Comment on Draft East Contra Costa County HCP/NCCP

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Comments by:

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In general this is a good document. Given the successful history of land conservation in East Contra Costa County, the implementation of this plan will result in extensive and effective conservation of natural communities and most of the covered species in East Contra Costa County. Thank you.

Comments on a few items. In several cases the comment will apply to multiple subsections.

Extent of conservation by the Plan (eg: Table ES3)

It would be most helpful to have data on extent of existing conservation of suitable / core / modeled habitat for each animal species and for each vegetative type. M-1

Biological Goals and Objectives

No vernal pool preservation objectives (just seasonal and alkali wetlands). Specific vernal pool objectives are important since the Inventory Area includes lands that are part of the USFWS Vernal Pool Ecosystems Recovery Plan M-2

Conservation in the Inventory Area beyond HCP/NCCP requirements (pp 5-54/55)

This section could be especially helpful in guiding additional, non HCP/NCCP conservation. One task of the Implementing Entity should be outreach to other entities carrying out independent land conservation to encourage use of these guidelines and to maximize the ecological value of additional conservation. M-3

Preserve management plans / vegetation management (pp 5-57/58) M-4

In many cases, need to require that each plan should require continuance of pre-acquisition vegetation management until efficacy of change determined by local experimentation or pilot studies (this could include existing data obtained on nearby lands)

M-4 (Cont.)

Tricolored Blackbird

This is a very difficult species to conserve and we can assume that the Plan's conservation strategy will work. Is there data on whether breeding occurred at known occurrence sites in multiple years, including the recent past? Need to obtain more precise information about the location / year(s) of use of inventory area sites in the Contra Costa breeding bird atlas. If any of these sites are extant and used in multiple years within the past few years, then conservation and any necessary enhancement-restoration of these sites is particularly important. Conservation should include adequate foraging habitat within 1-2 miles of the historic colony site

M-5

M-6

M-7

M-8

Swainson's Hawk

The proposed conservation strategy will not achieve Goal 32 (" maintain or increase population size and distribution of Swainson' hawk in the inventory area"), especially as there are significantly more active nest sites than stated in the Plan species profile (eg: Swainson's Hawk Technical Advisory Committee comment on this draft plan / information from Laurence Resseguie, UC Berkeley). Also reliance on General Plan policies and current Zoning for the Core Agricultural Area is not valid, since these policies and the zoning could be changed at any time and they do not restrict crop type. Another factor that results in inadequate conservation is the lower fee for Fee Zone II.

I suggest that you meet with the Swainson's Hawk Technical Advisory Committee, examine current data including information on habitat status, parcelization, and other data related to the practicality of habitat conservation in Zone 6, and develop a more effective conservation strategy for the Swainson's hawk.

M-9

Western Burrowing Owl

Not clear that the plan will provide effective conservation of this species, especially as there are continuing declines and also unexplained local extirpations in areas actively managed for burrowing owls.

M-10

Silvery Legless Lizard

Given the paucity of data provided in the species profile and the fact that the Plan will only conserve 11-12 percent of modeled habitat, it a major leap of faith to conclude that

M-11

the plan will conserve this species. It would help to know the percent of modeled habitat that is already conserved and how that habitat is managed. M-11 (Cont.)

Vernal Pool Species

The plan should use the Recovery Unit conservation targets of the Vernal Pool Ecosystems Recovery Plan (I think the final plan is due out at the end of January 2006). The ECC document should explain the extent to which existing conservation (eg: existing preserves around the Byron Airport) meet Recovery Plan targets and how much conservation is required from this Plan. M-12

Land Dedication in Lieu of Development Fees

It should not be only "under special circumstances", as stated early in the document. It may be necessary to make much more extensive use of this approach. There should still be a fee for monitoring etc.

There will likely be instances where a developer searches for land to purchase, as opposed to dedicating already-owned land. The developer should discuss this search with the Implementing Entity to ensure a focus on suitable sites. M-13

Implementation - Periodic Review

While the annual report section (8-32/33) has a good list of topics and there will be a vigorous adaptive management program, one additional item is essential. This is a "periodic review" of the HCP/NCCP and its implementation (perhaps in years 6,12,20,30). This needs to include stakeholders and outside scientists and be a public process. The periodic review will examine overall plan implementation, including conservation strategies and financing. The outcome of this review may be that everything is fine. Or it may be that one or more changes are essential to meet the plan's goals. Periodic Review will also provide a large increase in stakeholder and public confidence in the plan. The project's budget should include funding for this activity. M-14

Funding : Development Mitigation Fees

The lower fee in Fee Zone 1 creates a major problem, including inadequate conservation of Swainson's hawk foraging habitat. The plan will be more effective if Fee Zones I and II are merged. M-15

Funding: Periodic Fee Audit and Adjustment M-16

It is clear from recent experiences in other counties that this audit and adjustment must occur at least once a year. The proposed less frequent schedule is not adequate.

M-16 (Cont.)

Funding Some Early Year Costs

The Plan has a substantial number of early-year (years 1-5) tasks whose combined cost will be considerable. These include:
(i) preparation of some system-wide plans (eg: exotic plant control plan, recreation plan);
(ii) preparation of a preserve management plan for each preserve once the first parcel is acquired
(iii) a variety of tasks for setting up the Adaptive Management and Monitoring Program (including model development, decisions on what to monitor, monitoring protocols and sampling design, most urgent directed research projects, design of initial adaptive management strategies.

M-17

Table 9-2 suggests that these costs have been taken into account for items (I) and (ii) above (Operational costs, "Management, etc") since there is much higher dollar figure for years 1-5. It is not clear to me that these costs have been taken into account for Monitoring, Research and Adaptive Management.

The Plan needs to outline how the funding for these early tasks will be available on a timely basis.

Changed Circumstances

This section shifts the same type of event from "foreseen" to "unforeseen" according to the magnitude or size of the event. Is this done primarily for fiscal reasons? I do not think the "cut offs" used are reasonable, since in many instances the larger events are quite likely and most definitely "foreseen". And what about handling changed circumstances after the end of the 30-year permit, given that the preservation component is in perpetuity?

M-18

Some examples.

It doe not make sense to me to call " a single wildfire greater than 1,000 acres in size... an unforseen event". California fire history tells us that wildland fires greater than 1,000 acres are inevitable under strong wind / very low humidity conditions. A large fire needs to be a foreseen circumstance.

The document states that a large infestation (more than 25% of inventory area) by a new exotic species of disease is considered an unforseen circumstance because a large infestation "can become extremely expensive to control..." However the history of

M-19

invasions and infestations in California tells us that we can reasonably expect just such a large event. It needs to be a foreseen circumstance. M-19 (Cont.)

Regarding "flooding destroys riparian plantings". Calling damage by flooding larger than a 50 year event an unforeseen circumstance is not reasonable. For example, a 100 year flood event has a 26% chance of occurring during a 30 year period. There is a strong likelihood that larger than 50-year events will occur, especially given forecasts of the impacts of climate change. M-20

Drought. Calling a drought of more than 3 successive years unforeseen is not reasonable, because of our general knowledge of California climate history, because reliance on local data from the past 18-150 years (as opposed to longer-term data such as tree-ring studies) is inadequate, because weather is like the stock market (past performance no predictor of future performance) and because the document states that even the local data used shows a drought of 3 **or more** (emphasis added) years occurred 0.7 times over any 30-year period (ie: a 70% chance) M-21

Some Additional Changed (Foreseen) Circumstances not mentioned

* Failure to meet preserve targets in one or more zones or subzones due to insufficient willing sellers of land / easements M-22

* Impacts from "Winking out" of one or more populations of a metapopulation leading to realization that the conservation strategy for that species is inadequate M-23

I am sure there a bunch more that should be in this document.

Thank you for the opportunity to comment

Response to Letter M, from John Hopkins

Response to Comment M-1

In response to the HCP/NCCP, the commenter suggests that data be presented on the extent of existing conservation of suitable, core, and modeled habitat for each animal species and each vegetation type.

Data on the extent of existing conservation of habitat for covered wildlife species can be determined by subtracting the amount of modeled habitat outside parks and open space (Table 4-4) from the total habitat in the inventory area (Table 4-4). The same information for each land-cover type can be obtained by subtracting the same amounts from Table 4-2 or Table 4-3.

No changes to the HCP/NCCP or EIS/EIR are required.

Response to Comment M-2

In response to the HCP/NCCP, the commenter states that specific vernal pool preservation objectives should be included in the Plan.

No vernal pool preservation objectives are included in the biological goals and objectives (see Table 5-1) because vernal pools are expected to be rare in the inventory area based on multiple surveys of large areas of land where vernal pools might occur (see page 3-17 for more discussion and justification). Furthermore, most of the known vernal pools in the inventory area have already been preserved in three areas: 1) adjacent to the Byron Airport through conservation easements, 2) in the Los Vaqueros watershed, and 3) on Cowell Ranch State Park. Because vernal pools impacts are expected to be very low, and there are few, if any, opportunities for vernal pool preservation, no biological objectives were identified for vernal pool preservation under the Plan. If impacts occur to vernal pools as a result of covered activities, vernal pools would need to be preserved and restored at the ratios in Tables 5-5a, 5-5b, 5-16, and 5-17. If no vernal pool areas were available for preservation or restoration in areas consistent with the conservation strategy, then no impacts to vernal pools would be allowed under the Plan.

No changes to the HCP/NCCP or EIS/EIR are required.

Response to Comment M-3

In response to the HCP/NCCP, the commenter states that one task of the Implementing Entity should be outreach to other entities carrying out independent land conservation to encourage the use of the conservation guidelines on pages 5-54 and 5-55.

The comment is noted.

No changes to the HCP/NCCP or EIS/EIR are required.

Response to Comment M-4

In response to the HCP/NCCP, the commenter states that preserve management plans described on pages 5-57 and 5-58 should include a provision to continue pre-acquisition vegetation management until it can be demonstrated through experimentation or pilot studies that changing management would be beneficial to the community.

We concur with this suggestion.

Revisions to the HCP/NCCP

The text has been revised to continue pre-acquisition management regimes until it can be demonstrated that changing management immediately will benefit natural communities or covered species.

Response to Comment M-5, M-6, M-7, and M-8

In response to the HCP/NCCP, the commenter asks whether data are available on breeding of tricolored blackbird at known sites in multiples years, including the recent past.

We are not aware of any such data.

The commenter also states that more precise information regarding the location and year of use of these breeding sites should be obtained from the Contra Costa breeding bird atlas. This atlas (available on-line at http://www.flyingemu.com/ccosta/) presents occurrence data at a very broad scale. Data from the California Natural Diversity Database is more accurate. An important part of the pre-acquisition surveys for lands being considered for acquisition by the HCP/NCCP are surveys for covered species. New occurrences of tricolored blackbird are likely to be discovered during these pre-acquisition surveys. If the land is incorporated into the Preserve System, then those populations of tricolored blackbird would be monitored according to the guidelines in Chapter 7 and the site-specific management and monitoring plans. We concur that management and, if appropriate, enhancement of these newly discovered populations would be an important goal of the preserve system.

The commenter states that conservation should include adequate foraging habitat within 1-2 miles of the historic colony site. It is unclear what site the commentor is referring to as no page reference was provided. On page 5-25, the conservation strategy says that "Acquisition in Zone 6 will focus on land suitable for restoration (e.g., riparian woodland/scrub, wetland, and adjacent upland) as habitat for tricolored blackbird, western burrowing owl, Swainson's hawk, and giant garter snake." There is also extensive requirement for preservation and enhancement of existing ponds to preserve and enhance habitat for tricolored blackbird. Extensive grassland and other foraging habitat for tricolored blackbird will be preserved near these protected ponds.

No changes to the HCP/NCCP or EIS/EIR are required.

Response to Comment M-9

In response to the HCP/NCCP, the commenter states that the proposed conservation strategy will not achieve biological goal 32 related to Swainson's hawk, and reliance on General Plan policies and current zoning is not a valid conservation measure.

Biological Goal 32 is "Maintain or increase population size and distribution of Swainson's hawk in the inventory area". As described in response to comment K-10, the expected impacts to Swainson's hawk from the covered activities has dropped by 19-20% from the draft HCP/NCCP due to revisions to the species model and a reduction in the footprint of urban development covered by the Plan. In addition, land acquisition expected to benefit Swainson's hawk foraging has increased by 61-72% from the draft HCP/NCCP, resulting in substantially more conservation. While the Plan will result in a net loss of foraging habitat due to the covered activities, there will be a net gain of riparian woodland and Swainson's hawk breeding habitat of an estimated 34-39 acres, or a 41-47% increase. With these changes, the Wildlife Agencies are confident that the Plan will achieve biological goal 32 to either maintain or increase the local population of the species.

With the revisions to impacts and conservation, there is less need to rely on County zoning to preserve adequate amounts of Swainson's hawk foraging habitat within the inventory area.

Revisions to the HCP/NCCP

The HCP/NCCP will be revised to reflect the response above.

Response to Comment M-10

In response to the HCP/NCCP, the commenter states that it is not clear that the Plan will provide effective conservation for the western burrowing owl.

As summarized in Table ES-3, the HCP/NCCP will conserve an estimated 16,675 acres of modeled habitat for western burrowing owl under the initial Urban Development Area (UDA) and an estimated 19,844 acres of modeled habitat under the maximum UDA. This represents 38% and 45% of available, unprotected modeled habitat in the inventory area, respectively. In addition to this extensive preservation, the conservation strategy calls for several management measures that will benefit western burrowing owl:

- Enhancement of grassland, which is the primary habitat of this species (see Conservation Measure 2.4 on page 5-80 of the Draft HCP/NCCP);
- Enhancement of the prey base for a variety of raptors including burrowing owl (see Conservation Measure 2.5 on page 5-84);
- Creation of temporary artificial burrows to attract burrowing owls to new areas (see Conservation Measure 3.4 on page 5-107); and
- Installation of temporary artificial perches to attract and retain burrowing owls to new areas (see Conservation Measure 3.5 on page 5-108).

The Wildlife Agencies and the HCPA believe that these conservation measures will, collectively, provide extensive and effective benefits to western burrowing owls in the inventory area.

No changes to the HCP/NCCP or EIS/EIR are required.

Response to Comment M-11

In response to the HCP/NCCP, the commenter states that conservation of 11-12 percent of modeled suitable habitat for silvery legless lizard will not adequately conserve the species in the inventory area.

According to the data in Table 4-4, an estimated 2,196 acres (62%) of modeled suitable habitat for silvery legless lizard are currently protected in the inventory area, mostly in the Los Vaqueros Watershed, Round Valley Regional Preserve, and Morgan Territory Regional Preserve. As shown in the species habitat model in Appendix D of the HCP/NCCP, modeled suitable habitat is highly patchy. All expected impacts to suitable habitat would occur within Oakley and northern Brentwood in small patches of sandy soils that may not be viable already because of their small patch size and proximity to urban development. Areas to be conserved include habitat patches in Zone 2 between Clayton and Antioch. The largest unprotected patch of sandy soil in the inventory area is on private land currently being mined by the Unamin Corporation near Byron. It is not know whether this area is occupied by silvery legless lizard, but the area is not feasible as a conservation area because of the active sand mine. (Note that mining activities are not covered by the HCP/NCCP.)

As stated on page 5-33 and 5-40, land in Subzones 2a, 2e, 2h, 5a, and 5c that is found during pre-acquisition surveys to be suitable for silvery legless lizard will have a high acquisition priority because of the limited availability of habitat for this species in potential conservation areas. Conservation targets for this species are modest because of the high level of existing protection of modeled habitat in the inventory area, the limited availability of viable conservation areas, and the fact that the species is widely distributed in California (see species range map) and the inventory area represents only a small fraction of the range of the species.

No changes to the HCP/NCCP or EIS/EIR are required.

Response to Comment M-12

In response to the HCP/NCCP, the commenter states that Recovery Unit conservation targets should be used from the Vernal Pool Ecosystems Recovery Plan (U.S. Fish and Wildlife Service 2004) and compared with the conservation targets in the HCP/NCCP.

The applicable area in the Recovery Plan is the Livermore vernal pool region. Within this region is one designated "core area", the Altamont Hills core area, which is divided into 5 discrete units. Three of these five units are within the HCP/NCCP Plan area. One of these units is already protected by the Vasco Caves Regional Preserve (EBRPD). Another unit is almost entirely within the Los Vaqueros Watershed, which is protected by the Contra Costa Water District. The remaining unit of the Altamont Hills core area is partially protected by the Byron Airport Habitat Mitigation Lands and a local mitigation bank. Acquisition Analysis Subzone 5a generally overlaps with this core area unit. The HCP/NCCP requires that at 4,300 acres of annual grassland be acquired in this Subzone or Subzone 5d under the initial urban development area. Most of the land acquisition requirements for alkali grassland and alkali wetland in Zones 5 and 6 overlap with this Recovery Plan core area unit. The HCP/NCCP requires that at least 850 acres of alkali grassland 60 acres of alkali wetland be acquired in Zones 5 and 6, most of which would occur within this Recovery Plan core area unit.

The recovery targets for vernal pool species covered by the HCP/NCCP are listed below.

- **Longhorn fairy shrimp.** Altamont Hills core area: 95% protected and 100% of occurrences protected

- **Vernal pool fairy shrimp.** Altamont Hills core area: 95% protected and 80% of occurrences protected
- **Vernal pool tadpole shrimp.** 80% of occurrences protected.

As demonstrated above, the HCP/NCCP will contribute to species recovery targets for longhorn fairy shrimp, vernal pool fairy shrimp, and vernal pool tadpole shrimp. The Plan is not obligated to fully implement the Recovery Plan measures for these covered species. Furthermore, the targets to protect a certain proportion of occurrences are not a feasible conservation target at this time because these species are highly undersurveyed in the HCP/NCCP Plan area.

No changes to the HCP/NCCP or EIS/EIR are required.

Response to Comment M-13

In response to the HCP/NCCP, the commenter states that language on page 5-24 should be changed so that land dedication in lieu of development fees is not available only "under special circumstances." This reference has been changed. See response to comment L-11.

The commenter also states that there will likely be instances where a developer searches for land to purchase as opposed to dedicating their own land and that the developer should coordinate this search with the Implementing Entity. We concur. The comment is noted.

No changes to the HCP/NCCP or EIS/EIR are required.

Response to Comment M-14

In response to the HCP/NCCP, the commenter states that there should be a periodic review of overall HCP/NCCP implementation that should include stakeholders, outside scientists, with the review process open to the public.

As stated on page 8-7, the HCP/NCCP Governing Board will report at least annually in a public meeting on the progress of Plan implementation. In addition, as described on page 8-14, an Independent Conservation Assessment Team will be convened every 5 years to provide periodic review of overall HCP/NCCP implementation, including the following specific areas:

- Progress toward land acquisition and habitat restoration goals by land-cover type.
- The appropriateness of monitoring and management methods to achieve Plan goals.
- The appropriateness of monitoring data interpretation.
- Changes that may be needed in conservation, management, or monitoring to better achieve Plan goals.

The Independent Conservation Assessment Team will be composed of nationally recognized scientists and resource managers who are independent of the HCP/NCCP and the Science Advisors. Selecting Team members who are independent of the Plan is important to ensure an unbiased assessment of HCP/NCCP implementation. The HCPA and the Wildlife Agencies believe this component of the Plan will provide adequate periodic review of overall implementation of the HCP/NCCP.

No changes to the HCP/NCCP or EIS/EIR are required.

Response to Comment M-15

In response to the HCP/NCCP, the commenter states that the lower fee in Fee Zone I leads to inadequate conservation of Swainson's hawk foraging habitat and that Fee Zones I and II should be combined.

The fee charged in any one fee zone does not affect the level of conservation applied within that fee zone for any of the covered species. Fees are collected from each fee zone and pooled into a single fund to achieve the biological goals and objectives of the Plan. The level of the fee in Fee Zone I does not affect the level of conservation of Swainson's hawk or any other species. Therefore, combining Fee Zones I and II would have no effect, by itself, on the conservation of Swainson's hawk or any other species.

As discussed with the HCPA Coordination Group (i.e., the stakeholder committee) on several occasions, a variety of fee structures were considered for the development fee. Dividing the inventory area into three simple Fee Zone areas was determined to be the simplest method to implement that allowed charging different fees where, in general, different impacts to covered species are expected to occur.

No changes to the HCP/NCCP or EIS/EIR are required.

Response to Comment M-16

In response to the HCP/NCCP, the commenter states that audits and adjustments of the fee must occur at least once a year based on recent experiences from other counties.

As described on page 9-23 to 9-25, there would be two types of fee adjustments. Each year the fee would be adjusted automatically according to the indices in Table 9-7. Two-thirds of the fee would be adjusted automatically according to a local home price index. This index was judged to be the closest available index to track land prices. To our knowledge, we are the first HCP/NCCP in northern California to use a home price index as the index to adjust the development fee. The HCPA believes that this index will allow the development fee to better track actual land prices than in other plans in northern California.

In addition to the annual automatic fee adjustment there will be periodic fee audits and further adjustments. These audits will take place more frequently at the beginning of Plan implementation and less frequently later in the permit term (from every 3 to 5 years overall). Economic & Planning Systems (EPS), the economic consultant for the HCP/NCCP, did not recommend an annual audit of this magnitude because it relies on comparable land sales to generate estimates of actual land costs. According to EPS, there would not be enough comparable sales on which to base an adjustment of the development fee. In addition, the administrative costs of an audit are significant, and this cost cannot be justified annually if it does not yield useful results (see the memo *Calculating and Adjusting Fees on New Development* in Appendix H of the HCP/NCCP). The HCPA felt that an annual automatic fee adjustment coupled with a periodic audit and more intensive adjustment of the fee was an appropriate approach that will avoid some of the problems experienced by other regional HCPs in northern California to date.

No changes to the HCP/NCCP or EIS/EIR are required.

Response to Comment M-17

In response to the HCP/NCCP, the commenter points out that there are a substantial number of tasks required in years 1-5 of implementation (see page 8-34 and 8-35 for a list of these tasks). The commenter questions whether, based on the funding plan in Table 9-2, monitoring, research, and adaptive management will be adequately funded in the early period of implementation.

First, the distribution of funding among the seven time intervals presented in Tables 9-1 and 9-1 rely on a key assumption that the pace of development, and hence, development fees, will be constant throughout the 30-year permit term. The actual pace of development fee payments is unknown. Based on the knowledge of senior planners in each jurisdiction, it is more likely to occur at the beginning of the permit term and thus provide more funding early in Plan implementation.

Second, the actual pace of available funding will depend not only on development fees but on the availability of state and federal grants, primarily through Section 6 of the federal ESA. State and federal Wildlife Agency officials have stated their intent to secure as much of the state and federal share of the HCP/NCCP as possible early in Plan implementation. This pattern of early state and federal grants has been true of southern California NCCPs such as Central Orange County, San Diego MSCP, and the Western Riverside MSHCP. The HCPA acknowledges that it will be increasingly difficult to secure federal grants as the competition for these funds increases. However, we expect these grants to become available earlier rather than later in the permit term.

The result of these two factors (early development fees and early state/federal grants) is that funding is likely to be more available early in Plan development to ensure that all of the early implementation tasks, including monitoring, research, and adaptive management will be adequately funded at the specified time (all tasks must be adequately funded during the permit term).

The level of funding required early in the plan for monitoring, research, and adaptive management is modest because the level of funding required will be tied to the amount of land in the Preserve System. It is expected that the Preserve System will be assembled gradually over time. Therefore, the level of funding required for monitoring, research, and adaptive management will also gradually increase over time, peaking near the end of the permit term when the Preserve System is fully assembled. The HCPA believes that funding will be available when needed to adequately fund monitoring, research, and adaptive management at the levels specified in the HCP/NCCP.

No changes to the HCP/NCCP or EIS/EIR are required.

Response to Comment M-18

In response to the HCP/NCCP, the commenter states that the thresholds used to define changed and unforeseen circumstances are unreasonable, and that changed circumstances should extend beyond the 30-year permit term. The commenter provides the example of a single wildfire greater than 1,000 acres being an unreasonable assumption of the threshold between a changed and unforeseen circumstance.

The No Surprises assurances that reference changed and unforeseen circumstances are only good during the permit term when the take authorization applies. Once the permit expires and take

authorization no longer applies, the Permittees are not responsible for addressing changed circumstances. Therefore, funding commitments to address changed circumstances last until the end of the 30-year permit term.

Although relatively common, wildfires in the inventory area are generally not large. According to data by the California Department of Forestry and Fire Prevention (CDF), the average size of wildfires over the last 50 years in the inventory area is approximately 700 acres. Wildfires are smaller and less common in Contra Costa County than in other regions of California (e.g., see http://frap.cdf.ca.gov/webdata/maps/statewide/firep_map.pdf). This is due, in part, to the relatively small and very patchy nature of fire-prone communities such as chaparral.

Revisions to the HCP/NCCP

Revisions will be made to the HCP/NCCP to address the comment and raise the threshold for changed circumstances related to wildfire.

Response to Comment M-19

In response to the HCP/NCCP, the commenter states that the threshold for the changed circumstance of an infestation of an exotic species (beyond 25% of baseline condition within the Preserve System is considered an unforeseen circumstance) is unreasonable.

The HCPA and the Wildlife Agencies acknowledge that the problem of exotic species is a serious one that deserves significant attention to reverse the decline of many special-status species, including some covered by this Plan (e.g., California red-legged frog). Because of the high degree of uncertainty regarding infestations of exotic species during the 30-year permit term, the threshold for changed/unforeseen circumstances was set at a moderate level to ensure that the HCP/NCCP budget would be effective at combating these threats. A serious infestation of an exotic species may be prohibitively expensive for the Implementing Entity to address on its own, particularly if the infestation originates from outside the Preserve System. Increasing the threshold for which exotic species infestations are fought would result in a dramatic increase in the HCP/NCCP cost to account for the high degree of uncertainty in the level of infestation and the cost of combating it.

Revisions to the HCP/NCCP

Revisions will be made to the HCP/NCCP to include additional direction to the Implementing Entity regarding unforeseen exotic species invasions.

Response to Comment M-20

In response to the HCP/NCCP, the commenter states that the threshold for flood damage to riparian planting considered a changed/unforeseen circumstance is unreasonable and should be increased.

The chance of a 50-year flood event occurring at any one point during 30 years is approximately 45%. Thus, this event is quite likely to occur in the permit term.

Revisions to the HCP/NCCP

Revisions have been made to the HCP/NCCP to reflect a revised threshold of a 100-year storm event.

Response to Comment M-21

In response to the HCP/NCCP, the commenter states that the threshold for changed/unforeseen circumstances for droughts is unreasonably low and should be increased due to the use of relatively short-term data on rainfall patterns in the inventory area.

We concur.

Revisions to the HCP/NCCP

The HCP/NCCP has been revised to address the comment above.

Response to Comment M-22

In response to the HCP/NCCP, the commenter states that the failure to meet preserve targets in one or more zones or subzones due to insufficient willing sellers should be included as a changed circumstance.

The situation to which the commenter refers is addressed in the Plan, but not as a changed circumstance. As described on page 9-30 and 9-31, if the land is not being acquired fast enough because of a lack of willing sellers, the Governing Board and the regulatory agencies will consider slowing or stopping local permit issuance under the HCP/NCCP until enough willing sellers are available, or requiring that land be provided in lieu of fees for covered projects (see Chapter 8, Section 8.6.7). The USFWS and CDFG felt that this situation was important enough to warrant treatment in the Plan directly and mandating courses of action rather than defining what components might be changed or unforeseen circumstances.

No changes to the HCP/NCCP or EIS/EIR are required.

Response to Comment M-23

In response to the HCP/NCCP, the commenter states that the loss of one of more populations within a metapopulation from impacts of covered activities should be addressed as a changed circumstance.

It is unclear to which species the commenter refers when describing a metapopulation. None of the 28 covered species are thought to support population dynamics that fit the accepted model of a metapopulation with core and satellite populations with satellite populations that frequently go extinct and are recolonized by the core or other satellite populations. If one of the covered species is found later to have population dynamics that fit the metapopulation model, the conservation strategy for that species could be reassessed within the context of the adaptive management program and with the advice of the Science Advisors. There is no need to add a changed circumstance to account for this potential event.

No changes to the HCP/NCCP or EIS/EIR are required.