

Late Letter (LL)-1**United States Department of the Interior
Fish & Wildlife Service
November 20, 2018****(Take Authorization)****1. Introduction**

The comment letter submitted by Mr. Michael Fris, Assistant Regional Director, Pacific Southwest Region, United States Department of the Interior Fish and Wildlife Service (USFWS), received November 20, 2018, is a late letter that does not require a written response from the County.

Under CEQA Guidelines Section 15105, the County was legally required to provide a 45-day public review period on the Draft EIR. The public comment period for the Draft EIR began on March 1, 2018 and ended on April 16, 2018. All comment letters received after expiration of the public review and comment period ending on April 16, 2018, are considered late comments.

A lead agency is required to consider comments on the Draft EIR and to prepare written responses if a comment is received within the public comment period. (Pub. Resources Code, §21091(d); CEQA Guidelines, §15088.) When a comment letter is received after the close of the public comment period, however, a lead agency does not have an obligation to respond. (Pub. Resources Code, §21091(d)(1); Pub. Resources Code, §21092.5(c).) Accordingly, the County is not required to provide a written response to late comment letters, including the November 20, 2018, letter from USFWS. (See, CEQA Guidelines, §15088(a)).

Nonetheless, for information purposes, the County has elected to respond to this late letter, but without waiving its position that written responses to late comment letters are not required by law.

2. The letter states PV 1, 2 and 3 were not placed into “preserve” when the MSCP was finalized and remain in that same condition today.

The comment is consistent with the analysis in the Final EIR, which evaluated PV 1, 2 and 3 as areas designated for development, not “preserve”. No further response is required.

3. The letter states USFWS is evaluating approaches for authorizing take in PV 1, 2 and 3.

The comment restates similar comments raised during public review and does not raise any new issue under CEQA. Take authorization is beyond the scope of CEQA. The issue of

“take” falls under the federal Endangered Species Act (ESA) and the California Endangered Species Act (CESA) and is governed by rules and standards different from those in CEQA. Please refer to Response to Comment Letters A-3 (CDFW) and O-6 (EHL).