CHAPTER 1 – INTRODUCTION/PURPOSE AND NEED

This joint Environmental Impact Statement (EIS)/Environmental Impact Report (EIR) (EIS/EIR) evaluates the impacts associated with implementing all elements of the South Sacramento Habitat Conservation Plan (SSHCP or Plan) and issuing an associated Endangered Species Act Incidental Take Permit (ESA ITP) and California Endangered Species Act Incidental Take Permit (CESA ITP).

One purpose of this joint EIS/EIR is to inform decision makers and the public of the effects on the human environment of the approval of the SSHCP, issuance of ITPs to local entities, and the future implementation of the SSHCP. This joint EIS/EIR also provides measures to mitigate impacts and presents reasonable alternatives that could reduce the significant environmental impacts of the proposed action to a less-than-significant level.

This EIS/EIR was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 United States Code [U.S.C.] 4321–4347 et seq.), the California Environmental Quality Act (CEQA) (California Public Resources Code, Section 21000 et seq.), the regulations for implementing NEPA (40 Code of Federal Regulations [CFR] Parts 1500–1508 and 43 CFR Part 46), and the Guidelines for Implementing CEQA (CEQA Guidelines) (Section 15000 et seq.).

The U.S. Fish and Wildlife Service (USFWS) is the lead agency under NEPA, and Sacramento County (the County) is the lead agency under CEQA in the preparation of this joint EIS/EIR.

The Draft EIS/EIR and Draft SSHCP were released for concurrent public reviews on June 2, 2017, when the USFWS published a Notice of Availability (NOA) for both documents (82 FR 25612), and the County published an NOA for the Draft EIS/EIR with the California State Clearinghouse (control number 2003-0637). Separately, the U.S. Army Corps of Engineers (USACE) released their draft Clean Water Act (CWA) Permitting Strategy for the SSHCP.

Pursuant to ESA Section 10 policy, the USFWS provided a minimum 90-day public review and comment period for both draft documents, which ended on September 5, 2017. A total of 26 comment letters were received on the Draft EIS/EIR, the Draft SSHCP, and the CWA Permitting Strategy. During the 90-day comment period, the lead agencies and the SSHCP Plan Partners jointly conducted three public meetings in Wilton, Rancho Cordova, and Galt, to provide additional opportunities for the public to provide comments on the Draft SSHCP and the Draft EIS/EIR (see NOAs for locations). A total of two comment letters were submitted at these public meetings. An additional 24 comment letters were submitted to the lead agencies during the 90-day public comment period.

The lead agencies prepared responses to comments on the Draft EIS/EIR, and the Plan Partners prepared responses to comments on the Draft SSHCP in collaboration with the USFWS (see Final EIS/EIR Chapter 19). The USACE prepared the responses to comments on their Public Notice (Chapter 19). If a response to a comment on the Draft SSHCP resulted in
changes to the Final SSHCP, those changes were carried into the project description of the Proposed Action/Proposed Project Alternative in the Final EIS/EIR. Likewise, if the response to comments on the USACE Public Notice resulted in changes to the proposed CWA Permit Strategy, those changes were copied into relevant sections of the Final SSHCP, and into the description of the Proposed Action/Proposed Project Alternative in the Final EIS/EIR, as needed. Using this process, the Proposed Action/Proposed Project Alternative that is described and studied in the Final EIS/EIR is consistent with the Final SSHCP. Overall, the environmental impacts of the Proposed Action/Proposed Project Alternative remained similar relative to the impacts described in the Draft EIS/EIR, because the scope of changes to the Proposed Action/Proposed Project Alternative was minimal.

Substantive changes in the Final EIS/EIR are clearly marked. Changes from the Draft EIS/EIR resulting in added text are shown with bold underline. Changes from the Draft EIS/EIR resulting in deleted text are shown with strikethrough.

1.1 SSHCP OVERVIEW

The following local agencies are jointly applying for species ITPs from the state and federal Wildlife Agencies (USFWS and California Department of Fish and Wildlife [CDFW]):

- Sacramento County
- The City of Galt
- The City of Rancho Cordova
- The Sacramento County Water Agency (SCWA)
- The Capital Southeast Connector Joint Powers Authority (Connector JPA)
- The future South Sacramento Conservation Agency (SSHCP Implementing Entity).

These six entities are the Permit Applicants. Together, they are applying for an ITP from the USFWS, pursuant to Section 10(a)(1)(B) of the ESA, and for an ITP from the CDFW, pursuant to Section 2081 of the California Fish and Game Code. The ITPs would authorize take\(^1\) of certain

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\(^1\) “Take” is defined in the ESA as harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting or attempting to engage in any such conduct. “Harass” is defined by the USFWS 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 behavioral patterns (which include, but are not limited to, breeding, feeding, or sheltering). “Harm” in the definition of take is further defined by USFWS to mean an act which actually kills or injures wildlife; such acts may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavior patterns, including breeding, feeding, or sheltering (50 CFR 17.3).

“Take” is defined in Section 86 of the California Fish and Game Code as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill” a threatened or endangered species. Under CESA (which is
state-listed species, certain federally listed species, and other SSHCP Covered Species during the course of implementing otherwise lawful SSHCP Covered Activities that are described in Chapter 2, Alternatives, Including the Proposed Action/Proposed Project. The Permit Applicants are seeking ITPs with a 50-year permit term; however, this EIS/EIR also analyzes an action alternative with a shorter permit term.

The future SSHCP Implementing Entity would be a joint exercise of powers authority (JPA) called the South Sacramento Conservation Agency. This SSHCP Implementing Entity would be composed of a JPA Governing Board (JPA Board), an Implementation Commission, and an executive director and staff to help with day-to-day implementation of the SSHCP. The Implementing Entity would also be a permittee on the state and federal ITPs.

As a required component of the application for an ITP, the Permit Applicants have prepared the SSHCP, a habitat conservation plan (HCP) under Section 10 of the ESA. The SSHCP is intended to support the issuance of both the ESA and the CESA ITPs by providing a long-term conservation plan to minimize impacts to and permanently conserve the native species and all natural communities of the Planning Area, while allowing for planned future urban development and other Covered Activities that comply with local policies and regulations. The SSHCP identifies where future Covered Activities would likely impact Covered Species, natural communities, and aquatic resources, and presents a comprehensive regional strategy for the avoidance, minimization, and mitigation of those impacts.

The Permit Applicants have also prepared the SSHCP Aquatic Resources Plan (the ARP) to accompany the SSHCP, which proposes a locally based program for permitting future SSHCP Covered Activities that impact aquatic resources. The proposed SSHCP identifies future Covered Activity impacts to aquatic resources in the Planning Area, and provides a strategy to maximize the avoidance, minimization, and compensatory mitigation of aquatic resource impacts.

The three Land Use Authority Permit Applicants (i.e., Sacramento County, Galt, and Rancho Cordova) are using the SSHCP and the ARP to request that the USACE develop a (CWA Section 404 permitting strategy for future SSHCP Covered Activities that discharge dredged or fill material to wetlands and other waters of the United States. The Land Use Authority Permit Applicants are also requesting the Central Valley Regional Water Quality Control Board (RWQCB) develop a parallel multilevel CWA Section 401 permitting process for obtaining water quality certifications included within the California Fish and Game Code), an endangered species is “a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant which is in serious danger of becoming extinct throughout all, or a significant portion, of its range.” A threatened species is “a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts.”
for future SSHCP Covered Activities, and a process for issuing reports of waste discharge under the California Porter-Cologne Water Quality Control Act (Porter-Cologne). In addition, the three Land Use Authority Permit Applicants (i.e., Sacramento County, Galt, and Rancho Cordova) are requesting that the CDFW develop a Master Streambed Alteration Agreement for future SSHCP Covered Activities (see Section 1.5, Decisions to be Made).

### 1.1.1 Geographic Scope of the EIS/EIR Planning Area

The Permit Applicants began the HCP planning process by identifying the areas where planned future growth and development may occur, and where future growth and development may affect state and federally protected species. The Planning Area is defined as the area in which all SSHCP Covered Activities (projects and activities) and all SSHCP habitat conservation actions, projects, and activities would be implemented, and where all associated incidental take of species would occur. The boundary of the Planning Area was defined by the Permit Applicants using both jurisdictional and ecological factors.

The Planning Area encompasses approximately 317,655 acres within south Sacramento County, as shown on Figure 1-1, South Sacramento Habitat Conservation Plan Area. The Planning Area includes Galt and Galt’s sphere of influence, and the portion of Rancho Cordova that is located south of U.S. Highway 50. The geographical boundaries of the Planning Area are U.S. Highway 50 and White Rock Road to the north, the Sacramento River levee and County Road J11 (Walnut Grove-Thornton Road) to the west, the Sacramento County line with El Dorado and Amador Counties to the east, and with the San Joaquin County to the south.

The Planning Area excludes the northern portion of Sacramento County, the portion of Rancho Cordova located north of U.S. Highway 50, the City of Sacramento, Elk Grove, Folsom, sovereign lands of the Miwok Tribe, and the Sacramento County community of Rancho Murieta (see Figure 1-1).

The SSHCP refers to the portion of the Planning Area where future urban development Covered Activities\(^2\) would occur as the “Urban Development Area” (the UDA). Sacramento County has previously adopted an Urban Service Boundary (USB) to demarcate the ultimate extent to which the County would provide future urban services, such as sanitary sewer and water supply. Consequently, the portion of Sacramento County USB that is within the Planning Area is part of the SSHCP’s UDA. The portion of the Rancho Cordova’s sphere of influence that is within

\(^2\) Covered Activities are future activities and projects over which an ITP permit applicant would have jurisdiction or another form of control, are likely to result in species incidental take, and are reasonably certain to occur over the proposed term of the ITP (USFWS and NOAA 2016). The SSHCP Covered Activities primarily consist of new urban development in the UDA, rural transportation projects and water recycling infrastructure outside the UDA, and management actions on future habitat preserves.
the boundaries of the Planning Area is also part of the UDA. The UDA also includes all lands within Galt and within Galt’s sphere of influence (Figure 1-1). Approximately 67,618 acres within the Planning Area are also within the UDA.

The boundaries of the Planning Area also define the Planning Area used in this EIS/EIR. The EIS/EIR uses the term “Planning Area” because, as identified previously, the EIS/EIR evaluates alternatives to the proposed SSHCP. As described in Chapter 2, Section 2.1, Approach to Developing Alternatives, the lead agencies considered alternatives that might have smaller or different Planning Area boundaries. For these reasons, the term “Planning Area” is used in the EIS/EIR and indicates the geographic area for which the EIS/EIR provides analysis. The term “UDA” and the boundaries of the UDA are also used in the definition of the EIS/EIR Planning Area.

1.2 OVERVIEW OF NEPA AND CEQA

1.2.1 NEPA

NEPA requires federal agencies to conduct an environmental review before undertaking any discretionary actions, including any activities they implement, manage, permit, or fund. The NEPA process is intended to help federal officials make decisions that are based on an understanding of the environmental consequences of their decision, and to take actions that protect, restore, and enhance the environment. NEPA requires all federal agencies to solicit and to consider public input and comments on the environmental implications of their proposed actions through the preparation of appropriate documents. All federal agencies must use a systematic and interdisciplinary approach when preparing NEPA documents to ensure the integrated use of the natural and social sciences in planning and in all decision making that may have an impact on the human environment. The Office of the President’s Council on Environmental Quality (the CEQ) has prepared NEPA regulations and guidance documents that federal agencies must follow (40 CFR Parts 1500–1508).

The USFWS, as the lead federal lead agency preparing this document, has determined that the issuance of an ITP to the Permit Applicants under Section 10 of the ESA would constitute a discretionary federal action likely to result in a significant effect on the human environment, and, thus, the preparation of an EIS is warranted.

Upon request of the lead agency, other federal agencies that have jurisdiction by law shall be a Cooperating Agency in the preparation of an EIS. Other federal, state, tribal, or local agencies that have special expertise with respect to an environmental issue analyzed in the EIS may be a Cooperating Agency in the preparation of an EIS. The Cooperating Agencies participate in the NEPA process at the earliest possible time; identify issues to be addressed in the EIS; collect and/or assemble necessary resource data; analyze data; develop alternatives; evaluate
alternatives; and estimate effects of implementing each alternative (40 CFR 1501.6; 43 CFR 46.230). A federal cooperating agency may adopt the EIS of a lead agency without recirculating when, after an independent review of the statement, the cooperating agency concludes that its suggestions and comments have been satisfied (40 CFR 1506.3[c]).

The USACE, the U.S. Environmental Protection Agency (EPA), and the CDFW have agreed to be Cooperating Agencies in the preparation of this EIS/EIR because of their jurisdiction by law and because of their special expertise on the environmental issues analyzed in this EIS/EIR.

1.2.2 CEQA

CEQA requires state and local agencies to evaluate the environmental implications of their actions and aims to prevent significant environmental impacts of those actions by requiring agencies, when feasible, to avoid significant environmental impacts or reduce them through the adoption of feasible mitigation measures. Like NEPA, CEQA requires all agencies to consider and publicly disclose the environmental implications of their proposed actions through the preparation of appropriate documents. CEQA requires that the state or local lead agency prepare an EIR when the lead agency determines that a project may have a significant effect on the environment. CEQA applies to all discretionary activities proposed to be carried out or approved by California public agencies. Sacramento County is the CEQA lead agency preparing this document and has determined that an EIR must be prepared for the proposed project because implementation of the SSHCP may result in a significant effect on the environment.

In addition to lead agencies, CEQA responsible agencies and CEQA trustee agencies have roles in the environmental review process. A responsible agency under CEQA is a state or local public agency other than the CEQA lead agency that has discretionary approval over all or a part of the project (CEQA Guidelines, Section 15381). A CEQA trustee agency is a state agency that has jurisdiction by law over natural resources affected by a project that are held in trust for the people of California (CEQA Guidelines, 15386).

All of the Permit Applicants are either a CEQA lead agency (Sacramento County) or CEQA responsible agencies (Galt, Rancho Cordova, SCWA, and the Connector JPA), and all Permit Applicants are responsible for discretionary approvals of the SSHCP and would be responsible for the future implementation of the SSHCP.

CDFW is a responsible agency under CEQA because it would approve the SSHCP and would issue a CESA ITP for the state-listed SSHCP Covered Species. In addition, as discussed in Section 1.5.6, the Permit Applicants are requesting that the CDFW develop and approve a programmatic Streambed Alteration Agreement for all future SSHCP Covered Activity projects and activities.
Figure 1-1  South Sacramento Habitat Conservation Plan Area

South Sacramento Habitat Conservation Plan Area and EIS/EIR Planning Area

SOURCE: Adapted by Ascent Environmental in 2015, Jurisdictional Boundaries: County of Sacramento 2014.
CDFW is also a trustee agency under CEQA because it has jurisdiction by law over natural resources that would be affected by the operational SSHCP, including the fish and wildlife the state-designated natural communities present in the Planning Area, state-designated rare or endangered native plants, game refuges, and ecological reserves.

The RWQCB is a CEQA responsible agency because it would take action on any associated water quality certifications and/or waste discharge requirements.

Other trustee agencies include the California State Lands Commission with regard to state-owned “sovereign” lands, such as the beds of navigable waters and state school lands, and the California State Department of Parks and Recreation with regard to units of the State Park System.

1.2.3 Joint Documentation

USFWS is a federal governmental agency within the U.S. Department of the Interior. The CEQ NEPA regulations (40 CFR 1506.2), the Department of the Interior NEPA regulations (43 CFR 46.440), and the Department of the Interior Manual (516 DM 4.18), require federal agencies to eliminate duplication between NEPA requirements and state or local environmental requirements by preparing joint documents when possible. Similarly, CEQA and the CEQA Guidelines strongly encourage state and local agencies to prepare a combined EIS/EIR that satisfies both NEPA and CEQA (California Public Resources Code, Section 21083.6; CEQA Guidelines, Section 15222). Given these regulations and guidance, and the efficiencies, cost savings, and other benefits associated with intra-agency collaboration on a joint NEPA/CEQA document, the lead agencies are preparing this joint EIS/EIR.

Although there are many requirements of CEQA and NEPA that are the same or are similar, there are some important terminology differences between the two laws. Table 3-1 in Chapter 3 lists the most common terms under each law and correlates them to terms of the opposite law that are used in a similar manner.

1.3 PURPOSE, NEED, AND OBJECTIVES

NEPA regulations require that each EIS briefly describe the underlying purpose and need to which the lead agency is responding in proposing the alternatives, including the proposed action (40 CFR 1502.13). The “need” for lead agency action refers to an underlying problem or opportunity to which an agency is responding. Often a need is described as a condition requiring relief (i.e., the presence of something not wanted), or is described as the lack of something requisite, desirable, or useful (i.e., the lack of something wanted). The “purpose” refers to a goal or objective that the lead agency is trying to achieve and should be stated, to the extent possible, in terms of desired outcomes (43 CFR 46.420). Often a purpose is described as a goal or an end to be attained. Similarly, CEQA requires an EIR to contain a statement of the
“objectives” sought by the proposed project. The CEQA statement of objectives should include the underlying purpose of the project (CEQA Guidelines, Section 15124[b]).

Identifying the needs, purposes, and objectives of the project and action help the lead agencies develop and determine the range of alternatives to be analyzed, and they provide a basis for the selection of an alternative by the lead agency decision makers (43 CFR 46.420; CEQA Guidelines, Section 15124[b]).

1.3.1 Background Information

Land Cover Conversion, Native Species, and Aquatic Resources

Current habitat conditions in the Planning Area reflect a history of human modification of the pre-European settlement natural landscape. After the founding of Sacramento County in 1850, through the first half of the twentieth century, a dominant human activity in the western part of the Planning Area was the conversion of natural land covers to agricultural row crops (cropland), with a corresponding loss of suitable habitat for many Planning Area native plant and wildlife species. The eastern part of the Planning Area was used primarily for grazing cattle during this period, and cattle grazing continues to dominate this part of the Planning Area. Grazing of natural grasslands does not remove the natural landscape and has little direct effect on aquatic resources, allowing natural grassland ecosystem functions, including vernal pools and vernal pool complexes, to continue.

Sacramento County experienced a rapid increase in population in the 1940s, with a corresponding expansion of urban and suburban development in the Cities of Sacramento, Folsom, and Galt. A second wave of new development occurred between 1950 and 1960 when Sacramento County’s population grew by 81%, leading to new urban and suburban development in the south (Florin) and the east (Rancho Cordova), and additional expansions of Sacramento, Folsom, and Galt. The 1960s to 1980s saw moderate but steady increases in population growth, with a corresponding expansion of urban development and urban infrastructure (improved roadways, sewer/water lines, utilities, etc.) farther into the undeveloped southern and eastern portions of the County.

An additional expansion of urban development occurred in the Planning Area between 1997 and 2007. In 1988, approximately 137,000 acres or 41% of the Planning Area was cropland, 156,000 acres or 46% was grazing land, and 18,000 acres or 6% of the Planning Area was developed (DOC 2016). By 2014, the Planning Area had become 37% cropland, 42% grazing land, and 9% developed lands—a decrease of 12,000 acres of cropland, a decrease of 16,000 acres of grazing land, and an approximate 11,000-acre increase in developed land over this 26-year period (DOC 2016). New growth and development is expected to continue in the
south part of Sacramento County, with the rate of new development largely dependent on economic and market conditions.

During each period of rapid urban development, more and more of the pre-European settlement natural land covers and aquatic resources of the Planning Area were converted to urbanized land covers, which typically provide no suitable habitat for native plant or animal species. Urban development in Sacramento County has resulted in an especially high loss of the natural grassland landscapes that support critically endangered vernal-pool habitats (Witham et al. 2014; Witham et al 2005; Holland 2009; Holland and Vollmar 2009). A study of projects in the Planning Area that obtained CWA permits between 1979 and January 2013 found that during this 34-year time period, 991 acres of wetlands and other waters of the United States (i.e., vernal pools, marshes, other wetlands, streams, creeks, and other aquatic resources) were filled (lost) (USACE 2014; see EIS/EIR Appendix A). Most losses of the Planning Area aquatic resources authorized by CWA permits between 1979 and 2013 occurred inside the UDA (829 acres), and 162 acres of loss occurred outside the UDA. Therefore, streams, creeks, and other water bodies inside the UDA have experienced great direct losses, and the waters that remain in the UDA are now exposed to adverse effects from close proximity to development, such as decreased water quality resulting from urban runoff, changes in hydrologic regime, and reductions in habitat quality.

The losses of vernal pools and other natural land covers described previously for Sacramento County also occurred in most of the California Central Valley. Therefore, many of the Planning Area’s native plant and animal species have had sufficient declines across their range to warrant listing under the ESA or CESA. For example, the valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) was listed as endangered by the USFWS in 1980; the Swainson’s hawk (*Buteo swainsoni*) was listed as threatened by CDFW in 1983; the giant garter snake (*Thamnophis gigas*) was listed as threatened by CDFW in 1984 and by the USFWS in 1993; greater sandhill crane (*Antigone canadensis tabida*) was listed as threatened by CDFW in 1983, tricolored blackbird (*Agelaius tricolor*) was emergency-listed as threatened by CDFW in 2014 and is being considered for formal threatened or endangered status. Many plant and crustacean species that live only in vernal pools were listed due to the extensive loss of vernal pool habitat over the entire Central Valley, including in the Planning Area (USFWS 2005). The vernal pool tadpole shrimp (*Lepidurus packardi*) and vernal pool fairy shrimp (*Branchinecta lynchii*) were listed as endangered and threatened respectively by USFWS in 1994; slender Orcutt grass (*Orcuttia tenuis*) and Sacramento Orcutt grass (*Orcuttia viscioides*), a plant found only in Sacramento County, were listed as threatened and endangered respectively by the USFWS in 1997 and both were listed as endangered by CDFW in 1979; the plant Bogg’s Lake hedge-hyssop (*Gratiola heterosepala*), was listed as endangered by CDFW in 1978; and the California tiger salamander (*Ambystoma californiense*) was listed as threatened by USFWS in
2003 and threatened by CDFW in 2010. Suitable habitat for these listed species, and most native plant and animal species, would continue to be lost in the future by new urban development in the Planning Area.

Sacramento County is projected to experience an increase in population from 1,475,381 in 2015 to 2,153,833 by 2060, representing a growth of 678,452 persons (46%) over the next 45-year period (DOF 2015). A large portion of this population growth is expected to occur in southern Sacramento County, within the Planning Area. This expected Planning Area population growth will require new housing, new economic development (businesses), and new supporting infrastructure, such as roads and utilities. To meet the future housing demand of this increasing population, an estimated 245,816 new housing units will be needed in Sacramento County by 2060 (DOF 2015b). If agricultural land in Sacramento County is converted to new urban development at the same rate as in the past (about 0.1 acre per person\(^3\)), then approximately 68,000 acres of existing grazing land and cropland would become urbanized between 2014 and 2060.

The Planning Area local jurisdictions must balance the needs to provide for population growth and associated urban development with the need to continue agricultural production in Sacramento County and the need to protect the native plant and wildlife species and associated terrestrial and aquatic natural communities of Sacramento County.

**The Existing Environmental Regulatory Processes**

The Planning Area land-use jurisdictions (Sacramento County, Galt, and Rancho Cordova) anticipate that landowners and individuals will continue to request approval of new urban development projects until all remaining undeveloped lands within the UDA have been developed. The land-use jurisdictions also anticipate a continued need to provide new transportation, utility, and other infrastructure facilities inside the UDA, and in the rural areas outside the UDA, to accommodate the anticipated Sacramento County population growth.

In the past, “leapfrog development” has occurred in the Planning Area, where new development is placed in a location distant from existing development. This leapfrog development has resulted in greater costs to local land-use jurisdictions to connect the leapfrog development to existing utility infrastructure; greater vehicle miles travelled since leapfrog development residents must drive farther to reach jobs and services, causing increased adverse traffic and air quality effects; and new urban/agriculture or urban/wildland interfaces, increasing the potential for conflicts between these land uses. The USB, which provides a

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\(^3\) This number was derived by dividing the 180,248 acres of urbanized land (DOC 2015) by 1,433,510 residents of Sacramento County in 2012 (DOF 2015b).
geographic limit to where Sacramento County urban services would be delivered, was established, in part, as a mechanism to reduce leapfrog development. The Planning Area land-use jurisdictions seek to develop and promote further mechanisms to encourage an orderly pattern of development extending out from the existing developed areas, focusing development within the UDA and discouraging future leapfrog development.

Currently, urban development projects coordinate with and seek approvals from multiple federal and state agencies for each individual project. This often results in a process that is lengthy, complex, and costly. Common local, state, and federal agency approval efforts include:

- Preparing a biological assessment for the project and consulting with the USFWS under the ESA and/or CDFW under CESA when there are potential effects to threatened or endangered species
- Conducting a wetland delineation and obtaining permits from USACE under Section 404 of the CWA for discharges of dredged and/or fill material into wetlands and other waters of the United States
- Obtaining authorization from the RWQCB under Section 401 of the CWA to support the CWA 404 permit from USACE
- Obtaining authorization from CDFW for modification to a river, stream, or creek through a Streambed Alteration Agreement pursuant to Section 1600 of the California Fish and Game Code.

To obtain all necessary agency approvals, an individual project proponent typically must consult and coordinate with several regulatory agencies, including those identified in the bullet list above, as well as the local land-use authority jurisdiction. Application packages for each agency differ, and similar data may need to be compiled and presented in a different manner for each agency, increasing the time and labor expended by project proponents. A consolidation of permit applications, or increased consistency across separate permit applications, would increase the efficiency of the existing permitting processes.

As project proponents proceed through the different agency approval processes, mitigation requirements of the different laws and statues may also differ or conflict. (For example, aquatic resources [under the jurisdiction of the CWA 404] may also provide habitat for ESA and/or CESA listed species, and mitigation requirements under each law may differ or conflict.) One law may promote avoidance and preservation of resources on the project site, while another law may promote establishment of resource preserves outside the project site. Considerable time and effort may be expended by project proponents and by agency personnel to coordinate and develop a single acceptable project-mitigation approach that is suitable for all project regulatory approvals.
If a project design changes to meet the requirements of one environmental law, the applicant may have to reinitiate discussions with every other regulatory agency through an iterative and lengthy process to find a project design that meets all regulatory requirements, including the requirements of the local land-use authority’s development policies and goals. In many instances, project changes are implemented to comply with one set of regulatory requirements, resulting in the need to coordinate the changes with the other regulatory agencies and potentially triggering recirculation of completed project-level CEQA or NEPA documents, if the project is sufficiently altered.

The current regulatory review process is a series of project-by-project individual permitting efforts. Mitigation to compensate for project effects is determined separately for each project, which has resulted in a number of scattered and relatively small-sized preserves located within the project site, or located off-site. Past development projects would often preserve the greatest acres of aquatic resources in the smallest area of a project site to maximize the available area of development and concurrently minimize mitigation costs. Projects often chose mitigation sites with little consideration to the quality of the species habitat in the preserved areas, or the adverse indirect effects of surrounding the preserve with new development, including habitat fragmentation and permanent isolation of preserved populations from other populations of the same species. Where mitigation preserves are isolated and have little connectivity to other areas of remaining natural habitat, the movement and dispersal of wildlife and dispersal of plant seed and propagules decrease as habitat isolation increases. Many of the existing preserves, particularly in the UDA portion of the planning area, are now surrounded by urban development and are isolated from other areas of natural habitat (see Figure 1-2, Existing Preserves).

Similarly, mitigation sites preserved outside of a project site (i.e., were “off site”) were often selected by the project proponent based on factors such as existing ownership by the project proponent or the ability to acquire the land at a lower cost, and site selection often did not give high priority to maximizing species habitat values or maintaining habitat connectivity.

Another concern with smaller or isolated preserves is that they may provide habitat for only part of a species’ life history needs. As new development occurs around the preserve, eliminating nearby habitat needed for other parts of the life history, the species may no longer use the preserve. For example, the loss of foraging habitat around a preserve may make the nesting or breeding habitat protected in the preserve no longer viable.
Figure 1-2  Existing Preserves
Another outcome of the existing project-by-project review process is that mitigation preserves within the Planning Area are currently monitored and managed by several different entities and organizations, with a range in the quality of monitoring and habitat management. In some cases, required obligations or performance standards have not been met over the long term.

At present, the local land-use jurisdictions do not have a single coordinated plan for protecting or conserving the best of the remaining natural communities, the largest populations of native species, or the existing functions and benefits of the remaining aquatic resources in the Planning Area. If there were a mechanism to define which natural areas are of the highest preservation priority in the Planning Area, as well as high priority within important ecological subdivisions of the Planning Area (such as individual watersheds), then the mitigation efforts of each individual project would be better able to conserve Planning Area native species and their habitats, including species listed under the ESA and CESA, and maintain the existing physical, chemical, and biological functions and services of wetlands in the Planning Area.

A streamlined project review and permitting process that more efficiently integrates the multiple regulatory approval processes could reduce expenditures of the project proponents, the local land-use jurisdictions, and the regulatory agencies. Currently, regulatory agency staff must expend significant time and agency resources to respond to large numbers of individual approvals or permit applications submitted on a project-by-project basis. A streamlined project review and permitting process could also increase regulatory certainty for project proponents and increase agency project review efficiency, support identification of the most environmentally protective project alternatives, and allow more predictability of project budgets and schedules.

In addition, Sacramento County, Rancho Cordova, and Galt want new urban development to include “sound land use” planning principles, which include consolidating development to promote walkable neighborhoods and promote use of mass transit, and support the efficient provision of utilities and infrastructure. A streamlined and integrated project review and permitting process could help the local land-use jurisdictions achieve these principles.

**Conclusion**

The background information presented above summarizes the needs and goals of the parties involved in the ITP permit application, and also identify underlying problems and opportunities within this Planning Area to which the lead agencies wish to respond. The lead agencies considered the background information presented in Section 1.3.1, as well as the public interest, as they identified the broad purposes and needs and identified the detailed objectives listed in Sections 1.3.2 and 1.3.3.
1.3.2 Purpose and Need Statement

In response to receiving a request for authorization of species incidental take that is expected to result from future housing construction, other new urban development, and new supporting infrastructure within the Planning Area, the USFWS proposes to issue an ITP to the Permit Applicants. A purpose of that proposed federal action is to comprehensively protect and conserve multiple ESA and CESA listed species and other native species; to conserve, enhance, and restore the habitats and ecosystems upon which these native species depend, including aquatic resources and aquatic habitats; and to ensure the long-term survival of these species for the continuing benefit of the American people in Sacramento County, California.

In proposing alternative conservation plans, the lead agencies seek to accommodate the population growth and associated planned housing, economic development, and infrastructure expected within the Planning Area, using a streamlined environmental permitting process, while maintaining the existing richness of native plant and animal species in the south Sacramento County Planning Area and the natural ecosystems and agricultural lands on which these species depend.

1.3.3 Objectives

The following 18 objectives were identified to meet the above-stated purposes and needs:

1. Include an interconnected preserve system throughout the Planning Area that is large enough to maintain in perpetuity each type of natural community that is native to the Planning Area, maintain in perpetuity each type of native plant and animal species present within the Planning Area, and maintain in perpetuity or expand the existing distribution of each native animal and plant species within the Planning Area.

2. Locate preserves in areas that maximize protection of native plant and animal species and the ecosystems on which they depend.

3. Locate preserves in areas that maximize the protection of intact watersheds and watershed functions.

4. Protect large, contiguous blocks of species habitat. Provide habitat linkages between preserves that are wide enough to allow dispersal of individual native animals and plants and allow genetic exchange between species populations.

5. Protect sufficient cropland and irrigated pasture to provide important foraging habitat on which some native animal species now depend (e.g., Swainson’s hawk, white-tailed kite).

6. Preserve adequate roosting and foraging habitat for the greater sandhill crane in the area between the existing Stone Lakes National Wildlife Refuge and the existing
Cosumnes River Preserve, to maintain or increase the population of greater sandhill crane over-wintering within the Planning Area.

7. Protect the long-term viability of ranching and farming operations in the Planning Area (consistent with other objectives).

8. Protect all currently documented occurrences and any newly discovered occurrences of Sacramento Orcutt grass, slender Orcutt grass, and Ahart’s dwarf rush in the Planning Area.

9. Avoid or minimize impacts to state and federally listed species and their habitats, to the maximum extent practicable.

10. Avoid or minimize impacts to the existing physical, chemical, and biological functions and services of wetlands and streams in the Planning Area to the maximum extent practicable.

11. Achieve no net loss of the existing functions and services of aquatic resources in the Planning Area. Methods used to achieve no net loss may include the re-establishment and establishment of vernal pools and other aquatic land cover types.

12. Include a long-term preserve monitoring and habitat management program sufficient to maintain or improve habitats of targeted native plant and animal species in perpetuity.

13. Support the development and implementation of streamlined aquatic resource permitting programs under CWA 404, CWA 401, Porter-Cologne, and Section 1600 of the California Fish and Game Code (Streambed Alteration Agreements) by the federal and state agencies with responsibility for implementing those statutes within the Planning Area.

14. Facilitate the recovery of federally listed species, and provide sufficient preservation of federally designated recovery areas within the Planning Area.

15. Include adequate amount of urban development with associated fees to meet Objectives 1 through 14. In addition, the associated mitigation-fee structure must be practicable, with fees that are analogous to fees collected under other Northern California permitted HCPs that have similar species habitats and similar impacts.

16. Allow an adequate amount of urban development within the currently adopted spheres of influence for Rancho Cordova and Galt, and the currently adopted USB for Sacramento County, to discourage expansion beyond these boundaries and maintain the sound land use planning principles these boundaries encourage (e.g., preventing sprawl outside the USB and leap-frog development; consolidating development to support the efficient provision of utilities and infrastructure; promoting compact mixed-use development that supports viable transit and walkable areas; creating communities with a variety of housing types that support different income levels and socioeconomic conditions; and maintaining compliance with air quality laws and regulations that influence or are influenced by land use decisions such as Assembly Bill 32, Senate Bill 375, and the Clean Air Act).
17. Include as Covered Activities the SSHCP Permit Applicant’s transportation, utility, and other infrastructure activities and projects as described in the approved master plans of the SSHCP Permit Applicants (Sacramento County, Galt, Rancho Cordova, SCWA, and Connector JPA).

18. Rely on willing sellers for the purchase of land or easements when establishing habitat preserves; do not include condemnation or eminent domain to meet the project needs, purposes, and objectives.

1.4 EIS/EIR SCOPE AND CONTENT

Under NEPA, the “scope” of an environmental document is defined as the range of actions, the range of alternatives, and the impacts to be considered (40 CFR 1508.25). Actions include any connected actions, any cumulative actions, or any similar actions. The types of impacts must include the direct, indirect, and cumulative impact of all alternatives considered (40 CFR 1508.25). Under CEQA, when soliciting input on the scope of an EIR, the lead agency is seeking information on significant environmental issues to be addressed in the EIR, reasonable alternatives, and mitigation measures (CEQA Guidelines, Section 15082[b]). Under both NEPA and CEQA, the process of gathering input from the public, agencies, and interested parties on the scope of an environmental document prior to its preparation is referred to as “scoping” or the “scoping process.”

The scope and content of this EIS/EIR was shaped by the CEQ regulations for implementing NEPA, the requirements for an EIR provided in the CEQA statute and CEQA Guidelines, public and agency comments received during the EIS/EIR scoping process (described further in Sections 1.4.1 and 1.4.2), input from the Cooperating Agencies, input from the interdisciplinary EIS/EIR preparers, and the independent judgment of the lead agencies. Environmental resource topics that were considered for analysis in the EIS/EIR were guided, in part, by the initial study checklist that is provided in Appendix G of the CEQA Guidelines, which was adjusted as part of the scoping process.

The process and outcome for the selection of alternatives/actions is described in Chapter 2. Environmental Impacts and any associated mitigation measures are described within each environmental resource chapter of this EIS/EIR. See Chapter 3, Section 3.2, Resource Topics Evaluated in the Remaining Chapters, for a list of EIS/EIR resource chapters.

1.4.1 Summary of EIS/EIR Scoping Process

Scoping is the process used to determine the content (scope) of an EIS and/or EIR. The scoping process is used to help lead agencies identify the range of actions, alternative actions, potential impacts, mitigation measures, and the significant issues deserving of study in an EIS or EIR.
Scoping also helps lead agencies identify and eliminate from detailed study the issues that are not relevant or that have been analyzed in prior environmental documents or studies, thereby deemphasizing insignificant issues and narrowing the scope of the EIS or EIR (40 CFR 1501.1[d]; 40 CFR 1501.7; 43 CFR 46.235; CEQA Guidelines, Section 15082).

The scoping process includes internal scoping of lead agency interdisciplinary staff experts and external scoping of the public and other agencies. Lead agencies also use scoping to engage state, local, and tribal governments and the public in the early identification of concerns and information relevant to the preparation of the EIS/EIR (43 CFR 46.435).

Tools used to determine the scope of this EIS/EIR included publication of the Notice of Intent (NOI) and Notice of Preparation (NOP) pursuant to NEPA and CEQA, respectively; informal stakeholder and interagency meetings; public scoping meetings; and public workshops.

Public scoping processes for the SSHCP EIS/EIR occurred in 2008 and again in 2013. Elements of each scoping process are briefly summarized below. More detailed scoping summary reports that include copies of the NOIs and NOPs, public scoping meeting materials, and the scoping comments received during the 2008 and 2013 scoping processes are provided in EIS/EIR Appendix B.

**Public Scoping Notices and Meetings**

In 2008, the scoping process began on June 10 with the publication of the NOI in the Federal Register (pursuant to NEPA) and submittal of the NOP to the State Clearinghouse (pursuant to CEQA). NOPs (and often NOIs for joint NEPA/CEQA documents) are provided to the State Clearinghouse as part of the CEQA review process, and the Clearinghouse distributes the NOPs to various California state agencies. The NOI and NOP notified the public and agencies of the SSHCP; the intent to prepare an EIS/EIR; and the time, date, and location of public scoping meetings. The public was also invited to participate in the scoping process through a variety of media, including e-mail and hard-copy mailers. Display ads of the meeting announcement were also published in the Sacramento Bee (July 1, 2008), Grapevine (July 4, 2008), Galt Herald (July 2, 2008), and River Valley Times (July 2, 2008). In addition, the Elk Grove sent a meeting announcement attached to each resident’s utility bill informing them of the scoping meetings.

USFWS, as the NEPA lead agency, and Sacramento County, as the CEQA lead agency, held four joint public scoping meetings on the following dates and times:

- July 8, 2008, from 6:30 p.m. to 8:30 p.m. in Galt
- July 11, 2008, from 10 a.m. to 12:00 p.m. in Sacramento
- July 15, 2008, from 6:30 p.m. to 8:30 p.m. in Rancho Cordova
- July 16, 2008, from 6:30 p.m. to 8:30 p.m. in Elk Grove.
For the four meetings, a total of 79 people signed in as meeting participants. Each meeting began with a brief presentation, followed by an open house-style forum where informational poster boards were available for review and staff from the lead and cooperating agencies were available to answer questions.

In 2013, the draft SSHCP had been further refined, some conditions had changed, and sufficient time had elapsed that the lead agencies felt that a second public scoping process was warranted. Public scoping began on October 28, 2013, with an NOP provided to the State Clearinghouse (pursuant to CEQA) and on November 4, 2013, with the publication of a NOI in the Federal Register (pursuant to NEPA). The NOI and NOP notified the public and agencies of the SSHCP; the intent to prepare an EIS/EIR; the circumstances for initiating the second scoping process; and the time, date, and location of public scoping meetings. The NOI or NOP were mailed to over 200 recipients in and around Sacramento County, including non-profit groups, media outlets, stakeholders, and local and state agencies. A news release for the NOI was also sent to six media outlets and was also available for review on the USFWS’s website. The NOP was also posted on a project website developed specifically for the SSHCP.

USFWS, as the NEPA lead agency, and Sacramento County, as the CEQA lead agency, held two joint public scoping meetings on the following dates and times:

- November 20, 2013, from 6:30 p.m. to 8:30 p.m. in Galt
- November 21, 2013, from 2:00 p.m. to 4:00 p.m. in Sacramento.

For the two meetings, a total of 29 people signed in as meeting participants. Each meeting included a brief presentation and an open house forum where informational poster boards were available for review and staff from the lead agencies were available to answer questions.

In 2008 and 2013, the lead agencies also contacted the Native American Heritage Commission (NAHC) to obtain a list of tribes, individuals, and organizations that may have knowledge of heritage lands or other resources of interest that could potentially be affected by implementation of an HCP in the Planning Area. The 2008 and 2013 NOIs and NOPs (EIS/EIR Appendix B) were sent to the NAHC through the standard distribution to state agencies via the California State Clearinghouse, and sent directly to the tribal contacts provided by the NAHC at that time. At the time of this writing, no comments on the NOI and NOP or requests for further consultation were received.

The most recent list received in 2015 from the NAHC provided 19 tribal contacts for south Sacramento County. Copies of the draft EIS/EIR will be mailed directly to the tribal contacts provided by the NAHC. USFWS is conducting outreach to federally recognized tribes in the Planning Area during the EIS/EIR process. This process will be completed and tribal input
considered before the USFWS prepares their Record of Decision. In addition, compliance with Section 106 of the National Historic Preservation Act (NHPA 106) may require USFWS to consult with the State Historic Preservation Officer.

1.4.2 Significant Issues Identified in Public Scoping

During the 2008 scoping process, a total of approximately 80 comment letters, including emails, from individuals, businesses, organizations, and agencies were received. The primary issues identified in these comments include the following:

- The proper geographic scope of the SSHCP and EIS/EIR, such as considering effects in adjacent areas and addressing the Elk Grove sphere of influence
- Effects of plan implementation on agriculture, including grazing
- Regulatory topics such as consistency with USACE mitigation regulations and the potential role of mitigation banks.

During the 2013 scoping process, a total of 84 comments were received via letters, e-mails, written comments provided at scoping meetings, and oral comments provided at scoping meetings and via telephone. The primary issues identified in these comments include the following:

- Compliance with air quality regulations and the potential effects of air quality on Covered Species and human health
- Consistency of the SSHCP with planning efforts in the Sacramento/San Joaquin Delta
- Coordination of the SSHCP with the activities and planning of local jurisdictions, agencies, and land management organizations that are not SSHCP Permit Applicants
- Adequacy of funding for SSHCP implementation
- Consideration of alternatives related to inclusion of Covered Activities and locations available for preserves
- Projects and activities to include in the analysis of cumulative impacts, such as infrastructure impact from the proposed Cordova Hills project and potential development associated with the Elk Grove sphere of influence
- The placement of grazing lands in land cover classifications (agricultural or annual grassland)
- Use of best available science and data, such as recent research on tri-colored blackbird
- Questions and suggestions regarding the funding, selection, acquisition, location, and management of preserve system lands
- Integration of mosquito and vector control with SSHCP implementation and preserve system management
• Integration of the SSHCP with issues of water supply and water rights.

All of the 2008 and 2013 scoping comments were considered by the lead agencies during the development and preparation of the EIS/EIR. However, scoping comments did not identify areas of potential impacts or environmental analyses that were not already anticipated for inclusion in the EIS/EIR by the lead agencies (see Chapter 2, Section 3.2 for a list of resource chapters included in this EIS/EIR). Scoping comments related to potential EIS/EIR alternatives deserving of study are discussed further in Chapter 2.

1.5 DECISIONS TO BE MADE

Implementation of the SSHCP would require permits and approvals from the lead agencies as well as public agencies other than the lead agencies. This section describes the uses of this EIS/EIR by the lead agencies as well as the cooperating and responsible agencies. This section also satisfies the requirements of 40 CFR 1502.25 stating that a Draft EIS shall list all federal permits, licenses, and other entitlements that must be obtained in implementing the proposal.

1.5.1 U.S. Fish and Wildlife Service

USFWS would use the EIS/EIR to comply with NEPA for their issuance of ITPs to the Permit Applicants. As the lead agency under NEPA, USFWS must make a determination whether the EIS/EIR scope and impact analysis is adequate to provide NEPA compliance for its decision whether to issue an ESA Section 10(a)(1)(B) ITP for SSHCP Covered Species. In addition, it must select a preferred EIS/EIR alternative. If USFWS decides to issue the ITP, it would also decide to sign the SSHCP Implementing Agreement. The purpose of an HCP Implementing Agreement, when used, is to ensure that each permittee and all other parties understand their roles and responsibilities under the HCP, ESA ITP, and CESA ITP, and to provide remedies should any party fail to fulfill its obligations (USFWS and NOAA 2016).

ESA Section 10(a)(2)(B) requires that specific permit issuance criteria be met before USFWS may issue ITPs, and the USFWS must decide if those criteria would be met before selecting the EIS/EIR Alternative.

Permit Issuance Criteria

The issuance criteria for an ITP are contained in ESA Section 10(a)(2)(B) and the implementing regulations for ESA (50 CFR 17.22(b)(2) and 50 CFR 17.32(b)(2)). These issuance criteria are listed below.

1. All taking of covered species must be incidental to otherwise lawful activities.
2. The applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking.
3. The applicant will ensure adequate funding for the HCP.
4. The applicant will provide procedures to deal with changed circumstances, including adequate funding to address such changes.
5. The taking will not appreciably reduce the likelihood of survival and recovery of the species in the wild.
6. The applicant will ensure that other measures that USFWS may require will be provided.
7. The USFWS has received assurances that the HCP will be implemented by the applicants.

An applicant must prepare and submit to USFWS for approval an HCP containing the mandatory elements of Section 10(a)(2)(A) before an ITP can be issued. Accordingly, the HCP must specify the following information.

1. The impact that will likely result from the taking.
2. What steps the applicant will take to monitor, minimize, and mitigate such impacts; the funding available to implement such steps; and the procedures to be used to deal with unforeseen circumstances.
3. What alternative actions to such taking the applicant considered and the reasons why such alternatives are not proposed to be used.
4. Such other measures that USFWS may require as being necessary or appropriate for the purposes of the plan.

The determination as to whether the criteria have been met would be described in USFWS’s permit decision package, which includes a Biological Opinion prepared pursuant to Section 7 of ESA, an appropriate final NEPA document, and ESA Findings prepared pursuant to ESA Section 10. These documents are produced and the permit decision package compiled after the NEPA process is completed. The permit decision package would contain the rationale behind USFWS’s decision to either approve or deny a Section 10(a)(1)(B) permit application.

USFWS may decide to issue the ITP, which would contain standard permit terms and conditions, and may also contain additional permit terms and conditions appropriate for the operational SSHCP. Alternatively, USFWS may deny the ITP application. Permit denial regulations are explained in 50 CFR 13.21(b).

**ESA Section 7**

Issuance of an ITP is a federal action, which is subject to Section 7 of ESA. ESA Section 7(a)(2) requires all federal agencies consult with USFWS to ensure that any action “authorized, permitted, funded, or carried out” by any such agency “is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the
destruction or adverse modification” of Critical Habitat. The USFWS Sacramento Field Office would conduct an internal Section 7 consultation with the USFWS Region 8 office concerning its decision to issue ITPs to the SSHCP Permit Applicants. The results of this internal consultation would be documented in a Biological Opinion, which would be prepared by the USFWS Sacramento Field Office after completion of the NEPA process. Although the provisions of ESA Section 7 and ESA Section 10 are similar, Section 7 and its regulations also require an analysis of the HCP’s direct and indirect effects, a jeopardy analysis for federally listed plants, and effects on Critical Habitat.

**NEPA**

Issuance of an ITP is a federal action, which is also subject to NEPA. As discussed in Section 1.2.1, USFWS has determined that issuance of ITPs for the SSHCP, a large regional HCP, is a major federal action likely to result in a significant effect on the environment, and therefore, the preparation of an EIS is warranted. The ESA Section 10’s Five-Point Policy (USFWS and NOAA 2000) also requires preparation of an EIS for large regional HCPs. The USFWS’s NEPA process would culminate in the preparation of a Record of Decision (ROD), a NEPA document which would document USFWS’s final decision on the alternatives analyzed in this joint EIS/EIR.

The USFWS ROD would state the USFWS decision, identify all alternatives considered by the USFWS in reaching that decision, and identify the alternative considered to be environmentally preferable by the USFWS, **identify the environmentally preferable alternative (see Section 17.7), and identify the USFWS’s preferred alternative.** The ROD must discuss preferences among alternatives based on relevant factors including the agency’s statutory mission, economic, and technical considerations, and would identify and discuss considerations that were balanced by the USFWS in making its decision and how those considerations entered into the decision. The ROD would state whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and the ROD would require a monitoring and enforcement program be adopted for conservation preserves and any additional mitigation measures.

**1.5.2 Sacramento County**

The EIS/EIR would be used by the five Permit Applicants to approve the SSHCP in compliance with CEQA. As discussed in Section 1.2.2, Sacramento County is the lead agency under CEQA and would be the first of the Permit Applicants to make a decision to certify that the EIS/EIR impact analysis is adequate to provide CEQA compliance for its decision to approve the SSHCP (or other action alternative). As the lead agency under CEQA, Sacramento County may also need to make Findings of Fact and Statements of Overriding Considerations pursuant to CEQA if one or more significant effects associated with approval of the SSHCP are identified. The County
would also file a Notice of Determination (NOD) upon adopting the SSHCP. In addition, Sacramento County would sign the SSHCP Implementing Agreement.

Once the SSHCP is adopted, as a Permit Applicant with land use authority, Sacramento County would use the information and analysis in the EIS/EIR to support future decisions related to the SSHCP, such as approval of a local SSHCP implementation ordinance or an implementation resolution. The ordinance or resolution would enable the County to enforce the requirements and commitments of the adopted SSHCP.

Sacramento County and other Land-use Authority Permit Applicants would also use the information and analysis in the EIS/EIR, as well as additional CEQA documentation if required, in making a decision to approve an aquatic resource protection ordinance that would enable Sacramento County and other Land-use Authority Permit Applicants to implement the requirements and commitments of the ARP, including consistent with the requirements of a USACE’s proposed issuance of a CWA 404 programmatic general permit (PGP) to be implemented by Sacramento County and the other Land-use Authority Permit Applicants.

As discussed in Section 1.1, each SSHCP Permit Applicant with land use authority is also requesting a Master Streambed Alteration Permit from CDFW for future SSHCP Covered Activities and is requesting a programmatic CWA 401 permit strategy from the RWQCB for future SSHCP Covered Activities (see Sections 1.5.4, 1.5.6, and 1.5.7 regarding these proposed Covered Activity permit strategies).

In addition, the County would use the information and analysis in the EIS/EIR in its decision to create the South Sacramento Conservation Agency, a new Joint Powers Authority that would function as the SSHCP Implementing Entity, as discussed previously in Section 1.1 and in Section 2.3.7.

1.5.3 Other Permit Applicants

Galt and Rancho Cordova. As discussed in Section 1.2.2, each Permit Applicant is a responsible agency under CEQA and would be required to consider the EIS/EIR and make findings, pursuant to CEQA. Galt and Rancho Cordova would use the information and analysis in the EIS/EIR to aid in their decision to adopt the SSHCP (i.e., approve the proposed Plan) and to sign the SSHCP Implementing Agreement. Galt and Rancho Cordova would each file an NOD upon adopting the SSHCP.

Once the SSHCP is adopted, as Permit Applicants with land use authority, Galt and the Rancho Cordova would use the information and analysis in the EIS/EIR to support future decisions related to the SSHCP, such as approval of their SSHCP implementation ordinance or an
IMPLEMENTATION resolution. The respective ordinances or resolutions would enable each city to enforce the requirements and commitments of the adopted SSHCP.

Each of these jurisdictions would also use the information and analysis in the EIS/EIR in making a decision to approve an aquatic resource protection ordinance that would enable each City to implement the requirements and commitments of the ARP, including consistent with the requirements of the Corps' proposed CWA 404 PGP to be implemented by Rancho Cordova, the Galt, and Sacramento County.

As discussed in Section 1.1, each SSHCP Permit Applicant with land use authority is also requesting a Master Streambed Alteration Permit from CDFW for future SSHCP Covered Activities, and is requesting a programmatic CWA 401 permit strategy from the RWQCB for future SSHCP Covered Activities (see Sections 1.5.4, 1.5.6, and 1.5.7 regarding these permit strategies).

In addition, Rancho Cordova and Galt would use the information and analysis in the EIS/EIR in their decision to create the South Sacramento Conservation Agency, a new Joint Powers Authority that would function as the SSHCP Implementing Entity, as discussed previously in Section 1.1 and in Section 2.3.7.

**SCWA and the Connector JPA.** As Permit Applicants, the SCWA and the Connector JPA are responsible agencies under CEQA and would be required to consider the EIS/EIR and make findings pursuant to CEQA. The SCWA and the Connector JPA would use the information and analysis in the EIS/EIR to aid in their decision whether to adopt the SSHCP, and to decide to sign the SSHCP Implementing Agreement. The SCWA and the Connector JPA would each file an NOD upon adopting the SSHCP.

The SCWA and the Connector JPA do not have authority to approve land-use decisions, and therefore do not need to make decisions related to adoption of an implementing ordinance/resolution, adopting an aquatic resource protection ordinance, or creation of the SSHCP Implementing Entity. As discussed in Section 1.1, the SCWA and the Connector JPA are requesting ITPs only for Covered Activity projects and activities that they directly implement.

**1.5.4 U.S. Army Corps of Engineers**

The USACE would use the information and analysis in the EIS/EIR in its decision making on a multilevel CWA Section 404 permitting program for future SSHCP Covered Activity projects and activities that discharge dredged or fill material to wetlands and other waters of the United States (see USACE 2015). The proposed multilevel CWA 404 permit strategy would draw upon the content of the SSHCP, the ARP, and aquatic resource protection ordinances that would be implemented by the Land-use Authority Permit Applicants (see Section 1.1).
A primary goal of ARP implementation is to achieve an overall no net loss of aquatic resource functions and services in accordance with the USACE and EPA’s 2008 Compensatory Mitigation Rule, 33 C.F.R. Parts 325 and 332, Compensatory Mitigation for Losses of Aquatic Resources: Final Rule (Mitigation Rule). The draft ARP discusses and explains the proposed regional SSHCP Preserve System (and other elements of the SSHCP Conservation Strategy) in terms of a unified watershed strategy for improving the protection and management of Planning Area aquatic resources, and the ARP provides an evaluation of aquatic resources within the Planning Area. The proposed USACE’s multilevel CWA 404 permit strategy being developed consists of:

- A PGP, founded on a local aquatic resources protection program and designed to reduce duplication with that program, for future Covered Activities with minimal individual and cumulative effects on aquatic resources. The PGP would be implemented by the three land-use authority Permit Applicants (i.e., Sacramento County, Galt, and Rancho Cordova).
- A regional general permit (RGP), if needed, for future Covered Activities with minimal individual and cumulative effects on aquatic resources that do not fall under qualify for the PGP.
- A procedure for issuing Letters of Permission (LOPs) for future Covered Activities with more than minimal effects, but less-than-significant effects, on the human environment, including aquatic resources.
- An abbreviated process for issuing standard permits (SPs) for other Covered Activity impacts that do not qualify for the PGP, RGP, or the LOP procedure.

Each of these permit approaches is summarized in the USACE white paper, CWA 404 Permit Strategy Aligned with the South Sacramento Habitat Conservation Plan (EIS/EIR Appendix C), which contains the draft CWA 404 permit instruments (e.g., PGP) and procedures (e.g., LOP).

**NEPA**

As a cooperating agency on the SSHCP EIS/EIR, the USACE participated in the SSHCP EIS/EIR scoping processes discussed in Section 1.4. The USACE provided information to the lead agencies, and provided input on the sections of the EIS/EIR that concern the topics and issues that the USACE has both special expertise and jurisdiction by law, pursuant to NEPA regulations for cooperating agencies (40 CFR 1501.6; 43 CFR 46.230).

The USACE anticipates that the SSHCP NEPA process will be sufficient to comply with its regulatory mandates necessary to implement a CWA 404 permit strategy, including NEPA; its implementing regulations under 33 CFR Parts 320–332; and EPA’s 404(b)(1) Guidelines for the alternatives considered in the SSHCP NEPA process. If the USACE determines that the EIS/EIR NEPA process was not sufficient to develop a permitting strategy, or if there are
substantial changes in the baseline conditions, additional NEPA documentation may be determined by the USACE to be required. As part of its compliance documentation with EPA’s 404(b)(1) Guidelines, the USACE will also consider additional information outside of the purview of the NEPA process.

The USACE intends to complete a ROD that would document the agency’s decision regarding the CWA 404 permit strategy and bases thereof, including a discussion of alternatives considered and evaluation of the environmental consequences. Findings would be documented in the ROD with regard to all applicable CWA 404 regulations and other applicable laws, including a discussion of public interest review factors considered and the USACE public interest determination (33 CFR 320.4[a]), and a determination of compliance with the Section 404(b)(1) Guidelines (40 CFR 230).

**ESA Section 7**

The USACE Sacramento District would request one consultation with the USFWS under ESA Section 7 that provides a single Biological Opinion for species take expected in association with all future SSHCP Covered Activities that would utilize the above-described CWA 404 permit strategy. This comprehensive Section 7 consultation would involve a review of all USACE actions under the proposed multilevel CWA permitting strategy for future SSHCP Covered Activities, and would be conducted simultaneously with the development of the SSHCP to assist the USFWS in assessing overall effects on individual species, groups of species, and ecosystems from multiple actions implemented by several parties under the HCP.

The USACE and the USFWS would complete this comprehensive and ecosystem-based consultation before the USACE decision to approve or deny the proposed multilevel CWA 404 permitting program.

As the final EIS/EIR was prepared, the USFWS continued to coordinate with USACE to discuss the most efficient approach to achieving ESA section 7 compliance for the Corps’ section 404 CWA permit strategy for future SSHCP covered activities. This approach will be described and documented prior to the Service’s completion of the Record of Decision and issuance of the SSHCP ITP. The intent of USFWS is to provide the Corps with one biological opinion that will reflect compliance with ESA section 7(a)(2) for section 404 CWA permitting of SSHCP Covered Activities, and preclude the need for project-level consultations on individual SSHCP Covered Activities.

**NHPA Section 106**

Projects and activities authorized by the USACE under CWA 404 must comply with Section 106 of NHPA 106. The NHPA protects cultural resources that are listed or are eligible to be listed on
the National Register of Historic Places. To meet the NHPA 106 requirements for CWA 404 permits for future SSHCP Covered Activities, the USACE may develop a Programmatic Agreement with the State Historic Preservation Office specifically to address NHPA 106 consultations on future SSHCP Covered Activities authorized under CWA 404. If this were to occur, as part of developing a Programmatic Agreement, the USACE would consult with regional Native American tribal contacts, and it may consider establishing a Memorandum of Understanding (MOU) with Native American tribes concerning future coordination and the protection of cultural resources.

1.5.5 U.S. Environmental Protection Agency

Among the roles and responsibilities of the EPA is to review and comment on CWA Section 404 permit applications. The EPA determines appropriateness of maintaining oversight on CWA 404 permit actions and determines confirms consistency of a CWA 404 permit actions with the regulations and policies of the CWA Section 404 program. If the USACE decides to issue a 404 permit, the EPA may object to the issuance of a permit as part of its review and comment role. Under Section 404(q) of the CWA, and pursuant to a Memorandum of Agreement (MOA) between the Secretary of the Army and the Administrator of the EPA, if EPA objects to issuance of a Section 404 permit, it may initiate a process where the permit decision is elevated to higher levels of review within USACE and the Department of the Army. If resolution cannot be achieved, EPA may ultimately initiate a “veto” action pursuant to Section 404(q) of the CWA. Section 404(q) requires the following:

Not later than the one-hundred-eighthieth day after the date of enactment of this subsection, the Secretary shall enter into agreements with the Administrator, the Secretaries of the Departments of Agriculture, Commerce, Interior, and Transportation, and the heads of other appropriate Federal agencies to minimize, to the maximum extent practicable, duplication, needless paperwork, and delays in the issuance of permits under this section. Such agreements shall be developed to assure that, to the maximum extent practicable, a decision with respect to an application for a permit under subsection (a) of this section will be made not later than the ninetieth day after the date the notice of such application is published under subsection (a) of this section.

As a result, the Department of the Army entered into MOAs with the EPA, USFWS, and National Marine Fisheries Service related to procedures for elevating policy decisions or permit decision. If a permit decision is elevated to the Assistant Secretary of the Army for Civil Works (ASA-CW) by EPA, USFWS, and National Marine Fisheries Service, ASA-CW will either (1) inform the district engineer to proceed with final action, (2) inform the district engineer to proceed with final action in accordance with case-specific policy guidance, or (3) make a final permit decision in accordance
with 33 CFR 325.8. There isn’t a negotiation or resolution process with the agency requesting the elevation under the Section 404(q) MOA. Section 404(c) states the following:

The Administrator is authorized to prohibit the specification (including the withdrawal of specification) of any defined area as a disposal site, and he is authorized to deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site, whenever he determines, after notice and opportunity for public hearings, that the discharge of such materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas. Before making such determination, the Administrator shall consult with the Secretary. The Administrator shall set forth in writing and make public his findings and his reasons for making any determination under this subsection.

Therefore, under Section 404(c), EPA has the authority to veto permit actions. There is no requirement that EPA go through the process identified in the 404(q) MOA before going through the veto process. Therefore, EPA could veto a permit whether or not it elevated it under Section 404(q).

The EPA would be reviewing and commenting on the USACE’s proposed multilevel CWA 404 permit strategy for future SSHCP Covered Activities, including the proposed PGP permit action and potentially proposed RGP permit action, as a Cooperating Agency on this EIS/EIR, and via review of the USACE’s public noticing of the draft CWA 404 permit strategy. If the USACE decides to approve and implement the proposed CWA 404 permit strategy for future SSHCP Covered Activities, the EPA would retain its normal review and determine appropriateness of any and comment responsibilities in regard to future abbreviated LOPs or SPs applications issued for individual SSHCP Covered Activities. During these reviews, the EPA would use the information and programmatic analysis of Planning Area aquatic resources, species habitat, water quality, and hydrology impacts presented in the SSHCP EIS/EIR to the same extent that the USACE used that information and analysis for their decision to issue the PGP, RGP, LOP, and SP permits for SSHCP Covered Activities.

EPA also has comment authority under Section 309 of the Clean Air Act and under NEPA Section 102. The EPA would rate the draft SSHCP EIS/EIR and determine if the document is adequate, provides insufficient information, or is inadequate. In addition, EPA would rate the environmental impacts associated with the draft SSHCP EIS/EIR preferred action, with ratings on a scale from a lack of objections, environmental objections, to environmentally unsatisfactory. The rating system would provide a basis upon which EPA would make recommendations to the federal lead agency for improving the draft EIS/EIR.
1.5.6 California Department of Fish and Wildlife

CDFW participated in the preparation of the EIS/EIR as both a CEQA responsible agency and a CEQA trustee agency. The EIS/EIR would serve as the CEQA document that analyzes the regulatory permits issued by CDFW for the SSHCP. As a responsible agency under CEQA, CDFW would be required to consider the EIR for two CDFW decisions, as discussed below.

CESA Species Incidental Take Permit

CDFW would use the EIS/EIR and the SSHCP document in deciding whether to issue a CESA ITP under Section 2081 of the California Fish and Game Code for the incidental take of the SSHCP Covered Species that are listed as threatened or endangered under CESA (see Table 2-5 in Chapter 2).

CDFW would determine whether the information and analysis in the EIS/EIR is adequate to provide CEQA compliance for their CESA permit decision. CDFW would make the appropriate Findings pursuant to CEQA. CDFW would file a CEQA NOD, which would state that it has considered the EIS/EIR and would announce that CDFW has issued the CESA ITP for the SSHCP.

California Fish and Game Code Section 1600 Streambed Alteration Agreement

Section 1600 of the California Fish and Game Code requires that a Lake or Streambed Alteration Application be submitted to the CDFW for “any activity that may substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake.” CDFW reviews the proposed actions and, if necessary, submits to the applicant a proposal for avoidance and minimization measures to protect affected fish and wildlife resources. The final proposal that is mutually agreed upon by CDFW and the project applicant is called a Lake or Streambed Alteration Agreement.

Covered Activities that require a Streambed Alteration Agreement may also require a CWA Section 404 permit from the USACE. In these instances, the conditions of the CWA Section 404 permit and the StreambedAlteration Agreement may overlap. The Land-use Authority Permit Applicants (Sacramento County, Rancho Cordova, and Galt) are requesting CDFW to enter into a Master Streambed Alternation Agreement (MSAA) or a Long-term Streambed Alternation Permit (LTLSA) to address future Covered Activities occurring within stream zones (defined under Section 1602 of the California Fish and Game Code). The MSAA or LTLSA would be valid for 12 years and would be eligible for a one-time extension for a maximum period of 17 years. For the amount of time remaining under the 50-year SSHCP term following the expiration of the MSAA or LTLSA extension, Sacramento County, Rancho Cordova, and Galt would enter into a new MSAA or LTLSA agreement that would build upon the first agreement.
Under the proposed MSAA or the LTLSA, the Implementing Entity and the CDFW would develop an MOU to expedite CDFW reviews of future Covered Activities. The MOU would describe the Covered Activity permitting framework agreement between CDFW and the Implementing Entity, which is expected to include standardized procedures for Covered Activity avoidance, minimization, and compensatory mitigation requirements for impacts within a stream zone. Under the MOU, CDFW would allow Covered Activity project-proponents to submit a request for verification to the local Land Use Authority Permit Applicants or to the Implementing Entity (whoever has jurisdiction), and the Land Use Permit Applicant or Implementing Entity would act as a “clearinghouse” for the notification forms and would conduct an initial screening process to verify the project’s consistency with the SSHCP, the ARP, and the aquatic protection ordinances. The Land Use Permit Applicant or the Implementing Entity would then submit the notification forms to CDFW, who would review the Covered Activity projects under the MOU agreement. Under the MOU, CDFW would collect a fee for each streambed alternation notification submitted by the Implementing Entity, and CDFW would determine whether to use the MSAA (or LTLSA), or to issue an individual Lake or Streambed Alternation Agreement (LSA) for a Covered Activity project.

CDFW would decide whether to develop an MSAA or LTLSA under California Fish and Game Code Section 1600 with the three land-use authority Permit Applicants for future SSHCP Covered Activities. CDFW would consider the information and analysis in the EIS/EIR and make the appropriate Findings of Fact pursuant to CEQA on that decision. CDFW would file a CEQA NOD, which would state that it has considered the EIS/EIR and would announce that it has issued the MSAA or LTLSA.

1.5.7 Central Valley Regional Water Quality Control Board

As a responsible agency under CEQA, the Central Valley RWQCB would determine whether the information and analysis in this EIS/EIR is adequate to provide CEQA compliance for its discretionary decisions associated with the SSHCP.

Assuming the information and analysis of the proposed RWQCB decisions is adequate in the EIS/EIR, the RWQCB would make the appropriate Findings pursuant to CEQA and would file an NOD, which would state that it has considered the EIS/EIR in its decision to approve a programmatic CWA 401 permit strategy for future SSHCP Covered Activities. The RWQCB would use the NOD to disclose this decision.

Programmatic CWA Section 401 Water Quality Certification

Section 401 of the CWA requires any applicant for a federal license or permit conducting an activity that may result in a discharge of a pollutant into wetlands and other waters of the
United States to obtain a certification indicating that the discharge would comply with the state’s applicable effluent limitations and water quality standards. In California, the RWQCB administers CWA Section 401 requirements.

Parallel to the USACE’s proposed multilevel CWA 404 permitting strategy, the RWQCB has an opportunity to increase the efficiency of their CWA 401 permitting processes for future SSHCP Covered Activities, while improving the protection and management of aquatic resources in the Planning Area. The SSHCP, the ARP, and the aquatic resource protection ordinances could facilitate the Central Valley RWQCB’s development of these water quality certification strategies. The SSHCP Conservation Strategy provides aquatic resource avoidance, minimization, and mitigation measures that are consistent with the CWA Sections 404 and 401 implementing regulations and Porter-Cologne.

As discussed in Section 1.1, the SSHCP Permit Applicants are requesting that the RWQCB develop a programmatic Section 401 Water Quality Certification for future Covered Activities that qualify for the USACE’s proposed CWA 404 PGP or [potential] RGP processes (see Section 1.5.4). As with the USACE’s proposed CWA 404 General Permits (PGPs and [potential] RGPs), the programmatic 401 Water Quality Certification would authorize those SSHCP activities that cause no more than minimal individual and cumulative adverse impacts to aquatic resources within the Planning Area.

In addition, the RWQCB could adopt a more efficient Water Quality Certification process for the individual Covered Activities that would fall under qualify for the USACE’s proposed CWA 404 abbreviated LOP process procedure and/or the proposed CWA 404 abbreviated SP process (see Section 1.5.4).

RWQCB would use the information and analysis in the EIS/EIR when deciding whether to develop and approve (1) a programmatic Section 401 Water Quality Certification program for future Covered Activities with minimal individual and cumulative effects on aquatic resources that would fall under qualify for the proposed CWA 404 PGP or [potential] RGP processes; and (2) when deciding whether to develop a more efficient and shorter process for issuing individual Water Quality Certifications to future Covered Activities that require a CWA 404 LOP or a SP under the USACE’s proposed multilevel CWA 404 permitting processes strategy.

Programmatic Porter-Cologne Act Compliance

Porter-Cologne is California’s primary statute governing water quality and water pollution issues with respect to both surface waters and groundwater. Porter-Cologne grants the State Water Resources Control Board and the RWQCBs power to protect water quality, including authority to adopt plans and policies, to regulate discharges of waste to surface and
groundwater, to regulate waste disposal sites, and to require cleanup of discharges of hazardous materials and other pollutants. Projects that require a CWA Section 401 water quality certification, a CWA Section 404 permit, and/or a Streambed Alteration Agreement may also require a Report of Waste Discharge for wetlands and others waters of the state under the Porter-Cologne Act.

The SSHCP Permit Applicants are requesting that the programmatic CWA 401 Water Quality Certification also satisfy the Report of Waste Discharge requirements under Porter-Cologne when future Covered Activities impact wetlands and other waters of the state. In addition, the SSHCP Permit Applicants are requesting that the RWQCB also adopt a more efficient Waste Discharge Requirement approach for the Covered Activities that do not qualify for the programmatic 401 Water Quality Certification.

RWQCB would also use the information and analysis in the EIS/EIR in deciding whether it would develop a program to issue a Report of Waste Discharge to three land-use authority Permit Applicants (Sacramento County, Rancho Cordova, and Galt) under Porter-Cologne. The Report of Waste Discharge would authorize discharges to surface waters applicable to all, or a subset, of future SSHCP Covered Activities.

RWQCB would make the appropriate Findings pursuant to CEQA and would file an NOD, which would state that it has considered the EIS/EIR for their approval decision, and inform the public that it has developed and approved a multilevel CWA 401 permitting program and Report of Waste Discharge.

### 1.6 Future Uses of the Final EIS/EIR Document

Because many of the SSHCP’s Covered Species live part or all of their lives in water bodies, the SSHCP would conserve wetland and stream habitats that are also subject to regulation under Sections 404 and 401 of the CWA, Porter-Cologne, and California Fish and Game Code Section 1600 et eq., pursuant to California’s Lake and Streambed Alteration Program. Consequently, the aquatic resources addressed in the SSHCP include those regulated by the USACE, State Water Resources Control Board, Central Valley RWQCB, and CDFW, as well as local zoning and aquatic resource ordinances. Therefore, as discussed in Section 1.5, in addition to seeking ITPs from the USFWS and the CDFW, the SSHCP Permit Applicants are also seeking concurrent and parallel authorizations from other federal and state aquatic-resource regulatory agencies.

This section discusses how the information and analysis presented in the final SSHCP EIS/EIR would be used in the future by federal and state regulatory agencies to enact more efficient permitting processes for future SSHCP Covered Activity projects and activities implemented by third-parties or implemented by the Permit Applicants. These efficiencies would save time and
money for the regulatory agencies and the regulated public, and would facilitate better decision-making processes at the landscape level and at the project level.

1.6.1 U.S. Army Corps of Engineers Future Uses of the EIS/EIR

As described in Section 1.5.4, the USACE Sacramento District will rely on the EIS/EIR to support the agency’s decision-making on development and implementation of a complementary CWA 404 permitting strategy that would align with a USFWS-permitted SSHCP (see USACE 2015 and EIS/EIR Appendix C).

As discussed previously, the ARP provides for a multidisciplinary, comprehensive, and programmatic approach to attain permit authorizations for future Covered Activity projects with impacts to the aquatic resources that are regulated by different agencies. This complementary multilevel strategy for permitting future SSHCP Covered Activities would rely upon use of the regional SSHCP Preserve System as one part of a unified watershed strategy for aquatic resource mitigation. This coordinated permitting and mitigation approach is expected to improve aquatic resources protection on a regional scale while providing a balanced approach and a robust strategy for the avoidance, minimization, and compensatory mitigation of aquatic resources.

The SSHCP and the ARP offer opportunities to integrate local land-use planning with regional aquatic-resource protection. The SSHCP and the ARP are expected to increase permitting efficiencies of similar state and federal permits, and to provide greater regulatory certainty for the Land Use Authority Permit Applicants and their third-party project proponents, as discussed in Section 1.6.4. This multidisciplinary permitting approach would include a logical permit-review progression that uses the proposed multilevel CWA 404 permitting strategy. As discussed in Section 1.5.4, the proposed CWA 404 permitting strategy is expected to include multiple permit instruments and/or processes, including a General Permit(s) (PGP, potential RGP), and abbreviated LOP procedure and abbreviated SP processes.

As discussed in Section 1.5.4, the USACE would request a single ESA Section 7 consultation with the USFWS that would provide ESA compliance for all future Covered Activities authorized by the USACE under the PGP or (potential) RGP process(es), and under the abbreviated LOP procedure and abbreviated SP processes. With a single Biological Opinion in place that addresses all USACE permit actions for future SSHCP Covered Activities, the current project-by-project “individual” Section 7 consultations between the USACE and USFWS is anticipated, for the most part, to be unnecessary.
Furthermore, as discussed in Section 1.5.4, the USACE may develop a Programmatic Agreement with the State Historic Preservation Office to address NHPA 106 consultations on future SSHCP Covered Activities that are authorized under CWA 404.

The USACE anticipates using the SSHCP EIS/EIR as a programmatic NEPA document during its future CWA 404 permit reviews of SSHCP Covered Activities. The SSHCP EIS/EIR provides a regional-scale, comprehensive, and programmatic analysis of expected impacts to aquatic resources, species habitat, water quality, and hydrology from all planned urban development over a 50-year study period. The USACE anticipates using, to the maximum extent feasible, the 50-year programmatic analyses provided in the EIS/EIR to address NEPA compliance required for the CWA 404 permits issued under each level of the proposed multilevel CWA 404 permitting strategy.

1.6.2 Regional Water Quality Control Board future uses of the EIS/EIR

As discussed in Section 1.5.7, the Central Valley RWQCB would develop a CWA 401 water quality certification strategy for future SSHCP Covered Activities that obtain a CWA 404 permit under the USACE’s proposed multilevel CWA 404 permitting strategy for future SSHCP Covered Activities.

The SSHCP EIS/EIR provides a regional-scale and programmatic analysis of impacts to water quality and hydrology expected from implementation of new urban development over a 50-year period. The RWQCB would use the SSHCP EIS/EIR to address CEQA compliance for future CWA 401 permits issued to future Covered Activity projects that obtain a CWA 404 permit under each level of the proposed multilevel CWA 404 permitting strategy.

A programmatic CWA Section 401 Water Quality Certification could be used for the Covered Activity projects that fall under qualify for the USACE’s proposed PGP or (potential) RGP (see Section 1.5.4). If a Covered Activity project qualifies for the USACE’s PGP, and the RWQCB has issued a programmatic Section 401 Water Quality Certification for the PGP, the Covered Activity project would already be certified under CWA 401. The proposed programmatic 401 Water Quality Certification would also satisfy the Report of Waste Discharge requirements for Porter-Cologne. In addition, the programmatic Section 401 Water Quality Certification may potentially cover (all or in part) some larger Covered Activity projects that would fall under qualify for the USACE’s abbreviated LOP process procedure, or fall under qualify for the abbreviated SP process.

Any Covered Activity project authorized under the proposed CWA Section 401 Water Quality Certification strategy must satisfy the RWQCB’s water quality anti-degradation policy, to demonstrate that water quality standards would be maintained in the Planning Area. Covered Activities would demonstrate this by complying with all avoidance, minimization, and mitigation
requirements of the SSHCP. The local Land Use Authority Permit Applicant or the Implementing Entity (whoever has jurisdiction) would review the Covered Activity to assure all measures required by the SSHCP and ARP are met.

The local Land Use Authority Permit Applicant, or the Implementing Entity (whoever has jurisdiction), would evaluate each Covered Activity project submittal. Based on the CWA 404 permit process under which the Covered Activity would likely be processed, the local Land Use Authority Permit Applicant (or the Implementing Entity) would determine the appropriate means through which the project would apply for the associated CWA 401 Water Quality Certification. This initial Land Use Authority Permit Applicant (or the Implementing Entity) screening (vetting) before submittal to the RWQCB is anticipated to result in more efficient and streamlined RWQCB review process of individual CWA 401 Water Quality Certification applications.

This more efficient CWA 401 Water Quality Certification process would save time and costs compared to the current project-by-project permitting process, and would allow the RWQCB to consider individual project impacts from a watershed perspective. The SSHCP’s comprehensive and balanced approach to aquatic resource impacts and aquatic resource conservation would provide a greater level of landscape-scale and watershed-scale protection of water quality than is possible under the conventional project-by-project permitting approach under the CWA 404 and CWA 401.

1.6.3 California Department of Fish and Wildlife Future Uses

As discussed in Section 1.5.4, the Permit Applicants are requesting an MSAA or LTLSA from the CDFW for future SSHCP Covered Activities occurring within a stream zone.

The SSHCP and ARP describes procedures for avoidance, minimization, and describes compensatory mitigation requirements for future Covered Activities occurring within a stream zone. Because each Covered Activity would comply with standardized requirements set forth in the SSHCP and ARP, the CDFW would be able to quicken its permitting process using the MOU procedure described in Section 1.5.6.

CDFW would use the SSHCP EIS/EIR to satisfy CEQA requirements for its decision to issue the MSAA or LTLSA, and would use the EIS/EIR for future decisions in individual LSAs issued for some Covered Activity projects. The proposed MOU would enable CDFW to quicken its LSA permitting process for Covered Activity urban development projects that comply with all SSHCP requirements. The CEQA lead agency would be able to incorporate regional, comprehensive, and programmatic analysis of aquatic resources, species habitat, natural communities, water quality, and hydrology from the SSHCP EIS/EIR, which would greatly quicken CDFW review timeline.
The Land Use Authority Permit Applicants would establish a review process to assist CDFW in the efficient processing of individual CWA 401 certifications for proposed Covered Activity projects and activities. Under this process, the Land Use Authority Permit Applicants (or the SSHCP Implementing Entity) would act as the initial “clearinghouse” for project LSA permit applications, in the same manner they would for the CWA 404 permit application reviews. The Land Use Authority Permit Applicant (or the Implementing Entity, as applicable) would screen individual Covered Activity applications to ensure that the proposed project complies with all requirements of the SSHCP and ARP, and the Land Use Authority Permit Applicant would notify the CDFW (pursuant to Section 1600 of the California Fish and Game Code), and would seek an individual LSA or would seek to append the Covered Activity project to an MSAA or LTLSA.

1.6.4 The SSHCP Permit Applicants (Future SSHCP Permittees) Future Uses of the EIS/EIR

In most cases, an individual Covered Activity project or activity would trigger CEQA and require preparation of a CEQA document that analyzes the proposed project or activity. All six of the SSHCP Permit Applicants (the future SSHCP Permittees) could use the final SSHCP EIS/EIR to simplify and streamline preparation of individual project CEQA documents for future Covered Activity projects that they directly implement over the proposed 50-year term of the SSHCP. The SSHCP Permit Applicant would be the CEQA lead agency in the preparation of CEQA documents for Covered Activity projects that they directly implement. The SSHCP EIS/EIR provides regional-scale comprehensive analyses of environmental impacts of all planned urban development within the Planning Area over a 50-year period. The SSHCP Permit Applicants (CEQA lead agencies) would use the analyses presented in the final SSHCP EIS/EIR to simplify and streamline preparation of future CEQA documents for individual Covered Activity projects, especially the comprehensive analyses of impacts to native plant and animal species, natural communities, aquatic resources, water quality, and hydrology.

The three local Land Use Authority Permit Applicants (Sacramento County, Galt, and Rancho Cordova) would also have the ability to extend the species incidental take coverage provided by the SSHCP ITPs to the Covered Activities implemented by third-party project proponents under their jurisdiction. The SSHCP term “third-party project proponents” refers to individuals or organizations that implement a SSHCP Covered Activity under the jurisdiction of a Land Use Authority Permit Applicant (i.e., Sacramento County, Galt, or Rancho Cordova). An example would be a developer (the third-party project proponent) who proposes a development project that is consistent with the requirements of an SSHCP urban development Covered Activity, and the proposed project’s approvals or entitlements are subject to the jurisdiction of Sacramento County (a Land-use Authority Permit Applicant). Third-party project proponent uses of the Final EIS/EIR are discussed in Section 1.6.5.
Similarly, the SSHCP Implementing Entity would have the ability to extend incidental take coverage provided by the SSHCP ITPs to “Participating Special Entities” that implement a Covered Activity project under the oversight of the SSHCP Implementing Entity. SSHCP Participating Special Entities are third-party entities that are not under the jurisdiction of a Land Use Authority Permittee. Participating Special Entities might include school districts, reclamation districts, irrigation or water districts, utilities, or other organizations that are not subject to the regulatory authority of a local jurisdiction.

1.6.5 Third-Party Project Proponent Future Uses of the Final EIS/EIR

Because Land Use Authority Permit Applicants (Sacramento County, Galt, and Rancho Cordova) and the SSHCP Implementing Entity have the ability to extend the incidental take coverage provided by the SSHCP ITPs to Covered Activities implemented by third-party project proponents, the third-party project proponents implementing a Covered Activity would not need to prepare ESA Biological Assessment documents, would not need to apply for a CESA take permit, and would avoid the multiple negotiations and multiple project reviews that are currently required for project ESA and CESA compliance under the conventional project-by-project review process. Similarly, third-party project proponents implementing a Covered Activity that impacts wetlands and other waters of the United States or state, for the most part, would not need to apply for individual permits or approvals from each of aquatic resource regulatory agencies that have participated in the development of the SSHCP and the ARP (i.e., USACE and RWQCB under CWA 404 and CWA 401, and CDFW under California Fish and Game Code Section 1600 Lake and Streambed Alteration Program). For the relatively few number of large urban development Covered Activities that would still need a Letter of Permission or Standard Permit under CWA 404 and an individual CWA 401 permit, or an individual California Fish and Game Code Section 1600 Streambed Alteration permit, the process, effort, and time required to obtain those permits would be substantially simplified, abbreviated, and streamlined, relative to the current project-by-project review.

The SSHCP and the ARP provide third-party project proponents with pre-negotiated project-level biological and aquatic-resource Avoidance and Minimization Measures that can be incorporated early into the proposed project’s design. Where project impacts are unavoidable, the SSHCP and the ARP permits and authorizations provide third-party project proponents with pre-determined mitigation requirements, which are standardized and are predictable in advance. In addition, the SSHCP and ARP permits and authorizations would provide pre-negotiated mitigation monitoring requirements and methodologies.

Because the final SSHCP EIS/EIR provides a comprehensive and regional-scale analysis of biological resource and aquatic resource impacts from implementation of future urban development planned for the next 50-year period, the effort and cost of preparing future
project-level CEQA documents and project-level NEPA documents could be reduced relative to project CEQA and NEPA documents prepared under the current project-by-project review process. Project-level CEQA and NEPA documents can reference and use the EIS/EIR’s regional-scale and 50-year comprehensive and programmatic analysis of future Covered Activity impacts to native plant and animal species, natural communities, aquatic resources, water quality, hydrology, and other environmental resources natural resources, as well as the EIS/EIR’s cumulative analysis of impacts to wetlands and other waters in the region.

This incorporation of information and analysis from the SSHCP EIS/EIR is expected to produce better project-level CEQA and NEPA documents and would save third-party project proponents time and reduce costs associated with the preparation of each project-level CEQA or NEPA document. Although the CEQA and NEPA lead agencies determine the scope and the conclusions of a development project’s CEQA and/or NEPA document, in most cases the project proponent funds the document preparation.

Compared to the existing, conventional project-by-project CWA permit process, the proposed multilevel CWA 404 permit strategy for future Covered Activities would increase the efficiency of the CWA permitting process; provide for more systematic regional protection of Planning Area aquatic resources; balance the impacts to and conservation of aquatic resources at a regional-scale and at project-scale; and provide a coordinated approach for providing regional avoidance, minimization, and compensation for unavoidable impacts to aquatic resources. With a single, comprehensive ESA Section 7 consultation Biological Opinion that addresses all future Covered Activities authorized under the proposed CWA 404 permit strategy (see Section 1.5.4 and EIS/EIR Appendix C), the conventional project-by-project Section 7 consultations between the USACE and the USFWS for each project CWA permit would, for the most part, be unnecessary. The proposed multilevel CWA 404 permit strategy permitting process, envisioned CWA 401 Certification process, and envisioned potential programmatic NHPA 106 agreement would be more efficient and would save time and costs, when compared to the conventional project-by-project permitting processes.

Under the proposed multilevel CWA 404 permit strategy for future Covered Activities, most future Covered Activity projects requiring a CWA permit could be authorized under the local programs implemented by the jurisdictional Land-use Authority Permit Applicants under the, in that most activities would be anticipated to meet the terms and conditions of the USACE’s proposed PGP and would not require the, Thus, third-party project proponents would be most likely to receive a local permit under the ARP and local ordinances, rather than to seek authorization directly from the USACE or prepare a CWA 404 permit application.

As discussed in Section 1.5.4, and in EIS/EIR Appendix C, the USACE’s proposed abbreviated LOP procedure and abbreviated SP process for CWA 404 permits would likely be needed for
only a small portion of the larger-scale urban development Covered Activity projects in the Planning Area. The SSHCP, ARP, and the regional, programmatic, and comprehensive analysis of aquatic resources in the Final SSHCP EIS/EIR, would identify appropriate and adequate aquatic resource impact Avoidance and Minimization Measures to assist in compliance with the 404(b)(1) guidelines. The envisioned abbreviated LOP procedure and abbreviated SP processes would largely fulfill (in advance) the requirements of a separate off-site alternatives analysis, so an off-site alternatives analysis would not be required for the assessment of the Least Environmentally Damaging Practicable Alternative, and in the case of SPs, alleviating the necessity of preparing often a rigorous off-site alternatives analysis. Therefore, the alternatives analysis necessary under the abbreviated LOP procedure and abbreviated SP processes could be limited to identifying particular Avoidance and Minimization Measures from the SSHCP that are appropriate to apply to the project-site. In addition, the abbreviated LOP procedure and abbreviated SP processes would provide the third-party project proponents with greater regulatory certainty.

NEPA requirements for future Covered Activity projects requiring permits under the abbreviated SP process may be satisfied with a smaller Environmental Assessment level of review, rather than the EIS level of review that is typical under the current project-by-project CWA permit process. would realize greater efficiencies. Even for future Covered Activity urban development projects proposing potentially significant effects on the human environment and requiring the, for which the Corps determines requires preparation of an EIS, the proposed SP abbreviated process would be greatly abbreviated by relying on the regional, programmatic, and comprehensive analysis in the EIS/EIR. reduced in terms of process, information requirements, and timing. Please refer to Appendix C for additional description of the SP abbreviated process.

Therefore, the proposed abbreviated LOP procedure and abbreviated SP processes would save project proponents time and costs and would increase regulatory certainty in comparison to the conventional project-by-project processes.

Project Proposals Seeking CWA 401 Water Quality Certification

A parallel permitting process is anticipated for CWA 401 Certification of Covered Activity project proposals, including the potential use of all (or portions) of a programmatic Section 401 Certification. This more efficient CWA 401 Certification process would save project proponents time and costs when compared to the conventional project-by-project permitting process. The envisioned parallel multilevel process for Covered Activity 401 Water Quality Certification would allow greater environmental benefits at the watershed and regional scale.
Project Proposals Seeking a CDFW 1600 Streambed Alteration Agreement

A streamlined permitting process is envisioned for obtaining Streambed Alteration Agreements for Covered Activity project proposals. The Implementing Entity would evaluate the project submittal subnotification forms and conduct the initial screening process to verify project consistency with the SSHCP and the ARP regulatory permitting framework. Once approved by the Implementing Entity, the subnotification forms would then be submitted to CDFW for review and verification. The Final SSHCP EIS/EIR would provide CEQA compliance for these Streambed Alteration Agreements.

1.7 REFERENCES CITED


