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November 8, 2019



Mr. Kevin Thomas
State of California – Natural Resources Agency
Department of Fish and Wildlife
North Central Region
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670

Re: Comments on the Metropolitan Transportation Plan/Sustainable Communities Strategy Draft Environmental Impact Report

Dear Mr. Thomas:

Thank you for your comments on the Metropolitan Transportation Plan/Sustainable Communities Strategy (MTP/SCS) Draft Environmental Impact Report (EIR). Please see the attached table, which will be included in the Final EIR, for responses to the individual comments in your letter.

If you have additional questions, please feel free to contact me.

Sincerely,

Renee DeVere-Oki

Renee DeVere-Oki
EIR Project Manager

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
North Central Region
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Letter 3

November 4, 2019

Renée DeVere-Oki
Sacramento Area Council of Governments
1415 L St. #300
Sacramento, CA 95814

Subject: 2020 METROPOLITAN TRANSPORTATION PLAN/SUSTAINABLE COMMUNITIES STRATEGY (MTP/SCS; Project)
DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)
SCH# 2019049139

Dear Ms. DeVere-Oki:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Availability of a DEIR from the Sacramento Area Council of Governments (SACOG) for the MTP/SCS pursuant the California Environmental Quality Act (CEQA) statute and guidelines.[1]

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, native plants, and their habitat. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code.

3-1

**CDFW ROLE**

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802.). Similarly, for purposes of CEQA, CDFW provides, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

3-2

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for

3-3

[1] CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

example, some activities described in the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 *et seq.*). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code should be obtained. CDFW also administers the Native Plant Protection Act, Natural Community Conservation Act, and other provisions of the Fish and Game Code that afford protection to California's fish and wildlife resources. 3-3 cont.

**PROJECT DESCRIPTION SUMMARY**

The DEIR evaluates the environmental impacts related to the adoption and implementation of the MTP/SCS for the SACOG region, including the Counties of El Dorado, Placer, Sacramento, Sutter, Yolo, and Yuba. The MTP/SCS is a long-range comprehensive plan for the region's transportation system. It includes programmed capital and operational improvements as well as maintenance and rehabilitation activities within the region's transportation system. 3-4

**COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist SACOG in adequately identifying and, where appropriate, mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. 3-5

**Environmental Setting**

Section 6.2.1 (Page 6-2) outlines Habitat Conservation Plans (HCP) used to compile land cover data in the MTP/SCS. This section does not include two Habitat Conservation Plans in the MTP/SCS area: the Natomas Basin Habitat Conservation Plan (NBHCP) and the Metro Air Park Habitat Conservation Plan (MAP HCP). CDFW recommends reviewing and incorporating data from these HCPs into the DEIR. If these data overlap with other HCPs, CDFW recommends at least including them in the list of sources in this section to provide a complete analysis. 3-6

Page 6-28 describes the South Sacramento Habitat Conservation Plan (SSHCP). CDFW recommends revising this description to state that all final permits for the SSHCP have been secured as of August 2019 and that the SSHCP is now in the implementation phase. 3-7
This section also states that "[the] SSHCP will allow the County and cities of Sacramento, Rancho Cordova, and Galt to extend incidental take coverage to third parties." Please note the SSHCP was adopted for the Plan Partners (Sacramento County, the City of Rancho Cordova, and the City of Galt); the City of Sacramento is not a Plan Partner of the SSHCP and thus does not have any authority under the SSHCP. It should also be noted that participation in the SSHCP does not necessarily mean take coverage will be extended to third parties. 3-8
The project proponent may receive incidental take coverage for a project's Covered Activities under this ITP only in accordance with the notification and approval procedure described in Sections 5.5, 5.6 and 5.7 of CDFW's ITP for the SSHCP (2081-2018-016-02). CDFW will still have to independently approve take coverage under a 3-9

Covered Activity Authorization if it finds that all requirements and processes in ITP Sections 5.5 and 5.6 have been met. 3-9 cont.

Table 6-1 (Page 6-4) provides total acreages for land cover types by county within the MTP/SCS Plan Area. The land cover types displayed in this table for Yolo County are inconsistent with the 2018 Final Yolo Habitat Conservation Plan/Natural Community Conservation Plan (Yolo HCP/NCCP) existing land cover types. For example, Table 6-1 shows that there is no land cover acreage for rice within Yolo County, whereas the Yolo HCP/NCCP indicates that there are 35,724 acres of rice in the Yolo HCP/NCCP plan area. One source used to develop Table 6-1 is listed as being the Yolo HCP, County of Yolo 2015. CDFW recommends reviewing the land cover types in table 6-1 and data used from the 2015 Yolo HCP throughout the DEIR for accuracy and updating with information from the final Yolo HCP/NCCP, dated April 2018. 3-10

**Impacts of Construction and Operation**

Page 6-31 describes potential impacts associated with the MTP/SCS. CDFW has identified additional impacts associated with the projects in the MTP/SCS that may affect biological resources:

- Increase in human usage that could result in direct habitat impact or indirect habitat degradation (e.g. litter, pollution, increased mortality due to vehicle strikes, etc.)
- Operation of equipment that could result in transfer of non-native/invasive species or plant material
- Temporary disturbance due to construction noise
- Changes to distribution or movement of wildlife
- Reduction of resources available to wildlife
- Increased habitat fragmentation
- Increased barriers to wildlife movement

3-11

CDFW recommends that the DEIR include these potential impacts.

**Wildlife Movement**

Roads impact wildlife in a number of ways including direct mortality from vehicle strikes, habitat fragmentation, and barriers to wildlife movement (Spencer *et al*, 2010). As the population grows and traffic increases, and as roads are widened or otherwise updated to accommodate higher use, the impacts on wildlife tend to increase (Clevenger *et al*. 2001, Jaarsma *et al*. 2006). 3-12

Barriers to wildlife movement are expected to cause greater impacts as climate change impacts existing habitats and changes where animals can live (Kostyack *et al*. 2011). 3-13

While the DEIR's Mitigation Measure BIO-7 addresses implementing design measures in individual projects to allow fish and wildlife to pass through movement corridors, individual projects identified in the MTP/SCS may have a cumulatively significant impact on wildlife movement which may not be identified when viewing individual projects separately. 3-14

In order to address potentially significant cumulative impacts and to help minimize the impacts of existing roads, CDFW encourages building wildlife crossing structures when 3-15

possible, in areas where wildlife movement is significantly impaired by roadways. Roads impede wildlife movement both through direct mortality from vehicle strikes and through road avoidance by animals (Forman *et al*. 2003, Fahrig and Rytwinski 2009). Therefore, some segments of roadway acting as significant barriers to wildlife movement may be identified by looking at vehicle strike data; however, it should not be assumed that a low rate of vehicle strikes is proof of a road segment's permeability to wildlife. Wildlife crossing structures allow wildlife to move over or under roadways, which increases habitat and genetic connectivity and reduces risk of injury caused by vehicle strikes both to wildlife and motorists. Wildlife movement across roads can also be improved opportunistically by including crossing-friendly design elements into maintenance and repair projects. For example, existing culverts may be replaced with larger culverts with interior shelves to allow terrestrial wildlife to pass through when water is flowing through. 3-15 cont.

Useful resources for wildlife crossing design include the Department's *"Transportation Planning Companion Plan"* associated with the State Wildlife Action Plan (CDFW 2016), the California Essential Habitat Connectivity Project (https://www.wildlife.ca.gov/conservation/planning/connectivity/CEHC), and Caltrans' "*Wildlife Crossings Guidance Manual"* (Caltrans 2009). 3-16

**Mitigation Measure BIO-1a**

Mitigation Measure BIO-1a refers to project-level biological resources assessments. CDFW recommends that the biological resource assessment consider not only direct impacts to habitat and species within the project footprint, but also indirect impacts to adjacent and nearby habitats and the species within them. 3-17

**Mitigation Measure BIO-1b**

Mitigation Measure BIO-1b includes avoidance and minimization measures for special-status plant species, including pre-construction surveys for special-status plants and compensatory mitigation for impacts to plant populations. Please note that some plant species may be present in the form of a persistent seed bank or dormant root structures even when above-ground plant growth is absent. For example, certain rare and endangered plant species occurring in El Dorado County including Stebbins' morning glory (*Calystegia stebbinsii*), Layne's butterweed (*Packera layneae*), and Pine Hill ceanothus (*Ceanothus roderickii*) are adapted to periodic wildfires and are disturbance dependent. They occur in chaparral openings, rely on fire or other disturbance to maintain their populations over time, and maintain persistent seedbanks or underground structures that resprout following disturbance. In this way they may survive undetected during periods of ecological succession (Gogol-Prokurat 2011). Because these plants are restricted to a small area of gabbro and serpentine soils, plant populations are often significantly adversely impacted by impacts to their habitat even if the plants themselves are not visibly present at the time of the impact. CDFW recommends that project-level biological resource assessments consider and appropriately mitigate impacts to limited and specialized habitat types such as gabbro soils, even in cases where special-status plant species are not detected during surveys. 3-18

**Mitigation Measure BIO-1c**

*Coordination with CDFW*
Mitigation Measure BIO-1c provides avoidance, minimization, and mitigation measures for special-status wildlife species that have a potential to occur within the plan area. Species-specific avoidance and minimization measures are provided for various amphibians, reptiles, birds and mammals. Many of these avoidance measures include coordination with regulatory wildlife agencies. However, some of the avoidance measures only include coordination with the U.S. Fish and Wildlife Service (USFWS). This may be adequate for species that are exclusively protected under the Federal Endangered Species Act, but for species that are protected under CESA or otherwise hold a state special status, the DEIR should require coordination with CDFW. 3-19

The DEIR should also require compliance with CESA which may include avoidance or the approval of CDFW for take authorization and compensatory mitigation for CESA-listed species. For example, the avoidance and minimization measures identified for giant garter snake (*Thamnophis gigas*) include coordination with CDFW, but the compensatory mitigation only includes the purchase of credits at a USFWS-approved conservation bank. In order to fully mitigate potential impacts to CESA-listed species, CESA Incidental Take Permits (ITPs) typically require mitigation credit purchases to come from a CDFW-approved mitigation or conservation bank. Therefore, in order to avoid double mitigation for projects that may require CESA compliance, CDFW recommends that project proponents obtain CESA take authorization and consult with CDFW early in the process to verify that their proposed mitigation will be acceptable prior to making any mitigation credit purchases. 3-20

*Holes and Trenches*
Minimization measures for trenches and holes within the impact area are provided and require covering and daily inspections. The DEIR identifies different depths of holes or trenches that require covering or monitoring for different species. CDFW recommends these depths be consistent throughout all avoidance and minimization measures. The shallowest depth identified in the DEIR for holes and trenches requiring covering and daily monitoring is six (6) inches. CDFW recommends that this depth be applied to all projects and species covered under this DEIR. 3-21

*Wildlife species not included in BIO-1c*
CDFW has identified several state and/or federally listed or candidate wildlife species that may occur within the MTP/SCS area but are not included in this section, including: 3-22

- tricolored blackbird (*Agelaius tricolor*) [state threatened]
- western snowy plover (*Charadrius nivosus nivosus*) [federally threatened]
- riparian brush rabbit (*Sylvilagus bachmani riparius*) [state endangered]
- salt-marsh harvest mouse (*Reithrodontomys raviventris*) [state and federally endangered]
- longfin smelt (*Spirinchus thaleichthys*) [state threatened]
- Lahontan cutthroat trout (*Oncorhynchus clarkii henshawi*) [federally threatened]
- eulachon (*Thaleichthys pacificus*) [federally threatened]

- Crotch bumble bee (*Bombus crotchii*) [state candidate endangered]
- western bumble bee (*Bombus occidentalis*) [state candidate endangered]

Impacts to these species may be considered significant, and CDFW recommends including species-specific avoidance measures whenever possible and if impacts cannot be avoided proposing appropriate and enforceable minimization and mitigation measures. 3-22 cont.

*Bats*
Avoidance measures for bats include a preconstruction bat survey no more than 14 days prior to the start of construction to be performed by a qualified biologist. However, CDFW recommends that habitat assessments within the project area for potentially suitable habitat be performed by a qualified bat biologist within six (6) months prior to project-related activities. The habitat assessment should assess the entire project area and a 500-foot buffer adjacent to these areas for potential bat habitat. If suitable habitat exists within the project area, then more thorough surveys should be performed by the qualified bat biologist to determine the presence of bats and types of bat roosts present. CDFW recommends that a minimum of 3 external surveys within a 7-day time period with no detection of bats be performed by the qualified bat biologist before an internal survey is considered. If bat exclusion measures are required CDFW recommends they be implemented prior to project-related activities during the period of March 1 to April 15 (prior to formation of maternity colonies and when nighttime temperatures no longer dip below 45°F) or August 31 to October 15 (prior to hibernation when young are self-sufficiently volant and before nighttime temperatures fall below 45°F). CDFW also recommends that projects under this DEIR incorporate in-kind replacement habitat (suitable vegetation, crevice, panel, collar, capped-edge drain, bat boxes, bat houses) for bats in consultation with a qualified bat biologist with experience in designing bat habitat. If the in-kind replacement habitat cannot be implemented prior to the exclusion, CDFW recommends that alternate habitat be in-place prior to exclusion to offset temporal habitat loss. 3-23, 3-24

*California Tiger Salamander (CTS; Ambystoma californiense)*
Bullet 3 of the CTS section of Mitigation Measure Bio-1c states that if CTS are found on a project site, then they will be relocated to the nearest burrow that is outside the area of impact. CDFW is concerned that this measure will be too restrictive for potential relocations since the "nearest burrow" may not serve the ecological needs of the CTS. CDFW recommends revising this measure to state that relocation will be to the nearest suitable burrow, as determined by the qualified biologist. As it relates to relocation, CDFW also recommends including a reference or outline of an established relocation methodology. 3-25

CDFW recommends strengthening bullet 5 of the CTS section of Mitigation Measure Bio-1c by describing refuge opportunities such as coverboards along the fence. Although weekly fence integrity checks may be adequate, fences should be checked daily (typically morning and evening) to minimize potential for animals to be trapped on the fence line. This also increases the potential for successful relocation by keeping migration disruption to a minimum. Typically, successful fences are at least 3-feet tall and buried at least 6-inches below ground. 3-26

Bullets 5 and 6 of the CTS section of Mitigation Measure Bio-1c describe the CTS migration season as November 1 to May 31. CDFW recommends revising this window to start at October 15 (depending on rainfall) and also recommends that timing of project activities consider the metamorph dispersal period (typically May-August with a peak in June). 3-27

CDFW recommends including the following additional avoidance and minimization measures: 3-28

- Minimize potential barriers to CTS movement such as curbs and edges greater than 3-inches in suitable CTS habitat to the extent feasible
- Minimize work in periods with the greatest potential for CTS encounters. These time periods are typically during nights with potential for rain events
- Minimize work within 820-feet of a breeding pond during the metamorph dispersal period
- Minimize small mammal control that may adversely affect burrow habitat CTS (i.e. rodenticides and collapsing of burrows)

*Swainson's hawk (Buteo swainsoni)*
CDFW recommends including mitigation for potential loss of foraging habitat in addition to the mitigation outlined for loss of nesting trees. Although many projects within the MTP/SCS may primarily impact nesting habitat, some may permanently impact foraging habitat as well. 3-29

*Other Special-Status Raptors*
Bullets 1 and 2 of the Other Special-Status Raptors section of Mitigation Measure BIO-1c refer to surveys of the area of impact and within 500 feet of the area of impact. Sensitive raptor species may be adversely impacted by construction noise and disturbance at a greater distance than 500 feet (Richardson and Miller 1997). Because project activities may impact several fully protected species (e.g. white-tailed kite [*Elanus leucurus*]), CDFW recommends using a survey radius of at least 0.25-mile in suitable habitat areas for these species. 3-30

*American Badger (Taxidea taxus)*
Bullet 3 of the American Badger section of Mitigation Measure BIO-1c refers to an exclusion zone around occupied American badger burrows. CDFW recommends that the exclusion zone include an active movement corridor between the exclusion zone and adjacent suitable habitat for the animal. This serves to allow the animal to leave the construction area independently. 3-31

*Special-Status Fish*
CDFW recommends including other special-status fish with potential to occur within the MTP/SCS area in this section. Such species include but are not limited to longfin smelt (federal candidate, state threatened) and green sturgeon (*Acipenser medirostris*) [federally threatened, California Species of Special Concern]. 3-32

Some projects identified in the MTP/SCS may include pile driving, which may injure fish (Halvorsen *et al.* 2012). As such, CDFW recommends including avoidance and minimization measures for this activity in the section. Such measures can include but are not limited to soft starts, hydroacoustic monitoring, decibel restrictions, and construction timing (i.e. limiting the amount of strikes per day). 3-33

**Mitigation Measure BIO-3**

This mitigation measure provides for compensatory mitigation for the permanent loss of riparian and oak woodland habitat at a sufficient ratio for no net loss of habitat function or acreage through onsite or onsite restoration/creation. The DEIR requires a Stream and Riparian Mitigation and Monitoring Plan for restoring/creating in-kind habitat for projects with permanent impacts to these habitats. The DEIR includes success criteria for trees that will be planted for riparian and oak woodland habitats but does not include other plant communities that are associated with these communities (e.g. shrub and herbaceous layers). CDFW recommends including shrub and herbaceous layers associated with riparian and oak woodland habitat restoration/creation into the DEIR and requiring success criteria for their establishment success. 3-34

CDFW recommends incorporating the following information about Lake and Streambed Alteration Agreements into the DEIR:

For any activity that will substantially divert or obstruct the natural flow of or substantially change or use any material from the bed, channel or bank of any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, the project applicant (or "entity") must provide written notification to CDFW pursuant to section 1602 of the Fish and Game Code. Based on this notification and other information, CDFW then determines whether a Lake or Streambed Alteration (LSA) Agreement is required. The Department's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code 21065). CDFW recommends entities notify pursuant to section 1602 of the Fish and Game Code as early as possible, as modification of the proposed project may avoid or reduce impacts to fish and wildlife resources. To obtain a Lake or Streambed Alteration notification package, please go to https://www.wildlife.ca.gov/Conservation/LSA/Forms. 3-35

The following information will be required for the processing of a Notification of Lake or Streambed Alteration:

1) Identification and mapping of any perennial, intermittent, and ephemeral rivers, streams, and lakes within the project footprint and any associated fish and wildlife habitats (e.g., riparian habitat, wetlands, floodplains, etc.) that will be temporarily and/or permanently impacted by the proposed project. An estimate of the area of impact to each habitat type should be included
2) A proposal of mitigation measures to avoid, minimize, and mitigate impacts to fish and wildlife resources 3-36

CDFW's evaluation of streams, lakes, rivers, and wetlands differs from that of other agencies such the U.S. Army Corps of Engineers (USACE) or the Regional Water Quality 3-37

Control Board and may be more expansive than other agencies' definitions. All perennial, intermittent, and ephemeral rivers, streams, and lakes, including ponds and drainages, in the state, and any habitats supported by these features such as wetlands and riparian habitats should be identified and mapped separately from the methods that the USACE uses to determine waters of the U.S. and the ordinary high water mark. Project-related activities that may result in temporary, permanent, direct, indirect, and/or cumulative impacts to the above-mentioned features and associated biological resources/habitats may require Notification under section 1602 of the Fish and Game Code. 3-37 cont.

**Mitigation Measure BIO-7**

CDFW recommends coordination with the implementing entity (e.g. South Sacramento Conservation Agency) for the SSHCP when potential MTP/SCS projects may impact wildlife movement corridors or otherwise impact preserve strategies. 3-38

**ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNNDB field survey form can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Submitting-Data. The completed form can be submitted online or mailed electronically to CNDDB at the following email address: CNDDB@wildlife.ca.gov. 3-39

**FILING FEES**

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.) 3-40

**CONCLUSION**

Pursuant to Public Resources Code § 21092 and § 21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670 or emailed to R2CEQA@wildlife.ca.gov. 3-41

CDFW appreciates the opportunity to comment on the DEIR to assist in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for 3-42

consultation regarding biological resources and strategies to minimize and/or mitigate impacts. Questions regarding this letter or further coordination should be directed to Gabriele Quillman, Environmental Scientist at (916) 358-2955 or gabriele.quillman@wildlife.ca.gov. 3-42 cont.

Sincerely,

Kevin Thomas
Regional Manager

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Gabriele Quillman, gabriele.quillman@wildlife.ca.gov
Ian Boyd, ian.boyd@wildlife.ca.gov
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*Department of Fish and Wildlife*

Office of Planning and Research, State Clearinghouse, Sacramento

**REFERENCES**

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3-43

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3-43 cont.

# CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE RESPONSES

## Comment Number: 3-1

The comment outlines the regulatory authority of California Department of Fish and Wildlife (CDFW). Thank you for your review and comments on the Draft MTP/SCS EIR.

## Comment Number: 3-2

The comment outlines the regulatory authority of California Department of Fish and Wildlife (CDFW). Comment noted.

## Comment Number: 3-3

The comment outlines the regulatory authority of California Department of Fish and Wildlife (CDFW). Comment noted.

## Comment Number: 3-4

The comment summarizes the context of the draft MTP/SCS EIR. Comment noted.

## Comment Number: 3-5

The comment is an introductory to CDFW comments. Comment noted.

## Comment Number: 3-6

The comment recommends that Section 6.2.1 of Chapter 6 – Biological Resources include land cover data from the Natomas Basin Habitat Conservation Plan (NBHCP) and the Metro Air Park Habitat Conservation Plan (MAP HCP). Section 6.2.1 describes the data sources used to describe existing land cover types in the plan area, including the areas covered by the NBHCP and MAP HCP. These sources include more recent data on existing land cover conditions than the NBHCP and MAP HCP, which were adopted in 1997 and 2001, respectively. Specifically, California Vegetation Maps for the North Sierra (2014) and Central Valley (2016) ecological zones were used to characterize existing land cover types within the NBHCP and MAP HCP plan areas. As a result, the older land cover data from the NBHCP and MAP HCP were not used to characterize existing land cover types in the plan area.

A description of the NBHCP is included in Section 6.3.3 on page 6-26 of the Draft EIR. In the third paragraph on page 6-26, the Draft EIR explains that the NBHCP was adopted in 1997 and last revised in 2003. The MAP HCP was not discussed in the Draft EIR. It is located in the Natomas Basin in the Sacramento Valley, which is located in the northern portion of Sacramento County and the southern portion of Sutter County. The MAP HCP covers the 1,892-acre MAP Special Planning Area (MAP SPA) and 123 acres of lands outside the MAP SPA. It covers 14 sensitive species which were included in the Draft EIR in Appendix BIO-1. The Natomas Basin Conservancy adopted the Metro Air Park HCP (MAP HCP) in July 2001.

The text of the Draft EIR has been amended on page 6-26 following paragraph 2 and preceding paragraph 3 to describe the MAP HCP:

> **Metro Air Park Habitat Conservation Plan**
> The Natomas Basin Conservancy adopted the Metro Air Park HCP (MAP HCP) in July 2001. The MAP HCP is located in the Natomas Basin in the Sacramento Valley, which is located in the northern portion of Sacramento County and the southern portion of Sutter County. The plan covers the 1,892-acre MAP Special Planning Area (MAP SPA) and 123 acres of lands outside the MAP SPA. The MAP HCP was prepared in

conjunction with the Natomas Basin HCP (discussed below). The MAP HCP covers 14 sensitive species which are included in Appendix BIO-1 (Natomas Basin Conservancy 2001).

The edits above do not alter the significance determinations of the Draft EIR. No further response is required to Comment 3-6.

## Comment 3-7

The comment suggests that the description of the Draft EIR on page 6-28 be revised to state that all final permits for the South Sacramento HCP (SSHCP) have been secured as of August 2019 and that the SSHCP is now in the implementation phase. In response to Comment 3-7, the text of the Draft EIR has been amended on page 6-28 in paragraph one as shown below (note that the text below also reflects edits made in response to Comment 3-8):

### South Sacramento Habitat Conservation Plan

Pursuant to Section 10(a)(1)(B) of the ESA, the South Sacramento Habitat Conservation Plan (SSHCP) presents a regional approach to preserve Federal and state endangered and threatened species and to streamline the existing development-permitting process in areas under development. The SSHCP, which was approved by Sacramento County in 2018, is a large-scale consolidated effort to protect and enhance wetlands (primarily vernal pools), aquatic, and upland habitats to provide ecologically viable conservation areas (County of Sacramento et al. 2010). Permits for the SSHCP are being drafted but have not yet been issued as of May 2019. The SSHCP covers 372,000-acres of south Sacramento County and Rancho Cordova, California. It will preserve natural lands in Sacramento County and protect habitat for 28 special-status plant and animal species, including 10 state and federally listed species, which are included in Appendix BIO-1. The boundary of the SSHCP was defined using political and ecological factors. The geographical boundaries are U.S. Highway 50 to the north, the Sacramento River levee and County Road J11 to the west, the Sacramento County line with El Dorado and Amador counties to the east, and the San Joaquin County line to the south. The SSHCP will allow the County and cities of ~~Sacramento,~~ Rancho Cordova~~,~~ and Galt to extend incidental take coverage to third parties. As of August 2019, all final permits under the SSHCP have been secured and the SSHCP is now in its implementation phase.

The edits above do not alter the significance determinations of the Draft EIR. No further response is required to Comment 3-7.

## Comment 3-8

The comment correctly notes that the SSHCP was adopted for the Plan Partners (unincorporated Sacramento County, the City of Rancho Cordova, and the City of Galt) and indicates that the City of Sacramento is not a Plan Partner under the SSHCP. In response to Comment 3-8, the text of the Draft EIR has been amended on page 6-28 in paragraph one as shown above in the response to Comment 3-7. These edits do not alter the significance determinations of the Draft EIR. No further response is required to Comment 3-8.

## Comment 3-9

The comment summarizes the California Department of Fish and Wildlife's (CDFW's) procedural role in the approval of incidental take coverage under the SSHCP. The comment indicates that CDFW would only issue a Covered Activity Authorization to a project proponent if it finds that all requirements and processes have been met. The comment does not address the adequacy of the analysis contained in the Draft EIR. No edits to the Draft EIR are required in response to Comment 3-9.

## Comment 3-10

The comment asserts that there is a discrepancy between the land cover acreages in Table 6-1 of the Draft EIR and the acreages included in the 2018 Final Yolo HCP/NCCP, and as an example, references the rice land cover types. Table 6-1 of the Draft EIR indicates that the number of acres of rice land cover type in Yolo County is zero, but the Yolo HCP/NCCP indicates that there 35,724 acres of rice land cover type.

This discrepancy is a result of the different data sources used to characterize existing land cover conditions in the Draft EIR, and the different conventions for labeling and categorizing land cover types used in each data source. When compiling multiple data sources into a single data set for the plan area, in some cases SACOG included land cover types under a different label or category, or aggregated more fine-grained categories of land cover into a single cover type. Because the different data sources use different categories and conventions for describing land cover types it was not possible for the Draft EIR to present land cover data in the exact same manner as each data source. With respect to the rice land cover type in Yolo County, the Yolo County HCP/NCCP includes rice not as its own land cover type but as a subset of the "Cultivated Lands" land cover type. Table 6-1 of the Draft EIR includes these "Cultivated Lands" (rice and other subcategories) as "Row and Field Crops" under "Agriculture Land Cover" category for Yolo County. The land cover data of the Draft EIR include the land cover data from the Yolo County HCP/NCCP.

In response to Comment 3-10, the following footnote has been added to Table 6-1 of the Draft EIR for clarification:

**Table 6-1**
**Land Cover Types and Acreages by County in the Proposed MTP/SCS Plan Area**

| Land Cover Type | El Dorado | Placer | Sacramento | Sutter | Yolo | Yuba | TOTAL |
|---|---|---|---|---|---|---|---|
| **WILDLAND LAND COVER** | | | | | | | |
| Grasslands | 93,838 | 64,832 | 174,450 | 34,277 | 80,911 | 55,621 | 503,929 |
| Chaparral | 74,822 | 58,722 | 37 | 0 | 44,709 | 2,477 | 180,767 |
| Scrub | 327 | 2,105 | 11 | 0 | 312 | 0 | 2,755 |
| Valley Oak Woodland/ Savanna | 3,477 | 11,430 | 1,135 | 5,094 | 181 | 1,215 | 22,532 |
| Foothill Woodland | 55,612 | 50,234 | 17,370 | 305 | 109,667 | 49,834 | 283,022 |
| Montane Forest | 691,547 | 476,261 | 449 | 0 | 3,299 | 131,368 | 1,302,924 |
| Riparian | 1,457 | 9,399 | 12,092 | 14,659 | 12,565 | 7,982 | 58,154 |
| Barren | 34,700 | 18,797 | 1,564 | 95 | 2,346 | 5,234 | 62,736 |
| Mine Tailings | 0 | 0 | 2,465 | 0 | 0 | 0 | 2,465 |
| Rock Outcrops/Cliffs | 0 | 499 | 0 | 0 | 0 | 0 | 499 |
| Serpentine | 0 | 0 | 0 | 0 | 247 | 0 | 247 |
| ***TOTAL WILDLAND*** | ***955,780*** | ***692,279*** | ***209,573*** | ***54,430*** | ***254,237*** | ***253,731*** | ***2,420,030*** |
| **AQUATIC LAND COVER** | | | | | | | |
| Wetlands | 8,984 | 30,654 | 54,167 | 17,010 | 26,608 | 21,785 | 159,208 |
| Open Water/Lakes and Reservoirs/Rivers | 17,037 | 12,508 | 23,240 | 237 | 13,493 | 8,543 | 75,058 |
| ***TOTAL AQUATIC*** | ***26,021*** | ***43,162*** | ***77,407*** | ***17,247*** | ***40,101*** | ***30,328*** | ***234,266*** |
| **AGRICULTURE LAND COVER** | | | | | | | |
| Orchards and Vineyards | 694 | 2,895 | 35,544 | 67,319 | 61,901 | 34,593 | 202,946 |
| Pasture | 3 | 7,866 | 43,180 | 1,719 | 141 | 308 | 53,217 |
| Rice | 0 | 20,250 | 8,680 | 132,497 | 0[1] | 38,135 | 199,562 |
| Row and Field Crops | 4,373 | 14,431 | 70,047 | 97,199 | 281,263 | 32,493 | 499,806 |
| ***TOTAL AGRICULTURE*** | ***5,070*** | ***45,442*** | ***157,451*** | ***298,734*** | ***343,305*** | ***105,529*** | ***955,531*** |
| **DEVELOPED/DISTURBED LAND COVER** | | | | | | | |
| Developed | 16,381 | 80,385 | 185,275 | 18,408 | 45,492 | 21,997 | 367,938 |

| Land Cover Type | El Dorado | Placer | Sacramento | Sutter | Yolo | Yuba | TOTAL |
|---|---|---|---|---|---|---|---|
| Disturbed | 0 | 1,580 | 7,278 | 0 | 0 | 0 | 8,858 |
| Nonnative Vegetation | 37 | 61 | 6 | 0 | 369 | 0 | 473 |
| ***TOTAL DEVELOPED/ DISTURBED*** | ***16,418*** | ***82,026*** | ***192,559*** | ***18,408*** | ***45,861*** | ***21,997*** | ***377,269*** |
| **TOTAL LAND COVER** | **1,003,289** | **862,910** | **636,990** | **388,819** | **683,504** | **411,585** | **3,987,096** |

*Note: Totals may not sum due to rounding.*

[1] The rice land cover type is included as a subset of "Cultivated Lands" in the Yolo County HCP/NCCP. "Cultivated Lands" are included as "Row and Field Crops" in the Draft EIR. As a result, total acreage for rice land cover in Yolo County is shown as zero. The acreage totals for row and field crops in Yolo County include the rice land cover acreage from the Yolo County HCP/NCCP.

*Source: Land Cover data was compiled by Ascent in 2019 to create the land cover dataset that was analyzed in this chapter using data from U.S. Forest Service (USDA 2014, 2016), California Aquatic Resources Inventory (SFEI 2017), Placer County Conservation Plan (County of Placer 2016), South Sacramento HCP (County of Sacramento et al. 2014), Sutter-Yuba landcover (SACOG 2012), and Yolo HCP (County of Yolo 2015).*

Also, in response to Comment 3-10, the following text has been added to page 6-13 of the Draft EIR for clarification:

> Rice
>
> Areas mapped as rice, primarily in the valley regions of the plan area of the proposed MTP/SCS, include both flooded and fallow rice fields. Rice fields commonly include irrigation features, such as berms, ditches, canals, and water control structures. Rice is grown as a monoculture, using tillage or herbicides to eliminate unwanted vegetation; remaining vegetation is generally confined to the berms, ditches, and canals between and around fields, and is dominated by wetland plants, both native and nonnative. Special-status wildlife species associated with rice fields include giant garter snake, snowy plover, burrowing owl, greater sandhill crane, Swainson's hawk, loggerhead shrike (Lanius ludovicianus), tricolored blackbird, greater sandhill crane, western spadefoot, western pond turtle, coast horned lizard, and numerous bat species. With respect to the rice land cover type in Yolo County, the Yolo County HCP/NCCP includes rice as a subset of the "Cultivated Lands" land cover type. This Draft EIR incorporates the rice land cover type within the "Row and Field Crops" land cover type (see below).

Impacts to special-status species were analyzed at the programmatic level in the Draft EIR and impacts to land cover types were analyzed for the following land cover categories: wildland, aquatic, and agricultural habitats. Both the rice and row and field crop land cover types are included in the agricultural land cover category. Therefore, impacts to special-status species that could occur within the rice land cover type (e.g., giant garter snake) were encompassed within impacts to overall agricultural habitat identified in the Draft EIR. These edits do not alter the significance determinations of the Draft EIR. No further response is required to Comment 3-10.

## Comment 3-11

Pages 6-30 and 6-31 of the Draft EIR provide a list of types of operational and construction activities that could occur under implementation of the proposed MTP/SCS and that could result in direct or indirect impacts to biological resources. The comment recommends that the Draft EIR include the following additional types of activities that could result in impacts to biological resources: (1) increased human usage resulting in direct and indirect habitat degradation (e.g., litter, pollution, increased mortality due to vehicle strikes), (2) operation of equipment resulting in transfer of invasive species, (3) temporary disturbance due to construction noise, (4) changes to distribution or movement of wildlife, (5) reduction of resources available to wildlife, (6) increased habitat fragmentation, and (7) increased barriers to wildlife movement. The Draft EIR addresses changes to the distribution or movement and barriers to wildlife movement in Impact BIO-4 (pages 6-73 to 6-82). The Draft EIR discusses potential impacts related to habitat fragmentation under Impact BIO-1 on page 6-34 in paragraph 2 and in the last paragraph on page 6-41. While the Draft EIR does not explicitly list the other additional types of activities, the potential impacts to biological resources associated with these activities are already analyzed as part of the programmatic analysis of direct and indirect impacts to biological resources included in the Draft EIR. The additional types of activities listed in this

comment would not result in new or more severe impacts to biological resources beyond what was analyzed in the Draft EIR. For clarification, the text of the Draft EIR has been amended on page 6-31 to list these additional types of activities:

> This impact analysis recognizes that biological resources could be indirectly or directly affected by construction and maintenance activities associated with potential projects in the plan area of the proposed MTP/SCS. Biological resources could be directly or indirectly disturbed by the following activities:
>
> Operational Impacts:
>
> - projected changes in land use, where wildland or agricultural areas are converted;
> - indirect changes in biological resources due to land use, such as changes in hydrology and runoff due to increased impervious surfaces (see Chapter 11 – Hydrology and Water Quality for a discussion of water runoff and water quality degradation and associated mitigation measures);
> - direct loss of habitat associated with roadway widening, new transportation facilities, or interchange, rail, and bikeway improvements;
> - <u>increased human usage resulting in direct and indirect habitat degradation (e.g., litter, pollution, increased mortality due to vehicle strikes);</u>
> - <u>reduction of resources available to wildlife;</u>
> - herbicide application and removal of vegetation as part of landscaping and road maintenance; and
> - degradation of water quality in wetlands and waterways, resulting from road runoff containing petroleum products.
>
> Construction Impacts:
>
> - stream dewatering or installation of temporary water-diversion structures during construction of new growth, bridges and other transportation facilities over riverine systems;
> - temporary stockpiling of soil or construction materials and sidecasting of soil and other construction wastes;
> - temporary removal of riparian vegetation along waterways during construction of new land uses and bridges;
> - removal of vegetation during construction of temporary staging areas and access roads;
> - ground disturbance;
> - <u>operation of equipment resulting in transfer of invasive species;</u>
> - <u>temporary disturbance due to construction noise;</u>
> - soil compaction in temporarily disturbed areas and generation of dust by construction equipment; and
> - water runoff from the construction area.

The edits above do not alter the significance determinations of the Draft EIR. No further response is required to Comment 3-11.

## Comment 3-12

The comment describes ways in which roads can result in impacts to wildlife by vehicle strikes, habitat fragmentation, and barriers to wildlife movement. The direct and indirect biological resources impacts of implementation of the projected land use pattern and planned transportation improvements of the proposed MTP/SCS, which includes new or expanded roadway and highway projects, are analyzed throughout Chapter 6 – Biological Resources. This comment does not address the adequacy of the Draft EIR. No further response is required to Comment 3-12.

## Comment 3-13

The comment states that barriers to wildlife movement are expected to cause greater impacts as climate change impacts existing habitats and changes where animals can live. As discussed in the response to Comment 3-11, the Draft EIR analyzes impacts to wildlife movement from implementation of the proposed MTP/SCS in Impact BIO-4 (pages 6-73 to 6-82). Mitigation Measures BIO-6 and BIO-7 require implementing agencies to identify and reduce impacts to wildlife movement corridors by incorporating various features into project design. For the reasons provided below, the proposed MTP/SCS would not result in greater impacts to wildlife movement than those analyzed in the Draft EIR because of climate change.

Long-term climate trends and associated ecological vulnerabilities in response to these stresses may directly threaten sensitive habitats and species, including wildlife movement. The degree of vulnerability of California's wildlife to climate change will vary considerably depending on many factors, such as the intrinsic sensitivity of a given species and/or its habitat to climate exposure and related stresses, the adaptive capacity of species and habitat to these effects, and other existing environmental stresses unrelated to climate change.

Factors contributing to a species' vulnerability to climate change are difficult to forecast. However, regardless of this existing and future condition, Mitigation Measures BIO-6 and BIO-7 in the Draft EIR would require implementing agencies to identify wildlife movement corridors as defined by Caltrans and CDFW (Spencer et al. 2010), to avoid or substantially lessen impacts to these corridors and to other sensitive habitats that may function as wildlife movement corridors (e.g., riparian corridors), and to consult with CDFW to determine appropriate measures to minimize impacts if significant impacts to movement corridors are expected. Required consultation with CDFW at the project-level would allow for projects to address future changes to modeled wildlife movement corridors as a result of climate change that may be identified by CDFW during the horizon of the proposed MTP/SCS.

In addition to Mitigation Measures BIO-6 and BIO-7, all projects under the proposed MTP/SCS are required to comply with applicable habitat conservation plans (HCP) or natural community conservation plans (NCCP), if the project is within the plan area. One aspect of these plans is establishment of a system of preserves with the goal of providing habitat connectivity for wildlife. Design of these preserve systems incorporates a range of environmental gradients and high habitat diversity to provide for shifting species distributions in response to changing circumstances, including climate change. The comment does not raise an issue that requires any additional analysis or further mitigation in the EIR.

## Comment 3-14

The comment references Mitigation Measure BIO-7, which includes measures to avoid or substantially lessen impacts to wildlife movement and asserts that individual projects identified in the proposed MTP/SCS may have a cumulatively significant impact on wildlife movement. Cumulative biological resources impacts that could result from implementation of the proposed MTP/SCS are analyzed in Chapter 19 – Other CEQA (pages 19-20 to 19-21). The Draft EIR concludes that the contribution of the proposed MTP/SCS to cumulative biological resources impacts, including wildlife movement impacts, would be cumulatively considerable. It further explains that the biological resources mitigation measures identified in the Draft EIR would reduce the contribution of the proposed MTP/SCS to cumulatively significant biological resources impacts, but acknowledges that at this program-level of analysis the mitigation measures may not be sufficient to reduce impacts to less than significant in all cases. No further response is required.

## Comment 3-15

The comment encourages the building of wildlife crossing structures to address potentially significant cumulative impacts to wildlife movement and to help minimize the impacts of existing roads. The Draft EIR does not address how existing roads affect wildlife movement; identifying measures to improve existing environmental conditions is not appropriate or required under CEQA. The Draft EIR evaluates the potentially significant impacts of implementation of the planned transportation projects of the proposed MTP/SCS, including on wildlife movement. The Draft EIR analyzes the potentially significant wildlife movement impacts of the proposed MTP/SCS in Chapter 6 and potentially significant cumulative impacts to wildlife movement in Chapter 19. Mitigation Measure BIO-7 in the Draft EIR

identifies measures to avoid or substantially lessen impacts to wildlife movement, including the use wildlife crossing structures such as overpasses, underpasses, bridges, and/or culverts as suggested in this comment. This measure would also substantially lessen the contribution of the proposed MTP/SCS to cumulatively significant impacts to wildlife movement. No further response is required.

## Comment 3-16

The comment provides resources for wildlife crossing design. In response to Comment 3-16, the text of the Draft EIR has been amended in the second sub-bullet under the first bullet in Mitigation Measure BIO-7 (page 6-81) of the Draft EIR:

**Mitigation Measure BIO-7: Avoid, Minimize, and Mitigate Impacts on Wildlife Movement Corridors or Native Wildlife Nursery Sites.**

If the qualified biologist, after implementation of Mitigation Measure BIO-6, determines that wildlife movement corridors or native wildlife nursery sites are present within the area of impact and could be adversely affected by construction activities, then the following measures shall be implemented:

- Implementing agencies shall design projects such that they avoid and minimize direct and indirect impacts on wildlife movement corridors and/or native wildlife nursery sites. Design considerations may include but would not be limited to the following:
    - constructing wildlife friendly overpasses, underpasses, bridges and/or culverts that are integrated with appropriate roadside fencing that maintains animals off the road and direct them towards crossing structures;
    - <u>implementing agencies shall consider agency guidance in designing wildlife crossings, including the guidance of CDFW or other applicable wildlife agencies;</u>
    - using wildlife friendly fencing;
    - limiting wildland conversions in identified wildlife corridors or native wildlife nursery sites;
    - retaining wildlife friendly vegetation in and around developments; and
    - avoid the nursery season for common wildlife during construction.

- For projects that cannot avoid significant impacts on wildlife movement corridors or native wildlife nursery areas, implementing agencies shall consult with CDFW to determine appropriate measures to minimize direct and indirect impacts that could occur as a result of implementation of the proposed MTP/SCS and shall implement measures to mitigate impacts on wildlife corridors or native wildlife nursery sites.
- For projects that require the placement of stream culverts in a fish spawning stream, the implementing agencies shall follow the USACE, NOAA Fisheries, USFWS, and CDFW permit conditions and design requirements to allow fish passage through the culverts.
- For projects in or adjacent to riparian corridors, project design shall maximize distance of lighting from riparian corridors and direct light sources away from the riparian corridor. Night lighting of trails along riparian corridors should be avoided.

## Comment 3-17

The comment recommends that Mitigation Measure BIO-1a include language to specify that biological resource assessments consider indirect impacts to adjacent and nearby habitats and the species within them. The second bullet on page 6-45 directs a qualified biologist to review not only a project site but "the land within and in the vicinity of the area of an impact." Nevertheless, for clarity, Mitigation Measure BIO-1a has been amended to explain

that the scope of the biological resources assessment includes direct impacts to habitat and species within the area of impact and also indirect impacts to adjacent and nearby habitats and the species within them.

Mitigation Measure BIO-1a: Conduct a Biological Resources Assessment.

- Prior to initiation of construction activities under the proposed MTP/SCS, the implementing agency shall require a qualified biologist to conduct a data review, land cover mapping (including aquatic habitats such as wetlands), and a reconnaissance-level survey and habitat assessment of the area of impact to identify whether any special-status plant or wildlife species habitat, riparian or other sensitive habitats, sensitive natural communities, wetlands, wildlife movement corridors, or wildlife nursery sites could be affected by construction activities. Additionally, the biologist will determine whether any local policies or ordinances intended to protect biological resources (e.g., tree removal policies) would apply, and whether construction activities would result in conflicts with these policies or ordinances. The data reviewed shall include the Biological Resources setting of this EIR (See Section 6.2 "Environmental Setting), and the best available current data for the area, including vegetation mapping data, species distribution information, CNDDB, CNPS Inventory of Rare and Endangered Plants of California, and relevant general plans, HCPs, and NCCPs. The biological resources assessment shall be completed at a time of year that is appropriate for identifying habitat and no more than one year prior to initiation of construction activities. <u>The scope of the biological resources assessment shall include direct impacts to habitat and species within the area of impact and also indirect impacts to adjacent and nearby habitats and the species within them.</u>
- If the qualified biologist determines that: the land within and in the vicinity of the area of impact does not contain suitable habitat for special-status plant or animal species, riparian or other sensitive habitats, sensitive natural communities, wetlands, wildlife movement corridors, or native wildlife nursery sites; construction activities would not result in adverse effects on these resources and/or that project implementation would not result in conflict with a local policy or ordinance or an adopted HCP or NCCP, the biologist will document the findings in a letter report to the implementing agency, and no further mitigation is required.

## Comment 3-18

The comment references Mitigation Measure BIO-1b and recommends that project-level biological resources assessments consider and appropriately mitigate impacts to limited and specialized habitat types such as gabbro and serpentine soils, even in cases where special-status plant species are not detected during surveys. Serpentine soils and their potential to exist within the plan area of the proposed MTP/SCS are discussed in the first two paragraphs on page 6-10 in Chapter 6 – Biological Resources of the Draft EIR. Draft EIR Mitigation Measure BIO-1a requires, in part, that a biological resources assessment be performed to identify whether any sensitive plant or wildlife habitat could be affected by project-level construction activities. Mitigation Measure BIO-1b requires, in part, that when suitable habitat is present (such as gabbro or serpentine habitats) that surveys be performed prior to project initiation and during the appropriate blooming period. This would include the types of special-status plant species that may be present in gabbro and serpentine habitat types. If detected, avoidance or mitigation measures would be required and determined in consultation with USFWS and/or CDFW. No further mitigation is required.

## Comment 3-19

The comment recommends that language be added to Mitigation Measure BIO-1c to indicate when coordination with CDFW in addition to the U.S. Fish and Wildlife Service (USFWS) is required.

In response to Comment 3-19, the text of the Draft EIR has been amended in the third bullet point on page 6-48 of the Draft EIR:

- For work conducted during the California red-legged frog migration season (November 1 to May 31), exclusionary fencing will be erected around the area of impact during ground-disturbing activities after hand excavation of burrows has been completed. A qualified biologist will visit the site weekly to ensure that the fencing is in good working condition. Fencing material and design will be subject to the approval of USFWS <u>and CDFW</u>. If exclusionary fencing is not used, a qualified biological

monitor will be on-site during all ground disturbance activities. Exclusion fencing will also be placed around all spoils and stockpiles.

In response to Comment 3-19, the text of the Draft EIR has been amended in the eighth bullet point on page 6-49 of the Draft EIR:

- For work conducted during the California tiger salamander migration season (November 1 to May 31), exclusionary fencing will be erected around the area of impact during ground-disturbing activities after hand excavation of burrows has been completed. A qualified biologist will visit the site weekly to ensure that the fencing is in good working condition. Fencing material and design will be subject to the approval of USFWS and CDFW. If exclusionary fencing is not used, a qualified biological monitor will be on-site during all ground disturbance activities. Exclusion fencing will also be placed around all spoils and stockpiles.

In response to Comment 3-19, the text of the Draft EIR has been amended in the eighth bullet point on page 6-50 of the Draft EIR:

- The implementing agency shall secure any necessary take authorization prior to project construction through formal consultation with CDFW and USFWS pursuant to Section 2081 of the California Fish and Game code and Section 7 of the ESA, respectively.

In response to Comment 3-19, the text of the Draft EIR has been amended in the last bullet point on page 6-52 of the Draft EIR:

- Prior to construction, CDFW shall be consulted pursuant to CESA and USFWS shall be consulted pursuant to Section 7 of the ESA. The activities may qualify to use the *Programmatic Formal Consultation for U.S. Army Corps of Engineers 404 Permitted Projects with Relatively Small Effects on the Giant Garter Snake within Butte, Colusa, Glenn, Fresno, Merced, Sacramento, San Joaquin, Solano, Stanislaus, Sutter and Yolo Counties, California* (USFWS 1999). The Habitat Replacement & Restoration Guidelines (Appendix A), Items Necessary for Formal Consultation (Appendix B), Avoidance & Minimization Measures During Construction (Appendix C), and Monitoring Requirements (Appendix D) shall be followed.

In response to Comment 3-19, the text of the Draft EIR has been amended in the first bullet point on page 6-58 of the Draft EIR:

- If nests are detected, direct impacts and indirect impacts (e.g., noise, presence of construction crews) shall be avoided by establishing appropriate buffers around active nest sites. Factors to be considered for determining buffer size will include the presence of natural buffers provided by vegetation or topography; nest height; locations of foraging territory; and baseline levels of noise and human activity. Buffer size may be adjusted if the qualified biologist, in consultation with CDFW or USFWS, determines that such an adjustment would not be likely to adversely affect the nest. The buffer areas shall be protected with construction fencing, and no activity shall occur within the buffer areas until the qualified biologist has determined, in coordination with CDFW or USFWS, that the young have fledged, the nest is no longer active, or reducing the buffer would not likely result in nest abandonment. Monitoring of the nest by a qualified biologist during and after construction activities will be required if the activity has potential to adversely affect the nest.

The edits above do not alter the significance determinations of the Draft EIR. No further response is required to Comment 3-19.

## Comment 3-20

The comment states that the Draft EIR, in Mitigation Measure BIO-1c, should require compliance with CESA, which may include avoidance, CDFW approval for take authorization, and CDFW approval of mitigation. The edits made to

the Draft EIR provided above in the response to Comment 3-19 amend the existing language of Mitigation Measure BIO-1c to describe existing requirements for project proponents to comply with CESA and consult with CDFW. No further response is required to Comment 3-20.

## Comment 3-21

The comment recommends that the Draft EIR, in Mitigation Measure BIO-1c, require that all holes or trenches at least six inches deep be subject to requirements for covering and daily monitoring. The Draft EIR provides a programmatic evaluation of environmental impacts that could occur as a result of implementation of the proposed MTP/SCS and identifies mitigation measures that could reduce impacts to less-than-significant levels if implemented at the project level by a lead agency. Project-specific information such as landscapes and habitat characteristics would differ on a project-by-project basis and is unknown at this time. At this program-level of analysis, there is not sufficient information available about all future activities to establish a uniform requirement for covering and monitoring of holes and trenches for all future land use and transportation projects that could occur with implementation of the proposed MTP/SCS. Draft EIR Mitigation Measures BIO-1a through BIO-1c already require the implementation of project- and species-specific avoidance and minimization measures at the project level. This would include the identification of appropriate project-specific requirements for covering and monitoring of holes and trenches based on project-specific activities, site-specific conditions, and other factors.

To clarify this point, the text of the Draft EIR has been amended to include the following clarification in the first paragraph under the heading Mitigation Measure BIO-1c: Identify Special-Status Wildlife, and Avoid, Minimize, and Mitigate Impacts, on page 6-46 of the Draft EIR:

> If the qualified biologist, after implementation of Mitigation Measure BIO-1a, determines that suitable habitat for special-status wildlife is present within the area of impact and could be adversely affected by construction activities, then the ~~following~~ measures listed below shall be implemented. Additional or more specific Avoidance and Minimization Measures may be required at the project level based on project-specific activities, site-specific conditions, and other factors in order to avoid or substantially lessen adverse impacts. Additional Avoidance and Minimization Measures shall be developed in coordination with CDFW or USFWS, as appropriate. Measures include, but are not limited to, the following:

The edits above do not alter the significance determinations of the Draft EIR. No further response is required to Comment 3-21.

## Comment 3-22

The comment states that there are nine state and/or federally listed or candidate wildlife species that may occur in the plan area but are not included in Mitigation Measure BIO-1c. However, some of these species were included, such as the riparian brush rabbit (refer to the Avoidance and Minimization Measures for Special-Status Rabbits and Sierra Nevada Mountain Beaver on page 6-62) and the longfin smelt, Lahontan cutthroat trout, and eulachon (which are addressed by the Avoidance and Minimization Measures for special-status fish on page 6-63 in the Draft EIR). The Draft EIR already includes Avoidance and Minimization Measures for special-status birds (pages 6-57 and 6-58) but does not specifically name all species. For clarity, the text of the Avoidance and Minimization Measures for special-status birds has been amended in the sixth bullet point on page 6-57 of the Draft EIR to list the tricolored blackbird and western snowy plover:

- If suitable habitat for other special-status nesting birds (e.g., bank swallow [*Riparia riparia*], black swift [*Cypseloides niger*], grasshopper sparrow [*Ammodramus savannarum*], loggerhead shrike, tricolored blackbird, and western snowy plover) or other native nesting birds protected under sections 3503 and 3503.5 of the California Fish and Game Code is identified within the area of impact or within 500 feet of the area of impact, all tree removal activities and construction activities shall occur during the nonbreeding season (September 1–January 31), if feasible. If tree removal or other construction activities must occur between February 1 and August 31, the implementing agency shall retain a qualified biologist to conduct protocol-level nest surveys within 500 feet of the area of impact no more than 7 days prior to initiation of construction.

Salt-marsh harvest mouse is also addressed in the Draft EIR (refer to Appendix BIO-1) and would be subject to the Draft EIR mitigation measures for biological resources including BIO-1a to BIO-1c. The Draft EIR has been amended on page 6-62 to include Avoidance and Minimization Measures for salt-marsh harvest mouse:

Salt Marsh Harvest Mouse

- The only suitable habitat and portion of the species range for salt marsh harvest mouse within the plan area of the proposed MTP/SCS is on Sherman Island in the Sacramento-San Joaquin Delta.
- Take of fully protected mammal species (i.e., salt marsh harvest mouse) is prohibited, and disturbance, injury, or mortality of this species shall be avoided.

The California Fish and Game Commission determined that a petition to list Crotch bumble bee (*Bombus crotchii*) western bumble bee (*Bombus occidentalis occidentalis*), and two additional bumble bee species as endangered under CESA was warranted on June 12, 2019. This determination was made after the April 25, 2019 publication of the Notice of Preparation (NOP) for this Draft EIR. Due to the timing of this determination occurring after publication of the NOP and after commencement of the Draft EIR, the two bumble bee species that have historic ranges that overlap with the plan area of the proposed MTP/SCS (Crotch bumble bee and western bumble bee) were not included in the list of special-status species in the Draft EIR (Appendix BIO-1).

While these species were not listed in Appendix BIO-1 of the Draft EIR, Mitigation Measure BIO-1a requires implementing agencies to conduct a data review and reconnaissance-level survey and habitat assessment at the project level to determine whether special-status wildlife species habitat is present within the project site. This mitigation framework requires consideration of all species that meet the special-status definition at the time of the individual project's environmental review. In addition, Mitigation Measure BIO-1c would require identification of any special-status wildlife at the project level, and avoidance and minimization measures to reduce impacts to these species, and consultation with CDFW or other applicable wildlife agencies.

See also the response to Comment 3-21, which included edits to the Draft EIR that provide clarity that additional or more specific Avoidance and Minimization Measures may be required under Mitigation Measure BIO-1c at the project level based on project-specific activities, site-specific conditions, and other factors in order to avoid or substantially lessen adverse impacts and that these measures shall be developed in coordination with CDFW or USFWS, as appropriate.

## Comment 3-23

The comment recommends various avoidance and mitigation measures for bats. The Draft EIR provides a programmatic evaluation of environmental impacts that could occur as a result of implementation of the proposed MTP/SCS and provides potential mitigation that could reduce impacts to less-than-significant levels if implemented at the project level by a lead agency. The Draft EIR (pages 6-60 to 6-61) includes Avoidance and Minimization Measures for bats, including requirements for preconstruction surveys, submittal of a Bat Exclusion Plan to CDFW for approval, and submittal of a mitigation plan to CDFW for approval if a winter roost, maternity roost, or any roost of a special-status bat species is found. At this program-level of analysis, there is not sufficient information available about all future project-level activities to establish more detailed requirements as recommended in this comment for all future land use and transportation projects that could occur with implementation of the proposed MTP/SCS. Draft EIR Mitigation Measures BIO-1a through BIO-1c already require the implementation of project- and species-specific avoidance and minimization measures at the project level. This would include, where appropriate, the identification of more detailed project-specific requirements based on project-specific activities, site-specific conditions, and other factors.

To clarify this point, the text of the Draft EIR has been amended in the first paragraph under the heading Mitigation Measure BIO-1c: Identify Special-Status Wildlife, and Avoid, Minimize, and Mitigate Impacts, on page 6-46 of the Draft EIR as described in the response to Comment 3-21.

## Comment 3-24

The comment offers additional mitigation strategies to minimize impacts to special-status bats such as incorporation of in-kind replacement habitat (e.g., suitable vegetation, crevice, panel, color, capped-edge brain, bat boxes, and bat houses). Because Mitigation Measure BIO-1c already requires preparation of a Bat Exclusion Plan to be developed in consultation with CDFW prior to its implementation, additional mitigation strategies may be incorporated into the Bat Exclusion Plan, as appropriate based on project- and site-specific considerations that cannot be known at this time. Please see the response to Comment 3-23 for additional discussion of why the recommendations raised in this comment are not included in the programmatic analysis of this Draft EIR.

## Comment 3-25

The comment states that the third bullet of the California Tiger Salamander (CTS) section of Mitigation Measure BIO-1 should be corrected to specify that CTS would be relocated to the nearest burrow suitable to support CTS populations.

In response to Comment 3-25, the text of the Draft EIR has been amended in the third bullet point on page 6-49 of the Draft EIR:

- All suitable burrows directly affected by construction will be hand excavated under the supervision of a qualified wildlife biologist. If California tiger salamanders are found, the biologist will relocate individuals to the nearest <u>suitable</u> burrow that is outside of the area of impact.

The edits above do not alter the significance determinations of the Draft EIR. No further response is required to Comment 3-25.

## Comment 3-26

The comment recommends strengthening the language of the fifth bullet of the CTS section of Mitigation Measure BIO-1c to specify that fences constructed as mitigation be checked daily. The Draft EIR provides a programmatic evaluation of environmental impacts that could occur as a result of implementation of the proposed MTP/SCS and provides potential mitigation that could reduce impacts to less-than-significant levels if implemented at the project level by a lead agency. At this program-level of analysis, there is not sufficient information available about all future activities to establish detailed requirements for the frequency of checking fencing as recommended in this comment for all future land use and transportation projects that could occur with implementation of the proposed MTP/SCS. Draft EIR Mitigation Measures BIO-1a through BIO-1c already require the implementation of project- and species-specific avoidance and minimization measures at the project level that would be developed and implemented in coordination with CDFW. This would include, where appropriate, the identification of more detailed project-specific requirements based on project-specific activities, site-specific conditions, and other factors.

To clarify this point, the text of the Draft EIR has been amended in the first paragraph under the heading Mitigation Measure BIO-1c: Identify Special-Status Wildlife, and Avoid, Minimize, and Mitigate Impacts, on page 6-46 of the Draft EIR as described in the response to Comment 3-21.

## Comment 3-27

The comment recommends that the language of bullets 5 and 6 under the CTS section of Mitigation Measure BIO-1c be amended to more accurately reflect the migration season of CTS.

In response to Comment 3-27, the text of the Draft EIR has been amended in the fifth and sixth bullet points on page 6-49 of the Draft EIR:

- For work conducted during the California tiger salamander migration season (~~November 1~~ <u>October 15</u> to May 31), exclusionary fencing will be erected around the area of impact during ground-disturbing activities after hand excavation of burrows has been completed. A qualified biologist will visit the site weekly to ensure that the fencing is in good working condition. Fencing material and design will be subject to the approval of USFWS. If exclusionary fencing is not used, a qualified

biological monitor will be on-site during all ground disturbance activities. Exclusion fencing will also be placed around all spoils and stockpiles.

- For work conducted during the California tiger salamander migration season (~~November 1~~ October 15 to May 31), a qualified biologist will survey the area of impact (including access roads) in mornings following measurable precipitation events. Construction may commence once the biologist has confirmed that no California tiger salamanders are in the work area.

The edits above do not alter the significance determinations of the Draft EIR. No further response is required to Comment 3-27.

## Comment 3-28

The comment provides additional mitigation measures to minimize impacts to CTS. In response to Comment 3-28, the following bullets have been added following the seventh bullet point on page 6-50 the Draft EIR:

- Potential barriers to CTS movement such as curbs and edges greater than 3 inches in suitable CTS habitat shall be minimized.
- Work activities shall be limited to periods with the least probability for CTS encounters.
- Work activities shall be limited to an 820-foot buffer for breeding ponds during the metamorphosis dispersal period of CTS.
- Measures to minimize small mammal control that could adversely affect burrow habitat of CTS shall be implemented.

The edits above do not alter the significance determinations of the Draft EIR. No further response is required to Comment 3-28.

## Comment 3-29

The comment recommends that the Draft EIR include mitigation for potential loss of foraging habitat in addition to the mitigation outlined for loss of nesting trees.

In response to Comment 3-29, the following bullet has been added following the first bullet point on page 6-55 of the Draft EIR:

- If Swainson's hawk foraging habitat would be lost during construction activities, mitigation for loss of this habitat shall be required.

The edits above do not alter the significance determinations of the Draft EIR. No further response is required to Comment 3-29.

## Comment 3-30

The comment suggests that bullets 1 and 2 under the Other Special-Status Raptors section of Mitigation Measure BIO-1c be edited to specify that sensitive raptor species may be adversely affected by construction noise at distances greater than 500 feet.

In response to Comment 3-30, the text of the Draft EIR has been amended in the first and second bullet points on page 6-55 of the Draft EIR:

- If suitable habitat for other nesting special-status raptors (e.g., ferruginous hawk [*Buteo regalis*], golden eagle, bald eagle, northern harrier) or common raptors protected under California Fish and Game Code (e.g., red-tailed hawk, red-shouldered hawk) is identified within the area of impact or within 500 feet of the area of impact or a larger buffer as recommended by CDFW (e.g., 0.25 mile for white-tailed kite), all tree removal activities and construction activities shall occur during the nonbreeding season (September 1–January 31), if feasible.

- If tree removal or other construction activities must occur between February 1 and August 31, the implementing agency shall retain a qualified biologist to conduct a preconstruction survey for nesting raptors within 500 feet of the area of impact or a larger buffer as recommended by CDFW (e.g., 0.25 mile for white-tailed kite) no more than 7 days prior to initiation of construction.

The edits above do not alter the significance determinations of the Draft EIR. No further response is required to Comment 3-30.

## Comment 3-31

The comment recommends strengthening the language of the third bullet of the American Badger section of Mitigation Measure BIO-1c to include an active movement corridor between exclusion zones and adjacent suitable habitat. The Draft EIR provides a programmatic evaluation of environmental impacts that could occur as a result of implementation of the proposed MTP/SCS and provides potential mitigation that could reduce impacts to less-than-significant levels if implemented at the project level by a lead agency. At this program-level of analysis, there is not sufficient information available about all future activities to establish more detailed requirements as recommended in this comment for all future land use and transportation projects that could occur with implementation of the proposed MTP/SCS. Draft EIR Mitigation Measures BIO-1a through BIO-1c already require the implementation of project- and species-specific avoidance and minimization measures at the project level. This would, where appropriate, include the identification of more detailed project-specific requirements based on project-specific activities, site-specific conditions, and other factors.

To clarify this point, the text of the Draft EIR has been amended in the first paragraph under the heading Mitigation Measure BIO-1c: Identify Special-Status Wildlife, and Avoid, Minimize, and Mitigate Impacts, on page 6-46 of the Draft EIR as described in the response to Comment 3-21.

## Comment 3-32

The comment recommends the addition of other special-status fish such as longfin smelt and green sturgeon. The Draft EIR already includes an analysis of impacts to special-status fish species, and mitigation measures to avoid or substantially lessen potential impacts, including Avoidance and Minimization Measures specific to special-status fish species. For clarity, the two species identified in this comment have been added to the listing of special-status species with potential to occur in the plan area in Draft EIR Appendix BIO-1. These additions do not alter the significance determinations of the Draft EIR. No further response is required to Comment 3-32.

## Comment 3-33

The comment recommends additional avoidance and minimization measures related to pile driving and its effects on special-status fish.

In response to Comment 3-33, the following bullet has been added following the fifth bullet point under the heading Special-Status Fish, on page 6-63 the Draft EIR:

- For projects that entail the use of construction-related pile drivers, minimization measures such as soft starts, hydroacoustic monitoring, decibel restrictions, and limited construction timing (i.e., limiting the amount of strikes per day) shall be enforced.

The edits above do not alter the significance determinations of the Draft EIR. No further response is required to Comment 3-33.

## Comment 3-34

The comment recommends including shrub and herbaceous layers associated with riparian and oak woodland habitat restoration/creation into Mitigation Measure BIO-3. The Draft EIR provides a programmatic evaluation of environmental impacts that could occur as a result of implementation of the proposed MTP/SCS and provides potential mitigation that could reduce impacts to less-than-significant levels if implemented at the project level by a lead agency. At this program-level of analysis, there is not sufficient information available about all future activities to establish more detailed requirements as recommended in this comment for all future land use and transportation

projects that could occur with implementation of the proposed MTP/SCS. Draft EIR Mitigation Measures BIO-1a through BIO-1c already require the implementation of project- and species-specific avoidance and minimization measures at the project level that would be developed in consultation with CDFW to address project- and site-specific conditions. No changes to the Draft EIR are required.

## Comment 3-35

The comment recommends that additional language be added to Mitigation Measure BIO-3 describing the existing regulatory requirements of section 1602 of the Fish and Game Code and the preparation of a Lake or Streambed Alteration Agreement. The second bullet on page 6-68 states "[i]f adverse effects on riparian habitat or other sensitive natural communities associated with the bed, back, or channel of streams or lakes cannot be avoided, the implementing agency shall comply with Section 1602 of the California Fish and Game Code by submitting a Streambed Alteration Notification to CDFW, pursuant to Section 1600 et seq. of the California Fish and Game Code," to addresses regulatory compliance with Fish and Game Code section 1602 which requires the preparation of a Lake or Streambed Alteration Agreement. Because the Draft EIR already addresses compliance with Fish and Game Code section 1602, no changes to the Draft EIR are required in response to Comment 3-35.

## Comment 3-36

The comment summarizes the components of a Lake or Streambed Alteration Agreement. The comment does not address the adequacy of the EIR. No changes to the Draft EIR are required in response to Comment 3-36.

## Comment 3-37

The comment summarizes CDFW's role in evaluating streams, lakes, rivers, and wetlands as compared to the U.S. Army Corps of Engineers or the applicable Regional Water Quality Control Board. The comment does not address the adequacy of the EIR. No changes to the Draft EIR are required in response to Comment 3-37.

## Comment 3-38

The comment recommends that projects coordinate with implementing entities for HCPs (such as the South Sacramento Conservation Agency) when potential MTP/SCS projects would affect wildlife corridors. The potential to conflict with HCPs, including coordination with implementing entities, is discussed under Impact BIO-6. As stated in the last paragraph of page 6-84, "[i]f permitting through an adopted HCP or NCCP is pursued, the applicant would be required to meet the permit conditions and other requirements established in the plan's Implementing Agreement, which may include (depending on the plan) submitting a complete application package, paying required fees, fulfilling any appropriate survey requirements, and complying with all applicable conservation measures." Thus, in cases where projects would be located within the boundaries of an HCP or NCCP, project proponents would be statutorily required to coordinate with the applicable implementing entity, as well as to comply with the permitting requirements of an HCP. No changes to the Draft EIR are required in response to Comment 3-38.

## Comment Number: 3-39

The comment requests any special-status species and natural resource communities detected during project surveys to be reported. No biological surveys were completed as part of this programmatic EIR.

## Comment Number: 3-40

The comment explains the filing fees required upon the filing of the Notice of Determination. Comment noted.

## Comment Number: 3-41

The comment requests written notification of proposed actions and pending decisions regarding the project. Please be advised that certification of the MTP/SCS Final EIR and approval of the MTP/SCS is scheduled for November 18, 2019, at 10 a.m.

## Comment Number: 3-42

The comment is a conclusion of the comment letter. Comment noted.

## Comment Number: 3-43

The comment is a list of references.