cites page 37 of the Preserve Edge Plan, which states that some fuel modification zones along the development edge would occupy the entire 100-foot-wide edge zone, with irrigation provided up to the edge of natural habitat. Irrigation is known to attract Argentine ants to natural areas. According to the comment, no effort is made to develop alternative methods to provide the required fire protection without contributing to the Proposed Project’s already considerable edge effects.

The comment mischaracterizes the irrigation information on page 37 of the Preserve Edge Plan and the effect it may have on attracting Argentine ants because the example provided in the comment is taken out of context. Importantly, the irrigation design proposed for the Preserve edge in Village 14 includes permanent irrigation within the Fuel Modification Zone (FMZ) 1 (0 to 50 feet) and temporary irrigation in Zone 2 (51 to 100 feet) to ensure vegetation establishment (Zone 2 along the entire Preserve edge will not be permanently irrigated) In effect, once vegetation is established in Zone 2 along the Preserve edge, it will be a “dry zone” that is less suitable for Argentine ant during dry periods, and colonies that could then invade the Preserve will be less likely to be established in this zone. Therefore, no alternative methods to provide the required fire protection is required. In addition, the following PDFs and management measures will be implemented to prevent Argentine ant invasion of the Otay Ranch RMP Preserve:

1. Where feasible and/or appropriate, dry areas such as parking lots and roadways shall be built next to Preserve boundaries. These shall be designed to slope away from the Preserve to prevent runoff from entering the Preserve.

2. Pedestrian pathways in or next to the Preserve shall consist of decomposed granite or other gravel to minimize moisture retention, thereby preventing establishment of suitable habitat for Argentine ants.
3. All landscape container plants installed within 200 feet of the Preserve shall be inspected to ensure that they are ant-free prior to installation.
4. The Proposed Project shall be designed to ensure that the natural hydrologic conditions within the Preserve are maintained. Potential impacts shall be reduced through design features, including biofiltration basins and low-impact-development and source-control features such as preservation of existing vegetation wherever possible and smart irrigation systems. In addition, information and awareness shall be provided to home owners about integrated pest management. To eliminate potential flooding impacts during peak storm events, the proposed storm drain system shall consist of appropriate on-site inlet placement and storm drains sized to handle peak-flow capacities. Similarly, off-site road improvements shall include drainage improvements necessary for peak-flow runoff conveyance.
5. Per the Preserve Edge Plan (RH Consulting Group et al. 2018), the Proposed Project shall use drought-resistant plants in the 100-foot Preserve edge to minimize irrigation to the extent feasible.

Based on these design features and management measures, the Proposed Project would not have a significant impact related to Argentine ant infestation within or adjacent to the Otay Ranch RMP Preserve.

O-6.1-30 The comment states cites page 58 of the Preserve Edge Plan, which states that landscaping along edges would be “preferably native.” According to the comment, the term “preferably native” carries no weight as a form of native habitat mitigation.

The landscaping in the 100-foot buffer along the Preserve edge is not proposed as native vegetation mitigation for native habitat loss due to development. Conveyance to the Otay Ranch RMP Preserve and designation of Conserved Open Space within the Project Area provide mitigation for native habitat loss. The landscape plan is intended to protect the Preserve from adverse edge effects such as invasive species to the extent feasible. The context of the “preferably native” statement is related specifically to shielding lighting from areas of the MHPA. Landscape plans for areas within the 100-foot Preserve edge may not contain invasive species and must include local native species, consistent with the Approved Plant List (page 27). The plant

palette for the Preserve Edge Plan has been reviewed for any non-native species that could be invasive and these have been removed (specifically, *rhus lentii*). However the list does include some hybrid cultivars and species not native to the Proposed Project's vicinity but that do not pose a threat in terms of naturalizing. Attachment "A" Approved Plant List of the Preserve Edge Plan has been revised as follows

As verified by the Applicant's biologist, ~~all~~ species included in the Approved Plant List ~~are~~ include mostly plants native to California and which occur naturally and frequently in San Diego County and other generally drought tolerant species that are not invasive.

- O-6.1-31** The comment states that The Approved Plant List for "RMP Preserve Interface/Transitional Areas" contains numerous non-native species that will not contribute to mitigation of the Project's significant impacts to native plant communities.

As explained in **Response to Comment O-6.1-30**, the Preserve edge landscaping is not intended to provide mitigation for loss of native vegetation. Further, as noted, the palette contains no invasive species.

- O-6.1-32** The comment states that the Approved Plant List includes *Rhus lentii*, a species native to Cedros Island in Mexico. The comment expresses concern that introduction of this species to the site could create *Rhus* hybrids in preserved areas. According to the comment, the Preserve Edge Plan should incorporate locally native species.

In response to this comment, *Rhus lentii* has been removed from the Approved Plant List. This revision will be shown in ~~strikeout~~/underline in the final version of the Preserve Edge Plan.

- O-6.1-33** The comment provides a concluding summary of the previous **Comments O-6.1-24** through **O-6.1-32**. The comment expresses the opinion that the Proposed Project appears to be designed to maximize development edge, and the Draft EIR fails to discuss or use extensive scientific information to describe adverse effects. The comment also expresses an opinion that adverse effects may extend as far as 250 meters (820 feet) into preserved habitat areas and that Draft EIR fails to adequately describe or analyze significant adverse effects related to development edge or habitat fragmentation. Refer to **Responses to Comments O-6.1-24, O-6.1-28, O-6.1-29 and O-6.1-30**.

- O-6.1-34** The comment states that the Draft EIR's proposed mitigation measures do not provide a clear nexus to the Project's edge and fragmentation effects. The comment then

states that the Preserve Edge Plan contains no actual habitat restoration or even strictly native landscaping that will address potentially significant edge and fragmentation effects.

The County disagrees that the mitigation measures in the Draft EIR do not provide a clear nexus to the Proposed Project's edge and fragmentation effects. Section 2.4.6, Mitigation (pages 2.4-134 through 2.4-148) of the Draft EIR, includes mitigation measures to address both fragmentation and temporary construction-related and permanent development-related edge effects, several of which include implementation of components of the Preserve Edge Plan. Relevant mitigation measures for fragmentation and edge effects include 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-14 (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). These mitigation measures are provided in full in Section 2.4.6, Mitigation, of the Draft EIR.

Further, the Preserve Edge Plan was prepared to be in compliance with the MSCP Plan, MSCP County Subarea Plan, and applicable Otay Ranch GDP/SRP and RMP policies. The Preserve Edge Plan is intended to avoid and minimize adverse edge effects to biological resources in the Otay Ranch RMP Preserve. As stated in **Response to Comment O-6.1-30**, the landscaping in the 100-foot buffer along the Preserve edge is not proposed as native vegetation mitigation for native habitat loss due to development. The landscape guidelines in the Preserve Edge Plan are intended to protect the Preserve from adverse edge effects such as invasive species to the extent feasible. The Preserve Edge Plan includes guidelines that landscaping should primarily consist of native species similar/compatible with the adjacent habitat in the Preserve and prohibits plants of invasive non-native species. If possible, the native species should be based on plants with genetic materials of the area (Preserve Edge Plan, page 27).

O-6.1-35 The comment provides concluding remarks to comments listed above regarding edge effects and habitat fragmentation. Please refer to **Responses to Comments O-6.1-28** through **O.6.1-35**. No further response is required or provided.

O-6.1-36 The comment states that the DEIR characterizes plant communities according to the Draft Vegetation Communities of San Diego County (Oberbauer et al. 2008). The comment asserts that several plant communities on the site, as viewed by the commenter from Proctor Valley Road, appeared to differ from those mapped in the

Draft EIR. The comment also quotes from an attached letter from Jerre Stallcup of the Conservation Biology Institute to CDFW. The commenter expresses an opinion, agreeing with Ms. Stallcup, that the Draft EIR would have provided more detailed and useful information if the vegetation communities within the Project Area had been classified and mapped using *A Manual of California Vegetation*, second edition (Sawyer et al. 2009).

The County of San Diego Report Format and Content Requirements: Biological Resources, Section 3.4.1, requires that all projects within the County's jurisdiction map characterize plant communities according to the Draft Vegetation Communities of San Diego County (Oberbauer et al. 2008). Therefore, the vegetation mapping within Proposed Project follows the County's guidelines. Moreover, the comment provides no actual evidence that the vegetative mapping conducted for the Draft EIR is in error. The commenter acknowledges the observations were made from Proctor Valley Road and not through an actual survey of the site. The comment does not identify which specific areas of vegetation the commenter believes were not mapped correctly. The comment does not raise an issue regarding the adequacy of the analysis in the Draft EIR; therefore, no further response is required or provided.

- O-6.1-37** The comment states that “CEQA requires that the DEIR accurately describe the existing conditions.” The comment then proceeds to describe the habitat conditions and wildlife that occur in Village 14 and Planning Areas 16/19. The comment serves an introduction to the comments that follow, which provide examples of some areas the commenter asserts are mapped incorrectly and/or inaccurately in the Draft EIR. No further response is required or provided.
- O-6.1-38** The comment identifies portions of the Project Area for which the commenter believes the vegetation was mapped incorrectly. The comment states that areas shown on the map excerpts from Figure 2.4-10b of the Draft EIR should be mapped as disturbed coastal sage scrub or non-native grassland and not Diegan coastal sage scrub. The comment also asserts that by mapping heavily disturbed and degraded habitat as undisturbed, the Draft EIR misrepresents the resource values present in Planning Areas 16/19. As stated in **Comment O-6.1-36**, the commenter “was not able to walk out onto the project site in order to carefully examine large areas” of the Project Area to review the plant communities that were mapped for the Proposed Project. The commenter instead relies upon the aerial maps provided within the Draft EIR and Google Earth Pro to infer that the vegetation within the Project Area was incorrectly mapped.

The portion of Planning Area 16 shown in the first excerpt (incorrectly identified as being within Planning Area 19) is located within the Otay Ranch RMP Preserve. As stated in the Proposed Land Exchange Equivalency Analysis for Otay Ranch Village 14 and Planning Areas 16 & 19, this area is recovering from wildfires: “Within the Jackson Pendo exchange parcel in Planning Area 16, there are approximately 33 acres of mapped coastal sage scrub, which, likely due to wildfires in 2003 and 2007, are currently sparser than the surrounding coastal sage communities.” In addition, this area was reviewed by USFWS staff during field visits conducted in 2014 specifically discussing the land exchange and the area was confirmed to be sparse coastal sage scrub. The shrubs within this area are smaller and harder to see based on aerial imagery alone.

The second excerpt and associated photo are not the same location. The photo is more representative of the first excerpt as shown by the building mapped within Figure 2.4-10b and shown on the photo. However, based on the excerpt this area is also recovering from wildfires.

The third excerpt is actually from Figure 2.4-10d, and not Figure 2.4-10b as stated in the comment. Again, the commenter expresses an opinion from aerial imagery alone that this area should be mapped as disturbed coastal sage scrub or non-native grassland.

- O-6.1-39** The comment states western spadefoot is a Species of Special Concern and is not an MSCP Covered Species. The comment contends that the MSCP does not provide mitigation via habitat tier mitigation ratios because the species occurs in a sporadic, non-uniform distribution associated with suitable breeding pools. The comment then states that because the western spadefoot is not covered under the MSCP, a site-specific analysis of Project-related impacts on the species is required. The comment concludes by stating that the Draft EIR’s analysis of such impacts is misleading and inadequate.

The County disagrees with the comment regarding the adequacy of the Draft EIR’s assessment of Proposed Project’s impacts to western spadefoot. **Please refer to Responses to Comments O-6.1-40 through O-6.1-46.**

- O-6.1-40** The comment provides background information on the western spadefoot dispersal from breeding sites to aestivation areas. The comment states that the Draft EIR fails to account for the use of aestivation habitat by focusing only on breeding pools.

Please refer to **Response to Comment O-6.1-42** regarding aestivation habitat.

O-6.1-41 The comment provides background information on development-related edge effects on western spadefoot based on a U.S. Geological Survey (USGS) report prepared for the City of Santee (Rochester et al. 2017), including seasonal flows, altered watershed dynamics, Argentine ants, and increased outdoor activity. The comment states that the Draft EIR fails to address these factors and provides no species-specific mitigation for these potential effects.

The EIR preparers have reviewed the cited USGS document. Indirect impacts to special-status wildlife species, including western spadefoot, in general are described on page 2.4-130 in Section 2.4.5, Significance of Impacts Prior to Mitigation, of the Draft EIR, namely:

Impact BI-12: Permanent Indirect Impacts to Special-Status Wildlife Species

The Proposed Project would have potentially significant, permanent indirect impacts to special-status wildlife species, including generation of fugitive dust; off-road-vehicle use; introduction of non-native, invasive plant and animal species; habitat fragmentation; increased human activity; alteration of the natural fire regime; and altered hydrology.

Draft EIR page 2.4-90 provides mitigation for these impacts, as well as noise and lighting, that apply to western spadefoot, including M-BI-5 (permanent fencing and signage) that would control human access to the Preserve; M-BI-14 (SWPPP) and M-BI-15 (erosion and runoff control) that would control seasonal flows and altered watershed dynamics, as well as potential polluted runoff, that could affect breeding pools (e.g., creating permanent ponding and more mesic habitat around pools that could attract bullfrogs, African clawed frogs, and Argentine ants); M-BI-16 (prevention of invasive plant species) that may alter pool hydrology such as reduced inundation periods that could disrupt the breeding cycle; M-BI-18 (noise) that could affect acoustic (calling) signals and interactions important for breeding; M-BI-19 (fire protection) which could alter breeding pools through erosion and sedimentation; and M-BI-20 (lighting) that may affect nocturnal activity (e.g., calling and spatial aggregations near breeding sites) and increase predation. As concluded in the Draft EIR, Section 2.4.6, Mitigation, these mitigation measures would mitigate these permanent indirect impacts to less than significant. Also refer to **Response to Comment O-6.1-30** regarding Argentine ants.

O-6.1-42 The comment states that undeveloped buffers around western spadefoot breeding sites are needed to mitigate potential adverse edge effects and accommodate movement

between breeding and aestivation sites. According to the comment, failure to provide such edge buffers renders the Draft EIR inadequate in terms of mitigation for project-related impacts to western spadefoot.

The County does not agree with the comment. As noted in **Response to Comment A-3-180**, the Proposed Project would conserve four occupied features. It should be further noted that 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). Note also that the 2017 focused survey did not include several other features within these ownerships that could support the species. 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.

As stated in the 2017 USGS report¹⁹ referred to in the comment letter, “the minimum area of habitat or patch size required by the western spadefoot to maintain a long term, viable population is unknown but likely is dependent on having both upland and aquatic/vernal pool habitats. Western spadefoot require periodic wetlands for breeding purposes and upland, terrestrial habitats for foraging and aestivating during the hot, dry summers, one of these habitat elements without the other would not be sustainable in the long term” (USGS 2017). The locations of occupied features, both within the Project Area and within CDFW and City of San Diego Cornerstone Lands, are surrounded by upland habitat and, in some cases, are located adjacent to other features that could support the species. An exact 300- to 400-meter buffer centered on each pool (as suggest in the USGS 2017 report) is not feasible, but neither is necessary. Each of the conserved occupied pools is surrounded by protected open space that allows for the unimpeded movement of adults into surrounding areas of available aestivation habitat. In some cases, the conserved occupied pools are located within identified preserve area. For example, the pools located on the western side of the Project Area lie within preserve adjacent to Cornerstone Lands or CDFW-managed lands. In addition, by relocating Proctor Valley Road so that it no longer bisects the vernal pool mitigation site within Cornerstone Lands, the Proposed Project would allow for restoration of the abandoned road and connection between occupied pools and the restored pools. The proposed relocation of Proctor Valley Road would protect the one vernal pool occupied by spadefoot and allow for the potential

¹⁹ USGS (U.S. Geological Survey). 2017. *Draft Final Western Spadefoot (Spea hammondi): Independent Scientific Advisor Report for the City of Santee Multiple Species Conservation Plan (MSCP) Subarea Plan (2017)*.

restoration of that vernal pool and associated features, and would remove a barrier (Proctor Valley Road) between occupied features and several potentially occupied features in CDFW managed lands to the west. Additionally, moving Proctor Valley Road would specifically address the commenters concerns regarding edge effects, as it would be pulled farther from pools B2, B3, C10, C11, D2, and D24, than they are now. The Preserve thus provides adequate buffers and aestivation habitat to ensure continued viability of western spadefoot.

As explained in the Draft EIR, the Proposed Project's impacts to western spadefoot, including edge effects, will be mitigated 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).

In addition, the Proposed Project's temporary construction-related and permanent indirect impacts (including edge effects) to the occupied western spadefoot sites in the Preserve or Conserved Open Space are discussed in **Response to Comment O-6.1-41**.

O-6.1-43 The comment states that the western spadefoot survey results in the Project Area are invalid based on surveys conducted by biologist Robert Fisher on public land in Proctor Valley from December 2016 to March 2017, where Mr. Fisher found that 40% of occupied pools (i.e., eggs and tadpoles) had already been vacated by spadefoot metamorphs by March 11. According to the comment, this finding suggests that many pools surveyed by Dudek could have been vacated by the time surveys were initiated on March 7, 2017. The comment asserts that the surveys are inadequate, and the data cannot be relied on to characterize the size and distribution of the spadefoot population in the Project Area.

First, the commenter did not provide Mr. Fisher's surveys to the County as part of the comment; thus, it is not possible to assess the survey's applicability to the Project Area. Second, the surveys conducted for the Draft EIR located numerous sites that were occupied by spadefoot, thus documenting the presence of the spadefoot on the site in both development and impact areas.

O-6.1-44 The comment states that the Draft EIR states spadefoot tadpoles were found in a road rut and in pool B2 prior to the start of the March 2017 focused surveys, but the Draft EIR does not indicate whether western spadefoots were found in pool B2 and a road rut after the focused surveys in the Project Area were initiated. The comment states that the Draft EIR must disclose whether spadefoots were observed at these sites during the focused surveys.

The Draft EIR (Section 2.4.1.6, page 2.4-34) identifies those features which were observed containing western spadefoot during the 2017 focused surveys. Both feature B2 and feature B15 were anecdotally observed supporting western spadefoot during other focused surveys. Both features were included in the 2017 focused survey and feature B2 contained western spadefoot. However, feature B15 was dry throughout the entire survey, and no western spadefoot toads were observed. Section 2.4.1.6 has been revised in ~~strikeout~~/underline to identify the road rut as feature B15.

O-6.1-45 The comment restates information from the Draft EIR regarding occupied western spadefoot features. The comment also restates concerns that the Draft EIR misrepresents impacts to western spadefoot breeding pools. The comment specifically states that five of the eight pools that the Draft EIR characterizes as being conserved (A21, A23, D5, D23, and AA4) actually lie within the proposed Development Footprint. To address the comment, the Project biologist reviewed the pools in question to confirm their location within the Project Area (e.g., Preserve, Development Footprint). As a result of this review, the Project biologist determined that the Proposed Project would adversely affect 12 features occupied by western spadefoot, four more than the eight features previously disclosed in the Draft EIR. While feature A23 may appear within the Development Footprint, this feature would be preserved within Conserved Open Space (see Figure 2.4-8b of the Draft EIR). Although two of the features (A21 and AA4) are within the boundaries of the Otay Ranch RMP Preserve, these two pools will be directly impacted by improvements to Proctor Valley Road. Therefore, features A21 and AA4 should have been categorized as being permanently impacted. The remaining two features (D5 and D23) were incorrectly identified as being within Conserved Open Space. These features are actually within the preserve edge for the Proposed Project and will be directly impacted by grading.

Therefore, Section 2.4.1.6 of the Final EIR has been revised, and revisions are indicated in the Final EIR in ~~strikeout~~/underline:

Two occupied features are located within the Otay Ranch RMP Preserve (A27 and D6) and two additional features are located within Conserved Open Space

(A22 and A23). Therefore, four of the occupied features within the Project Area would be preserved. Twelve occupied features are located within the Development Footprint (A19, A21, AA1, AA3, AA4, B11, C4, C5, C7, D5, D19, and D23). Within the Development Footprint, three occupied features, AA3, D5, and D23 are within the 100-foot preserve edge buffer and would be impacted by the Proposed Project. Impacts to occupied features A19, AA1, AA4 and A21 are within temporarily impacted areas but are considered permanently impacted. All impacts would occur within the Village 14 and Planning Area 16/19 Development Footprint. An additional 11 features were observed outside of the Project Area within open space owned and managed by CDFW and the City of San Diego. None of these features would be directly or indirectly impacted by the Proposed Project. Four occupied features are located within the Otay Ranch RMP Preserve (A21, A27, D6, and AA4). Eight occupied features are located within the Development Footprint (A19, AA1, AA3, B11, C4, C5, C7, and D19), and four occupied features are located within Conserved Open Space (A22, A23, D23, and D5).

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. The Draft EIR concludes that the Proposed Project would have significant permanent impacts on County Group I animal species and state Species of Special Concern, 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.

- O-6.1-46** The comment restates information in the Draft EIR regarding the western spadefoot. The comment also states 13 of 16 known breeding pools lie within the development

footprint, and an unknown number of additional breeding pools may also exist. The comment further states the breeding pools that would be conserved would be subject to potentially significant edge effects. The comment further asserts the Proposed Project would likely extirpate the spadefoot from the Project Area and possibly from surrounding areas in Proctor Valley. The comment also states the Draft EIR identifies no mitigation for this significant impact, and no mitigation for a cumulative significant impact. The comment concludes the Draft EIR provides no factual basis for its determination that no significant impacts would remain after mitigation.

The County acknowledges the Proposed Project would result in direct impacts to 12 occupied features (not 13), rather than 8 features as presented in the Draft EIR and would preserve 4 occupied features. Please refer to **Response to Comment O-6.1-45**. The County disagrees that implementing the Proposed Project “would likely extirpate the Western Spadefoot from the project site, and possibly from surrounding areas in Proctor Valley.” 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.

O-6.1-47 The comment presents information and the commenter’s opinion regarding the status of golden eagle within the MSCP planning area. As part of the comment, the commenter cites a recently-released modeling analysis conducted by USGS. The comment suggests that the MSCP’s assumptions regarding the viability of golden eagle territories in Proctor Valley are no longer accurate.

Golden eagle is a covered species under the MSCP Plan. The MSCP Plan, including Table 3-5, contemplated that a certain amount of golden eagle foraging habitat in Proctor Valley would be lost, and could be lost, without affecting the long-term viability of the species in the region. The results of the USGS modeling analysis do not necessarily conflict with the MSCP Plan that the San Miguel Mountain territory was expected to remain viable despite the forecasted development in Proctor Valley. Table 3-5 in the MSCP Plan anticipated that projected development under the MSCP Plan would result in not more than 10% habitat loss in the nesting territory.

The USGS modeling results indicate a tendency for eagles to avoid urban areas and to a lesser degree exurban development. However, the modeling results, as expected,

also suggest that more topographically complex foothill and ridgeline areas are favored over less-complex valley bottom areas (i.e., where development is planned versus adjacent foothill and ridge areas that will remain protected either as part of the San Diego National Wildlife Refuge or the MSCP/Otay Ranch Preserve). Therefore, although there is no question that the developed areas will exclude use by golden eagles, it is also likely that the expected long-term preservation of large, accessible expanses of favorable foraging habitat both within San Diego National Wildlife Refuge and in the MSCP Preserve, combined with ongoing efforts to rehabilitate formerly degraded areas within the MSCP Preserve to benefit—among other conservation objectives—eagle prey animals (e.g., rabbits and hares) and restrict unauthorized human activity therein, will ensure the continued long-term viability of this area of San Diego County for supporting breeding and foraging golden eagles.

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

O-6.1-48 The comment refers to the anticipated release of the USGS telemetry model for golden eagle. As explained in **Response O-6.1-47**, the USGS model to which the comment refers has now been released, and the project’s raptor specialist, H.T. Harvey & Associates, has reviewed it. The results of that review are set forth in **Response to Comments O-6.1-47 and O-6.1-51**. See also **Thematic Response – Golden Eagle**.

O-6.1-49 The comment asks the County to clarify why H.T. Harvey & Associates did not obtain a Special Use Permit from the USFWS to conduct golden eagle surveys within the San Diego National Wildlife Refuge.

There was no need to conduct a more extensive survey of the east flank of San Miguel Mountain by obtaining access to the San Diego National Wildlife Refuge via a USFWS Special Use Permit. Dr. Smith, the primary H.T. Harvey & Associates observer, has more than 20 years of experience conducting extensive surveys for breeding golden eagles. Dr. Smith used a variety of strategic observation points located outside the refuge, high-powered optics, and extended observation periods across daylight hours and each breeding season to conduct his surveys and confirm their results. His observations, combined with those of another qualified eagle/raptor biologist, were sufficient to determine that no active breeding pair was present in the area and involved in building/maintaining/using a relevant nest anywhere on the east/northeast flank of San Miguel Mountain during the 2016 and 2017 breeding seasons.

Furthermore, although it is possible that these observations could have overlooked a hidden, unused/remnant nest somewhere on the east/northeast side of the mountain, it is known that all previously used eagle nests in the area no longer exist. Moreover, no one has gathered any evidence of new eagle nest building/maintenance activity in this area since 2005, and there is no potential for nests to be hidden within 4,000 feet of the proposed development boundary; the terrain and vegetation cover are such that any nest in this 4,000-foot zone would be visible. Gaining direct access to the refuge would not have changed this conclusion. Furthermore, although it is entirely possible that one or more adult eagles have been living in the area since 2007, perhaps even occasionally exhibiting a degree of territorial behavior, the H.T. Harvey & Associates surveys were again entirely adequate to confirm that no potential breeding pair was focused on maintaining a core territory during the 2016 and 2017 breeding seasons centered on what is known as the historic Rancho San Diego/San Miguel Mountain breeding territory.

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

O-6.1-50 The comment provides information regarding observations of golden eagle in the vicinity of San Miguel Mountain. According to the comment, Mr. Hamilton and Dr. Fisher have observed golden eagles in the area near San Miguel Mountain. The comment also indicates that USGS biologists have captured and placed transmitters on golden eagle on public land in Proctor Valley in 2015.

The information provided in the comment does not raise an issue as to the adequacy of the Draft EIR. Nevertheless, the County responds as follows: H.T. Harvey & Associates as the lead eagle biologists for the Proposed Project are very familiar with the diel activity patterns of golden eagles and ensured that the observations conducted during the 2016 and 2017 breeding seasons spanned most daylight hours to guarantee appropriate coverage for detecting potential nest building/tending activity during morning hours, roosting activity during evening hours, territorial patrol/maintenance activity during midday periods, and foraging activity at other times when conditions were productive for that endeavor. During these observations, H.T. Harvey biologists had sufficient opportunity to witness golden eagles flying around San Miguel Mountain, yet they saw none. Thus, although one or more golden eagles might be found on San Miguel Mountain throughout the year, the extent of the H.T. Harvey & Associates surveys/observations and dearth of eagle sightings (other than a few scattered observations in Proctor Valley and over the Jamul Mountains, including subadults) confirm that, at least during the 2016 and 2017 breeding seasons, such birds did not include adults displaying typical territorial behavior indicative of

an active breeding pair, and that such birds' use of the east/northeast flank of San Miguel Mountain and Proctor Valley was at best sporadic.

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

O-6.1-51 The comment quotes language from page 10 of the Bloom Biological Letter, which discusses the USGS telemetry data. H.T Harvey & Associates have reviewed the Bloom Letter, including the language quoted in the comment. H.T. Harvey & Associates notes that discerning “typical territorial behavior” based on Global Positioning System (GPS) tracking data alone is not sufficient, especially when the area of interest is far removed from the pair’s known core breeding territory. This report provided new macro-scale insight about the movement patterns of the tracked eagles across San Diego County in relation to urban development and general habitat features, but did not focus specific attention on eagle use of Proctor Valley and the former San Miguel Mountain breeding territory area. Without such focused analyses, the USGS tracking data, as currently represented in published reports, do not provide sufficient detail to address the Proposed Project’s impacts on golden eagle beyond what is already presumed in the context of the MSCP. In addition, although possible, it is unlikely that the established Cedar Canyon pair would establish a new alternative nest site as far as 5 miles away from their existing well-used nest sites, such that even if Proctor Valley is currently part of their peripheral foraging range, it is not reasonable to presume they would build a new nest on San Miguel Mountain, unless their former Cedar Canyon breeding area is no longer suited to continued use.

Based on H.T. Harvey & Associates observations, the two fourth-year eagles that were tracked beginning in late 2014 clearly did not establish a breeding territory in the area, at least as of the 2016 and 2017 breeding seasons. In fact, that would have been impossible for the female, because she died in 2015. Moreover, based on the tracking maps provided in the two initial USGS reports, the male actually spent no time on San Miguel Mountain, but rather spent his time in the Jamul Mountains and farther south and east.

O-6.1-52 The comment addresses the technical memorandum prepared by H.T. Harvey & Associates entitled “Otay Ranch Village 14 Land Exchange Golden Eagle Foraging Habitat Assessment.” According to the comment, the Draft EIR “provides a grossly inaccurate characterization of coastal sage scrub in Planning Areas 16 and 19.” The comment criticizes Dudek’s habitat mapping of these areas, and then criticizes H.T. Harvey & Associates for relying on Dudek’s mapping when conducting the golden eagle foraging habitat assessment. The County does not agree with the comment. H.T. Harvey & Associates biologists did not presume anything about these habitats when

they surveyed the two areas to evaluate their comparative habitat values for golden eagles in the context of the Land Exchange Alternative.

O-6.1-53 The comment states that Figure 2 of the H.T. Harvey & Associates Habitat Assessment Memo is difficult to evaluate whether the areas depicted as ‘incompatible with eagle foraging’ are truly too dense to provide foraging opportunities for eagles.” The County does not agree. H.T. Harvey & Associates acknowledges at a macro-scale, Proctor Valley as a whole provides suitable foraging habitat for golden eagles. In addition, the H.T. Harvey & Associates memo further acknowledges that patches of dense chaparral may harbor eagle prey animals and provide important predation refuges for those prey animals. However, the purpose of the comparison reflected in the relevant H. T. Harvey & Associates analysis memo was to evaluate the comparative suitability as eagle foraging habitat of relevant habitats in Planning Areas 16/19 that were proposed for transfer to the CDFW in exchange for allowing additional development in Village 14. In this context, although there may be occasional exceptions where specific individual eagles develop unique foraging tactics, such as ground-based sit and wait tactics at the edges of dense shrub patches, eagles generally cannot maneuver and forage successfully in patches of dense and relatively tall vegetation, whether dense tall grasses, shrubs, or woods. The areas proposed for development in Village 14 contain relatively more of such dense habitat areas than the corresponding proposed exchange areas of in Planning Areas 16/19.

O-6.1-54 The comment discusses the opinions of Peter Bloom, who the comment describes as a “raptor authority,” on the assessment prepared by H.T. Harvey & Associates. The comment then provides Dr. Bloom’s opinion regarding golden eagle use of certain types of habitat. The comment then provides figures and photographs on this topic.

H.T. Harvey & Associates notes that if the shrub cover is 2 to 3 feet or greater, a completely closed canopy is not required to constitute largely unsuitable foraging habitat for eagles. Eagles have a 6+-foot wingspan and generally cannot maneuver effectively to capture prey in dense shrub habitat and successfully launch back out of such habitat areas if they dive in. That is not to say that some particularly hungry eagles, especially young eagles, might not occasionally seek to attack prey in dense shrubs. Of further note, some of the photos included in this comment do not reflect the dominant cover pattern in the areas described as generally unsuitable eagle foraging habitat at a localized scale. H.T. Harvey & Associates acknowledges the predominant/“typical” habitat condition in Village 14 is relatively open chamise chaparral and sage scrub habitat that is accessible to foraging golden eagles (reflected in conclusions that the vast majority of the area is suitable habitat). As stated

previously, the intent of the assessment was to demonstrate the comparative value of areas proposed for exchange.

- O-6.1-55** The comment quotes from the H.T. Harvey & Associates Habitat Assessment Memo regarding the variability of relative density and stature of shrub cover in the Project Area. The comment further states that the Draft EIR provides no direct observations, or evidence from other eagle foraging studies, in support of its assertions that large expanses of habitat in Village 13 are too dense to allow eagles to forage there. The comment also states the fact that eagles have successfully occupied Proctor Valley for many decades, and probably much longer, indicates they are capable of utilizing chamise chaparral that dominates the area. Please refer to **Response to Comment O-6.1-54**. The comment does not raise an issue as to the adequacy of the analysis in the Draft EIR; therefore, no further response is required or provided.
- O-6.1-56** The comment restates information from the H.T. Harvey & Associates Habitat Assessment Memo. The comment also expresses the commenter's opinions about the information. The comment does not raise an issue as to the adequacy of the Draft EIR; therefore, no further response is required or provided.
- O-6.1-57** The comment restates prior comments that eagles have been foraging in Proctor Valley for many years and have been able to successfully find and access prey in areas they do not avoid due to human presence. The comment further states that the Project biologist did not conduct a study to determine where eagles actually forage in Proctor Valley. The comment then contends the biologists presented questionable assumptions and then used those assumptions to characterize the land exchange alternative as beneficial to eagles. The comment concludes by recommending that the Draft EIR conduct a new analysis using the USGS model released on April 16, 2018. Please refer to **Responses to Comments O-6.1-49 and O-6.1-50** and the **Thematic Response – Golden Eagle**.
- O-6.1-58** The comment discusses another analytical memorandum prepared by H.T. Harvey & Associates, dated March 13, 2017. The comment focuses on a statement within the memo which asserts that the recent USGS tracking data for golden eagle is not yet available to the public. According to the comment, this tracking data was subsequently provided to the County and thus became publicly available. The comment states that H.T. Harvey never requested the data from USGS, and that, moving forward, the Project biologists should use the USGS data.

H.T. Harvey & Associates has reviewed all of the golden eagle telemetry data released by USGS, including the model released on April 16, 2018. As indicated in

Responses to Comments O-6.1-47 and O-6.1-48, H.T. Harvey & Associates determined that the USGS telemetry data did not alter any of the impact conclusions in the H.T. Harvey Habitat Assessment Memo or the Draft EIR.

O-6.1-59 The comment provides information regarding the commenter’s personal observation of a golden eagles flying over San Miguel Mountain in 2018. The comment also expresses the commenter’s opinion that it is possible that eagles currently nest at an unknown site on San Miguel Mountain. The comment also states that it is premature to assume that nesting golden eagles have been permanently extirpated from San Miguel Mountain, especially in light of USGS data showing that golden eagles forage in the area.

The available evidence gathered during the relevant 2016–2017 CEQA assessment period does not support the commenter’s contention about potential unknown nesting activity. Eagles were also observed around the mountain in 2015 after the nest platform was setup, but that did not translate to any new nesting activity. Regardless, such a possibility is not relevant to the evaluation at hand, because if there is an as yet unknown new active nest somewhere on San Miguel Mountain, it is not located within 4,000 feet of the Project boundary and the expectation in the MSCP Plan is that the San Miguel Mountain territory should remain viable despite the Proposed Project development. The Draft EIR does not state that the former territory has been permanently abandoned.

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

O-6.1-60 The comment states that the proper inquiry to H.T. Harvey & Associates should have been “What configuration of development in the project vicinity would allow for the historical San Miguel nesting site to provide viable nesting opportunities for Golden eagles into the future.”

The purpose of H.T. Harvey & Associates’ assessment is to determine whether the Proposed Project is consistent with the MSCP Plan. The County has determined, based on the analysis and evidence available, that the Proposed Project is, in fact, consistent with the MSCP Plan, including its provisions relating to the golden eagle.

O-6.1-61 The comment discusses a concept for moving development out of Village 14 and shifting it to the recently closed Salt Creek Golf Club, located 1.6 miles west of the Project Area. The Project applicant does not own the land comprising the former Salt Creek Golf Club and therefore this alternative will not be included within the

analysis. The Draft EIR analyzes a reasonable range of alternatives in accordance with CEQA.

O-6.1-62 The comment states that before any final land use decisions are reached, biologists should make use of the new model (USGS analytical model released on April 16, 2018) to guide direction of this Project using the best available science. The Draft EIR preparers and biologists have reviewed the USGS data and model. The County has determined the analysis regarding golden eagle in the Draft EIR to be adequate under CEQA. Please also refer to **Responses to Comments O-6.1-47** and **O-6.1-51**. See also **Thematic Response – Golden Eagle**.

O-6.1-63 The comment quotes the H.T. Harvey memo dated March 13, 2017. The comment then states that the Draft EIR “presents no observations or other compelling evidence in support of its conclusion that Planning Areas 16/19 present superior foraging opportunities for Golden Eagles relative to Village 14.”

Although the H. T. Harvey & Associates habitat assessment was not based on actual observations of foraging eagles, it does present relevant observations and insights about the apparent comparative values of the two areas as foraging habitat for golden eagles. The assessment was based on the expert knowledge and experiences of the authors and evidence of comparative prey habitat and availability. Also, the overall favorable assessment of the land exchange scenario was based on several considerations besides basic foraging habitat values (e.g., landscape connectivity).

O-6.1-64 The comment criticizes the Draft EIR for focusing on the MSCP’s requirement that development be restricted within 4,000 feet of active golden eagle nests. According to the comment, this 4,000-foot no-development buffer is an outdated and irrelevant metric. The commenter would have preferred the Draft EIR focus more on the fact that golden eagles use the Project Area for forage. The comment then states that the Proposed Project will likely cause golden eagles to permanently vacate the San Miguel Mountain/Rancho San Diego territory, “an adverse outcome inconsistent with the assumptions of the MSCP when it identified the Golden Eagle as a covered species.” The comment states that this would be a significant impact.

The 4,000-foot disturbance avoidance requirement from an active nest is specifically stated as a condition under the rationale for identifying a species as covered under the MSCP Plan (Table 3-5). Thus, it is not outdated or irrelevant to demonstrate the Proposed Project’s consistency with this requirement. The work by H.T. Harvey & Associated establishes that the Proposed Project will not place development within 4,000 feet of such a nest. Also, the destruction of the San Miguel Mountain nest

- occurred during the 2007 Harris Fire. Given that the substrate for the nest was completely destroyed, it is unlikely that nests will be re-established in that particular location. The artificial nesting platform may, in the future, support nesting golden eagles, but so far it has failed to attract a nesting pair. Moreover, even if eagles did ultimately nest there, the nest would still be more than 4,000 feet from the Proposed Project's development boundary. Further, there is no evidence that the Proposed Project, once implemented, will cause golden eagles to permanently vacate the San Miguel Mountain/Rancho San Diego territory. The Proposed Project is consistent with the original "hardline" preserve approved as part of the MSCP Plan when it was adopted in 1997. Thus, the MSCP Plan assumed development in the Project Area and determined that such development would not result in substantial adverse effects on golden eagle (including abandonment of territories).
- O-6.1-65** The comment restates a footnote from the H.T. Harvey & Associates memorandum dated March 13, 2017. Please refer to **Thematic Response – Golden Eagle**.
- O-6.1-66** The comment states that the surveys conducted by H.T. Harvey & Associates during 2016 and 2017 occurred near the end of a decade-long period of especially difficult times for golden eagles at San Miguel Mountain. The comment then describes various events and disturbances that may have contributed to the failure of eagles to nest at this location; these include fire, potential human disturbance, housing developments, off-road vehicle use, drought, and nesting platform design. The comment also expresses the opinion that it is "premature to declare the species extirpated as a breeder in this area." The comment also includes a quote from the Bloom Biological Letter. Please refer to **Thematic Response – Golden Eagle**. The comment does not raise an issue as to the adequacy of the Draft EIR, therefore, no further response is required or provided.
- O-6.1-67** The comment states that rather than focusing on lack of recent nesting and using this as the rationale for no significant impact, the Project biologists should evaluate all relevant information indicating golden eagles make substantial and consistent use of the Project Area. The comment expresses an opinion that the level of use would greatly diminish or cease altogether with project implementation. The comment also expresses an opinion that the Draft EIR locks into flawed and inadequate planning decisions made decades ago, when lacking data to know better. Please refer to **Responses to Comments O-6.1-47 through O-6.1-66**. See also **Thematic Response – Golden Eagle**.

O-6.1-68 The comment summarizes or restates comments previously made regarding golden eagle. Please refer to **Responses to Comments O-6.1-47** through **O-6.1-67** and **Thematic Response – Golden Eagle**.

O-6.1-69 The County acknowledges the comment and notes that it provides concluding remarks. No further response is required or provided.

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