



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

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December 1, 2005

Lori Rinek
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2800 Cottage Way, Room W-2605
Sacramento, CA 95825

John Kopchik
Principal Planner
Contra Costa County
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Subject: Draft Environmental Impact Statement/Environmental Impact Report
(DEIS/EIR) for the East Contra Costa County Habitat Conservation Plan and
Natural Community Conservation Plan, Contra Costa County, California
(CEQ #20050351)

Dear Ms. Rinek and Mr. Kopchik:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. Our detailed comments are enclosed.

EPA supports integration of regional planning efforts that conserve biological resources while providing for future growth. We commend the U.S. Fish and Wildlife Service (USFWS) and the East Contra Costa County Habitat Conservation Plan Association (Association) on this effort. The establishment of a preserve system for protection of habitat not already protected and publicly managed is especially praiseworthy.

Public input elements of the Habitat Conservation Plan (HCP) are prominent, including a public advisory committee and an annual public workshop. Uncertainties should be addressed through the adaptive management program, an especially strong element of which is its advisory structure, including an Independent Conservation Assessment Team composed of nationally recognized scientists and resource managers that will perform conservation audits every 5 years. A commitment to this audit frequency and the other elements of the governing structure should be included in the Record of Decision (ROD).

While EPA fully supports the project, we have concerns regarding the uncertainties of preserve land acquisition in areas with conflicting General Plan zoning or in nonparticipating jurisdictions. We request additional information regarding acquisition alternatives to protect covered species, and additional discussion of the impacts of recent urban line limit expansions. Because of the above concerns, we have rated the DEIS as Environmental Concerns – Insufficient Information (EC-2) (see enclosed “Summary of Rating Definitions”). We also have some additional recommendations for mitigation, including the incorporation of smart-growth principles as mitigation for “take” of covered species in developed areas, and some additional protection in the preserves for human disturbance-sensitive species.

EPA appreciates the opportunity to review this DEIS. When the Final EIS is released for public review, please send one copy to the address above (mail code: CED-2). If you have any questions, please contact me or Karen Vitulano, the lead reviewer for this project. Karen can be reached at 415-947-4178 or vitulano.karen@epa.gov.

Sincerely,



Duane James, Manager
Environmental Review Office
Communities and Ecosystems Division

Enclosure: EPA's Detailed Comments
Summary of EPA Rating Definitions

Preserve land acquisition and local land use plans/policies

The DEIS states that acquisition of preserve lands within the urban limit line (ULL) or within planned areas outside the ULL may conflict with the policy and planning objectives that have been set forth in the city general plans (p. 4-27). Land designated Subzone 2h is high priority for acquisition. Three-fourths of this area overlaps with the City of Antioch General Plan's Sand Creek Focus Area, half which is zoned "Hillside and Estate Residential" or "Golf Course/Senior Housing/Open Space".

Q-1

The DEIS states there is sufficient flexibility in the descriptions of land use in the Antioch General Plan so that the goals and objectives of both the HCP and General Plan can be met in the overlap areas. Since Antioch is not part of the East Contra Costa County HCP Association (Association), it is not clear what incentive Antioch would have in interpreting descriptions of land use favorable to HCP goals and objectives. A discussion should be included outlining the likely development outcome of this area and how this impacts the preserve system.

Adjustments to the ULL should be thoroughly discussed in the Final Environmental Impact Statement (FEIS). Acquisition of land in subzones 1a, 2e, 2f, and 2g would have moderate or high conflict with the long-range development objectives of the Cities of Pittsburg, Antioch and Brentwood for areas outside the current ULL (p. 4-29). Recent efforts to expand the ULL's of Antioch, Brentwood and Pittsburg should be evaluated in terms of impacts on the HCP.

Q-2

Recommendation:

The FEIS should discuss what provisions and assurances are available to ensure HCP goals and objectives are met in target acquisition land areas not protectively zoned. Discuss the sufficiency of the preserve system for HCP species without the inclusion of land with high or moderate compatibility conflict. Discuss recent expansion efforts of the ULL in the Cities of Brentwood, Antioch and Pittsburg, and their impact on the HCP goals and objectives. Identify alternatives to protect covered species if acquisition areas in conflict are not available. Explore incentives for cities to rezone key areas of zoning conflict.

Incorporate Smart Growth Principles

The Draft Environmental Impact Statement (DEIS) considered but eliminated an alternative that assumes a "smart-growth" model for eastern Contra Costa County, stating that the proposed project is not intended to direct local land use policy, and that the current general plans are the current guide to future development in eastern Contra Costa County (p. 2-43). The HCP is not intended to supersede general plans, but rather impose restrictions on the general plan implementation through consideration of regional conservation requirements necessary to protect

Q-3

covered species (p. 2-42).

Smart-growth encourages planned growth which is town-centered, transit and pedestrian oriented, and has a greater mix of housing, commercial and retail uses. While the DEIS dismisses a smart-growth project alternative, it is unclear why smart-growth principles were not included in the HCP as mitigation. The HCP is required to assess and mitigate for impacts of the “covered activities” on “covered species” (p. 2-42). Projects associated with urban growth are a covered activity, and impacts from urban growth activities can be mitigated using smart-growth principles.

Q-3 (Cont.)

Smart-growth principles would significantly enhance the benefits of this regional conservation planning effort, providing habitat corridors, open space, and reducing air and water pollution resulting in significant benefits for both the community and covered species. We recommend the integration of these smart-growth principles into the proposed HCP as nonmonetary “take” mitigation measures. We also suggest a focus on in-fill opportunities and development near existing infrastructure which would be less costly and would reduce the need to utilize undeveloped lands for new development.

Recommendation:

Include smart-growth principles as a conservation measure for mitigation of covered activities in areas where it will benefit covered species, especially for development in areas identified as priority Acquisition Analysis Zones. Explore incentives that will encourage the adoption of smart-growth principles by developers, such as discounts on permit fees or other incentive mechanisms. Add compliance with this smart-growth conservation measure to the procedures of the model implementing ordinance as an avoidance and minimization measure. Encourage the integration of smart-growth principles into local General Plans at their next scheduled update.

Protection of the San Joaquin Kit Fox

The DEIS describes conflicts with the protection of the federally-endangered San Joaquin Kit Fox. Lands identified as high acquisition priority within the City of Antioch also have a high land use compatibility conflict (p. 4-28). The City of Antioch is not part of the East Contra Costa County Habitat Conservation Plan Association. Because of the high likelihood of development in these parts of Antioch, these areas cannot be relied upon for conserving kit fox movement corridors. Mineral extraction in the sector GG mineral resource area is also likely to impact key migration corridors for the fox (p. 5-6).

Q-4

Q-5

Recommendation:

The FEIS should indicate if the preserve system is likely to contain sufficient movement corridors for the San Joaquin Kit Fox in light of these limitations. Additional information regarding provisions for the fox should be included in the FEIS, including alternative sites needed for preserving movement corridors in the northern occurrence areas. When

individual take permits for Antioch's Roddy Ranch and other areas with habitat value outside the HCP boundaries are considered, the Implementing Entity should coordinate with these developers to explore potential mitigation in reference to these land areas.

Preserve Recreation Plan

The HCP will include a preserve recreation plan that will allow "passive recreation" including hiking, bicycling and equestrian use (HCP p. ES-6). While the DEIS states that impacts will be minimized and recreational uses will be consistent with HCP goals and objectives, some take (harassment) is expected to occur to covered species sensitive to human disturbance, such as the San Joaquin Kit Fox, Townsend's big-eared bat, and the western pond turtle (HCP p. 4-8). The HCP states that the recreation plan will prohibit access to caves, abandoned mines and abandoned structures to maintain habitat for the Townsend's big-eared bat. Similar protections should be included for the disturbance-sensitive San Joaquin Kit Fox and the western pond turtle.

Q-6

Recommendation:

As an additional mitigation measure for these disturbance-sensitive species, some portion of the preserve area containing high habitat value for the San Joaquin Kit Fox and the western pond turtle should be closed to public access to avoid take of these covered species.

Miscellaneous

1. Page 3-8: Permits for Fill Placement in Waters and Wetlands (Section 404). First sentence should read "Under CWA, Section 404, the U.S. Army Corps of Engineers (USACE) and the United States Environmental Protection Agency (USEPA) regulate the discharge..."
2. Page 3-9: first sentence on page should read "Compliance with CWA Section 404 requires compliance with the section 404 (b)(1) Guidelines and several other environmental laws and regulations.
3. Page 3-50: 2nd full paragraph, 1st sentence should read "Placement of ~~clean~~ fill materials into waters of the United States is regulated by Section 404 of the CWA, which is administered by USACE and USEPA"

Q-7

SUMMARY OF EPA RATING DEFINITIONS

This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS.

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

ADEQUACY OF THE IMPACT STATEMENT

Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."

Response to Letter Q, from U.S. Environmental Protection Agency

Response to Comment Q-1

In response to the EIS/EIR, the commenter states that text should be added to outline how the probable development of the portion of Subzone 2h overlapping Antioch's Sand Creek Focus Area would impact the preserve system.

The compatibility of the HCP/NCCP with the Sand Creek Focus Area Resource Management Plan (RMP) was analyzed in the Draft EIS/EIR in Chapter 4, p. 4-25 to 4-26. The western third of the focus area (about 900 acres) is designated approximately three-quarters open space, one quarter Hillside and Estate Residential, and a minor portion as golf course/senior housing/open space (City of Antioch 2003) and is within the HCP/NCCP high-priority acquisition subzone 2h. Subzone 2g is a low priority area for preservation that overlaps with Antioch's Sand Creek Focus Area but all of the land in the area of overlap is designated by the City as Open Space; therefore no conflict in proposed land use exists in this subzone. The eastern third of the focus area (about 1,800 acres) is designated for residential use (City of Antioch 2003) and is within the HCP/NCCP low acquisition subzone 2i. Both subzone 2h (> 1,000 acres) and subzone 2i (3,200 acres) include substantial areas outside the focus area.

As described in Chapter 5 of the Final HCP/NCCP, the conservation strategy in southern Antioch and the area immediately south has been changed in recognition of the newly designated urban limit line. The Final HCP/NCCP calls for acquisition of 600 acres of high-priority subzone 2h and calls for acquisition of 2,400 acres of the grasslands in acquisition subzones 2e, 2f, and 2h.

Assuming that 600 acres of land is acquired in subzone 2h and that all of the acquired land is within the Sand Creek Focus Area, it is possible that this 600 acres may occur entirely within the open space designated area (about 675 acres) which would result in no incompatibility. However, if acquisition were to occur where the RMP designates residential use, there could be an incompatibility. If acquisition were to impede residential goals for this focus area, there may be a need to replace the lost residential and recreational opportunities in other parts of Antioch. At most, the area of potential incompatibility is identified as perhaps 150 acres of residentially designated land. Given an overall flexibility in preserve design as well as in the long-term land use planning process, the potential incompatibility within about 6% of the Sand Creek Focus Area (~150 acres) is not considered insurmountable and thus is not identified as a significant land use impact in the EIS/EIR.

Exact predictions of how much acquisition and how much development may occur within the high-priority acquisition area within the Sand Creek Focus Area (or any other area within the newly adopted ULLs in Antioch and Pittsburg) cannot be made. It is important to note that even though the City of Antioch is not a participant in the HCP/NCCP, the state and federal endangered species acts would still apply to development within areas containing habitat for listed species. Thus, designation of an area for development or inclusion with the City's ULL does not inherently mean that the area will be developed *in toto*. Similarly, designation of the area as a high-priority acquisition area does not inherently mean that the entire area will be acquired because, in part, acquisitions must be from willing sellers. At this time, it is probably best to consider that substantial (but not total) acquisition

will occur within the high-priority acquisition areas and that substantial (but not total) development will occur within the low-priority acquisition areas.

Commenter is also referred to discussion of financial aspects in the response to Comment F-5.

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

Response to Comment Q-2

In response to the EIS/EIR and HCP/NCCP, the commenter states that the impact of recent adjustments to the ULL in Antioch and Pittsburg on the HCP/NCCP should be discussed, requests provisions and assurances that HCP/NCCP goals and objectives can be met in acquisition areas that are not protectively zoned, suggest identification of alternatives to protect covered species if acquisition areas in conflict are not available, and advocates exploration of incentives for cities to rezone areas in conflict.

As described in the response to Comment J-1, the HCP/NCCP is based on the applicable current land use jurisdiction. Within cities that is the particular city and its General Plan. Within the unincorporated area, it is the County and the County General Plan. This approach is unchanged with the adoption of ULLs by the City of Antioch and Pittsburg because the adoption of revised ULLs does not change the current land use jurisdiction.

The HCP/NCCP describes how the HCP/NCCP goals and objectives can be met in the event of future urban development beyond the initial urban development area up to the limits of the maximum urban development area (see HCP/NCCP Section 2.3.1, p. 2-16 to 2-18). Further, the potential preserve area (~86,000 acres) is far larger than the target maximum preserve size (see Table 5-9 in the HCP/NCCP, up to 26,500 to 33,950 acres), allowing for flexibility for the future to some degree.

The preserve strategy is predicated on substantial preservation occurring in the high and medium priority acquisition areas. Thus, where future growth is designated within a moderate or high priority acquisition area it is more probable that there will be future land use compatibility conflicts. These areas of future land use compatibility conflict were identified in response to comment J-2.1 above. Since none of these areas, with the exception of the Sand Creek Focus Area within the City of Antioch, are within current city limits, the probability of substantial impediments to preserve design in the short to medium-term is limited. In the long-term, implementation of the HCP/NCCP will limit the ability of the cities to expand urban development without limitation into substantial portions of the moderate to high priority acquisition areas.

The bulk of the acquisition (estimated as 18,000 to 19,000 acres, 65 % to 75% of overall preserve system) will occur in the high-priority acquisition areas. The HCP/NCCP excludes the high-priority acquisition areas outside of city limits from being included in the future permit area. While development may occur in these areas if authorized by individual permitting outside the HCP/NCCP, substantial development in conflict is less likely due to their designation as a high -priority area. Potential compatibility conflicts are identified in the EIS/EIR on p. 4-28. Areas of high potential compatibility conflict include a portion of the Sand Creek focus area (estimated as a maximum of 150 acres in comment J-2.2 above) and Roddy Ranch (estimated as 300 acres in comment J-2.2 above) for a total of up to 450 acres. Areas of medium potential compatibility conflict include Pittsburg Southwest Hills subarea (85 acres), Brentwood SPA “G” (about 390 acres), and Brentwood SPA “H” (~470 acres). If no areas are acquired in the medium and high potential compatibility conflict areas as well as the high priority areas, the conservation strategy would need to be

substantially revised, in particular as regards the effects on the San Joaquin kit fox and several covered plants.

At this time, given that the bulk of potential compatibility conflicts are in areas outside the current city limits and the flexible approach to preserve assembly, it is considered reasonably foreseeable that the HCP/NCCP will not be a substantial impediment to growth in accordance with the local General Plan and vice versa.

The acquisition of substantial portions of the medium and high-priority areas is fundamental to the proposed project's conservation strategy. An alternative of excluding these areas from the preserve system due to the potential for land use incompatibility (primarily in the future) is not considered feasible unless the impact of covered activities would be reduced substantially.

The Reduced Development Area alternative (see p. 2-35 in the EIS/EIR) would require less preserve acquisition due to a reduction in the development footprint by over 3,000 acres. Given the funding needs, some variation on the reduced development area is considered the only feasible means to substantially reduce the level of future land use incompatibility between the HCP/NCCP and the land use plans of local cities outside their current city limits.

As described in the response to Comment J-2.2, the land use compatibility conflicts are not of such a nature that they are considered significant land use or housing impacts. Thus, development of additional alternatives (beyond the Reduced Development Area alternative) to avoid this less than significant impact is not required by NEPA or CEQA as such an alternative would not avoid or reduce a significant impact of the proposed project.

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

Response to Comment Q-3

In response to the HCP/NCCP, the commenter states that it is unclear why smart-growth principles were not included in the HCP/NCCP as mitigation. The commenter recommends that smart-growth principles be included as a conservation measure for mitigation of covered activities and development within high priority acquisition zones.

One of the objectives of the HCP/NCCP is "enable the County and the Cities of Brentwood, Clayton, Oakley, and Pittsburg to reasonably and efficiently implement their respective general and specific plans" as described on page 1-7 of the EIS/EIR. This is a fundamental objective of the HCP/NCCP. As such, pursuant to NEPA and CEQA requirements, the alternatives analysis is focused on alternatives that meet this fundamental objective. While the commenter may advocate for a pattern of development different than planned for in the adopted general and specific plans, neither NEPA or CEQA require consideration of alternatives that do not meet a fundamental objective of the project overall.

In Chapter 2 of the EIS/EIR (p. 2-42), a modified urban growth model ("smart growth or similar alternative growth models") was considered for analysis that would focus on changing land use policy that may be favored by the commenter. This alternative was rejected from further consideration as it is considered infeasible based on financial and legal reasons, most critically that land use policy is not within the USFWS and DFG jurisdiction as the potential approvers of the take permits. Further, development of an alternative growth model that is different from the current adopted plans is

speculative due to the legislative and political nature of the issues involved in changing land use direction wholesale and NEPA and CEQA do not require an alternatives analysis to engage in speculation.

The proposed project does not preclude the provision of housing infill projects if adopted by the respective jurisdictions. In addition, in the long-term, the HCP/NCCP does incorporate a number “smart-growth” provisions including focusing growth toward existing communities and preserving open space.

For these reasons and those cited in Chapter 2 of the EIS/EIR, the alternatives consideration in both the HCP/NCCP and the EIS/EIR meets the reasonable range requirements of NEPA and CEQA.

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

Response to Comment Q-4

In response to the EIS/EIR, the commenter states that high priority acquisition areas in Antioch cannot be relied on for conserving kit fox movement corridors.

As stated in Table ES-3 and Chapter 4, impacts to San Joaquin kit fox suitable core habitat are estimated at up to 4,576 acres in the maximum UDA and 2,530 acres in the initial UDA. These impacts represent a loss of 11% and 7% of available core habitat in the inventory area, respectively. As described on page 4-14, the southward expansion of Pittsburg and Brentwood would affect small portions of core habitat for kit fox, while growth of Byron and infill in Brentwood would affect small portions of habitat defined as low use in the HCP/NCCP model. The expansion of the Byron Airport would affect core habitat for this species. The westward expansion of Pittsburg would affect areas modeled as core habitat for kit fox, but this area may be outside the species’ range. Impacts to San Joaquin kit fox habitat generally occur in areas of lower-quality habitat at the fringe of existing urban development (see Figure 4-1) where indirect impacts to this species from human activities are more severe.

The HCP/NCCP calls for preservation of an estimated 17,164 acres (43%) of core habitat under the initial UDA and an estimated 20,465 acres (51%) of core habitat under the maximum UDA. As described on pages 5-43 to 5-48, the Plan also calls for preservation of essential movement routes for San Joaquin kit fox to ensure that known occurrences in Black Diamond Mines Regional Preserve at the northern edge of the species’ range remain connected to populations elsewhere in the inventory area and to Alameda-Contra Costa County line. These important regional linkages will be preserved by connecting existing large protected areas. Annual grassland within preserves will be managed to enhance small-mammal populations (a prey base for kit fox; Conservation Measure 2.5) and to enhance the native plant component of this vegetation community (Conservation Measure 2.4).

The land acquisition strategy for San Joaquin kit fox is consistent with, and may exceed, the recovery targets for this species in this area. In Table 7 of the *Recovery Plan for Upland Species of the San Joaquin Valley* (U.S. Fish and Wildlife Service 1998), Recovery Task 2.1.19 is identified as land preservation in the northwest portion of the species’ range in Alameda and Contra Costa counties. Details are not provided on how much land is to be protected and where, and this task is identified as a Priority 2 task (out of 3). The HCP/NCCP has done extensive analysis of suitable habitat and potential movement routes in the inventory area (see the habitat model in Appendix D and Figure 5-5) to determine the most important areas for preservation in the inventory area. The HCP/NCCP has

aggressive conservation requirements for land acquisition to meet the strong biological goals and objectives for this species.

The conservation strategy includes a small area within the southwest corner of Antioch (i.e., through Lone Tree Valley) as a critical link for San Joaquin kit fox between Black Diamond Mines Regional Preserve and Cowell Ranch State Park to the southeast. This area was selected despite its high cost (land within the ULL is much more expensive than land outside it) because of its importance for this regional corridor. This site also includes important habitat for several other covered species, including Alameda whipsnake, California red-legged frog, and California tiger salamander. The HCPA believes that acquisition of this site is feasible because the projected costs of such an acquisition have been budgeted in the Plan.

Based on these facts, the estimated impacts to core habitat for San Joaquin kit fox that would occur under the Plan are reasonable and the conservation requirements for the species for preservation of breeding, foraging, and movement habitat are substantial and more than adequately mitigate for the impacts.

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

Response to Comment Q-5

In response to the draft EIS/EIR, the commenter suggests that mineral extraction in the sector GG mineral resource area is also likely to impact key migration corridors for the San Joaquin kit fox.

This is described by the EIS/EIR on p. 5-6. See the response to the prior comment concerning the adequacy of migration corridors for the kit fox.

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

Response to Comment Q-6

In response to the draft EIS/EIR, the commenter suggests an additional mitigation measure should be added to designate some portion of the preserve area with high habitat value for San Joaquin kit fox and the western pond turtle be closed to public access to avoid take of these species.

This comment concerns impacts to the San Joaquin kit fox and the western pond turtle. The draft EIS/EIR concludes (Section 4.2.2, p. 4-10) that the impact to covered species, including these two, would be less than significant. The detailed impact assessment to covered species is provided in Chapter 4 of the draft HCP/NCCP. Mitigation (in the form of the Conservation Strategy and Conservation Measures) are described in Chapters 5 and 6 of the HCP/NCCP. Specific details regarding the San Joaquin kit fox are found in Chapter 5, p. 5-102 to 5-103 of the draft HCP/NCCP and regarding the western pond turtle are found in Chapter 5, p. 5-113 to 5-115 of the draft HCP/NCCP. Alternatives to take of the San Joaquin kit fox are considered in Chapter 11 of the HCP/NCCP and complete avoidance of take for this species or the western pond turtle is considered infeasible.

Conservation Measure 1.5 (HCP/NCCP Chapter 5) describes many of the management actions that will be part of the preserve recreation plan to ensure that permitted recreation will be compatible with

the biological goals of the HCP/NCCP and will result in less than significant impacts on biological resources. At this time, designation of specific prohibition areas for these two species is premature.

Comment does not describe why the suggested mitigation measure is required in addition to the mitigation identified in the HCP/NCCP in order to reduce impact to the subject species to a less than significant level.

No revisions to the HCP/NCCP or the EIS/EIR are required relative to this comment.

Response to Comment Q-7

In response to the draft EIS/EIR, the commenter provided suggested minor errata changes to reference to requirements of Section 404 of the Clean Water Act.

Revisions to the EIS/EIR

All suggested changes have been made to the referenced locations in Section 3 of the EIS/EIR.