



**DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO, CALIFORNIA 95814-2922**

RECORD OF DECISION

ACTION ID: SPK-2002-00561

APPLICANT: Sacramento County Department of Economic Development

PROJECT NAME: Mather Specific Plan and Phase I/II Zinfandel Drive Improvements and Sewerline Extension

I have reviewed and evaluated, in light of the overall public interest, the documents and factors concerning the permit applications for the proposed action, as well as the stated views of interested agencies and the public. In doing so, I have considered the possible consequences of the proposed action in accordance with regulations published in 33 Code of Federal Regulations (CFR) Parts 320 through 332 and 40 CFR Part 230.

The proposed action, the Mather Specific Plan, is an approximately 5,749-acre area in eastern Sacramento County consisting of eight applications for the proposed discharge of fill material into waters of the U.S. for the construction of a mixed-use development and associated infrastructure. The applications under Section 404 of the Clean Water Act are described in additional detail in Section I, below.

I. Background and Description of Proposed Action

a. Background: The Mather Specific Plan (MSP) is located in the Cordova community of unincorporated Sacramento County, approximately 10 miles from downtown Sacramento via Highway 50 in the east-central portion of Sacramento County. The MSP area is within both the Urban Policy Area and Urban Services Boundary with the City of Rancho Cordova, located immediately north and east of the project site, and unincorporated portion of Sacramento County to the south and west. Boundaries of the project site are Mather Boulevard and International Drive to the north, the Folsom South Canal to the east, Kiefer Boulevard to the south and Old Placerville Road and Happy Lane to the west.

The proposed action as described in the Draft, Supplemental Draft and Final Environmental Impact Statement (EIS) is to develop a mixed use development within a site approximately 5,749 acres in size in eastern Sacramento County, California. The MSP project site contains approximately 209 acres of waters of the United States (U.S.), including 135.5 acres of wetlands and 73.3 acres of other waters. The proposed action, as described in the Final EIS, would include 599 acres of airport commercial uses, 174 acres of commercial development uses, 55 acres of economic

development uses, 693 acres of residential uses, 115 acres of parks and recreation, 94 acres of roadways/infrastructure, 1,343 acres of preserve and 126 acres of “avoided areas” in commercial and residential development areas. The MSP contains approximately 2,550 acres of existing developed areas.

Complete development of the MSP under the proposed action, as described in the Final EIS, would involve the filling of approximately 35.66 acres of waters of the U.S., including wetlands. The proposed discharge of dredged or fill material into waters of the U.S. is subject to Section 404 of the Clean Water Act. Therefore, Department of the Army (DA) permits under Section 404 of the Clean Water Act are required for the proposed action.

The proposed action, as described in the Final EIS, would include a 1,343-acre preserve as well as 126 acres of additional avoided areas not included within the preserve. The preserve has been formally named the *Illa M. Collin Conservation Preserve*, otherwise known as the *Mather Preserve*, and would provide protection for wetlands (including vernal pools) and endangered species. The 1,343-acre preserve contains approximately 76.90 acres of waters of the U.S. (consisting of 51.98 acres of vernal pools and swales, 12.02 acres of seasonal wetland, 12.27 acres of intermittent and ephemeral streams, and 0.63 acre of drainage ditch). Of the 76.90 acres of waters of the U.S., the preserve contains 73.83 acres of suitable habitat for federally-listed vernal pool species, in addition to approximately 982 acres (approximately 53 acres of which is wetland) of designated critical habitat for several federally-listed vernal pool species. The preserve would be managed in accordance with the *South Mather Wetlands Management Plan* (dated July 2014) approved by the USACE and the U.S. Fish and Wildlife Service (USFWS) (“Preserve Management Plan”). No wetland creation is proposed within the preserve; however, the Preserve Management Plan allows for some specified enhancement activities such as removal of paved areas.

The MSP area is located within the boundaries of the former Mather AFB, which was established in 1918 as an airfield and pilot training school. The base closed in 1923, but was reactivated in 1941 when it was used as a flight training base. The base was approved for closure in January of 1989. On October 1, 1993, Mather AFB was decommissioned as an active base under the Base Realignment and Closure Act of 1990. The U.S. Air Force (USAF) completed an EIS for the Disposal and Reuse of Mather AFB, and issued a Record of Decision (ROD) in March of 1993. Three Supplemental RODs were issued between November of 1994 and May of 1998. The USAF’s ROD and supplements determined the disposition of property and facilities at Mather AFB. The documents specifically identify the organizations and agencies to receive property and facilities and the means of property conveyance. The protection of biological and aquatic resources is also addressed in the USAF’s ROD, as supplemented, which states:

unless Sacramento County and the appropriate federal regulatory agencies, including but not limited to EPA Region IX, U.S. Fish and Wildlife Service, and

the U.S. Army Corps of Engineers, enter into agreements to protect the wetlands and endangered species prior to the conveyance by deed... the [County] will manage the area consistent with a management plan approved by appropriate federal and state regulatory agencies, including but not limited to EPA Region IX, U.S. Fish and Wildlife Service, California Fish and Game, and the U.S. Army Corps of Engineers, to protect vernal pools, wetlands, and endangered species” (U.S. Air Force, 1994).

After Mather AFB was recommended for closure, Sacramento County began the planning process to adopt a Specific Plan for the area. Planning for the project site has gone through several phases, beginning in 1989. As a result of the planning process, a specific plan featuring retention of the existing airport and mixed-use development surrounding the airport was adopted by the Sacramento County Board of Supervisors in May 1997.

As was required by the biological opinion (BO) associated with transfer of the former Mather Air Force Base (AFB) (see also Section I, below), the preserve has been placed under permanent site protection via a combination of a conservation easement for approximately 224 acres of the preserve, and a declaration of covenants and restrictions for approximately 1,118.87 acres of the preserve. Due to regulations governing the *Federal Lands to Parks Program* (40 USC 550[b] and [e]) under which the Mather Field lands were conveyed by “USA Deeds” to the County, the originally-required (by the AFB transfer BO) acreage of the preserve cannot be encumbered by a conservation easement as a type of site protection instrument. The land conveyed by the USA Deeds included covenants, conditions and restrictions including use of the property for public park and recreation purposes, as well as a “Federal Reversionary Interest” in the event of a breach of the covenants, conditions or restrictions. In such a case, the property would become the property of the United States of America¹. Therefore, the now proposed to be larger, 1,343-acre MSP preserve is covered by two protective documents as noted above, which were recorded on June 21, 2019. Each document requires that preserve management will occur as described in the July 2014 Preserve Management Plan. The preserve will be managed by a Land Trust Alliance-accredited natural resource manager and funded by sufficient endowments, which must be fully funded within ten years from the recording of the declaration. Funding for the endowment will be provided by fair share contributions by the permit applicants.

Approximately 126 acres of the site within commercial development and residential land uses would be avoided (22 acres within commercial development, and a 104-acre riparian buffer and avoidance area within residential, respectively). Although these avoided areas are not planned for development and would not be disturbed during construction, no active management is currently proposed, nor would the avoided areas have long-term land use protection (e.g., a conservation easement). Approximately 7.97 acres of waters of the U.S. are located within the avoided areas.

¹ Information summarized from Declaration of Covenants and Restrictions, *Illa M. Collin Conservation Preserve* (recorded June 21, 2019, Sacramento County, California).

As described in Chapter 4 (Errata), Section 2.3.1.7 of the Final EIS, the 126 acres of avoided areas are acknowledged as having no plans for development at this time, however the Final EIS notes that if a future project(s) were proposed within these areas, it/they would be subject to additional review of on-site avoidance and minimization.

A portion of the MSP area, approximately 1,364.86 acres, lies within the Mather Core Recovery Area (MCRA), designated within the *Recovery Plan for Vernal Pool Ecosystems of California and Southern Oregon* (USFWS, 2005). Within the MSP area, the MCRA is also designated critical habitat for federally-listed vernal pool species (thus 1,364.86 acres of designated critical habitat occurs within the MSP area). Within the MSP area's MCRA, approximately 57.42 acres of waters of the U.S. providing suitable habitat for federally-listed vernal pool species occurs. Of this total acreage, 54.37 acres (95%) is contained within the 1,343-acre preserve area.

In May 2008, the Corps received 7 applications for DA permits under Section 404 of the Clean Water Act to fill waters of the U.S. in association with 7 land use components of the MSP. All of the applications were submitted by the Sacramento County Office of Economic Development (County). Since then, one of the applications has been withdrawn, and one pending application will receive a new file number when it is submitted. Table 1 below summarizes the 7 existing permit applications and one new application pending submittal (total of 8 permit applications). As of the publication date of this ROD, the only active pending permit application is for the first Roadways/Infrastructure project listed below (SPK-2002-00561). Other permit applications as listed below are pending in the sense that they are currently withdrawn, but are anticipated to be reactivated as development plans progress, following finalization of this ROD. The County has indicated to the Corps that it may be the applicant for, or transfer the permits, if and when issued, to other entities for both infrastructure and/or non-infrastructure projects.

Table 1
Summary of Permit Applications for MSP

Project	Acres	DA File Number	Date Received
<i>Roadways/Infrastructure (Separated into three phases as described in Final EIS):</i>			
(Phase 1) Phase I/II Zinfandel Drive Improvements and Sewerline Extension*	32.75	SPK-2002-00561	December 2017
(Phase 2) Phase III Zinfandel Drive	27.77	SPK-2006-00530	May 2008
(Phase 3) Douglas Road Extension	33.65	<i>Pending Application Receipt</i>	<i>Pending Receipt</i>
<i>Development:</i>			
Airport Commercial	599.24	SPK-2009-00404	May 2008
Commercial Development	174.00	SPK-2009-00525	May 2008
Economic Development	55.34	SPK-2009-00526	May 2008
Parks and Recreation	114.68	SPK-2009-00527	May 2008
Residential	693.00	SPK-2009-00529	May 2008

* The EIS evaluated this proposal at a project-specific level, while other proposed land uses were evaluated at a program level.

Between the Supplemental Draft EIS and Final EIS, the applicant modified the proposed action, including refining alignment of roadway infrastructure to further avoid and minimize impacts to waters of the U.S., and expanding the proposed preserve to the north and east. These revisions resulted in a reduction of proposed fill of waters of the U.S. (from 48.28 acres to 35.66 acres, a 26% reduction), and an increase in the size of the preserve (1,343 acres vs. formerly 1,272 acres, a 6% increase). The proposed action, as revised in the Final EIS, was identified in the Final EIS as the “Modified Applicant’s Preferred Alternative.” Since publishing of the Final EIS, no additional modifications to the proposed project have been made. In this ROD, reference to the “Modified Applicant’s Preferred Alternative” is specific to the proposed action as described in the Final EIS. Use of the terminology “proposed action” in this ROD is broader and includes the proposed action in the Draft and/or Supplemental Draft EISs.

In March of 1999, the USFWS issued a BO relating to water service contracts that deliver water out of the Sacramento River for use within Sacramento County Water Agency’s Zone 40 Service Area, which includes the MSP area. The Sacramento

County Board of Supervisors approved the water service contracts, thereby agreeing to the BO's conditions. The BO requires the development of a vernal pool management plan and dedication of conservation easements over vernal pools on the County airport, and park properties within the project site, consistent with the USAF's ROD, as supplemented.

In April 2004, the Sacramento County Board of Supervisors conceptually endorsed creation of a "Wetlands Preserve" within the project site. The Board directed staff to work with stakeholders to develop a plan for creating the Wetlands Preserve and for addressing other uses, including roadways, economic development, parks, and easement restrictions for conservation and resource protection. In June 2005, stakeholders, representing thirteen outside entities, and seven county departments, met to develop alternatives for boundaries of the Wetlands Preserve and to identify other vernal pools to be protected. The group also discussed the alignments of Eagles Nest and Douglas Roads. In February 2006, the Sacramento County Board of Supervisors approved Resolution No. 2006-0209 and the associated Board letter, which conceptually endorsed a revised land use plan for the MSP area. Subsequent to the Board's approval of the conceptual land use plan, the Sacramento County Office of Economic Development and Marketing submitted several permit applications to the USACE to develop the project site (as described above). These permit applications included some modifications since the 2006 conceptual land use plan, including the removal of some "protected areas" and the enlargement of the proposed Wetlands Preserve.

A complete application for a DA permit under Section 404 of the Clean Water Act for the MSP proposed action was received on May 2, 2008. An initial public notice describing the project was issued on December 16, 2009.

The U.S. Army Corps of Engineers, Sacramento District (Corps), as the lead federal agency for compliance with the National Environmental Policy Act (NEPA), determined an EIS would be prepared on July 8, 2008. Scoping for the EIS began on December 11, 2009, with publication of a Notice of Intent to Prepare an EIS in the Federal Register (74 FR 65760). The Corps issued a public notice for scoping on December 16, 2009. A public scoping meeting was held on January 6, 2010, at a Sacramento County office in Mather, California. The U.S. Environmental Protection Agency (USEPA), U.S. Air Force and Sacramento Metropolitan Air Quality Management District (SMAQMD) agreed to be cooperating agencies.

In June 2012, a Draft EIS was issued by the Corps. A Notice of Availability (NOA) was published in the Federal Register on June 29, 2012 (77 FR 38779). A public notice for the Draft EIS was issued by the Corps on the same day. A public meeting was held on July 25, 2012, at a Sacramento County office in Mather, California. During the Draft EIS public review period, 13 comments were received, consisting of 12 letters/emails, and one set of comments from a speaker at the public meeting.

Following publication of the Draft EIS, a revised delineation of waters of the U.S. was conducted within the project site, which added aquatic features and revised the shape or size of other aquatic features within the project site. Identified waters of the U.S. within the project site increased from 198.5 acres to 208.8 acres. On May 1, 2015, a Supplemental Draft EIS was issued by the Corps. A NOA was published in the Federal Register on May 1, 2015 (80 FR 24915). A public notice for the Supplemental Draft EIS was issued by the Corps on the same day. During the Supplemental Draft EIS public review period, 26 letter/email comments were received. The content of the Supplemental Draft EIS was narrow, consisting of a brief introduction, and updates to the affected environment and environmental consequences sections for Biological Resources and Aquatic Resources.

The Corps issued a Final EIS in May 2018. An NOA was published in the Federal Register on May 11, 2018 (83 FR 22060). A public notice announcing the Final EIS was issued by the Corps on the same day. Copies of the NOA and public notice are provided in **Appendix A** of this document.

b. Description of the Proposed Action:

(1) Develop a Mixed Use Development: As described above, the MSP proposed action is to develop a mixed use development within a site approximately 5,749 acres in size in eastern Sacramento County, California. The MSP contains approximately 209 acres of waters of the U.S., including 135.5 acres of wetlands and 73.3 acres of other waters. The proposed action, as described in the Final EIS (Modified Applicant's Preferred Alternative), would include 599 acres of airport commercial uses, 174 acres of commercial development uses, 55 acres of economic development uses, 693 acres of residential uses, 115 acres of parks and recreation, 94 acres of roadways/infrastructure, 1,343 acres of preserve and 126 acres of avoided areas in commercial and residential development areas. The MSP contains approximately 2,550 acres of existing developed areas. Complete development of the MSP under the proposed action (Modified Applicant's Preferred Alternative) would involve the filling of approximately 35.66 acres of waters of the U.S., consisting of 9.15 acres of vernal pools and swales, 17.65 acres of seasonal wetland, 1.18 acres of drainage ditches and 7.69 acres of ephemeral and intermittent stream channels. The total proposed discharge of dredged or fill material for each project within the MSP area is summarized in Table 2, below. Please refer to Revised Table 4.6-1 in the Final EIS, which summarizes the discharges by type of aquatic resources (e.g., seasonal wetland) for each project. The proposed discharge of dredged or fill material into waters of the U.S. is subject to Section 404 of the Clean Water Act. Therefore, DA permits under Section 404 of the Clean Water Act are required.

Table 2
Proposed Discharge of Dredged or Fill Material for Projects within the MSP

Project Name & DA File Number	Total Project Size (acres)	Proposed (Permanent) Fill Discharge into Waters of the U.S. (acres)
<i>Roadways/Infrastructure:</i>		
Phase I/II Zinfandel Drive Improvements and Sewerline Extension* (SPK-2002-00561)	32.75	0.18
Phase III Zinfandel Drive (SPK-2006-00530)	27.77	0.32
Douglas Road Extension (SPK # to be determined pending receipt)	33.65	0.40
<i>Development:</i>		
Airport Commercial (SPK-2009-00404)	599.24	13.33
Commercial Development (SPK-2009-00525)	174.00	5.19
Economic Development (SPK-2009-00526)	55.34	0.32
Parks and Recreation (SPK-2009-00527)	114.68	1.01
Residential (SPK-2009-00529)	693.00	14.90

As of the publication date of this ROD, only one of the proposed projects within the MSP proposed action (Modified Applicant's Preferred Alternative) is under project-level review for a permit decision, the first phase of proposed roadways/infrastructure, the proposed Phase I/II Zinfandel Drive Improvements and Sewerline Extension project (SPK-2002-00561). Other project-level permit applications are anticipated to be reactivated following finalization of this ROD.

(2) Phase I/II Zinfandel Drive Improvements and Sewerline Extension project (SPK-2002-00561): Sacramento County proposes the permanent discharge of fill material into approximately 0.18 acre of waters of the U.S., consisting of 0.05 acre of intermittent stream (Morrison Creek), 0.05 acre of ephemeral stream and 0.08 acre of ditch, and the temporary discharge of fill material into approximately 0.18 acre of waters of the U.S., consisting of 0.01 acre of ephemeral stream, 0.17 acre of ditch and 0.001 acre of seasonal wetland.

The proposed project area is approximately 32.75 acres and consists of roadway improvements to Zinfandel Drive and extension of a sewer line along Zinfandel Drive. Phase I would consist of installation of a trunk sewer line on the east side of Zinfandel Drive from North Mather Boulevard to Douglas Road. Phase II would consist of the improvement of an existing segment of Zinfandel Drive, an approximately 2,100 linear-foot southward extension of Zinfandel Drive, and installation of a trunk sewer line from Douglas Road to the southern end of the Phase II Zinfandel Drive project. Zinfandel Drive would be paved to a 36-foot width and would have two travel lanes measuring 12 feet in width, and a six-foot-wide paved multipurpose lane on the east side of the roadway.

The majority discharge of fill material would result from road construction as part of Phase II, within which the sewerline extension would be co-located. In the northern portion of the project area, under Phase I, the sewerline extension would be installed east of a portion of Zinfandel Drive that is not undergoing additional improvements as a component of the proposed project. Phase 1 impacts to waters of the U.S. associated with solely the sewerline extension consist of approximately 0.01 acre of temporary impacts resulting from trenching through a seasonal wetland and an ephemeral stream. The remaining impacts described above are attributed to the road construction, within which the remainder of the sewerline extension would be co-located.

The proposed impacts to waters of the U.S. that would result from the Phase I/II infrastructure project qualify for evaluation under Nationwide Permit (NWP) Nos. 12 and 14, *Utility Line Activities* and *Linear Transportation Projects* (respectively). Proposed impacts associated solely with the sewerline extension component of the project (under NWP 12) would result temporary impacts to 0.001 acre of seasonal wetland and 0.008 acre of ephemeral stream. The remaining impacts described above are attributed to road construction (NWP-14), within which the majority of sewerline extension would be co-located.

As identified in Section III of this ROD, the Corps determined that at the specific plan level, the proposed action as described in the Final EIS (Modified Applicant's Preferred Alternative is the environmentally-preferred alternative. The Draft EIS and Supplemental Draft EIS described that roadway and infrastructure improvements were under evaluation at the project level. The Final EIS described that the roadway and infrastructure improvements had been separated into three phases (See Table 1 of this document), and of these phases, just Phase 1 the Phase I/II Zinfandel Drive Improvements and Sewerline Extension project, was evaluated at the project level. Based on the proposed discharge of fill material for the proposed project, resulting in no greater than 0.5-acre of loss of waters of the U.S., the Corps determined it was appropriate to evaluate the proposed project under the NWPs. Although a portion of the Phase I/II infrastructure project (approximately 24.33 acres) is within the MCRA, the proposed impacts to waters of the U.S. do not include impacts to vernal pools. Therefore, the revocation of NWP No. 14 within the MCRA pursuant to Sacramento District's Regional Conditions for the 2017 NWPs specific to use of the NWP in

vernal pools within the MCRA is not applicable and use of NWP No. 14 for the proposed project is appropriate. NWP-12 has not been revoked in the MCRA.

As described earlier in this ROD, between the Supplemental Draft EIS and Final EIS, the applicant modified the MSP proposed action (representing the Modified Applicant's Preferred Alternative), inclusive of the Phase I/II infrastructure proposed action, refining the proposed alignment of the southward extension of Zinfandel Drive. This resulted in additional avoidance and minimization of impacts to waters of the U.S. for the MSP proposed action, expansion of the preserve as a component of the MSP proposed action, and also a reduction in originally proposed impacts associated with the Phase I/II infrastructure proposed project. The applicant had originally proposed to discharge fill material into 0.79 acre of waters of the U.S. for the Phase I/II infrastructure project, including to 0.19 acre of vernal pool. No fill of vernal pool wetland is currently proposed as part of the Phase I/II infrastructure project, and the refined alignment of infrastructure has reduced permanent impacts to waters of the U.S. by approximately 78%.

II. Project Purpose and Need

a. NEPA Purpose and Need:

(1) Purpose: To construct a large-scale, mixed use development to promote economic and wetland conservation opportunities within the MSP area.

(2) Need: Sacramento County has been undergoing continuous growth, and increased housing and sustainable economic development needs have been identified within the MSP area, located in close proximity to Highway 50 and due to existing aviation infrastructure within the project site, the County considers that the MSP can further contribute to diversification of the regional economy. Sacramento County has been involved in the redevelopment of the project site and the transition of the Mather AFB from military to civilian ownership since 1989.

b. Section 404(b)(1) Guidelines - Basic and Overall Project Purpose

(1) Policy: For activities requiring a permit under Section 404 of the CWA, the Corps identifies a basic and overall project purpose for compliance with the USEPA's Section 404(b)(1) Guidelines for Specification of Disposal Sites for Dredged or Fill Material (Corps' SOP and Section 404(b)(1) Guidelines; 40 C.F.R. 230.10(a)). The basic purpose helps determine whether a project is water dependent. In the event a project results in the discharge of dredge or fill material into special aquatic sites, a determination that a project is not water dependent triggers a set of rebuttable assumptions. For activities that would result in the discharge of dredged and/or fill material into special aquatic sites (i.e. sanctuaries and refuges, wetlands, mudflats, vegetated shallows, coral reefs, and riffle and pool complexes), the basic project purpose is used to identify whether or not the activity is water dependent (i.e. requires access or proximity to or sighting within the special aquatic site in question to fulfill its basic purpose (40 C.F.R. 230.10(a)(3))). Per the

Guidelines, no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic environment, so long as the alternative does not have other significant adverse environmental consequences. In addition, for any activity that is not water dependent and would result in the discharge of dredged or fill material into special aquatic sites, the Corps presumes: (1) practicable alternatives that do not involve special aquatic sites are available, unless clearly demonstrated otherwise; and (2) practicable alternatives that do not involve special aquatic sites have less adverse impact on the aquatic ecosystem, unless clearly demonstrated otherwise (40 C.F.R. 230.10(a)(3)).

(2) Applicability to the Proposed Action: As discussed above, the proposed Phase I/II Zinfandel Drive Improvements and Sewerline Extension project is being evaluated under NWP Nos. 12 and 14. For each NWP, Corps Headquarters issues a decision document, which includes a NEPA environmental assessment, a public interest review, and for all Section 404-applicable NWPs, a 404(b)(1) Guidelines analysis. Because the required NEPA, public interest review and 404(b)(1) Guidelines analysis is conducted at the national level to support issuance or reissuance of the NWPs, it is not necessary to conduct these analyses at the district level. Therefore, a basic and an overall project purpose for the proposed Phase I/II Zinfandel Drive Improvements and Sewerline Extension project are not identified.

In accordance with 40 C.F.R. §230.10(a)(4), compliance with the EPA's 404(b)(1) Guidelines will be demonstrated for the 7 pending (currently withdrawn but anticipated to be reactivated, per the discussion in Section 1[a]) permit applications on a case-by-case basis, inclusive of identifying a basic and an overall project purpose for each proposed action, as applicable, and will take into account the purpose and need identified in II.a, above.

III. Alternatives Considered: A reasonable range of alternatives was considered in the EIS for the proposed action of the MSP. The EIS also identified those alternatives that were considered but rejected from further analysis. In addition to the MSP proposed action (referenced as "Alternative A" in the Draft and Final EIS, and additionally as the "Modified Applicant Preferred Alternative" in the Final EIS) described above, the below four alternatives were considered and carried forward in the analysis. Chapter 2 of the Draft, Supplemental Draft and Final EIS contains a full description of each alternative evaluated. As stated in Chapter 2.7 of the Draft EIS, based on the project purposes' applicability to the MSP area, off-site alternatives were eliminated from consideration as they would fail to meet the overall project purposes.

As discussed in Section II.b(2) of this document, analysis under NEPA and the 404(b)(1) Guidelines has been completed at the national level for NWP Nos. 12 and 14. General Condition 23 of the NWPs, requires the proposed activity be designed and constructed to avoid and minimize adverse effects, both temporary and

permanent, to waters of the United States to the maximum extent practicable at the project site. As identified in Section I(b)(2), above, since the publishing of the Draft and Supplemental Draft EISs, the applicant has further avoided and minimized adverse effects to the highest quality aquatic resources associated with construction of the proposed Phase I/II Zinfandel Drive Improvements and Sewerline Extension project. Therefore, consideration of alternatives for the proposed Phase I/II Zinfandel Drive Improvements and Sewerline Extension project is not required.

a. Alternative B (2006 Conceptual Land Use Plan): The Sacramento County Board of Supervisors conceptually endorsed a land use plan for the project site in 2006. Alternative B is based on the land uses and proposed boundaries of the preserve and “avoided areas” based on this conceptually endorsed plan. Alternative B includes a 1,063-acre preserve and 27 acres of riparian buffer area, which is less than the 1,272-acre Preserve that was specified in the BO for the proposed land transfer from the USAF to the County, and substantially less than the currently proposed 1,343-acre preserve. As with the Modified Applicant’s Preferred Alternative, this alternative includes the development of a large-scale mixed-use development on the project site. This alternative would include 599 acres of airport commercial uses, 199 acres of commercial development uses, 60 acres of economic development uses, 793 acres of residential uses, 280 acres of parks and recreation, 86 acres of roadways/infrastructure, 1,063 acres of preserve, 92 acres of avoided areas in commercial and residential development areas, and 27 acres of riparian buffer area. Alternative B would result in the discharge of fill material into 47.01 acres of waters of the U.S., which is approximately 11.35 acres greater than that proposed by the Modified Applicant’s Preferred Alternative. Between the Supplemental Draft and Final EIS this Alternatives remained substantially the same in terms of proposed impacts to waters of the U.S. and proposed preserve and/or avoided areas.

b. Alternative C (Multiple Preserves Alternative): As with Alternatives A and B, this alternative includes the development of a large-scale mixed-use development on the project site. Alternative C would also require permits from the USACE pursuant to Section 404 of the Clean Water Act for the proposed fill of 40.52 acres of waters of the U.S., which is approximately 4.86 acres greater than that proposed by the Modified Applicant’s Preferred Alternative. This alternative would include 599 acres of airport commercial uses, 175 acres of commercial development uses, 60 acres of economic development uses, 792 acres of residential uses, 130 acres of parks and recreation, 86 acres of roadways/infrastructure, 1,343 acres of preserve, no additional “avoided areas,” and 13 acres of riparian buffer area. Alternative C would include additional, small preserve areas to the east of Zinfandel Drive. Between the Supplemental Draft and Final EIS this Alternatives remained substantially the same in terms of proposed impacts to waters of the U.S. and proposed preserve and/or avoided areas.

c. Alternative D (No Action, No Permit Issued): Under this alternative, a mixed-use development would be constructed within the MSP area without

discharging fill material into waters of the U.S. A reduced amount of future development could likely occur without DA permit authorization(s), and would be additionally guided by the provisions of the USAF's 1993 ROD, as described in Section I of this document. This includes infill development at Mather Airport and Economic Development in the southwestern corner of the project site. Therefore, this alternative assumes these actions could occur at some future time. Because this alternative does not include substantial economic development and related revenue to fund management of a preserve, the level of active management of preserve areas, including the restoration or enhancement of existing wetland resources, is unknown.

d. Alternative E (Supplemental Draft EIS Proposed Action): The proposed action as identified in the Supplemental Draft EIS includes the development of a large-scale mixed-use development on the project site. Development of this alternative would result in discharge of fill material into 48.28 acres of waters of the U.S. Alternative E included a Regional Sports Park, which is no longer proposed as part of the Modified Applicant Preferred Alternative described in the Final EIS. This alternative proposed a 1,272-acre preserve. Within the Economic Development area, the potential land use of aggregate extraction was identified (again, no longer proposed in the Modified Applicant's Preferred Alternative).

e. Alternative(s) Considered to be Environmentally Preferable: The environmentally preferred alternative is the Modified Applicant's Preferred Alternative. Although Alternatives B and C would meet the project purpose, these alternatives would have greater impacts to the aquatic environment. Although there could potentially be a lower amount of direct loss of waters of the U.S. under Alternative D, this alternative is not considered environmentally preferable since it does not guarantee a lower amount of direct loss of waters of the U.S., and would likely result in higher indirect impacts to waters of the U.S. due to lower revenue with which to fund preserve management. Additionally, the BO for the proposed transfer of Mather AFB from the USAF to the County specified a 1,272-acre preserve; the Modified Applicant's Preferred Alternative would establish a 1,343-acre preserve, thus preserving more waters of the U.S. and comparatively limiting direct and/or indirect impacts to these waters as a result of future potential development. Alternative E is not the environmentally preferred alternative as it would result in greater impacts to the aquatic environment. As a result of revising the proposed action between the Supplemental Draft EIS and Final EIS stages, the Modified Applicant's Preferred Alternative went from being the alternative proposing the most direct impacts to the aquatic environment (48.28 acres), to the alternative proposing the lowest amount of impacts to the aquatic environment (35.66 acres).

IV. Comments on the Final Environmental Impact Statement: The Corps received comments on the Final EIS from USEPA and Ms. Billie Barker. A copy of the comments is contained in **Appendix B** of this document.

a. COMMENTER NAME: USEPA. On June 8, 2018, the USEPA, a cooperating agency on the EIS, provided the following comments:

(1) USEPA noted the Modified Applicant's Preferred Alternative is an improvement as it has been modified to expand the preserve, resulting in a reduction in the amount of impacts to wetlands, including vernal pools in the MCRA. They expressed concern that all practicable avoidance may not have been captured in the alternatives analysis, and recommended that Alternatives B and C be modified to reflect the revised preserve area in the Modified Applicant's Preferred Alternative, and to provide further evaluation to determine whether any of their projected impacts to vernal pools in the MCRA could be practicably avoided.

Corps Response: The comment is noted. As identified in Section III of this ROD, the Corps determined that at the specific plan level, the Modified Applicant's Preferred Alternative is the environmentally-preferred alternative. This alternative would preserve 95% of suitable habitat for federally-listed vernal pool species within the portion of the MCRA located within the MSP area. The Draft EIS identified and evaluated alternatives that were reasonable, as required under NEPA, and eliminated alternatives that the Corps determined were not reasonable. Alternatives B and C are stand-alone reasonable alternatives with distinct development and preserve area(s) designs; it is not necessary or feasible to modify these alternatives to reflect the revised (enlarged) preserve area in the Modified Applicant's Preferred Alternative.

In regard to practicable avoidance of proposed impacts to vernal pools associated with each future proposed land use component within the Modified Applicant's Preferred Alternative, a case-specific determination of compliance with the Section 404(b)(1) Guidelines will be made in the supplemental NEPA documentation prepared for each future permit application.

(2) USEPA recommended that the ROD explain what is to become of the lands proposed as "avoided areas" in the Final EIS. They further recommended that as high-value vernal pools due to their location within the MCRA, the full acreage of avoided areas be included in the preserve.

Corps Response: Additional clarification to the description provided in Chapter 4 (Errata), Section 2.3.1.7 of the Final EIS for the 126 acres of avoided areas is provided in this ROD. As described in the introductory portion of this ROD, the 126 acres of avoided areas would consist of 22 acres within the commercial development land use area, and a 104-acre riparian buffer and avoidance area within the residential land use area. The avoided areas are not planned for development and would not be disturbed during construction; however, no active management is currently proposed, nor would the avoided areas have long-term land use protection (e.g., a conservation easement). As described in Chapter 4 (Errata), Section 2.3.1.7 of the Final EIS, if a future project(s) is proposed within the avoided areas, the project(s) would be subject to additional project-level analysis

including evaluation of avoidance, minimization and compensatory mitigation requirements.

(3) While acknowledging that the “comments and responses” portion of the Final EIS provided helpful information, USEPA reiterated their concerns expressed in comments on the Draft EIS and Supplemental Draft EIS on the anticipated challenges of securing appropriate compensatory mitigation to offset impacts of projects developed within the MSP area. They further recommended that the ROD identify the sources and amount of compensatory mitigation that would be required to offset impacts associated with projects in the MSP area, identify suitable compensatory mitigation mechanisms, and discuss the availability of mitigation in the context of competing demands from other proposed projects, including those covered by the South Sacramento Habitat Conservation Plan (SSHCP).

Corps Response: This comment is noted. The Corps refers to responses to comments in the Final EIS that have sufficiently addressed the comments provided by USEPA, specifically, response to comment numbers 1-5, 4-4, 4-6 and 4-11. Since publication of the Final EIS, the Corps has evaluated the applicant’s proposed compensatory mitigation to offset unavoidable impacts to approximately 0.18 acre of waters of the U.S. associated with the Phase I/II Zinfandel Drive and Sewerline Extension project currently under evaluation under NWP Nos. 12 and 14. The applicant proposes to purchase floodplain mosaic wetland credits from the Corps-approved Cosumnes Floodplain Mitigation Bank, at a ratio(s) determined by the Corps. The Corps’ evaluation of the applicant’s proposal included completion of *South Pacific Division Mitigation Ratio Setting Checklists*, provided in **Appendix C**. Please also refer to Section VI of this document for a more detailed description of the Corps’ evaluation and acceptance of the applicant’s proposed compensatory mitigation for the Phase I/II Zinfandel Drive and Sewerline Extension project. The Corps has determined that the applicant’s proposed compensatory mitigation via purchase of floodplain mosaic wetland credits from the Cosumnes Floodplain Mitigation Bank is appropriate. For the proposed loss of 0.10 acre of intermittent and ephemeral streams, a 2:1 ratio is required (0.20 credits). For the proposed loss of 0.08 acre of drainage ditch, a 1:1 is required (0.08 credits).

In addition to the response to comments references above, in regard to USEPA’s concern regarding competing demands for compensatory mitigation mechanisms in the region, as referenced above and in Section VI of this ROD, sufficient and suitable compensatory mitigation credits are available to compensate for impacts of the currently proposed project being evaluated under NWP Nos. 12 and 14, on waters of the U.S. We acknowledge that there is a high demand for compensatory mitigation mechanisms in the Sacramento Region. However, it is not the Corps’ responsibility to ensure that sufficient credits (or other mitigation mechanisms) are available for all projects that are currently proposed, nor is it feasible for us to make this determination, as there may be additional mitigation banks approved in the future, and we do not yet know whether all proposed projects would be approved or what the required compensatory mitigation would be for those

projects. If there are not sufficient credits available for future projects that are permitted within the region, the applicant for those projects would need to propose and have approved either in-lieu fee credits and/or permittee-responsible compensatory mitigation, delay commencement of discharges into waters of the U.S. until sufficient credits are available, or propose some other form of compensatory mitigation.

c. COMMENTER NAME: Ms. Billie Barker. On June 8, 2018, Ms. Billie Barker provided the following comment:

(1) Ms. Barker expressed concern regarding transportation access to and from the Independence at Mather housing subdivision. Ms. Barker indicated that current and future residents and businesses will be even more impacted unless a major project is implemented to expand and speed up access.

Corps Response: The comment is noted. Response to comments #1-12 in the Final EIS addresses these concerns, including a disclosure that the Corps does not have authority over mitigation measures under the purview of local authorities (such as traffic).

V. Consideration of Applicable Laws and Policies

a. National Environmental Policy Act (NEPA): The proposed action is in compliance with NEPA. The EIS was completed to evaluate a reasonable range of land-use alternatives and the cumulative effects associated with four alternatives. The Corps followed the NEPA process identified in 40 CFR 1500, 33 CFR 230, and 33 CFR 325, Appendix B, including noticing and timeline requirements, to produce an EIS that discloses to the public the probable impacts of each alternative, taking into account mitigation. The EIS will be utilized to prepare site-specific NEPA documents for the seven pending (currently withdrawn but anticipated to be reactivated, per the discussion in Section 1[a]) permit applications, and one additional anticipated permit application. A NEPA document will only be prepared following receipt of a complete DA permit application and issuance of a public notice, as applicable (e.g., for Standard Permits). The NEPA document may be an Environmental Assessment, EIS/ROD, Categorical Exclusion or NWP decision document, depending on the nature of the proposed project, consistency with the environmentally preferred alternative, length of time that has elapsed since issuance of the EIS, and changes to the affected environment. In accordance with Corps regulations, the issuance of NWPs by Corps Headquarters includes compliance with NEPA, USEPA's 404(b)(1) Guidelines and public interest review factors.

b. Section 401 of the Clean Water Act Section 401 of the CWA: None of the pending (neither the NWP Nos. 12 and 14, or 7 other applications currently withdrawn but anticipated to be reactivated, per the discussion in Section 1[a]) permit applications have obtained Section 401 Water Quality Certification (WQC). Receipt of a Section 401 WQC or waiver will be required prior to completion of the

subsequent site-specific decision documents (see Section V[a], above), prior to issuing the final permit. For the Phase I/II Zinfandel Drive Improvement and Sewerline Extension project decision under NWP Nos. 12 and 14, the Corps' verification to the applicant would identify that the NWPs are denied without prejudice and no work may commence under the authority of the NWPs until the 401 WQC is issued or waived, in accordance with Corps' regulations at 33 CFR 330.4(c)(3).

Future permit applications for the MSP area may potentially qualify for NWPs (see amount of proposed discharge of fill material for each project in Table 2 of this document). For activities meeting the terms and conditions of a NWP, Corps regulations (33 CFR 330.4(c)(3)) identify that if the state denies the 401 WQC for an activity meeting the terms and conditions of a NWP, the NWP's authorization for the activities within the state are denied without prejudice until the state issues an individual water quality certification. In these instances, the Corps would verify the NWP with a statement that the NWP is denied without prejudice, and no work under the authority of the NWP may commence until the Section 401 WQC has been issued or waived.

c. Endangered Species Act of 1973 (ESA): The proposed action (Modified Applicant's Preferred Alternative) is in compliance with Section 7 of the ESA. Chapter 4.5 of the Draft and Supplemental Draft EISs, and Chapter 4 (Errata), Section 4.5 of the Final EIS identify the impacts of the proposed action on federally-listed threatened and/or endangered species. The Corps initiated consultation under Section 7 of the ESA by letter dated October 22, 2014. The USFWS requested additional information by letter dated March 17, 2015. The Corps and project applicant provided additional information as the project design was refined, between January 3, 2017, and December 19, 2017. The USFWS considers the formal consultation to have begun as of December 19, 2017, corresponding to the date all information needed to complete the consultation was received.

On June 1, 2017, our office requested to review a Draft BO. On December 18, 2019, the USFWS provided a Draft BO to our office for review. On January 3, 2020, we provided comments on the Draft BO to the USFWS. On January 10, 2020, the USFWS issued the BO (*USFWS #08ESMF00-2015-F-0131-4*) for proposed impacts to vernal pool fairy shrimp (*Branchinecta lynchi*), vernal pool tadpole shrimp (*Lepidurus packardii*), valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), slender Orcutt grass (*Orcuttia tenuis*) Sacramento Orcutt grass (*O. viscida*), and designated critical habitat for vernal pool tadpole shrimp, vernal pool fairy shrimp, slender Orcutt grass and Sacramento Orcutt grass. The BO is located in **Appendix D** of this document.

The BO is a project-level document; it does not require notification and/or additional evaluation of the 8 pending permit applications (i.e., the NWP Nos. 12 and 14 for the Phase I/II Zinfandel Drive Improvements and Sewerline Extension project, and 7 other applications currently withdrawn but anticipated to be reactivated, per the

discussion in Section 1[a]) associated with the MSP proposed action to satisfy compliance with Section 7 of the ESA, unless the Corps becomes aware of new information sufficient to trigger reinitiation of consultation under 50 CFR 402.16. Compliance with the BO will be added as a special condition of any future DA authorization within the MSP area. In addition to addressing planned development within the MSP area, the BO provides incidental take coverage for vernal pool tadpole shrimp and vernal pool fairy shrimp for 7.97 acres of wetland habitat located within the 126 acres of “avoided areas” within proposed commercial and residential land uses. As stated in the BO: “Avoided areas within certain land use areas will not be covered by protective realty documents or managed specifically for the vernal pool species. Therefore, due to the small size of these areas, the isolation by surrounding proposed development, and a lack of management to limit encroachment by annual grasses, it is likely that the 7.97 acres of wetland habitat within these avoided areas will degrade over time and no longer be able to support the vernal pool species.” Finding (f) of this document clarifies that this incidental take exemption is specific to the currently proposed federal action, which does not propose to fill the 7.97 acres of referenced habitat. Therefore, if there is future development in the “avoided areas” requiring DA authorization, compliance with Section 7 of the ESA would need to be evaluated on a case-specific basis.

d. Fish and Wildlife Coordination Act (FWCA): The proposed action (Modified Applicant’s Preferred Alternative) is in compliance with the FWCA. Chapter 4.5 of the Draft and Supplemental Draft EIS, and Chapter 4 (Errata), Section 4.5 of the Final EIS identify the impacts of the proposed action on fish and wildlife species. The Corps has worked with the USFWS on the proposed action, including meetings to obtain input, and has provided copies of the Draft, Supplemental Draft and Final EIS to the USFWS, and technical coordination to assist the USFWS in developing the above-referenced BO. During EIS preparation of the Draft EIS, the Corps requested that USFWS be a cooperating agency; the USFWS accepted by letter dated September 14, 2010. The USFWS did not provide comments on the Draft EIS for compliance with the Fish and Wildlife Coordination Act.

e. Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA): The proposed action (Modified Applicant’s Preferred Alternative) is in compliance with the MSFCMA: The proposed action would not result in any adverse effects to Essential Fish Habitat (EFH), as the site is not located in or near EFH.

f. Section 106 of the National Historic Preservation Act (NHPA): The proposed action (Modified Applicant’s Preferred Alternative) is in compliance with Section 106 of the NHPA. Chapter 4.7 of the Draft EIS and Chapter 4 (Errata), Section 4.7 of the Final EIS identify impacts of the proposed action on cultural resources. The Corps has determined that the proposed action would have no effect to resources listed on or eligible for listing on the National Register of Historic Places. The State Historic Preservation Officer concurred with this determination by letter dated June 25, 2015 (*SHPO #COE_2014_1024_001*) (**Appendix E**).

g. Section 176(C) of the Clean Air Act (CAA) General Conformity Rule

Review: The proposed action has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. The Corps has determined that direct emissions from the proposed activities that require a DA permit will not exceed de minimis levels of a criteria pollutant or its precursors and are exempted by 40 CFR 93.153. Any later indirect emissions are generally not within the Corps' continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons, a conformity determination is not required for this action.

h. Executive Order 11988: Floodplain Management: As identified in Chapter 4 (Errata), Section 3.3 of the Final EIS, the project area is largely located outside of the 100-year flood zone mapped in 2012 by the Federal Emergency Management Agency (FEMA) (at the time of the Draft EIS's publication, FEMA mapping had not yet been completed). Flood zones are primarily confined to the channel of Morrison Creek and within the channels of tributaries to Morrison Creek on-site. Areas within the 100-year floodplain include the central-northern and western portions of the proposed Economic Development area, a portion of the western end of the proposed Airport Commercial area, localized areas within the proposed Residential area, and limited areas along ephemeral drainages in areas zoned for most of the other proposed land uses within the project area.

As identified in Chapter 4.3 of the Draft EIS and Chapter 4 (Errata), Section 4.3 of the Final EIS, the proposed action would have an adverse effect on the floodplain, but impacts to the floodplain have been minimized to the maximum extent practicable, and there are no other feasible mitigation measures within the Corps' area of responsibility available to further reduce impacts. As identified in Section III of this ROD, other reasonable alternatives evaluated by the Corps do not provide substantially different (or better) development footprints with regard to floodplain impacts. Thus there are no practicable alternatives to developing within the floodplain. As described in Chapter 4 (Errata), Section 4.3 of the Final EIS, in accordance with Conservation Element Policy CO-94 of the Sacramento County General Plan, development within the 100-year floodplain shall be limited to land uses that can support seasonal inundation. Provided that all proposed development would be required to adhere to this condition, the impacts would be reduced to less-than-significant. The proposed action is in compliance with Executive Order 11988.

i. Executive Order 13175: Consultation with Indian Tribes, Alaska Natives, and Native Hawaiians: The proposed action is in compliance with Executive Order 13175. Native American coordination was initiated by contact with the Native American Heritage Commission (NAHC), who provided a letter on October 2, 2013, regarding the absence of previously identified sacred sites within the APE, and a list of contacts in the Native American community. The Corps sent letters to the Buena Vista Rancheria, Lone Band of Miwok Indians, Shingle Springs Band of Miwok Indians, United Auburn Indian Community, and Wilton Rancheria, on November 4,

2014, describing the proposed project and requesting comments. The Corps received a letter response from Shingle Springs Band of Miwok Indians dated December 10, 2014, requesting completed cultural resources documentation for the proposed project. Documentation had already been provided as enclosures to the November 4, 2014, letter from the Corps. On April 3, 2015, the Corps followed up by letter with the United Auburn Indian Community, and on April 27, 2015, the Corps followed up by letter with the Buena Vista Rancheria, Lone Band of Miwok Indians, Shingle Springs Band of Miwok Indians, and Wilton Rancheria, requesting any comments by May 11, 2015. On May 1, 2015, the Corps received a letter from the Buena Vista Rancheria in response to our November 4, 2014, letter, expressing interest in learning more about the proposed project. As mentioned above, the Corps had just sent an update to the Buena Vista Rancheria and other tribal contacts in April 2015. On May 29, 2015, the Corps received a letter from the Shingle Springs Band of Miwok Indians requesting completed cultural resources documentation for the proposed project. An email response was provided on June 1, 2015, indicating that relevant documentation was provided with the November 4, 2014, and April 27, 2015, letters. No further comments were received as a result of Native American coordination. Documentation of all coordination is located in the administrative record.

j. Executive Order 12898: Environmental Justice: The proposed action is in compliance with Title VI of the Civil Rights Act and Executive Order 12898. The proposed action is not expected to negatively impact any community, and therefore is not expected to cause disproportionately high and adverse impacts to minority or low-income communities.

VI. Consideration of Mitigation Measures: The EIS included a number of mitigation measures to reduce or offset impacts that fall outside of the Corps responsibility and generally cannot be practicably controlled by the Corps, such as those associated traffic, air quality, and noise. Many of the mitigation measures are requirements of the local land use agency (Sacramento County). As such, these mitigation measures are enforced by Sacramento County and not the Corps.

The Corps requires mitigation measures to reduce or offset impacts to waters of the U.S. as special conditions of each DA permit issued. For the Phase I/II Zinfandel Drive Improvements and Sewerline Extension project, these special conditions are identified in Section VIII. For future permits, special conditions would be developed and refined during preparation of supplemental NEPA documentation for each future permit application. These special conditions will take into account the mitigation measures identified in Chapters 4.3, 4.6 and 4.15 of the Draft EIS, Chapters 4.3 and 4.6 of the Supplemental Draft EIS, and Chapter 4 (Errata), Sections 4.3 and 4.6 of the Final EIS, and would also include additional conditions that avoid, minimize, and compensate for direct and/or indirect impacts to waters of the U.S., and those that ensure compliance with Section 7 of the ESA, Section 106 of NHPA, and Section 401 of the Clean Water Act. Specific to compensatory mitigation for loss of waters of the U.S. proposed by future permits, the applicant will need to comply with

Mitigation Measure 6.1 in Chapter 4 (Errata), Section 4.6 of the Final EIS, which describes utilizing a ratio of at least 1:1 for permittee-responsible or mitigation bank credits, considerations related to the Sunridge ROD and the MCRA, and timing requirements for fulfilling compensation prior to discharge of fill material into waters of the U.S.

The applicant proposes compensatory mitigation through the purchase of Floodplain Mosaic Wetland credits from the Cosumnes River Floodplain Mitigation Bank, for 0.18 acre of permanent impacts (loss) to waters of the U.S. that would result from the Phase I/II Zinfandel Drive and Sewerline Extension project (consisting of 0.05 acre of intermittent stream [Morrison Creek], 0.05 acre of ephemeral stream and 0.08 acre of ditch). Floodplain Mosaic Wetland credits represent a mosaic of habitats including floodplain wetland and riparian scrub-shrub and forest. In order to determine the appropriate amount of compensatory mitigation required, the Corps has utilized two *South Pacific Division Mitigation Ratio Setting Checklists*, for seasonal streams and drainage ditches proposed to be impacted. The checklists are included in **Appendix C**.

VII: Compliance with 404(b)(1) Guidelines

The EIS analyzed a reasonable range of alternatives for the MSP proposed action under NEPA. In accordance with 40 C.F.R. §230.10(a)(4), compliance with the USEPA's 404(b)(1) Guidelines will be demonstrated at a project-specific level for each of the 7 pending permit applications (currently withdrawn but anticipated to be reactivated, per the discussion in Section 1[a]) associated with the MSP proposed action, and will be addressed in the supplemental NEPA documentation prepared for each project. The EAs will tier from the EIR/EIS and will address additional on-site alternatives. Additional mitigation, including avoidance and minimization, may be required at the project level to achieve compliance with the guidelines.

The Phase I/II Zinfandel Drive Improvements and Sewerline Extension proposed project under current review for verification under NWP Nos. 12 and 14 would utilize the EIS to prepare a NWP decision. In accordance with Corps regulations, evaluation of NWPs for issuance by Corps Headquarters includes compliance with NEPA, USEPA's 404(b)(1) Guidelines and public interest review factors.

VIII. Public Interest Review: The following discussion contains the public interest review for the MSP proposed action (Modified Applicant's Preferred Alternative) at a specific plan level. A project-specific public interest review will be conducted for each of the 7 pending permit applications (currently withdrawn but anticipated to be reactivated, per the discussion in Section 1[a]) associated with the MSP proposed action, and will be addressed in the supplemental NEPA documentation prepared for each project.

The Phase I/II Zinfandel Drive Improvements and Sewerline Extension proposed project under current review would utilize the EIS to prepare a NWP decision under

NWP Nos. 12 and 14. In accordance with Corps regulations, evaluation of NWPs for issuance by Corps Headquarters includes compliance with NEPA, USEPA's 404(b)(1) Guidelines and public interest review factors.

a. The relative extent of the public and private need for the proposed work has been considered: The MSP proposed action is intended to meet a local demand for mixed-use development. As such, local approval indicates a public need for the project.

b. The practicability of using reasonable alternative locations and/or methods to accomplish the objective of the proposed structure or work has been evaluated: We have determined that there are no practicable alternate locations that would accomplish the purpose of the proposed work. In addition, we have determined that at the specific plan level, there are no alternative methods available to accomplish the purpose of the proposed work. Therefore, the MSP proposed action (Modified Applicant's Preferred Alternative) is the environmentally preferred alternative.

c. The extent and permanence of the beneficial and/or detrimental effects that the proposed structures or work may have on the public and private uses which the area is suited has been reviewed: For the MSP proposed action (Modified Applicant's Preferred Alternative), development of the MSP area would result in the discharge of fill material into 35.66 acres of waters of the U.S., including wetlands, which would be a permanent and detrimental effect². For the Phase I/II Zinfandel Drive Improvements and Sewerline Extension proposed project, the purchase of mitigation bank credits would provide a permanent benefit to the aquatic environment. For the 7 additional pending permit applications (currently withdrawn but anticipated to be reactivated, per the discussion in Section 1[a]) associated with the MSP proposed action, loss of waters of the U.S. would be offset by the compensatory mitigation required by the Corps in the DA permits, if issued. The residential, commercial and recreation-oriented areas developed as part of the MSP proposed action would provide permanent benefits to the community. In addition, the 1,343-acre permanently-protected preserve located within the MSP area would provide a permanent beneficial effect to the public, particularly in terms of environmental and aesthetic values. Additional permanent and temporary adverse and beneficial effects may occur to other resource areas, as identified in Chapter 4 of the Draft and Supplemental Draft EISs, and Chapter 4 (Errata), Section 4 of the Final EIS.

IX. Special Conditions

² As described earlier in this document, the Phase I/II Zinfandel Drive Improvements and Sewerline Extension proposed project is one of 8 total proposed DA permits for development of the MSP area. Thus, the permanent fill of 0.176 acre of waters of the U.S. proposed by the Phase I/II infrastructure project is counted within the 35.66 acres of proposed discharge of fill material into waters of the U.S. associated with the MSP proposed action (Modified Applicant's Preferred Alternative).

The following special conditions will be included in the DA permit for the Phase I/II Zinfandel Drive Improvements and Sewerline Extension project, to ensure the project results in no more than minimal individual and cumulative impacts on aquatic resources. As a NWP permit, the DA authorization will automatically be subject to the 2017 NWP general conditions and the South Pacific Division regional conditions to the 2017 NWPs.

Special Condition 1: To compensate for the loss of 0.10 acre of intermittent and ephemeral stream, you shall purchase 0.20 credits of floodplain mosaic wetland at the Cosumnes Floodplain Mitigation Bank (ratio of 2:1). To compensate for the loss of 0.08 acre of drainage ditch, you shall purchase 0.08 credits of floodplain mosaic wetland at the Cosumnes Floodplain Mitigation Bank (ratio of 1:1). Evidence of these purchases shall be provided to this office prior to initiation of construction activities in waters of the U.S. authorized by this verification.

Rationale: *This special conditions is necessary to ensure successful compensatory mitigation for the unavoidable losses of waters of the U.S. due to the construction of the proposed action. (33 CFR 320.4(r)(1); 33 CFR 325.4(a)(3); 33 CFR 332, 40 CFR 230).*

Special Condition 2: This Corps permit does not authorize you to take a threatened and/or an endangered species, in particular vernal pool fairy shrimp (*Branchinecta lynchi*), vernal pool tadpole shrimp (*Lepidurus packardii*), valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), slender Orcutt grass (*Orcuttia tenuis*) Sacramento Orcutt grass (*O. viscida*) and designated critical habitat for vernal pool tadpole shrimp, vernal pool fairy shrimp, slender Orcutt grass and Sacramento Orcutt grass. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or a Biological Opinion (BO) under ESA Section 7, with "incidental take" provisions with which you must comply). The enclosed U.S. Fish and Wildlife Service (USFWS) BO (Number 08ESMF00-2015-F-0131-4, dated January 10, 2020) contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the BO. Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with "incidental take" of the attached BO, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your Corps permit. The USFWS is the appropriate authority to determine compliance with the terms and conditions of its BO, and with the ESA.

Rationale: *This condition is necessary to ensure compliance with Section 7 of the Endangered Species Act for impacts to threatened and/or endangered species (16 USC 1531 et seq., 50 CFR 402, 33 CFR 320.4(j)(4), 33 CFR 325.2(b)(5), 33 CFR 325.4(a)(1)).*

Special Condition 3: At least 10 days prior to initiating construction activities in waters of the U.S., you shall notify this office electronically in writing of the anticipated start date for the work.

Rationale: *This condition is necessary to assist the Corps in scheduling compliance inspections to ensure compliance with the permit and applicable conditions (33 CFR 325.4; 33 CFR 326).*

X. Findings

a. The evaluation of the proposed action and alternatives was done in accordance with all applicable laws, executive orders, regulations, and agency regulations. The EIS and supporting documents are adequate and contain sufficient information to make reasoned permit decisions.

b. The selected alternative for the MSP proposed action is Alternative A, the Modified Applicant Preferred Alternative. The selected alternative minimizes environmental harm and potential adverse impacts of the discharges on the aquatic ecosystem and the human environment. The proposed Modified Applicant's Preferred Alternative is considered the environmentally preferred alternative under NEPA.

c. Issuance of a Department of the Army permit (NWP Nos. 12 and 14) for the Phase I/II Zinfandel Drive Improvements and Sewerline Extension project, with the inclusion of the special conditions on the permit identified in Section IX, as prescribed by regulations published in 33 CFR Parts 320 to 330, and 40 CFR Part 320, complies with the Section 404(b)(1) Guidelines, and is not contrary to the public interest. The compensatory mitigation identified in Section VI for the Phase I/II Zinfandel Drive Improvements and Sewerline Extension project was determined using *South Pacific Division Mitigation Ratio Setting Checklists*, and is sufficient to ensure no net loss of aquatic resource functions and services for effects to waters of the U.S. associated with the proposed project. The Corps will complete this permit decision based on the MSP EIS inclusive of this ROD.

d. For the 7 currently withdrawn permit applications anticipated to be reactivated, the Corps will prepare site-specific NEPA documents. A NEPA document will only be prepared following receipt of a complete DA permit application and issuance of a public notice, as applicable (e.g., for Standard Permits). The NEPA document may be an Environmental Assessment, EIS/ROD, Categorical Exclusion or NWP decision document, depending on the nature of the proposed project, consistency with the environmentally preferred alternative, length of time that has elapsed since issuance of the EIS, and changes to the affected environment. In addition, the Corps must ensure the project is in compliance with Section 7 of the Endangered Species Act, Section 106 of the National Historic Preservation Act, and Section 401 of the Clean

Water Act. Preparation of supplemental NEPA documentation will only be prepared following receipt of a complete DA permit application/pre-construction notification, and issuance of any required public or agency notices, as applicable.

e. Regarding the proposed action (Modified Applicant's Preferred Alternative), the identified environmentally preferred alternative, the Corps will evaluate the practicability under the 404(b)(1) Guidelines of avoiding additional waters of the U.S. within each of the individual projects within the MSP area. However, those projects that are consistent with the environmentally preferred alternative will not require an evaluation of off-site alternatives or detailed information about on-site avoidance; instead, the focus will be on minimizing impacts to waters of the U.S. in demonstrating compliance with the 404(b)(1) Guidelines.

f. Regarding the 126 acres of "avoided areas" within the MSP (22 acres within the commercial development land use area, and 104 acres within the residential land use area), these areas are not currently planned for development, however, the MSP project description acknowledges that these areas may be developed in the future. The avoided areas are not proposed to have active management or long-term land use protection (e.g., a conservation easement). Therefore, any future project(s) proposed within the avoided areas shall be subject to additional project-level analysis including additional NEPA analysis, including potentially a supplemental EIS, if determined necessary by the Corps, evaluation of compliance with the Section 404(b)(1) Guidelines and Corps' Public Interest Review, as well as evaluation of avoidance, minimization and compensatory mitigation requirements. Additionally, evaluation of Section 7 ESA compliance would be required, since the MSP biological opinion addresses these areas as part of the current proposed action (Modified Applicant's Preferred Alternative) and therefore as "avoided areas" not subject to current development proposal(s).

g. The Corps retains discretion to evaluate potential indirect impacts to waters of the U.S. located within the 126 acres of "avoided areas" within the MSP (22 acres within the commercial development land use area, and 104 acres within the residential land use area) in association with evaluation of future permit applications.

XI. Appendices

Appendix A: Federal Register Notice of Availability and Public Notice for Final EIS

Appendix B: Comments on Final EIS

*Appendix C: South Pacific Division Mitigation Ratio Setting Checklists for
SPK-2002-00561 (NWP Nos. 12 & 14)*

Appendix D: U.S. Fish and Wildlife Service Biological Opinion

Appendix E: State Historic Preservation Officer Concurrence Letter

PREPARED BY:

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CA-Delta, Regulatory Division

Jan. 28, 2020

Date

REVIEWED BY:

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28 Jan 2020

Date

Lisa H. Clay
Deputy District Counsel
Office of Counsel

28 Jan 2020

Date

APPROVED BY:

Michael S. Jewell
Chief, Regulatory Division

28 January 2020

Date

Appendix A

*Federal Register Notice of
Availability and Public Notice for
Final EIS*

Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-4522; email address: valentino.thomas@epa.gov

SUPPLEMENTARY INFORMATION:

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: This ICR applies to a contractor who performs response services at sensitive sites with serious security concerns where the Agency and public interest would best be protected through drug testing of contractor employees. It requires the contractor to test employees for the use of marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), and any other controlled substances. Only contractor employees who have been tested within the previous 90 calendar days and have passing drug test results may be directly engaged in on-site response work and/or on-site related activities at designated sites with significant security concerns. The Agency may request contractors

responding to any of these types of incidents to conduct drug testing and apply Government-established suitability criteria in Title 5 CFR Administrative Personnel 731.104 *Appointments Subject to Investigation*, 732.201 *Sensitivity Level Designations and Investigative Requirements*, and 736.102 *Notice to Investigative Sources* when determining whether employees are acceptable to perform on given sites or on specific projects.

Form Numbers: None.

Respondents/affected entities: Private Contractors

Respondent's obligation to respond: Required to obtain a benefit per Title 5 CFR Administrative Personnel 731.104 *Appointments Subject to Investigation*, 732.201 *Sensitivity Level Designations and Investigative Requirements*, and 736.102 *Notice to Investigative Sources*.

Estimated number of respondents: 500 (total).

Frequency of response: Annual
Total estimated burden: 1,125 hours (per year). Burden is defined at 5 CFR 1320.03(b)

Total estimated cost: \$129,100 (per year), includes \$0 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in the hours in the total estimated respondent burden compared with the ICR currently approved by OMB.

Dated: May 3, 2018.

Kimberly Y. Patrick,

Director, Office of Acquisition Management.

[FR Doc. 2018-10121 Filed 5-10-18; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-9039-3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564-7156 or <https://www2.epa.gov/nepa/>.
Weekly receipt of Environmental Impact Statements
Filed 04/30/2018 Through 05/04/2018
Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: <https://cdxnodengn.epa.gov/cdx-nepa-public/action/eis/search>.

EIS No. 20180086, Final, USFS, CO,
Final Environmental Impact

Statement for Glade Rangeland Management, Review Period Ends: 06/11/2018, Contact: Deborah Kill 970-882-6822.

EIS No. 20180087, Draft, USDA, NAT, Southern Gardens Citrus Nursery, LLC Permit to Release Genetically Engineered Citrus Tristeza Virus Draft Environmental Impact Statement, Comment Period Ends: 06/25/2018, Contact: Dr. Sidney Abel 301-851-3896.

EIS No. 20180088, Draft, FHWA, ND, U.S. Highway 85_I-94 Interchange to Watford City Bypass (McKenzie County Road 30), Comment Period Ends: 06/25/2018, Contact: Kevin Brodie 701-221-9467.

EIS No. 20180089, Final, USACE, CA, Mather Specific Plan Project, Review Period Ends: 06/11/2018, Contact: Mary Pakenham-Walsh 916-557-7718.

EIS No. 20180090, Draft, NMFS, MA, Amendment 8 to the Atlantic Herring Fishery Management Plan, Comment Period Ends: 06/25/2018, Contact: Carrie Nordeen 978-281-9272.

EIS No. 20180091, Draft, BLM, CO, Draft Environment Impact Statement for the Blue Valley Ranch Land Exchange, Comment Period Ends: 06/25/2018, Contact: Annie Sperandio 970-724-3062.

EIS No. 20180092, Draft, USFS, NM, Luna Restoration Project, Comment Period Ends: 06/25/2018, Contact: Emily Irwin 575-773-4678.

EIS No. 20180093, Final, USFS, NM, Santa Fe National Forest Geothermal Leasing Final Environmental Impact Statement, Comment Period Ends: 06/11/2018, Contact: Larry Gore 575-289-3264.

EIS No. 20180094, Final Supplement, USFS, NM, Supplement to the Final EIS for Invasive Plant Control Project, Comment Period Ends: 06/11/2018, Contact: Sandra Imler-Jacquez 505-438-5443.

Amended Notice

Revision to the **Federal Register** Notice published 05/04/2018, EIS No. 20180078, Draft, FHWA, TX, Oakhill Parkway, change lead agency to TX DOT, pursuant to 23 U.S.C. 327, Contact: Carlos Swonke 512-416-2734.

Adoption

USFS has adopted the NPS Final EIS No. 20180077, Olympic National Park Mountain Goat Management Plan, filed 04/27/2018 with EPA. USFS was a cooperating agency; therefore, recirculation of the document was not necessary under Section 1506.3(b) of the CEQ Regulations.

Dated: May 8, 2018.

Kelly Knight,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2018-10126 Filed 5-10-18; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9977-95—Region 2]

Proposed CERCLA Section 122(h) Cost Recovery Settlement for the Global Landfill Superfund Site, Middlesex County, New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), notice is hereby given by the U.S. Environmental Protection Agency (“EPA”), Region 2, of a proposed cost recovery settlement agreement pursuant to section 122(h) of CERCLA, between the EPA and 15 settling parties (“Settling Parties”) regarding the Global Landfill Superfund Site (“Site”), located in Middlesex County, New Jersey. Pursuant to the proposed cost recovery settlement agreement, Settling Parties shall pay \$345,000 to EPA in reimbursement of past response costs incurred by EPA at the Site, as well as all future response costs incurred by EPA in connection with the Site. In exchange, EPA covenants not to sue or take administrative action against Settling Parties pursuant to section 107(a) of CERCLA, for EPA’s past response costs or EPA’s future response costs as those costs are defined in the proposed settlement agreement.

For 30 days following the date of publication of this document, EPA will receive written comments concerning the proposed cost recovery settlement agreement. Comments to the proposed settlement agreement should reference the Global Landfill Superfund Site, Index No. CERCLA-02-2018-2012. EPA will consider all comments received during the 30-day public comment period and may modify or withdraw its consent to the settlement agreement if comments received disclose facts or considerations that indicate that the proposed settlement agreement is inappropriate, improper, or inadequate. EPA’s response to comments will be available for public inspection at EPA’s

Region 2 offices located at 290 Broadway, New York, NY 10007-1866.

DATES: Comments must be submitted on or before June 11, 2018.

ADDRESSES: The proposed settlement agreement is available for public inspection at EPA’s Region 2 offices. To request a copy of the proposed settlement agreement, please contact the EPA employee identified below.

FOR FURTHER INFORMATION CONTACT: Juan M. Fajardo, Assistant Regional Counsel, Office of Regional Counsel, U.S. Environmental Protection Agency Region 2, 290 Broadway—17th Floor, New York, NY 10007. Email: fajardo.juan@epa.gov; telephone: 212-637-3132.

Dated: April 25, 2018.

John Prince,

Acting Director, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2.

[FR Doc. 2018-10134 Filed 5-10-18; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

Radio Broadcasting Services; AM or FM Proposals To Change The Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

DATES: The agency must receive comments on or before July 10, 2018.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, 202-418-2054.

SUPPLEMENTARY INFORMATION: The following applicants filed AM or FM proposals to change the community of license: NEW BEGINNINGS MOVEMENT, INC., WJCF-FM, Fac. ID No. 91193, Channel 201B, From MORRISTOWN, IN, To GREENFIELD, IN, BPED-20180327ACM; EDUCATIONAL MEDIA FOUNDATION, KMLV, Fac. ID No. 85846, Channel 201C0, From RALSTON, NE, To MALVERN, IA, BPED-20180312ABQ; EDUCATIONAL MEDIA FOUNDATION, KUAO, Fac. ID No. 71394, Channel 201C2, From OGDEN, UT, To TREMONTON, UT, BPED-20180330AAH; FAMILY LIFE MINISTRIES, INC., WCIH, Fac. ID No. 20641, Channel 212B1, From ELMIRA, NY, To RIDGEBURY, PA, BPED-20180413AAQ; CALVARY CHAPEL OF TWIN FALLS, INC., KBJF, Fac. ID No.

174640, Channel 213C, From NEPHI, UT, To SARATOGA SPRINGS, UT, BPED-20180308AAB; SARKES TARZIAN, INC., WTTTS, Fac. ID No. 59141, Channel 222B, From BLOOMINGTON, IN, To TRAFALGAR, IN, BPH-20180320ABU; THE UNIVERSITY OF WYOMING, KTWY, Fac. ID No. 166052, Channel 248C3, From SHOSHONI, WY, To SHERIDAN, WY, BPED-20180413AAZ; THE UNIVERSITY OF WYOMING, KWWY, Fac. ID No. 166053, Channel 267C3, From SHOSHONI, WY, To CASPER, WY, BPED-20180413ABA; BRYAN KING, KAJZ, Fac. ID No. 87996, Channel 293C3, From LLANO, TX, To GRANITE SHOALS, TX, BPH-20180302AAX; EDUCATIONAL MEDIA FOUNDATION, KIMI, Fac. ID No. 189501, Channel 299A, From MALVERN, IA, To RALSTON, NE, BPED-20180312ABP; BLOUNT BROADCASTING CORPORATION, WKVL, Fac. ID No. 66618, 850kHz, From KNOXVILLE, TN, To MARYVILLE, TN, BP-20180208AAL; 920 AM, LLC, WGNU, Fac. ID No. 49042, 920kHz, From GRANITE CITY, IL, To ST. LOUIS, MO, BP-20180226AAO; and ETERNITY MEDIA GROUP, WKXG, Fac. ID No. 65008, 1550kHz, From GREENWOOD, MS, To BOLTON, MS, BP-20180319AAL.

The full text of these applications is available for inspection and copying during normal business hours in the Commission’s Reference Center, 445 12th Street SW, Washington, DC 20554 or electronically via the Media Bureau’s Consolidated Data Base System, http://licensing.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 2018-10035 Filed 5-10-18; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request (OMB No. 3064-0006; -0015; -0019; and -0097)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of the existing



Public Notice

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG®

Subject: Public Notice of Permit Application

Action ID: SPK-2002-00561

Comments Period: May 11, 2018 – June 10, 2018

SUBJECT: Notice of Final Environmental Impact Statement (Final EIS) for the Mather Specific Plan Project, Sacramento County, California.

The Final EIS for the Mather Specific Plan project, located in Sacramento County, California, is available for review and comment. The Notice of Availability of the Final EIS was published in the Federal Register on May 11, 2018. This notice is to inform interested parties of the Final EIS and to solicit comments. This notice may also be viewed at the Corps website at www.spk.usace.army.mil/Media/RegulatoryPublicNotices.aspx.

FINAL EIS AVAILABILITY: The Final EIS is available for review on the Corps website at <http://www.spk.usace.army.mil/Missions/Regulatory/Permitting/EnvironmentalImpactStatements.aspx>. Compact Disks or a hard copy of the Final EIS are available per request from the Corps by contacting Mary Pakenham-Walsh by telephone, email, or mail at the number and/or address listed below.

SUBMITTING COMMENTS: Written comments, referencing Public Notice SPK-2002-00561 must be submitted to the office listed below on or before June 10, 2018.

Mary Pakenham-Walsh, Senior Project Manager
US Army Corps of Engineers, Sacramento District
1325 J Street, Room 1350
Sacramento, California 95814-2922
Telephone: 916-557-7718
Email: Mary.R.Pakenham-Walsh@usace.army.mil

If you have questions or need additional information please contact Mary Pakenham-Walsh.

Appendix B

Comments on Final EIS



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

June 8, 2018

Ms. Mary Pakenham-Walsh
Senior Project Manager
U.S. Army Corps of Engineers, Sacramento District
1325 J Street, Room 1350
Sacramento, California 95814

Subject: Final Environmental Impact Statement for the Mather Specific Plan Project, Sacramento County, California (EIS No. 20180089)

Dear Ms. Pakenham-Walsh:

The U.S. Environmental Protection Agency has reviewed the Final Environmental Impact Statement for the Mather Specific Plan Project pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

The EPA reviewed the Draft EIS (DEIS) and Supplemental Draft EIS (SDEIS) prepared for the Mather Specific Plan Project and provided comments to the U.S. Army Corps of Engineers in letters dated August 20, 2012, and June 15, 2015, respectively. We rated both the DEIS and SDEIS as *Environmental Concerns – Insufficient Information (EC-2)*, based on our concerns regarding projected impacts to waters of the United States, and regarding the Project proponent's ability to identify appropriate mitigation to compensate for such impacts, among other issues. We appreciated the opportunity to provide further input to the Corps during its development of the Final EIS (FEIS).

Many of EPA's comments are well addressed by the Corps' responses in the FEIS. We note that the Applicant's Preferred Alternative has been modified to expand the preserve area and avoid vernal pools, including regionally important pools used for education and outreach by Sacramento SPLASH. As a result of those modifications, the Applicant's Preferred Alternative would result in fewer wetland impacts than would Alternatives B & C. While this is an improvement to the Applicant's Preferred Alternative, it raises a concern that all practicable avoidance may not have been captured in the alternatives analysis. EPA recommends that Alternatives B & C be modified to reflect the revised preserve area proposed in the Applicant's modified Preferred Alternative, and that these alternatives be further evaluated to determine whether any of their projected impacts to vernal pools in the Mather Core Recovery Area could be practicably avoided.

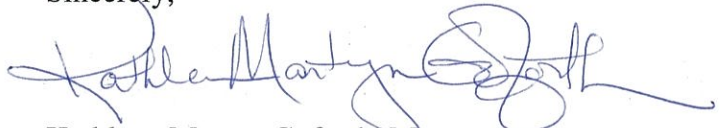
EPA also recommends that the Record of Decision explain what is to become of the lands proposed as "Avoided Areas" in the FEIS. It appears that certain areas, possibly including all or portions of the aforementioned Sacramento SPLASH Spadefoot pool, are proposed to be avoided, but not incorporated into the Mather Wetlands Preserve. The FEIS states that "approximately 126 acres that are not located within the 1,342.72-acre Preserve would be avoided," and that these "Avoided Areas" would not be "disturbed during construction, but no active management is currently proposed, nor would the "Avoided Areas" be associated with long-term land use protection (e.g., a conservation easement)."

These pools are considered high-value vernal pools due to their location in the Mather Core Recovery Area, as well as their educational uses, and should be protected from development and managed. To preserve the ecological and educational values of the avoided vernal pools, as well as connectivity between the Mather Preserve and adjacent preserves to the east, EPA recommends that the full acreage of "Avoided Areas" be included in the Preserve.

EPA's comments on the DEIS and SDEIS highlighted the anticipated challenges of securing appropriate compensatory mitigation for the impacts of projects associated with the Mather Specific Plan, particularly given the competing demands for mitigation from other proposed projects in Sacramento County. Although the "Comments and Responses" portion of the FEIS provides some helpful information, this remains a concern. We recommend that the Record of Decision specify the sources and amounts of compensatory mitigation that would be required for the Mather Specific Plan projects' impacts; identify suitable compensatory mitigation mechanisms; and discuss the availability of such mitigation, in the context of the competing demands for mitigation from other proposed projects, including those covered by the South Sacramento Habitat Conservation Plan.

EPA appreciates the opportunity to review this FEIS. Please send one hard copy and one CD of the Record of Decision to the address above (mail code: ENF-4-2). If you have any questions, please contact me at 415-972-3521, or contact Jason Gerdes, the lead reviewer for this project. Mr. Gerdes can be reached at 415-947-4221 or gerdes.jason@epa.gov.

Sincerely,

A handwritten signature in blue ink, reading "Kathleen Martyn Goforth". The signature is fluid and cursive, with the last name "Goforth" being particularly prominent.

Kathleen Martyn Goforth, Manager
Environmental Review Section

Pakenham-Walsh, Mary R CIV USARMY CESPCK (US)

From: Billie Barker <clarityunlimited@hotmail.com>
Sent: Friday, June 8, 2018 6:13 PM
To: Pakenham-Walsh, Mary R CIV USARMY CESPCK (US)
Subject: [Non-DoD Source] Mather Environmental Impact Report: Comments

Importance: High

I believe road access to and from the housing development, Independence at Mather, is already overloaded (particularly at peak times). Residents and businesses (current and future) will be even more limited than currently unless a major project is implemented to expand and speed up access, either via Zinfandel (which now has way too many lights for speeding up access) or via Sunrise or Mather Field Road - by Sacramento County and the U.S. Army Corps of Engineers.

Please ensure these comments are incorporated into the Final EIS AND are relayed to the entity responsible for roads and (the lack of) freeways in the Mather area.

Thank you,

*Billie Barker
10921 Wethersfield Dr.
Mather, CA 95655
916-207-6377
ClarityUnlimited@hotmail.com
Kindness to all living beings.....
including to ones self*

Appendix C

*South Pacific Division Mitigation
Ratio Setting Checklists for SPK-
2002-00561 (NWP Nos. 12 &
14)*

Attachment 12501.6 - SPD Mitigation Ratio Setting Checklist (See 12501-SPD for Revisions Sheet)

1	Date: December 27, 2019	Corps File No.: SPK-2002-00561	Project Manager: Mary Pakenham-Walsh	
	Impact Site Name: Impact Cowardin or HGM type:	Phase I/II Zinfandel Drive Improvements and Sewerline Extension Riverine	ORM Resource Type: Impact area :	Seasonal Stream 0.099 acres
				Hydrology: Ephemeral Impact distance: 537 linear feet
		Column A Mitigation Site Name: Mitigation Type: ORM Resource Type: Cowardin/HGM type: Hydrology:	Column B Mitigation Site Name: Mitigation Type: ORM Resource Type: Cowardin/HGM type: Hydrology:	Column C Mitigation Site Name: Mitigation Type: ORM Resource Type: Cowardin/HGM type: Hydrology:
2.a	Qualitative impact-mitigation comparison:	Starting ratio: 1.0 : 1.0 Ratio adjustment: 0.0 Baseline ratio: 1.00 : 1.00 PM justification: The seasonal streams that would be impacted are bisected by the existing alignment of Zinfandel Drive, an alignment that would be widened as part of the proposed project, with the length of culverted seasonal stream increased from baseline conditions. The affected seasonal streams in the permit area are directly adjacent to an existing road, thus of low to moderate quality in these locations (e.g., habitat, water quality). However, the landscape context of the seasonal streams on the eastern portion of extensive, high-quality vernal pool grassland augments the overall quality of the resources, despite their roadside location. The riparian habitat at the Cosumnes Floodplain Mitigation Bank provides similar functions and is located within a landscape context of protected land with minimal adverse edge effects. Because of the similar functions performed by the impacted streams, and the floodplain riparian habitat at the	Starting ratio: 1.0 : 1.0 Ratio adjustment: Baseline ratio: 1.00 : 1.00 PM justification: see Table 1	Starting ratio: 1.0 : 1.0 Ratio adjustment: Baseline ratio: 1.00 : 1.00 PM justification: see Table 1
2.b	Quantitative impact-mitigation comparison:			
		Ratio adjustment from BAMI procedure (attached):	Ratio adjustment from BAMI procedure (attached):	Ratio adjustment from BAMI procedure (attached):
2.c	Preservation (Table 2, step A)	Baseline ratio: : 1.00	Baseline ratio: : 1.00	Baseline ratio: : 1.00
3	Preservation (Table 2, step E)	Ratio adjustment:	Ratio adjustment:	Ratio adjustment:
4	Mitigation site location:	Ratio adjustment: 1 PM justification: The streams that would be impacted are located within the Lower Sacramento River 8-digit HUC watershed (18020163). The Cosumnes Floodplain Mitigation Bank is located in the Upper Cosumnes River 8-digit HUC watershed (18040013).	Ratio adjustment: PM justification:	Ratio adjustment: PM justification:
5	Net loss of aquatic resource surface area:	Ratio adjustment: 0 PM justification: No net loss of aquatic resources surface area (establishment); no adjustment has been given.	Ratio adjustment: PM justification:	Ratio adjustment: PM justification:
6	Type conversion:	Ratio adjustment: 0 The seasonal streams that would be impacted would be mitigated by a mosaic of wetland and riparian habitat, providing a similar type of aquatic resource.	Ratio adjustment: PM justification:	Ratio adjustment: PM justification:
7	Risk and uncertainty:	Ratio adjustment: 0 PM justification: Uncertainty for banks has already been factored	Ratio adjustment: PM justification:	Ratio adjustment: PM justification:

Attachment 12501.6 - SPD Mitigation Ratio Setting Checklist (See 12501-SPD for Revisions Sheet)

	into bank setup and operation.		
8	Temporal loss: Ratio adjustment: 0 PM justification: Purchase of mitigation bank credits would occur prior to impacts to streams. Bank credits are released contingent on meeting performance standards, in accordance with the bank's mitigation	Ratio adjustment: PM justification:	Ratio adjustment: PM justification:
9	Final mitigation ratio(s): Baseline ratio from 2.a, b or c: 1.00 : 1.00 Total adjustments (3-8): 1.00 Final ratio: 2.00 : 1.00 Proposed impact (total): 0.099 acres 0 linear feet to Resource type: 0 Cowardin or HGM: Riverine Hydrology: 0 Required Mitigation*: 0.20 acres 0.0 linear feet of Resource type: Floodplain Mosaic Cowardin or HGM: PEM/Despressional Hydrology: Seasonal Proposed Mitigation**: <input type="text"/> acres <input type="text"/> linear feet Impact Unmitigated: <input type="text"/> % <input type="text"/> acres Additional PM comments:	Baseline ratio from 2.a, b or c: 0.00 : 1.00 Total adjustments (3-8): 0.00 Final ratio: 0.00 : 1.00 Remaining impact: <input type="text"/> acres <input type="text"/> linear feet to Resource type: 0 Cowardin or HGM: Riverine Hydrology: 0 Required Mitigation*: #VALUE! acres #VALUE! linear feet of Resource type: 0 Cowardin or HGM: 0 Hydrology: 0 Proposed Mitigation**: <input type="text"/> acres <input type="text"/> linear feet Impact Unmitigated: <input type="text"/> % <input type="text"/> acres Additional PM comments:	Baseline ratio from 2.a, b or c: 0.00 : 1.00 Total adjustments (3-8): 0.00 Final ratio: 0.00 : 1.00 Remaining impact (acres): <input type="text"/> acres Remaining impact (linear feet): <input type="text"/> linear feet to Resource type: 0 Cowardin or HGM: Riverine Hydrology: 0 Required Mitigation: #VALUE! acres #VALUE! linear feet of Resource type: 0 Cowardin or HGM: 0 Hydrology: 0 Proposed Mitigation**: <input type="text"/> acres <input type="text"/> linear feet Impact Unmitigated: <input type="text"/> % <input type="text"/> acres Additional PM comments:
10	Final compensatory mitigation requirements: PM summary: The required mitigation ratio for impacts to seasonal streams is 2:1. The applicant would be required to purchase 0.20 floodplain mosaic creation credits from the Cosumnes Floodplain Mitigation Bank.		

*At PM's discretion, if applicant's proposed mitigation is less than checklist requirement and additional mitigation type(s) proposed, complete additional columns as needed.

**Only enter proposed mitigation into spreadsheet if accepting applicant's lower (than required ratio) proposal.

Attachment 12501.6 - SPD Mitigation Ratio Setting Checklist(See 12501-SPD for Revisions Sheet)

1	Date: December 27, 2019	Corps File No.: SPK-2002-00561	Project Manager: Mary Pakenham-Walsh
	Impact Site Name: Impact Cowardin or HGM type:	Phase I/II Zinfandel Drive Improvements and Sewerline Extension Palustrine Emergent	ORM Resource Type: Impact area : Drainage ditch 0.077 acres Hydrology: Ephemeral Impact distance: 715 linear feet
		Column A Mitigation Site Name: Mitigation Type: ORM Resource Type: Cowardin/HGM type: Hydrology:	Column B Mitigation Site Name: Mitigation Type: ORM Resource Type: Cowardin/HGM type: Hydrology:
		Cosumnes Floodplain Establishment Floodplain Mosaic PEM/Despressional Seasonal	
2.a	Qualitative impact-mitigation comparison:	Starting ratio: 1.0 : 1.0 Ratio adjustment: -1.0 Baseline ratio: 1.00 : 2.00 PM justification: The ditches that would be impacted are low quality, man-made features the primary functions of which is to transport surface water including dry-season drainage from the Mather Golf Course, located immediately east/northeast of the four ditches in question. The floodplain mosaic wetland at the Cosumnes Floodplain mitigation bank perform typical wetland functions, such as water storage, filtration, etc, as well as providing habitat for fish species, including some federally-listed species. In addition, due to the undeveloped nature of the Cosumnes Floodplain Mitigation Bank, as well as its proximity to the Cosumnes River and Mokelumne River the floodplain mosaic wetlands at the Cosumnes Floodplain Mitigation Bank are expected to provide higher functions with regards to water storage, filtration and subsurface flows than the ditches that would be impacted. A (-)1 ratio adjustment has been given, as the ditches are man-made features with limited functions, and it is	Starting ratio: 1.0 : 1.0 Ratio adjustment: Baseline ratio: 1.00 : 1.00 PM justification: see Table 1
2.b	Quantitative impact-mitigation comparison:		
2.c	Preservation (Table 2, step A)	Ratio adjustment from BAMI procedure (attached):	Ratio adjustment from BAMI procedure (attached):
3	Preservation (Table 2, step E)	Baseline ratio: : 1.00	Baseline ratio: : 1.00
4	Mitigation site location:	Ratio adjustment: 1 PM justification: The ditches that would be impacted are located within the Lower Sacramento River 8-digit HUC watershed (18020163). The Cosumnes Floodplain Mitigation Bank is located in the Upper Cosumnes River 8-digit HUC watershed (18040013). A (-)1 ratio adjustment has been given.	Ratio adjustment: PM justification:
5	Net loss of aquatic resource surface area:	Ratio adjustment: 0 PM justification: No net loss of aquatic resources surface area (establishment); no adjustment has been given.	Ratio adjustment: PM justification:
6	Type conversion:	Ratio adjustment: 0 The ditches in question are of lower general quality and are	Ratio adjustment: PM justification:

Attachment 12501.6 - SPD Mitigation Ratio Setting Checklist (See 12501-SPD for Revisions Sheet)

	vegetated with emergent wetland species. The floodplain mosaic wetlands at the Cosumnes Floodplain mitigation bank contain a mixture of seasonal wetlands, marshes and riparian habitats. Because the mitigation would not result in the conversion from a rare or regionally significant habitat type to a fundamentally different habitat type, no ratio adjustment has been given.		
7	Risk and uncertainty: Ratio adjustment: 0 PM justification: Uncertainty for banks has already been factored into bank setup and operation.	Ratio adjustment: PM justification:	Ratio adjustment: PM justification:
8	Temporal loss: Ratio adjustment: 0 PM justification: Purchase of mitigation bank credits would occur prior to impacts to ditches. Bank credits are released contingent on meeting performance standards, in accordance with the bank's instrument.	Ratio adjustment: PM justification:	Ratio adjustment: PM justification:
9	Final mitigation ratio(s): Baseline ratio from 2.a, b or c: 1.00 : 2.00 Total adjustments (3-8): 1.00 Final ratio: 1.00 : 1.00 Proposed impact (total): 0.077 acres 0 linear feet to Resource type: 0 Cowardin or HGM: Palustrine Emergent Hydrology: 0 Required Mitigation*: 0.08 acres 0.0 linear feet of Resource type: Floodplain Mosaic Cowardin or HGM: PEM/Despressional Hydrology: Seasonal Proposed Mitigation**: [] acres [] linear feet Impact Unmitigated: [] % [] acres Additional PM comments:	Baseline ratio from 2.a, b or c: 0.00 : 1.00 Total adjustments (3-8): 0.00 Final ratio: 0.00 : 1.00 Remaining impact: [] acres [] linear feet to Resource type: 0 Cowardin or HGM: Palustrine Emergent Hydrology: 0 Required Mitigation*: [] acres [] linear feet of Resource type: 0 Cowardin or HGM: 0 Hydrology: 0 Proposed Mitigation**: [] acres [] linear feet Impact Unmitigated: [] % [] acres Additional PM comments:	Baseline ratio from 2.a, b or c: 0.00 : 1.00 Total adjustments (3-8): 0.00 Final ratio: 0.00 : 1.00 Remaining impact (acres): [] acres Remaining impact (linear feet): [] linear feet to Resource type: 0 Cowardin or HGM: Palustrine Emergent Hydrology: 0 Required Mitigation: [] acres [] linear feet of Resource type: 0 Cowardin or HGM: 0 Hydrology: 0 Proposed Mitigation**: [] acres [] linear feet Impact Unmitigated: [] % [] acres Additional PM comments:
10	Final compensatory mitigation requirements: PM summary: The required mitigation ratio for impacts to ditches is 1:1. The applicant would be required to purchase 0.08 floodplain mosaic creation credits from the Cosumnes Floodplain Mitigation Bank.		

*At PM's discretion, if applicant's proposed mitigation is less than checklist requirement and additional mitigation type(s) proposed, complete additional columns as needed.

****Only enter proposed mitigation into spreadsheet if accepting applicant's lower (than required ratio) proposal.**

Appendix D

*U.S. Fish and Wildlife Service
Biological Opinion*



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Suite W-2605
Sacramento, California 95825-1846



In Reply Refer to:
08ESMF00-
2015-F-0131-4

JAN 10 2020

Ms. Mary Pakenham-Walsh
Senior Project Manager, California Delta Section
Regulatory Division
U.S. Army Corps of Engineers, Sacramento District
1325 J Street, Room 1350
Sacramento, California 95814

Subject: Formal Consultation on the Proposed Mather Specific Plan Project, Sacramento County, California

Dear Ms. Pakenham-Walsh:

This letter is in response to the U.S. Army Corps of Engineers' (Corps) October 22, 2014, request for initiation of formal consultation with the U.S. Fish and Wildlife Service (Service) on the issuance of Clean Water Act, Section 404 permits for the proposed Mather Specific Plan Project (proposed project) in Sacramento, California. Your request was received by the Service on October 24, 2014; however, all of the information required to initiate formal consultation was not received until December 19, 2017. At issue are the proposed project's effects on the following species and critical habitats.

The federally-listed as endangered:

- vernal pool tadpole shrimp (*Lepidurus packardii*) (tadpole shrimp) and designated critical habitat; and
- Sacramento Orcutt grass (*Orcuttia viscida*) and designated critical habitat.

The federally-listed as threatened:

- vernal pool fairy shrimp (*Branchinecta lynchi*) (fairy shrimp) and designated critical habitat;
- slender Orcutt grass (*Orcuttia tenuis*) and designated critical habitat; and
- valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) (beetle).

This response is provided under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), and in accordance with the implementing regulations pertaining to interagency cooperation (50 CFR 402).

The Service previously issued the January 24, 2012, *Biological Opinion for the Disposal of the former Mather Air Force Base, Sacramento County, California* (disposal opinion; Service File Number 81420-2008-F-

1567-3) to the U.S. Air Force, which addressed transfer of Mather Field to Sacramento County (County) for continued operation of the commercial airport, biological resource preservation, and future development. The future development was evaluated as an indirect effect of the transfer, and incidental take was not exempted at that time. As a conservation measure evaluated in the disposal opinion, a 1,272-acre wetlands preserve (now 1,342.87 acres) was to be protected by a conservation easement within 90 days of conveyance to the County. The federal action we are consulting on is the issuance of Clean Water Act, Section 404 permits by the Corps for the fill of wetlands associated with development within the Mather Specific Plan area, which represents the future development contemplated in the disposal opinion. These permits may be issued to the County, developers, and/or others (permit applicants).

Pursuant to 50 CFR 402.12(j), you submitted a biological assessment for our review and requested concurrence with the findings presented therein. These findings conclude that the proposed project may affect, and is likely to adversely affect the tadpole shrimp and its designated critical habitat, the Sacramento Orcutt grass, the fairy shrimp and its designated critical habitat, and the slender Orcutt grass. The findings also conclude that the proposed project may affect, but is not likely to adversely affect designated critical habitat for the Sacramento Orcutt grass, designated critical habitat for the slender Orcutt grass, or the beetle.

In considering your request, we based our evaluation on the following:

- 1) your October 22, 2014, letter requesting initiation of formal consultation and the enclosed August 2014 *Mather Specific Plan Project Biological Assessment* (original biological assessment), prepared by the County;
- 2) your January 3, 2017, letter and the enclosed December 22, 2016, *Mather Specific Plan Project Revised Biological Assessment* (revised biological assessment), prepared by Madrone Ecological Consulting (consultant);
- 3) the May 4, 2017, memo providing supplementary information, prepared by the consultant;
- 4) the December 19, 2017, memo providing corrections to the May 4, 2017, memo, prepared by the consultant;
- 5) your January 3, 2020, email providing comments in response to the draft biological opinion;
- 6) the disposal opinion;
- 7) meetings and telephone calls attended by representatives of the Service, the Corps, and the consultant; and
- 8) other information available to the Service.

Critical Habitat for the Sacramento Orcutt Grass and the Slender Orcutt Grass

After reviewing all the available information, we concur with your determination that the proposed project is not likely to adversely affect critical habitat for the Sacramento Orcutt grass or the slender Orcutt grass. The proposed project reached the 'may affect' level, and the subsequent requirement for a biological assessment, due to the fact that critical habitat for the two species overlaps the action area and the primary constituent elements (PCEs) are present, which include (i) topographic features

characterized by isolated mound and intermound complex within a matrix of surrounding uplands that result in continuously, or intermittently, flowing surface water in the depressional features including swales connecting the pools, providing for dispersal and promoting hydroperiods of adequate length in the pools and (ii) depressional features including isolated vernal pools with underlying restrictive soil layers that become inundated during winter rains and that continuously hold water or whose soils are saturated for a period long enough to promote germination, flowering, and seed production of predominantly annual native wetland species and typically exclude both native and nonnative upland plant species in all but the driest years; as these features are inundated on a seasonal basis, they do not promote the development of obligate wetland vegetation habitats typical of permanently flooded emergent wetlands.

Approximately 72 acres of the coincident 1,161-acre critical habitat Unit 2 for the Sacramento Orcutt grass and Unit 6 for the slender Orcutt grass are within the proposed project's wetlands preserve, including 4.3 acres of suitable wetland habitat. Management of the preserve is expected to improve conditions of critical habitat for the Sacramento Orcutt grass and the slender Orcutt grass compared to the unmanaged baseline prior to base disposal by improving and maintaining the habitat, primarily through grazing (Marty 2005; Service 2005; Bartolome et al. 2014) and controlled public access. Therefore, the Service believes that any effects to the critical habitat for the Sacramento Orcutt grass and the slender Orcutt grass will be positive and without any adverse effects, and are therefore completely beneficial for purposes of this consultation.

Valley Elderberry Longhorn Beetle

There are 148 elderberry plants (*Sambucus* sp.), the sole host plant for the beetle, within the proposed project area. Of these, 134 will be removed due to development of the proposed project. None of the plants are within intact riparian habitat, and no beetle exit holes were located during surveys. Creeks in the upper basin of the Morrison Creek watershed were historically intermittent, only supporting sparse riparian vegetation; therefore, it is unlikely that this area ever supported a robust population of the beetle.

After reviewing all the available information, we concur with your determination that the proposed project is not likely to adversely affect the beetle. The proposed project reached the 'may affect' level, and the subsequent requirement for a biological assessment, due to the fact that the proposed project occurs within the known range of the beetle, elderberry plants are present in the action area, and beetles may be present in the action area. Because this area is unlikely to have historically supported the beetle, and no beetle exit holes were observed, the Service believes that any potential adverse effects to the beetle from the proposed project are unlikely to occur, and are therefore discountable for purposes of this consultation.

However, because elderberry plants provide potential habitat for the beetle, the County proposes to purchase 13.4 beetle habitat credits at a Service-approved conservation bank with a service area covering the proposed project area.

The remainder of this document provides our biological opinion on the effects of the proposed project on the tadpole shrimp and its designated critical habitat, the Sacramento Orcutt grass, the fairy shrimp and its designated critical habitat, and the slender Orcutt grass.

Consultation History

January 24, 2012: The Service issued the disposal opinion.

October 24, 2014: The Service received the October 22, 2014, letter from the Corps requesting initiation of formal consultation with the original biological assessment enclosed.

March 17, 2015: The Service mailed a letter to the Corps requesting additional information in order for consultation to begin.

April 14, 2015: At a meeting attended by representatives of the Service, the County, and the consultant, the additional information requested was discussed.

July 23, 2015: At a meeting attended by representatives of the Service, the County, and the consultant, the additional information requested was further discussed.

September 24, 2015: A site visit was attended by representatives of the Service, the County, and the consultant.

January 6, 2017: The Service received the January 3, 2017, letter from the Corps with the revised biological assessment enclosed.

February 9, 2017: At a meeting attended by representatives of the Service, the County, and the consultant, the Service requested remaining clarifying information on the proposed project's description and effects to the federally-listed species.

May 5, 2017: The Service received the May 4, 2017, memo from the consultant providing clarifying information.

June 15, 2017: The Service requested further clarification of the information provided in the May 4, 2017, memo.

September 15, 2017: At a meeting attended by representatives of the Service, the County, and the consultant, corrections to the May 4, 2017, memo were discussed.

December 19, 2017: The Service received the December 19, 2017, memo providing corrections to the May 4, 2017, memo.

August 27, 2019: The Service received the recorded conservation easement and declaration of covenants and restrictions for the 1,342.87-acre on-site wetlands preserve.

December 18, 2019: The Service transmitted a draft biological opinion to the Corps.

January 3, 2020: The Service received an email from the Corps providing comments on the draft biological opinion.

BIOLOGICAL OPINION

Description of the Proposed Action

The proposed project includes construction of a large-scale, mixed-use development within the 5,749.51-acre Mather Specific Plan area (Figure 1). Development will occur within six land use areas (Table 1), described further below. Development in each land use area may be undertaken by the County itself or other permit applicants that would be authorized by the County upon receipt of any required permits. Full build-out of the proposed land use areas is dependent on market conditions, but is estimated to be completed within 15 years.

Table 1. Land Use Areas and Corresponding Corps Permit Numbers

Land Use Area	Corps Permit ID#	Acres
Airport Commercial	SPK-2009-00404	599.24
Commercial Development	SPK-2009-00525	196.41
Economic Development	SPK-2009-00526	55.34
Parks and Recreation	SPK-2009-00527	114.68
Residential	SPK-2009-00529	796.98
Roadways and Infrastructure		
Phase I/II	SPK-2002-00561	32.75
Phase III	SPK-2009-00530	27.77
Douglas Road Extension	TBD	33.65

Airport Commercial

The Airport Commercial area will be developed into an airport business park, and may include aircraft maintenance facilities, aircraft manufacturing facilities, aircraft sales, aircraft storage, industrial and distribution centers, and aerial photography and survey companies. Developed facilities will include light industrial and warehouse space adjacent to and south of the existing Mather Airport runway. The proposed project does not include changes to the existing Mather Airport or its operations.

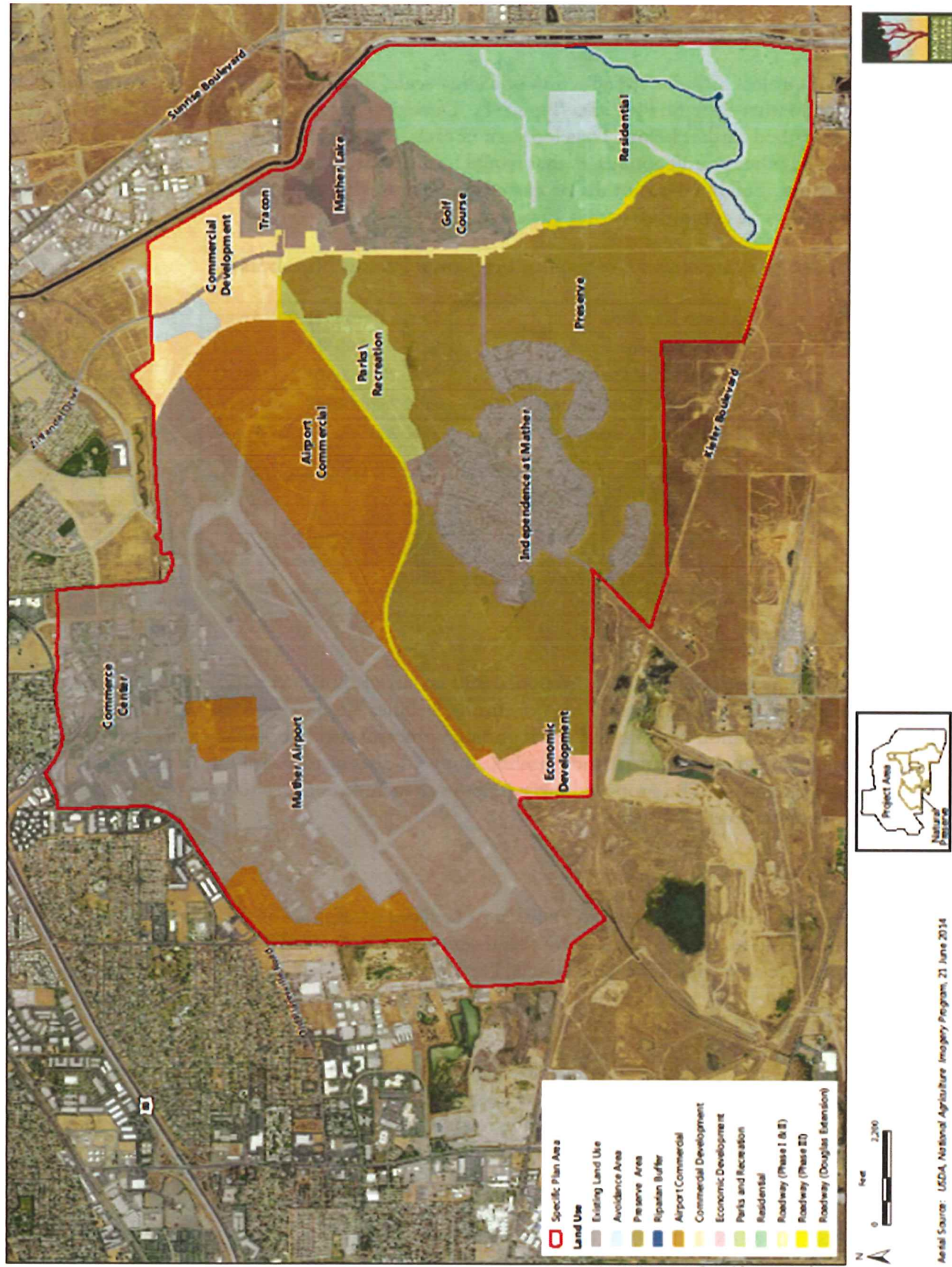
Commercial Development

The Commercial Development area will consist of facilities in support of the airport, as well as general commercial businesses, such as food and service industries and limited retail. A 22-acre avoidance area within the Commercial Development area will be designated as open space.

Economic Development

The Economic Development area contains valuable deposits of construction-grade aggregate and has been previously identified for aggregate extraction. However, the County considers mining of this area to be unlikely and is currently considering installation of solar panels. Therefore, use of this area for aggregate extraction is not being considered in this biological opinion.

Figure 1. Mather Specific Plan Land Use Areas



Parks and Recreation

The Parks and Recreation area will provide passive recreation opportunities and developed facilities. Facilities may include trails, soccer fields, baseball and softball fields, basketball courts, tennis courts, and turf areas for picnicking and other uses.

Residential

The Residential area will include a mix of housing types, including single- and multi-family dwellings. The area will also include retail facilities and an environmental education campus. New utility lines, including electricity, gas, and telecommunications, will be installed within the Residential area. A 104-acre riparian buffer and avoidance area will be set aside as open space within the Residential area.

Roadway and Infrastructure

Approximately 94 acres will be developed as roadways and infrastructure, including three phases of work on Zinfandel Drive and the Douglas Boulevard extension.

- Phase I includes the installation of a trunk sewer line on the east side of the recently improved Zinfandel Drive from North Mather Boulevard to Douglas Road.
- Phase II will consist of the replacement of the existing paved portion of Zinfandel Drive from Douglas Road to approximately the southern end of the existing golf course, plus the construction of 2,100 linear feet of new roadway. This phase will also include continuation of the Phase I trunk sewer line. Four cross-drainage structures (box culverts or large-diameter pipe with headwall structures) will be improved or constructed to convey existing flows beneath the roadway. Small retaining walls will be constructed on the west side of the roadway in order to minimize the roadway footprint alignment due to fluctuations in topography.
- Phase III will include the completion of the newly paved Zinfandel Drive and trunk sewer line from the end of Phase II to Kiefer Boulevard.
- The Douglas Extension includes widening of the existing two-lane Douglas Road to a 140-foot-wide, four-lane roadway between Excelsior Road and the Folsom South Canal.

Conservation Measures

The disposal opinion identified establishment of an on-site wetlands preserve as a conservation measure. At that time, the preserve was described as 1,272 acres with 64.57 acres of wetted vernal pool habitat. As a result of coordination with local stakeholders, additional area was added to the preserve, which now comprises 1,342.87 acres, including 73.83 acres of wetted vernal pool habitat, named the Illa M. Collin Conservation Preserve (Preserve). Due to regulations governing the *Federal Lands to Parks Program* (40 U.S.C. 550) under which the Mather Field lands were conveyed to the County, the original acreage of the Preserve cannot be encumbered by a conservation easement. Therefore, the Preserve is covered by two protective documents, a Declaration of Covenants and Restrictions (declaration) over 1,118.87 acres and a Conservation Easement over the remaining 224 acres, both recorded on June 21, 2019. Each document requires that Preserve management will occur as described in the July 2014 Final South Mather Wetlands Management Plan (Wetlands Plan).

The Preserve will be managed by a Land Trust Alliance accredited natural resource manager and funded by sufficient endowments, which must be fully funded within ten years from the recording of the declaration. Funding for the endowment will be provided by fair share contributions by the permit applicants. No vernal pool creation will occur within the Preserve.

In addition, the following measures have been proposed by the County in order to minimize effects to federally-listed species. Compliance with these measures will be enforced through the County's project review and plan check processes. The conservation measures are considered part of the proposed action evaluated by the Service in this biological opinion.

- Comprehensive Drainage Plan. To ensure that the proposed project will not result in detrimental increases in stormwater flow or flooding on-site or downstream, the permit applicants will prepare and adhere to a Comprehensive Drainage Plan. The plan will include engineered facilities, such as retention basins, flood control channels, storm drainage facilities, and other features needed to ensure no net increase in stormwater discharge under a minimum 20-year, 24-hour storm event. Development-related increases in stormwater flows will be assessed based on proposed changes in impervious surface coverage on-site, as well as proposed grading and related changes in site topography;
- Use of Best Management Practices to Provide Effective Erosion and Sediment Control. Best Management Practices (BMPs) to be implemented will include, but are not limited to:
 - All disturbed surfaces or stockpile areas will be protected with erosion control measures in place during the period of October 1 through April 30, or as appropriate based on weather conditions;
 - BMPs for temporary erosion control (such as silt fences, staked straw bales/wattles, silt/sediment basins and traps, check dams, geofabric, sandbag dikes, and temporary revegetation or other ground cover) will be employed per the product specifications for disturbed areas, stockpiled soil, and among culverts and drainage ditches on active construction sites and in downstream areas that may be affected by construction activities. Requirements for the placement and monitoring of the BMPs will be part of the contractor's project specifications. Performance and adequacy of the measures will be determined visually by site construction management and verified by local agencies, as appropriate;
 - Dirt and debris will be swept from paved areas in construction zones on a daily basis, as necessary to remove excessive accumulations of silt, mud, or other debris. Sweeping and dust removal will be implemented by the contractor, and oversight of these operations will be the responsibility of the construction site superintendent;
 - All exposed/disturbed areas, left barren of vegetation due to project-related activities, will be seeded, mulched, and fertilized with a blend of native and/or naturalized grass and forb species. Locally-obtained wildflower seeds may be included in the seed mix. Planted areas must achieve an 80% acreage coverage rate to be considered successful. All exposed areas where seeding is considered unsuccessful after 90 days will receive appropriate soil preparation and a second application of seed/mulch/fertilizer. Quarterly monitoring will be conducted for a period of one year or until the target goal is met. The application, schedule,

and maintenance of the vegetative cover will be the responsibility of the contractor, and requirements to establish a vegetative cover will be included in the contractor's project specifications; and

- If discharges of sediment or hazardous substances to drainage ways are observed, construction will be halted until the source of contamination is identified and remediated.
- Conduct Worker Environmental Awareness Training. A Worker Environmental Awareness Program (WEAP) training for construction crews and forepersons will be conducted before any construction activities begin. The WEAP training will be conducted by a qualified wildlife biologist. The training will include a brief review of the federally-listed species and other sensitive resources that could occur in the project area and their legal status and protection. The program will also cover all relevant conservation measures, permit conditions, and BMP plans. During WEAP training, construction personnel will be informed of the importance of avoiding ground-disturbing activities outside of the designated work area. A designated environmental inspector will be responsible for ensuring that construction personnel adhere to the guidelines and restrictions and that all persons working on-site have attended a WEAP training session. Additional WEAP training sessions will be conducted as needed for new personnel brought on to the job throughout the duration of construction;
- Limit Project Access Routes and Staging Areas. The total number of access routes, number and size of staging areas, and the total area of construction activity will be limited to those areas identified in the approved construction drawings and/or plans or as otherwise approved per permit conditions. Access routes and project boundaries will be clearly marked at all times. Access routes for heavy equipment to and from the project site will be restricted to established roadways to minimize habitat disturbance. The storing of construction equipment, vehicles, and supplies will be restricted to the designated construction staging areas outside of the Preserve and designated avoided areas. All fueling, cleaning, and maintenance activities of vehicles and other equipment will be performed only in designated areas, and at least 250 feet away from avoided/protected habitats. As part of WEAP training, all workers will be informed of the importance of preventing spills and appropriate measures to take in the event of a spill. All spills will be cleaned up immediately; and
- Protected Habitat in Conservation Areas and Avoided Habitats. Avoided and protected habitat, including habitat within the Preserve and riparian buffer area, will be protected at all times from construction activities. Habitat protection measures will include:
 - A Service-approved biological monitor will inspect all construction-related activities at the project site to ensure that no unauthorized take of federally-listed species or destruction of their habitat occurs. The biologist will have the authority to stop any activities that may result in such take or destruction until appropriate corrective measures have been completed. The biologist will be required to immediately report any unauthorized impacts to the Service; and
 - Adequate fencing will be placed and maintained around all avoided and protected habitat for vernal pool species to prevent direct impacts from construction.

Action Area

The action area is defined in 50 CFR § 402.02, as “all areas to be affected directly or indirectly by the federal action and not merely the immediate area involved in the action.” For the proposed project, the action area encompasses the entire 5,749.51-acre Mather Specific Plan area.

Analytical Framework for the Jeopardy Determination

Section 7(a)(2) of the Act requires that federal agencies ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of listed species. “Jeopardize the continued existence of” means to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species (50 CFR § 402.02).

The jeopardy analysis in this biological opinion considers the effects of the proposed federal action, and any cumulative effects, on the rangewide survival and recovery of the listed species. It relies on four components: (1) the *Status of the Species*, which describes the current rangewide condition of the species, the factors responsible for that condition, and its survival and recovery needs; (2) the *Environmental Baseline*, which analyzes the current condition of the species in the action area without the consequences to the listed species caused by the proposed action, the factors responsible for that condition, and the relationship of the action area to the survival and recovery of the species; (3) the *Effects of the Action*, which determines all consequences to listed species that are caused by the proposed federal action; and (4) the *Cumulative Effects*, which evaluates the effects of future, non-federal activities in the action area on the species. The *Effects of the Action* and *Cumulative Effects* are added to the *Environmental Baseline* and in light of the status of the species, the Service formulates its opinion as to whether the proposed action is likely to jeopardize the continued existence of the listed species.

Analytical Framework for the Adverse Modification Determination

Section 7(a)(2) of the Act requires that federal agencies insure that any action they authorize, fund, or carry out is not likely to destroy or to adversely modify designated critical habitat. A final rule revising the regulatory definition of “destruction or adverse modification” (DAM) was published on August 27, 2019 (84 FR 44976). The final rule became effective on October 28, 2019. The revised definition states:

“*Destruction or adverse modification* means a direct or indirect alteration that appreciably diminishes the value of critical habitat as a whole for the conservation of a listed species.”

The DAM analysis in this biological opinion relies on four components: (1) the *Status of Critical Habitat*, which describes the current rangewide condition of the critical habitat in terms of the key components (i.e., essential habitat features, primary constituent elements, or physical and biological features) that provide for the conservation of the listed species, the factors responsible for that condition, and the intended value of the critical habitat overall for the conservation/recovery of the listed species; (2) the *Environmental Baseline*, which analyzes the current condition of the critical habitat in the action area without the consequences to designated critical habitat caused by the proposed action, the factors responsible for that condition, and the value of the critical habitat in the action area for the conservation/recovery of the listed species; (3) the *Effects of the Action*, which determines all consequences to designated critical habitat that are caused by the proposed federal action on the key components of critical habitat that provide for the conservation of the listed

species, and how those impacts are likely to influence the conservation value of the affected critical habitat; and (4) *Cumulative Effects*, which evaluate the effects of future non-federal activities that are reasonably certain to occur in the action area on the key components of critical habitat that provide for the conservation of the listed species and how those impacts are likely to influence the conservation value of the affected critical habitat. The *Effects of the Action* and *Cumulative Effects* are added to the *Environmental Baseline* and in light of the status of critical habitat, the Service formulates its opinion as to whether the action is likely to destroy or adversely modify designated critical habitat. The Service's opinion evaluates whether the action is likely to impair or preclude the capacity of critical habitat in the action area to serve its intended conservation function to an extent that appreciably diminishes the rangewide value of critical habitat for the conservation of the listed species. The key to making that finding is understanding the value (i.e., the role) of the critical habitat in the action area for the conservation/recovery of the listed species based on the *Environmental Baseline* analysis.

Status of the Species

The status of the tadpole shrimp, the fairy shrimp, the Sacramento Orcutt grass, and the slender Orcutt grass have been assessed in the *Recovery Plan for Vernal Pool Ecosystems of California and Southern Oregon* (Service 2005) (Recovery Plan) and 5-year reviews. For the most recent comprehensive assessment of the range-wide status of the tadpole shrimp, please refer to the *Vernal Pool Tadpole Shrimp (*Lepidurus packardii*) 5-Year Review: Summary and Evaluation* (Service 2007a). For the most recent comprehensive assessment of the range-wide status of the fairy shrimp, please refer to the *Vernal Pool Fairy Shrimp (*Branchinecta lynchi*) 5-Year Review: Summary and Evaluation* (Service 2007b). The Service assessed the classification of the Sacramento Orcutt grass in *Orcuttia viscida* (*Sacramento Orcutt Grass*) 5-Year Review: Summary and Evaluation (Service 2008) and the slender Orcutt grass in *Slender Orcutt Grass (*Orcuttia tenuis*) 5-Year Review: Summary and Evaluation* (Service 2009). The most recent comprehensive assessment of the range-wide status of the Sacramento Orcutt grass and the slender Orcutt grass was completed by Witham (2013).

No change in any of the species' listing status was recommended in the 5-year reviews. Threats such as the loss of vernal pool habitat primarily due to widespread urbanization were evaluated during the reviews and discussed in the final documents and have continued to act on the tadpole shrimp, the fairy shrimp, the Sacramento Orcutt grass, and the slender Orcutt grass since the 5-year reviews were finalized. The construction of infrastructure associated with urbanization also has contributed greatly to the loss and fragmentation of vernal pool species including the construction of roads. Habitat loss exacerbates the highly fragmented distribution of these species. Direct losses of habitat generally represent an irreversible damage to vernal pools. The alteration and destruction of habitat disrupts the physical processes conducive to functional vernal pool ecosystems. Vernal pool hydrology may be altered by further changes to the patterns of surface and subsurface flow due to the increase in the runoff associated with infrastructure.

While there have been continued losses of vernal pool habitat throughout the various vernal pool regions identified in the Recovery Plan, including the Southeastern Sacramento Valley Vernal Pool Region where the proposed project is located, to date no project has proposed a level of effect for which the Service has issued a biological opinion of jeopardy for the tadpole shrimp, the fairy shrimp, the Sacramento Orcutt grass, or the slender Orcutt grass.

Status of Critical Habitat

Critical habitat for the tadpole shrimp and the fairy shrimp was designated in the revised *Designation of Critical Habitat for Four Vernal Pool Crustaceans and Eleven Vernal Pool Plants* (Service 2006). The designated critical habitat units constitute the Service's best assessment of areas determined to be occupied by the species at the time of listing, areas that contain the primary constituent elements (PCEs) essential to the conservation of the species, and additional areas essential to the conservation of the species.

Critical Habitat for the Vernal Pool Tadpole Shrimp

There are 18 critical habitat units designated for the tadpole shrimp, totaling 228,785 acres. The PCEs of critical habitat for the tadpole shrimp are: 1) topographic features characterized by mounds and swales and depressions within a matrix of surrounding uplands that result in complexes of continuously, or intermittently, flowing surface water in the swales connecting the pools, providing for dispersal and promoting hydroperiods of adequate length in the pools; 2) depressional features including isolated vernal pools with underlying restrictive soil layers that become inundated during winter rains and that continuously hold water for a minimum of 41 days, in all but the driest years; thereby providing adequate water for incubation, maturation, and reproduction; 3) sources of food, expected to be detritus occurring in the pools, contributed by overland flow from the pools' watershed, or the results of biological processes within the pools themselves, such as single-celled bacteria, algae, and dead organic matter, to provide for feeding; and 4) structure within the pools consisting of organic and inorganic materials, such as living and dead plants from plant species adapted to seasonally inundated environments, rocks, and other inorganic debris that may be washed, blown, or otherwise transported into the pools, that provide shelter.

Critical Habitat for the Vernal Pool Fairy Shrimp

There are 35 critical habitat units designated for the fairy shrimp, totaling 597,821 acres. The PCEs of critical habitat for the fairy shrimp are: 1) topographic features characterized by mounds and swales and depressions within a matrix of surrounding uplands that result in complexes of continuously, or intermittently, flowing surface water in the swales connecting the pools, providing for dispersal and promoting hydroperiods of adequate length in the pools; 2) depressional features including isolated vernal pools with underlying restrictive soil layers that become inundated during winter rains and that continuously hold water for a minimum of 18 days, in all but the driest years; thereby providing adequate water for incubation, maturation, and reproduction; 3) sources of food, expected to be detritus occurring in the pools, contributed by overland flow from the pools' watershed, or the results of biological processes within the pools themselves, such as single-celled bacteria, algae, and dead organic matter, to provide for feeding; and 4) structure within the pools consisting of organic and inorganic materials, such as living and dead plants from plant species adapted to seasonally inundated environments, rocks, and other inorganic debris that may be washed, blown, or otherwise transported into the pools, that provide shelter.

Environmental Baseline

Environmental baseline refers to the condition of the listed species or its designated critical habitat in the action area, without the consequences to the listed species or designated critical habitat caused by the proposed action. The environmental baseline includes the past and present impacts of all federal, state, or private actions and other human activities in the action area, the anticipated impacts of all proposed Federal projects in the action area that have already undergone formal or early

section 7 consultation, and the impact of state or private actions which are contemporaneous with the consultation in process. The consequences to listed species or designated critical habitat from ongoing agency activities or existing agency facilities that are not within the agency's discretion to modify are part of the environmental baseline.

The action area contains vernal pools, vernal swales, and seasonal wetlands, which provide suitable habitat for the tadpole shrimp, the fairy shrimp, the Sacramento Orcutt grass, and the slender Orcutt grass. The habitat within the Preserve has been largely undisturbed and unmanaged since the base closure in 1993. Since 2017, the County has funded interim management of the Preserve, which has included a grazing trial, prescribed burning, and invasive species treatment. The amount of vernal pool species habitat within each land use area is presented in Table 3 below.

Vernal Pool Tadpole Shrimp and Vernal Pool Fairy Shrimp

A number of surveys and studies have been conducted throughout the action area, many of which are documented in the California Natural Diversity Database (CNDDB). Tadpole shrimp are known to occur in multiple pools within both the Preserve and the development areas. Fairy shrimp were historically observed in the “vernal pools of Mather Air Force Base,” with more recent occurrences around Mather Lake and on adjacent parcels (CNDDB 2019).

Sacramento Orcutt Grass

Sacramento Orcutt grass is known to naturally occur within one mile to the east of the action area (Witham 2013). Due to the proximity of known occurrences, it is likely that a seed bank of Sacramento Orcutt grass exists on-site. In addition, three vernal pools within the Preserve were inoculated with Sacramento Orcutt grass in 2016 (Witham 2019). A census conducted in 2019 found 2,463 plants within the three pools. Sacramento Orcutt grass is only known to occur within Sacramento County (Service 2005, 2008; Witham 2013).

Slender Orcutt Grass

Slender Orcutt grass is known to occur within one mile to the east of the action area (Witham 2013). Due to the proximity of known occurrences, it is likely that a seed bank of slender Orcutt grass exists on-site. Occurrences of the slender Orcutt grass in Sacramento County represent the southern extent of the species' range (Service 2005, 2009; Witham 2013).

Critical Habitat for the Vernal Pool Tadpole Shrimp and the Vernal Pool Fairy Shrimp

Portions of the action area are within the coincident 2,450-acre critical habitat Unit 8 for the tadpole shrimp and Unit 13 for the fairy shrimp. All four PCEs for both the tadpole shrimp and the fairy shrimp are present within this area. A total of 1,364.86 acres of critical habitat for the tadpole shrimp and the fairy shrimp occur within the action area, including 57.42 acres of suitable wetland habitat for the tadpole shrimp and the fairy shrimp. The amount of critical habitat within each land use area is presented in Table 3 below.

Mather Core Recovery Area

The action area is located in the Southeastern Sacramento Valley Vernal Pool Region, as described in the Recovery Plan. Core areas within each Vernal Pool Region were identified in the Recovery Plan. These core areas support high concentrations of vernal pool species, are representative of a

given species' range, and are where recovery actions are focused. A portion of the proposed project overlaps with the Mather Core Recovery Area. The Mather Core Recovery Area is ranked as Zone 1 in the Recovery Plan. Zone 1 areas are the highest overall priority, and their protection is anticipated to contribute strongly to species recovery.

Within the Mather Core Recovery Area, the number of occurrences of federally-listed vernal pool species has declined due to a number of human-caused activities, primarily conversion of habitat to urban land uses. In the most recent analysis of vernal pool loss within the Mather Core Recovery Area, Witham et al. (2014) found that from 2005 to 2012, 378 acres of habitat have been destroyed. This equates to a 3% loss over this seven year period. Witham et al. (2014) determined that in 2012 there were approximately 13,659 acres of vernal pool grassland habitat remaining within the Mather Core Recovery Area. In addition to direct habitat loss, vernal pool habitat within the Mather Core Recovery Area continues to become highly fragmented through urbanization, the construction of roads, water infrastructure projects, and other human activities. The Mather Core Recovery area is almost entirely contained within the Sacramento County Urban Services Boundary (USB). Urbanization in unincorporated areas of Sacramento County is largely shaped by the USB, which is the area where Sacramento County will guide development until 2030, as addressed in the county's General Plan (County of Sacramento 2011). The City of Rancho Cordova has also similarly guided development within the Mather Core Recovery Area (City of Rancho Cordova 2006). For this reason there is a high level of conflict between urban land use and vernal pool conservation within the Mather Core Recovery Area. The South Sacramento Habitat Conservation Plan (SSHCP) began implementation in summer 2019, which is a regional effort covering development and infrastructure projects, while providing for the conservation of the vernal pool ecosystem and the species inhabiting it. The SSHCP's Conservation Strategy includes biological goals and objectives specific to the Mather Core Recovery Area.

Currently, 3,452.4 acres of vernal pool grassland habitat is protected within the Mather Core Recovery Area (Table 2). The largest grouping of existing Preserves occurs in an area located south of Jackson Highway between Excelsior and Eagles Nest roads north of Grant Line Road. These properties are located within an area that has been termed the "Sacramento Prairie Vernal Pool Area" by the Sacramento Valley Conservancy, and which represents some of the largest intact vernal pool grassland remaining within the Mather Core Recovery Area and southern Sacramento County. These preserves include lands under conservation easement or owned by the Sacramento Valley Conservancy, two conservation banks: Arroyo Seco, and Bryte Ranch, and other vernal pool mitigation sites. Several additional conservation banks and conservation set-asides are scattered throughout Sacramento County's Urban Development Area, with concentrations occurring along northern Laguna Creek, and at the Kiefer Landfill.

Table 2. Existing Preserves in the Mather Core Recovery Area (acres)

Preserve	Total Area	Preserve	Total Area
Anatolia Preserve	482.0	Klotz Property Open Space Preserve	315.3
Arroyo Seco Mitigation Bank	244.1	Montelena	50.0
Bryte Ranch Conservation Bank	551.6	Sacramento County	142.0
Douglas 103	43.9	Sacramento Prairie Vernal Pool Preserve	833.5
Environmental Stewardship Foundation	129.1	Southgate Recreation/Park District	9.8
Excelsior 184	184.0	Sunridge Park	6.4
Grantline 208	79.7	Triangle Rock	137.0
Kiefer Landfill	244.0	Total	3,452.4

Within the action area, the Mather Core Recovery Area is coincident with critical habitat for the tadpole shrimp and the fairy shrimp. A total of 1,364.86 acres of the Mather Core Recovery Area occurs within the action area, including 57.42 acres of suitable wetland habitat for the tadpole shrimp, the fairy shrimp, the Sacramento Orcutt grass, and the slender Orcutt grass. The amount of habitat within each land use area is presented in Table 3 below.

Table 3. Existing Vernal Pool Species Habitat within the Land Use Areas (acres)

Land Use Area	Total Area	Wetland Habitat	Critical Habitat/ Mather Core Total Area	Critical Habitat/ Mather Core Vernal Pool Habitat
Airport Commercial	599.24	7.35	173.80	1.83
Commercial Development	196.41	7.25	2.14	0.01
Economic Development	55.34	0	0	0
Parks and Recreation	114.68	0.50	93.06	0.48
Residential	796.98	22.24	0	0
Roadway and Infrastructure	94.17	1.05	49.28	0.50
Existing Land Use	2,549.97	15.05	34.16	0.23
Preserve	1,342.87	73.83	982.42	54.37
Total	5,749.66	127.27	1,364.86	57.42

Effects of the Action

Effects of the action are all consequences to listed species or critical habitat that are caused by the proposed action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action.

Vernal Pool Tadpole Shrimp, Vernal Pool Fairy Shrimp, Sacramento Orcutt Grass, and Slender Orcutt Grass

The construction within each land use area of the proposed project will result in the loss of 33.28 acres of wetland habitat for the tadpole shrimp, the fairy shrimp, the Sacramento Orcutt grass, and the slender Orcutt grass (Table 4). The project related activities, such as grading, placement of fill, and the use of earth moving equipment, will result in the loss of tadpole shrimp, fairy shrimp, Sacramento Orcutt grass, and slender Orcutt grass habitat and the death of an unknown number of eggs and seeds. The earthmoving equipment will be moving dirt and filling wetland habitat during construction activities and will likely crush, destroy, or bury the tadpole shrimp and fairy shrimp eggs and the Sacramento Orcutt grass and slender Orcutt grass seeds. In addition, the grading and ground disturbance associated with the proposed project, in combination with the impervious nature of developed surfaces, is reasonably likely to impede the surface and subsurface hydrology of the vernal pool landscape located outside the construction footprints, leading to the eventual loss of the wetland habitat. All tadpole shrimp and fairy shrimp eggs inhabiting the wetland habitat filled or later lost will be prevented from hatching. All Sacramento Orcutt grass and slender Orcutt grass seeds inhabiting the wetland habitat filled or later lost will be prevented from germinating.

A total of 1.94 acres of wetland habitat within the Preserve will be lost due to development in the Airport Commercial, Economic Development, Parks and Recreation, and Roadway and Infrastructure land use areas, including 0.21 acre of wetland features that will be partially filled

within the development land use areas and 1.73 acres that will be lost in the future due to interruption of the hydrology of the vernal pool landscape. Avoided areas within certain land use areas will not be covered by protective realty documents or managed specifically for the vernal pool species. Therefore, due to the small size of these areas, the isolation by surrounding proposed development, and a lack of management to limit encroachment by annual grasses, it is likely that the 7.97 acres of wetland habitat within these avoided areas will degrade over time and no longer be able to support the vernal pool species.

Table 4. Effects to Vernal Pool Species Habitat by Land Use Area (acres)

Land Use Area	Direct Fill	Future Loss (Indirect)	Potential Future Loss (Avoided)	Preserved
Airport Commercial	7.66	0.20	0	0
Commercial Development	4.37	0	3.12	0
Economic Development	0	0.003	0	0
Parks and Recreation	0.48	0.45	0.02	0
Residential	14.70	2.70	4.51	0
Roadway and Infrastructure (total)	0.74	1.97	0.32	0
Phase I/II	0.10	0.62	0.32	0
Phase III	0.26	1.10	0	0
Douglas Road Extension	0.38	0.24	0	0
Preserve	0	NA	0	71.89
Total	27.95	5.33	7.97	71.89

Notes:

1. This table attributes direct and indirect impacts to the land use area causing the impacts based on the order of development within each land use area, as the actual location of the impact may be within an adjacent land use. The assumed construction order of development is Phase I/II Infrastructure, followed by Phase III, Airport Commercial, Commercial Development, Residential, Parks and Recreation, Economic Development, and Douglas Road Extension.
2. Some directly filled features may be first indirectly impacted, but are not double counted. As an example, the Phase I/II Infrastructure project would lead to the future loss of 1.38 acres of vernal pool habitat in the Commercial Development area; however, this habitat will later be directly filled by the Commercial Development. These impacts are only counted as direct impacts by the Commercial Development land use area.

Within the Preserve, 71.89 acres of habitat for the tadpole shrimp, the fairy shrimp, the Sacramento Orcutt grass, and the slender Orcutt grass will be protected and managed for the species' conservation in perpetuity (73.83 acres total wetland habitat in the Preserve - 1.94 acres lost per above = 71.89 acres). The Preserve is intended to minimize the effect on the tadpole shrimp, the fairy shrimp, the Sacramento Orcutt grass, and the slender Orcutt grass of the proposed project's anticipated incidental take, resulting from the permanent loss of habitat described above. The Preserve will provide suitable habitat for breeding, feeding, nutrition, or sheltering commensurate with or better than habitat lost as a result of the proposed project. Management of the Preserve under the Wetlands Plan is expected to provide additional benefit to the species compared to the unmanaged baseline prior to base disposal by improving and maintaining the habitat, primarily through grazing (Marty 2005; Service 2005; Bartolome et al. 2014) and controlled public access. In addition, providing this compensatory habitat as a relatively large, contiguous block of conserved land may contribute to other recovery efforts for the tadpole shrimp, the fairy shrimp, the Sacramento Orcutt grass, and the slender Orcutt grass within the Mather Core Recovery Area and the Southeastern Sacramento Valley Vernal Pool Region.

Critical Habitat for the Vernal Pool Tadpole Shrimp and the Vernal Pool Fairy Shrimp

The 1,364.86 acres of overall habitat within the coincident critical habitat Unit 8 for the tadpole shrimp, critical habitat Unit 13 for the fairy shrimp, and the Mather Core Recovery Area within the action area includes PCE #1 for the tadpole shrimp and the fairy shrimp. Of the 57.42 acres of wetland habitat in this area, which contain PCEs #2, #3, and #4 for both the tadpole shrimp and the fairy shrimp, 3.84 acres will be lost due to development in the land use areas, including 2.75 acres filled and 1.09 acres lost in the future due to interruption in the hydrology of the vernal pool landscape. An additional 0.44 acre will be avoided, but not covered by protective realty documents or managed specifically for the vernal pool species, so it is likely that this avoided vernal pool habitat will degrade over time, losing PCEs #2, #3, and #4 for the tadpole shrimp and the fairy shrimp due to encroachment by annual grasses. The remaining 53.14 acres of wetland habitat (93% of the total) is within the Preserve. Management of the Preserve under the Wetlands Plan is expected to improve conditions of critical habitat for the tadpole shrimp and the fairy shrimp compared to the unmanaged baseline prior to base disposal by improving and maintaining the habitat, primarily through grazing (Marty 2005; Service 2005; Bartolome et al. 2014) and controlled public access. Overall, 982.42 acres (40%) of the critical habitat units, including PCE #1 interspersed with features containing PCEs #2, #3, and #4 for both the tadpole shrimp and the fairy shrimp, will be preserved due to the proposed project.

Cumulative Effects

Cumulative effects include the effects of future state, tribal, local, or private actions that are reasonably certain to occur in the action area considered in this biological opinion. Future federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the Act. During this consultation, the Service did not identify any future non-federal actions that are reasonably certain to occur in the action area of the proposed project.

Conclusion*Vernal Pool Tadpole Shrimp, Vernal Pool Fairy Shrimp, Sacramento Orcutt Grass, and Slender Orcutt Grass*

After reviewing the current status of the tadpole shrimp, the fairy shrimp, the Sacramento Orcutt grass, and the slender Orcutt grass, the environmental baseline for the action area, the effects of the proposed Mather Specific Plan Project, and the cumulative effects, it is the Service's biological opinion that the Mather Specific Plan Project, as proposed, is not likely to jeopardize the continued existence of the tadpole shrimp, the fairy shrimp, the Sacramento Orcutt grass, or the slender Orcutt grass, as previously determined in the disposal opinion. The Service reached this conclusion because the project-related effects to the species, when added to the environmental baseline and analyzed in consideration of all potential cumulative effects, will not rise to the level of precluding recovery or reducing the likelihood of survival of the species based on the following:

- 1) The acreage of vernal pool species habitat that will be lost represents a small portion of the habitat available in the Mather Core Recovery Area and the Southeastern Sacramento Valley Vernal Pool Region, and a much smaller percentage of habitat available to the tadpole shrimp, the fairy shrimp, the Sacramento Orcutt grass, and the slender Orcutt grass rangewide; and

- 2) The establishment of the Preserve ensures that habitat for the tadpole shrimp, the fairy shrimp, the Sacramento Orcutt grass, and the slender Orcutt grass will be protected and managed in perpetuity within the Mather Core Recovery Area and the Southeastern Sacramento Valley Vernal Pool Region. With the management outlined in the Wetlands Plan, the condition of the vernal pool species habitat on the Preserve is expected to improve from the existing baseline.

Critical Habitat for the Vernal Pool Tadpole Shrimp and the Vernal Pool Fairy Shrimp

After reviewing the current status of designated critical habitat for the tadpole shrimp and the fairy shrimp, the environmental baseline for the action area, the effects of the proposed Mather Specific Plan Project, and the cumulative effects, it is the Service's biological opinion that the Mather Specific Plan Project, as proposed, is not likely to destroy or adversely modify designated critical habitat, as previously determined in the disposal opinion. The Service reached this conclusion because the project-related effects to the designated critical habitat, when added to the environmental baseline and analyzed in consideration of all potential cumulative effects, will not rise to the level of precluding the function of the tadpole shrimp or fairy shrimp critical habitat to serve its intended conservation role for the species based on the following:

- 1) The effects to tadpole shrimp and fairy shrimp critical habitat are small and discrete, relative to the entire area designated, and are not expected to appreciably diminish the value of the critical habitat or prevent it from sustaining its role in the conservation of either species.
- 2) The establishment of the Preserve ensures that 40% of each critical habitat unit for the tadpole shrimp and the fairy shrimp will be protected and managed in perpetuity. With the management outlined in the Wetlands Plan, the condition of the critical habitat on the Preserve is expected to improve from the existing baseline.

INCIDENTAL TAKE STATEMENT

Section 9 of the Act and federal regulation pursuant to section 4(d) of the Act prohibit the take of endangered and threatened species, respectively, without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harass is defined by Service regulations at 50 CFR 17.3 as an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering. Harm is defined by the same regulations as an act which actually kills or injures wildlife. Harm is further defined to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavior patterns, including breeding, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the Act provided that such taking is in compliance with the terms and conditions of this Incidental Take Statement.

The measures described below are non-discretionary, and must be undertaken by the Corps so that they become binding conditions of any grant or permit issued to the applicant, as appropriate, for the exemption in section 7(o)(2) to apply. The Corps has a continuing duty to regulate the activity covered by this incidental take statement. If the Corps (1) fails to assume and implement the terms and conditions or (2) fails to require the applicant to adhere to the terms and conditions of the

incidental take statement through enforceable terms that are added to the permit or grant document, the protective coverage of section 7(o)(2) may lapse. In order to monitor the impact of incidental take, the Corps must report the progress of the action and its impact on the species to the Service as specified in the incidental take statement [50 CFR §402.14(i)(3)].

Sections 7(b)(4) and 7(o)(2) of the Act generally do not apply to listed plant species. However, limited protection of listed plants from take is provided to the extent that the Act prohibits the removal and reduction to possession of federally-listed endangered plants or the malicious damage of such plants on areas under federal jurisdiction, or the destruction of endangered plants on non-federal areas in violation of State law or regulation or in the course of any violation of a state criminal trespass law.

Amount or Extent of Take

The Service anticipates that incidental take of the tadpole shrimp and the fairy shrimp will be difficult to detect due to the fact that it is not possible to know how many eggs are in the soil of any wetland, or how many individuals or eggs will occupy any wetland later in time. Fill of the 27.95 acres of wetland habitat and future loss of up to 13.30 acres of wetland habitat due to the proposed project will result in the harm and mortality of all eggs inhabiting the habitat. Therefore, the Service is authorizing incidental take to the proposed action as the killing of all tadpole shrimp and fairy shrimp, including their eggs, within the 41.25 acres of wetlands inhabited by the tadpole shrimp and the fairy shrimp that will be lost.

Upon implementation of the following reasonable and prudent measures, incidental take of the tadpole shrimp and the fairy shrimp associated with the Mather Specific Plan Project will become exempt from the prohibitions described in section 9 of the Act. No other forms of take are exempted under this opinion.

Effect of the Take

In the accompanying biological opinion, the Service determined that this level of anticipated take is not likely to result in jeopardy to the tadpole shrimp or the fairy shrimp.

Reasonable and Prudent Measures

All necessary and appropriate measures to avoid or minimize effects on the tadpole shrimp and the fairy shrimp resulting from implementation of this project have been incorporated into the project's proposed conservation measures. Therefore, the Service believes the following reasonable and prudent measure is necessary and appropriate to minimize incidental take of the tadpole shrimp and the fairy shrimp:

- 1) All conservation measures, as described in the biological assessment and restated here in the Project Description section of this biological opinion, shall be fully implemented and adhered to. Further, this reasonable and prudent measure shall be supplemented by the terms and conditions below.

Terms and Conditions

In order to be exempt from the prohibitions of section 9 of the Act, the Corps must ensure compliance with the following terms and conditions, which implement the reasonable and prudent measure described above. These terms and conditions are nondiscretionary.

- 1) The Corps shall include full implementation and adherence to the conservation measures as a condition of any permit or contract issued for the project.
- 2) In order to monitor whether the amount or extent of incidental take anticipated from implementation of the proposed project is approached or exceeded, the Corps will adhere to the following reporting requirement.
 - a. For those components of the action that will result in habitat loss whereby incidental take in the form of harm is anticipated, the Corps shall provide a precise accounting of the total acreage of habitat impacted to the Service after completion of construction in each land use area.

CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the Act directs federal agencies to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information. The Service recommends the following action:

- 1) The Corps should work with the Service to assist us in meeting the goals of the Recovery Plan for the vernal pool species as outlined in the December 2005, *Recovery Plan for Vernal Pool Ecosystems of California and Southern Oregon* (Service 2005).

In order for the Service to be kept informed of actions minimizing or avoiding adverse effects or benefiting listed species or their habitats, the Service requests notification of the implementation of any conservation recommendations.

REINITIATION—CLOSING STATEMENT

This concludes formal consultation on the proposed Mather Specific Plan Project. As provided in 50 CFR §402.16, reinitiation of consultation is required and shall be requested by the federal agency or by the Service where discretionary federal involvement or control over the action has been retained or is authorized by law, and:

- (a) If the amount or extent of taking specified in the incidental take statement is exceeded;
- (b) If new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered;
- (c) If the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion; or written concurrence, or

- (d) If a new species is listed or critical habitat designated that may be affected by the identified action.

If you have any questions regarding this biological opinion, please contact Lily Douglas, Senior Fish and Wildlife Biologist (lily_douglas@fws.gov), or Kellie Berry, Chief, Sacramento Valley Division (kellie_berry@fws.gov), at the letterhead address or at (916) 414-6628 or (916) 414-6631 or both.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Norris", with a stylized flourish at the end.

Jennifer M. Norris, Ph.D.
Field Supervisor

ec:

Rick Balazs, Sacramento County Office of Economic Development, Sacramento, California
Joseph Morgan, U.S. Environmental Protection Agency, San Francisco, California
Dylan Wood, California Department of Fish and Wildlife, Rancho Cordova, California

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Appendix E

*State Historic Preservation
Officer Concurrence Letter*

**OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION**

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June 25, 2015

In Reply Refer To: COE_2014_1024_001

Kathleen A. Dadey
Chief, CA South Branch
Department of the Army Corps of Engineers
U.S. Army Engineer District, Sacramento
1325 J Street
Sacramento, CA 95814-2922

Re: Section 106 Consultation for the Mather Specific Plan Project (SPK-2002-00561)

Dear Ms. Dadey:

Thank you for your letter dated May 22, 2015, continuing consultation with regard to the proposed undertaking of the Mather Specific Plan Project (MSPP) in Sacramento County, California. The Army Corps of Engineers (COE) is continuing consultation for this undertaking pursuant to 36 CFR Part 800 (as amended 8-05-04) the regulations implementing Section 106 of the National Historic Preservation Act. Along with your consultation letter, you also provided the following document:

- *Addendum Cultural Resources Inventory and Evaluation Report for the Mather Specific Plan Project (Preserve Area), Sacramento County, California* (IFC International, March 2014)

The COE would issue a permit for the proposed undertaking's activities that fall under Section 404 of the Clean Water Act that will allow the County of Sacramento (Applicant) to develop a large-scale, mixed-use development of approximately 3,195 acres within the 5,749-acre Mather Specific Plan area within Sacramento County, California. The COE has determined that the Area of Potential Effects (APE) is the permit area, which is approximately 3,200 acres including 1,910 acres of development (including areas of rezoning, easements, construction, staging, and access), and a 1,272-acre preserve area.

The COE initiated consultation with my office in a letter dated October 21, 2014 requesting concurrence on their determination of No Historic Properties Affected for the proposed undertaking, and consulting on the possibility of negotiating a programmatic agreement (PA) to allow phased identification of cultural resources within the 1,272 acre preserve area of the MSPP. In my response letter dated December 18, 2014, I suggested that "to streamline Section 106 compliance for the entire proposed undertaking, and to negate the need for a Programmatic Agreement, the 1,272-acre preserve area be surveyed before a finding of effect be determined." The COE, in agreement with the suggested approach, has conducted

identification efforts within the preserve area and is now consulting with me and requesting my review and comment on their determinations of both eligibility and effect for the MSPP.

After reviewing your initial submission I had the following comments, which were conveyed to you in my letter of December 18, 2014:

- Pursuant to 36 CFR 800.4(c)(2), I concur with your determination that all 57 cultural resources identified within the 1,910-acre proposed development area (see attached Table 1) do not meet the National Register Criteria and shall be considered not eligible.
- Pursuant to 36 CFR 800.4(d)(1), I concur with your finding of no historic properties affected within the 1,910-acre proposed development area. However, before a finding of effect for the entire Mather Specific Plan Project can be issued, an attempt needs to be made to identify historic properties within the 1,272-acre preserve area.

Your letter dated May 22, 2015, and the attached cultural resources technical document provided evidence of the efforts made to identify historic properties within the 1,272-acre preserve area. The cultural resources identification effort included a records search, survey, and Native American coordination performed by ICF International (Consultant), and Native American consultation initiated by the COE. A records search completed in April 2014 indicated that no previously recorded cultural resources had been identified within the APE.

Archaeological and architectural historical pedestrian surveys conducted in January 2015 identified 12 cultural resources within the 1,272-acre preserve area of the APE. The Native American Heritage Commission (NAHC) was contacted by the consultant in early 2014 to request a search of the Sacred Lands File for known sacred sites in the project area and to request a list of Native American organizations and individuals who may have knowledge of cultural resources within the APE. NAHC records indicated that no previously identified sacred lands or areas of cultural importance are located within the APE. Likewise, Native American consultation initiated by the COE on April 3, 2015, has not resulted in the identification of historic properties.

The COE evaluated the 12 cultural resources identified within the Preserve Area and determined that they are ineligible for inclusion on the NRHP. The COE is requesting my review and comment on their determinations of both eligibility and effect for the MSPP. After reviewing your letters and supporting documentation, I have the following comments:

- Pursuant to 36 CFR 800.4(b), I find that the COE has made a reasonable and good faith effort to identify historic properties within the area of potential effects.
- Pursuant to 36 CFR 800.4(c)(2), I continue to concur with your determination that all 57 cultural resources identified within the 1,910-acre proposed development area (see attached Table 1) do not meet the National Register Criteria and shall be considered not eligible.

- Pursuant to 36 CFR 800.4(c)(2), I concur with your determination that all 12 cultural resources identified within the 1,272-acre proposed preserve area (see attached Table 2) do not meet the National Register Criteria and shall be considered not eligible.
- Pursuant to 36 CFR 800.4(d)(1), **I concur with your finding that no historic properties will be affected by issuing a permit for the MSPP.**

Thank you for seeking my comments and considering historic properties as part of your project planning. Be advised that under certain circumstances, such as unanticipated discovery or a change in project description, the COE may have additional future responsibilities for this undertaking under 36 CFR Part 800. If you have any questions, please contact Patrick Riordan of my staff at (916) 445-7017 or Patrick.Riordan@parks.ca.gov or Ed Carroll at (916) 445-7006 or Ed.Carroll@parks.ca.gov.

Sincerely,

A handwritten signature in black ink, reading "Carol Roland-Nawi, Ph.D." in a cursive script.

Carol Roland-Nawi, Ph.D.
State Historic Preservation Officer

Table 1. Cultural Resources Identified Within the 1,910-acre Mather Specific Plan Development Area

Site Name	Mather Building Number	Description	Proposed Eligibility	SHPO Concurrence
MAMP-03		Concrete foundations, well, and trash area	Not Eligible	X
7001		Shop	Not Eligible	X
7033		Shop	Not Eligible	X
MAMP-04		Trash pit	Not Eligible	X
4376		Aircraft maintenance hanger	Not Eligible	X
4442		Warehouse	Not Eligible	X
4468		Shop/offices	Not Eligible	X
MAMP-01F		Infrastructure at Mather AFB	Not Eligible	X
		Remains of Mather AFB Building (Missile Way)	Not Eligible	X
		SAC B-52 Readiness Area	Not Eligible	X
Building 7965		Picnic area restroom and gazebo	Not Eligible	X
MSP-03		Concrete observation bunker	Not Eligible	X
MSP-04		Munitions dump	Not Eligible	X
MSP-RAB-01		Cinderblock building	Not Eligible	X
MSP-06 and MSP-05		Isolated prehistoric lithic flakes	Not Eligible	X
		Five concrete culverts (Map# 18, #37, #38, #59, and #60)	Not Eligible	X
MSP-RSB-01	Building 10503	Small, abandoned, wooden-frame building	Not Eligible	X
MSP-RSB-02	Building 10550	Abandoned masonry vernacular building	Not Eligible	X
MSP-RSB-07	Building 10410	Masonry and corrugated vernacular building	Not Eligible	X
MSP-RSB-05	Building 10320	Abandoned masonry vernacular building	Not Eligible	X
MSP-RSB-06		Abandoned masonry vernacular building	Not Eligible	X
MSP-07		Foundation remains	Not Eligible	X
MSP-RSB-09	Building 10120	Search radar tower and dome	Not Eligible	X
	Building 10150	Concrete utilitarian dry storage facility	Not Eligible	X
MSP-08		Foundation remains from a radar dome	Not Eligible	X
	Building 10360	Abandoned masonry vernacular building	Not Eligible	X
MSP-RSB-03	Building 10450	Abandoned masonry vernacular building	Not Eligible	X

MSP-RSB-04	Building 10400	Masonry vernacular facility	Not Eligible	X
MSP-RSB-10	Building 10100	Abandoned masonry vernacular building	Not Eligible	X
P-34-1980		Two residential building foundations	Not Eligible	X
P-34-1981		Military warehouse	Not Eligible	X
MSP-02	Building 8505	Earthen-covered bunker	Not Eligible	X
	Buildings 18002 and 18003	Abandoned dog kennel and office	Not Eligible	X
	Building 18005	Abandoned water well	Not Eligible	X
		Remains of Mather AFB Building (Weapons Storage Area)	Not Eligible	X
MSP-MSB-01	Building 18021	Abandoned masonry vernacular guard station	Not Eligible	X
MSP-MSB-10	Building 18010	Abandoned masonry vernacular munitions maintenance building	Not Eligible	X
	Building 18011	Abandoned electrical generator station	Not Eligible	X
	Building 18018	Abandoned concrete-block missile assembly building with associated outbuilding	Not Eligible	X
MSP-MSB-09	Building 18015	Abandoned two-story masonry vernacular munitions inspection building	Not Eligible	X
MSP-MSB-08 and MSP-MSB-03	Buildings 18025 and 18060	Munitions storage buildings	Not Eligible	X
MSP-MSB-07, MSP-MSB-06, MSP-MSB-05, and MSP-MSB-04		Earthen-covered munitions storage bunkers	Not Eligible	X
	Buildings 18042, 18044, and 18046	Earthen-covered munitions storage bunkers	Not Eligible	X
MSP-MSB-02	Building 18070	Abandoned munitions maintenance building	Not Eligible	X
		Remains of Mather AFB Building (WSA-Explosives Facilities)	Not Eligible	X
	Building 18051	Fire team facility	Not Eligible	X
MSP-01		Two wooden fence posts	Not Eligible	X

Table 2. Cultural Resources Identified Within the 1,272-acre Mather Specific Plan Preserve Area

Site Name	Mather Building Number	Description	Proposed Eligibility	SHPO Concurrence
Map #1		Asphalt "Paratrooper Landing Pads"	Not Eligible	X
Map #2		Metal Structure at Woodring Drive	Not Eligible	X
Map #3		Foundation, Remains of Mather AFB Building (Excelsior Rd)	Not Eligible	X
Map #4		Foundation, Remains of Mather AFB Building (Kiefer Blvd)	Not Eligible	X
Map #5		Split Rail/Log Fence (Anders Drive)	Not Eligible	X
Map #6		Foundation, Remains of Mather AFB Building (Excelsior Rd)	Not Eligible	X
Map #7		Footings, Remains of Mather AFB Utility Structure (Aubergine Way)	Not Eligible	X
Map #8	Building 10090	Abandoned concrete masonry vernacular building	Not Eligible	X
Map #9		Board-formed Culvert (Excelsior Road)	Not Eligible	X
Map #10	Building 10060	Abandoned concrete masonry vernacular building	Not Eligible	X
Map #11		Foundation, Remains of Mather AFB Building (Park Rd)	Not Eligible	X
Map #12		Concrete embankment (Excelsior Rd)	Not Eligible	X