

1.1 Overview

The goal of the Placer County Conservation Plan (PCCP or Plan) is to provide an effective framework to protect, enhance, and restore the natural resources in specific areas of western Placer County, while streamlining the permitting of covered activities. Within this framework, the PCCP will achieve conservation goals, comply with state and federal environmental regulations, accommodate anticipated urban and rural growth and permit the construction and maintenance of infrastructure needed to serve the county's population. The PCCP includes two integrated programs:

- A joint Natural Community Conservation Plan (NCCP) and Habitat Conservation Plan (HCP) that will protect fish and wildlife and their habitats and fulfill the requirements of the Federal Endangered Species Act (ESA), California Endangered Species Act (CESA), and the Natural Community and Conservation Plan Act (NCCP Act); and
- A County Aquatic Resources Program (CARP) that will protect streams, wetlands, and other water resources and fulfill the requirements of the federal Clean Water Act and analogous state laws and regulations.

The following entities have prepared this Plan in cooperation with the United States Fish and Wildlife Service (USFWS), California Department of Fish and Game (CDFG), the National Marine Fisheries Service (NMFS), and the United States Army Corps of Engineers (USACE):

- Placer County;
- City of Lincoln;
- South Placer Regional Transportation Authority (SPRTA); and
- Placer County Water Agency (PCWA).

These entities are collectively referred to as the Permittees. In addition to the Permittees identified above, other parties may elect to seek coverage under the PCCP. These entities are considered "Participating Special

Entities” and are listed in Chapter 8.5. The Permittees will vest the responsibility for implementing the Plan to the Placer Conservation Authority (PCA) (see Chapter 8.3.2 for a discussion of the role of the PCA). The PCA will oversee implementation of the Plan on behalf of the Permittees. However, the Permittees will ultimately be responsible for compliance with all the terms and conditions of the State and Federal Permits.

1.2 Goals Set Forth in the Agency Planning Agreement (2001)

In 2001, Placer County, the California Department of Fish and Game, the United States Fish and Wildlife Service, and the National Marine Fisheries Service signed an agreement describing the development of joint conservation plans under the California Natural Community Conservation Planning Act and the federal Endangered Species Act for the Placer Legacy Open Space and Agricultural Conservation Program. As part of that agreement the parties developed a process for developing natural community conservation plan/habitat conservation plan guidelines as follows:

1.2.5 Placer Legacy Program natural community conservation plan/habitat conservation plan Guidelines Based on input and analysis from the Scientific Working Group the Citizens Advisory Committee and the public, the County identified the following guidelines for preparation of joint natural community conservation plans/habitat conservation plans. These guidelines have been incorporated into the Placer Legacy Program’s implementation documents, the Placer Legacy Program Summary Report, dated June 2000, and the Placer Legacy Program Implementation Report, dated June 2000. And the County has used these documents and the guidelines therein to guide its implementation of the Placer Legacy Program. The Parties recognize that the Guidelines may be modified during the development of the NCCP/HCPs to fulfill the requirements of State and Federal law.

1.2.5.1 Best available scientific information The NCCP/HCPs will be based on the best available scientific information. The NCCP/HCPs will:

- ❖ be based on principles of conservation biology, community ecology, landscape ecology, individual species’ ecology, and other scientific knowledge and thought;
- ❖ be based on thorough surveys of all species of Federal, State and local concern on lands dedicated to conservation or mitigation and other lands where covered activities will occur;
- ❖ be reviewed by well-qualified, independent scientists;
- ❖ identify and designate biologically sensitive habitat areas for preservation;

- ❖ determine the extent of impacts to species from incidental take caused by development and other covered activities;
- ❖ require monitoring of target species on developed, mitigation and other preserved lands for the duration of each NCCP/HCP; and
- ❖ seek to contribute to the recovery, not just the maintenance, of Covered Species.

1.2.5.2 Open and transparent process The NCCP/HCPs will be prepared in an open and transparent process, with input from all concerned citizens. The process used to prepare the NCCP/HCPs will:

- ❖ provide for thorough public review and comment;
- ❖ include a citizen working group that will review the plan at every stage of development; and
- ❖ require that negotiations with applicable agencies be conducted in an open manner.

1.2.5.3 Essential elements The NCCP/HCPs will include the following elements:

- ❖ monitoring and review of plan objectives and milestones at defined intervals to assure that they are being met, including the identification of a process to suspend, modify, or revoke permits if there is not sufficient compliance with the agreed upon objectives;
- ❖ adequate funding sources identified up front for habitat preservation and species recovery goals, based on realistic estimates of future land value for the life of the permits;
- ❖ adequate funding for monitoring to determine that plan goals are actually being met;
- ❖ adaptive management and periodic review, with sufficient funding to support changes in take activity and mitigation required to meet the plan's goals;
- ❖ acquisition of required mitigation lands before development proceeds; and
- ❖ performance standards for contributing to species recovery.

1.2.1 Guiding Principles

The Permittees and key stakeholders, with input from the scientific community, identified the following principles to guide development of the PCCP conservation strategy.

Broad Conservation Goals

Broad goals were developed for the PCCP based on input from stakeholders representing biological, scientific, and regulatory groups. Information from several background reports were also used to help develop the overall goals for the Plan.

The overall goals of the PCCP are to:

- Sustain all natural communities that are currently present in the western Placer County landscape;
- Partially restore or enhance certain natural communities and ecosystem processes and functions;
- Ensure population stability and sustainability of covered species (species that are listed under the ESA or CESA and other Species of Special Concern for which the Plan provides protection) and contribute to the species' recovery;
- Maintain connectivity between habitats across the landscape; and,
- Address cumulative impacts of intensive land use and urbanization in Placer County.

Protect Natural Plant Communities and Wildlife Habitats

Western Placer County contains oak woodlands, aquatic and wetland ecosystems, valley foothill riparian, and vernal pool grasslands. All of these natural communities provide valuable habitat for several plant and wildlife species that have been identified by State and Federal agencies as threatened, endangered or species of concern (listed species). Although not a natural community, agricultural lands also provide habitat for many wildlife species.

Preserving natural communities and specific agricultural lands is essential if listed species are to persist in western Placer County. Preservation of some communities will also benefit the residents of Placer County by controlling floods, improving local climate, preventing soil erosion, maintaining soil fertility, and controlling agricultural pests and disease vectors. Additional benefits include recreational opportunities contributing to the quality of life for residents.

Base Conservation on a Scientific Classification of Natural Communities

Natural communities may be classified in several ways. The PCCP utilizes a classification system called California Wildlife Habitat Relationships (CWHR). CWHR was adapted for application to Placer County to account for specific conditions such as habitat patch sizes,

disturbance, threats and associated wildlife species. As a first step in the PCCP planning process, the entire planning area was mapped into CWHR types. This mapping is one of the basic elements for conservation planning.

Provide a Conservation Reserve System that Includes all Natural Communities

Western Placer County does not contain large areas of public land but there are a number of parcels in public or other ownership that will be preserved in perpetuity. Existing preserves were not necessarily selected on the basis of landscape-level conservation objectives. Nevertheless, existing reserves can provide the beginnings of a comprehensive natural reserve system that meets the habitat needs of covered species. Moreover, there are opportunities for restoration and enhancement within existing reserves. The conservation strategy will create a conservation reserve system designed to ensure viability of covered species. Existing reserves and CARP areas will be important for preserving large, intact habitats that are well connected with each other. Flexibility will be needed so that opportunities to preserve areas such as vernal pool grasslands, riparian woodlands and oak woodlands can be exploited. Ultimately the reserve system will reflect scientifically sound principles of conservation biology, incorporating known biological information as well as new information as it becomes available through implementation of the PCCP.

Employ Creative Methods for Funding Conservation and Mitigation

Implementation of the PCCP conservation strategy will require a combination of funding sources. The majority of funding for land acquisition will come from applicants during the project entitlement process. Applicants may also offer land dedications where feasible and desirable. To ensure that funding is not entirely dependent on the rate or number of development projects, additional funding will be sought from local, state or federal sources. A range of tools may be used to ensure that the mitigation component of the PCCP will be successful and equitable to landowners. These tools are not mutually exclusive and could be used in a variety of combinations. Land dedication, acquisition of conservation easements, conservation plan impact fees, mitigation and conservation banking and transferable development rights may be used as mitigation measures in specific instances.

Provide a Consistent, Efficient and Equitable Development Permit Process

The PCCP will provide a comprehensive mitigation and conservation strategy that meets federal and state regulatory requirements. Once approved by the appropriate state and federal agencies, the PCCP will simplify the environmental review of public and private projects, make mitigation requirements consistent and predictable, and ensure that the mitigation measures provided contribute to the overall goals of the PCCP.

Manage Conservation Reserves for Sustainability

Present knowledge of biological resources in Placer County is sufficient to support the PCCP planning process in general. Less is known about practical land management and compatible agriculture and other land use effects, so the PCCP will need to be adaptable based on information learned through its implementation. Preserve lands, protected in perpetuity, will need to be administered by one or more entities capable of overseeing management, monitoring and adaptive management. The Permittees have identified a Joint Powers Authority (JPA), namely Placer County Authority (PCA), to carry out this task. The PCA would assume responsibility for collecting impact fees and using them to purchase land or conservation easements from willing landowners, accepting lands dedicated for mitigation or other purposes, and developing and implementing management plans for all such lands.

The PCA will provide implementation monitoring and will track changes in land use and assure fees or other conservation measures are fully executed. A biological monitoring program will become the basis for decisions concerning management activities of conservation lands to achieve the goals and the objectives of the PCCP. The link between management activities and the integrity of natural communities and the status of covered species is only as strong as the ability of biological monitoring to measure change and make recommendations on how to respond to change. Consequently, monitoring is an essential component of the PCCP.

PCCP Implementation

To implement the PCCP the general plans and associated planning tools of the County and City of Lincoln will likely be supplemented by policy amendments, specific implementing ordinances, revisions to zoning ordinances, and changes to procedures for development permitting and CEQA compliance. A primary goal in creating the process for project review under the PCCP will be to increase simplicity and, as much as possible, to fulfill the requirements of all applicable local, state and federal environmental requirements using one process (in other words, to provide “one-stop permitting”).

The PCCP can be amended and implementation actions adjusted consistent with its original intent. Implementing ordinances and general plan elements may need to be changed in response to changes in the PCCP. The PCCP will not limit the County or City land use authority, including their authority to adopt ordinances or revise their general plans. However, amendments to the PCCP itself will require the approval of the state and federal regulatory agencies that initially approve the Plan (e.g., the United States Fish and Wildlife Service and the California Department of Fish and Game). If a new or revised ordinance or amendment to a general plan would require an amendment to the PCCP, the state and federal regulatory agencies would have to be consulted about the possibility of amending it.

1.2.2 Purpose

The purpose of the PCCP is to protect and enhance ecological diversity and function in the greater portion of western Placer County, while allowing appropriate and compatible growth in accordance with applicable laws. To this end, the Plan describes how to avoid, minimize, and mitigate impacts on endangered and threatened species, thereby addressing the permitting requirements relevant to these species for activities conducted in the Plan area by the Permittees. These covered activities include urban growth and a variety of road, water, and other needed infrastructure construction and maintenance activities. The Plan also describes the responsibilities associated with operating and maintaining the new habitat reserves that will be created to mitigate anticipated impacts resulting from growth and development activities.

This Plan is both an HCP intended to fulfill the requirements of the ESA and a NCCP to fulfill the requirements of the NCCP Act. As an NCCP, this Plan not only addresses impact mitigation, but will also contribute to the recovery and delisting of listed species and help preclude the need to list additional species in the future. The Permittees are voluntarily preparing this Plan as an NCCP to provide a higher level of conservation for the benefit of natural resources in western Placer County than is strictly required for ESA compliance. An NCCP also provides a higher level of regulatory benefit and greater opportunity for state and federal funding than does a stand-alone HCP.

The Plan will achieve the specific objectives listed below.

- Provide comprehensive species, natural community, and ecosystem conservation in the Plan area;
- Contribute to the recovery of endangered species in Placer County and northern California;
- Protect and enhance biological and ecological diversity in the County;

- Establish a regional system of habitat reserves to preserve, enhance, restore, manage, and monitor native species and the habitats and ecosystems upon which they depend;
- Enhance and restore stream and riparian systems outside the habitat reserves to provide additional benefit to native fish and other stream-dwelling species;
- Allow issuance of permits to the Permittees for lawful incidental take¹ of species listed as threatened or endangered pursuant to ESA and CESA;
- Streamline and simplify the process for future incidental take authorization of currently nonlisted species that may become listed during the permit term;
- Standardize avoidance, minimization, mitigation, and compensation requirements of all applicable laws and regulations relating to biological and natural resources within the Plan area, so that public and private actions will be governed equally and consistently, thus reducing delays, expenses, and regulatory duplication;
- Provide a less costly, more efficient project review process that will result in greater conservation than the current project-by-project, species-by-species endangered species compliance process;
- Provide a streamlined permit process, the CARP (Appendix M), for permits currently issued by Regional Water Quality Control Board (401), Army Corps of Engineers (404) and California Department of Fish and Game (1600 et seq.); and,
- Provide a means for local agencies receiving permits to extend the incidental take authorization to private entities subject to their jurisdiction, bringing endangered species permitting under local control.

Incidental take authorization (referred to as take authorization in this document) will be granted by the USFWS, NMFS, and California CDFG (collectively, the Wildlife Agencies²). The Permittees are asking the Wildlife Agencies to issue permits that authorize incidental take of covered species. The Plan includes a conservation strategy to compensate for impacts on these covered species. The conservation

¹ Take as defined by the ESA means “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.” Incidental take is take that is incidental to, and not intended as part of, an otherwise lawful activity.

² The Plan distinguishes the Wildlife Agencies from the Resource Agencies, who are responsible for aquatic resource permits. The term Resource Agencies includes the Wildlife Agencies, the U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, and the Central Valley Regional Water Quality Control Board.

strategy provides for the conservation and management of covered species and their habitats.

It is anticipated that the Plan will allow issuance of incidental take permits under the ESA and the NCCP Act by the Wildlife Agencies to the local jurisdictions. The Permittees will then be able to use those permits for their own operations, maintenance, and capital projects. The Permittees will also be able to extend the take authorization to private entities conducting activities covered by this Plan and under their jurisdiction³ (see Chapter 2 for a detailed summary of activities eligible for these permits). The Wildlife Agencies will also provide assurances to the Permittees that no further commitments of funds, land, or water will be required to address impacts on covered species beyond those described in the Plan as long as the Permittees are adequately implementing the Plan (see Chapter 10, Assurances and Changed Circumstances).

The Plan will also be used to comply with Section 7 of the ESA for projects with federal agency involvement. See Section 1.4.1 for more details.

1.2.3 Background

In April 1998, the Placer County Board of Supervisors directed the Placer County Planning Department to prepare a program to implement the conservation goals and policies of the 1994 Placer County General Plan. This program, now known as the Placer Legacy Open Space and Agricultural Conservation Program (see Section 1.5.2), was approved in June 2000 and was the impetus for initiating the larger PCCP effort.

The development of the separate PCCP was initiated in 2000 after the Board voted unanimously to initiate both the Placer Legacy program and the work program for the PCCP. In 2001, Placer County, CDFG, USFWS, and NMFS finalized an NCCP/HCP planning agreement (“Natural Community Conservation Planning Agreement”). The planning agreement identifies the permittees, the program areas and phases, regulatory goals, the planning process and guidelines for plan development, commitment of resources to complete the program, and other miscellaneous provisions.

Placer Legacy’s goals are slightly different than the PCCP goals, although several of the principles identified and processes used were also incorporated into the development of the PCCP. While Placer Legacy focuses on agricultural viability and several open space objectives (scenic, public safety, community edges/buffers and outdoor recreational opportunities), the PCCP is intended to meet regulatory requirements under the NCCP Act and ESA. The focus of the PCCP is to implement a

³ Note that the HCP and NCCP permits will only authorize the incidental take of covered species. Most activities will also require additional local authorization (e.g., CEQA), and some activities will also require additional state or federal authorization.

conservation strategy to provide a comprehensive plan for the conservation of all natural communities, endangered species, and other less sensitive species of native wildlife, fish, and plants in western Placer County.

The process used to develop the PCCP relied upon many of the same principles from the Placer Legacy Program, which included independent scientific input and analysis, extensive public participation, as well as solicited advice from key groups of stakeholders. Background biological studies were conducted to provide baseline data on the natural resources in the Plan area to help inform the preparation of the Administrative Draft PCCP (2005). To assist in the development of the PCCP, the County formed three working groups: 1) a Citizens Advisory Committee, 2) an Interagency Working Group, and 3) a Scientific Working Group. The County also collaborated with a non-profit business association, the Sierra Business Council, to facilitate the public participation process.

After the preparation of the Administrative Draft PCCP, the process slowed somewhat due to competing County priorities. In 2007, work resumed through the formation of an Ad Hoc Committee consisting of representatives from Placer County and the City of Lincoln. The Ad Hoc Committee was created to engage the decision makers and to develop a consistent framework, a conservation map, and priorities. In 2008, the Board unanimously adopted the Ad Hoc Committee's recommendations to work with partners (City of Lincoln, PCWA, SPRTA, and the Placer County Resource Conservation District), and to coordinate with the public and resource agencies to finish the work plan and prepare a second draft.

A key component of the PCCP is the mapping of conservation opportunity areas. To develop that map, it was necessary to initiate a partial update of the land cover mapping that was originally prepared for the first draft PCCP. The new mapping focused on updating land cover within the valley where there had been a dramatic increase in growth since the preparation of the original maps. As part of the updating, input was sought from key stakeholders, the scientific community and general public on the mapping process and results.

An updated conservation map was presented to the Board on January 12, 2010 and the Board accepted the revised map and directed the Ad Hoc Committee to make certain revisions and prepare a final map for inclusion in this PCCP.

1.3 Scope of the Placer County HCP/NCCP

1.3.1 Plan Area

The Plan area is the area wherein covered activities would be subject to incidental take permits granted to the Permittees (Figure 1-1). Placer County stretches from the Sacramento Valley east to the high Sierra and the California-Nevada state line and covers a total area of 1,500 square miles (962,000 acres). The area proposed for permit coverage under the PCCP is the City of Lincoln plus all unincorporated lands within western Placer County: approximately 212,000 acres or roughly five-sixths of western Placer County (Figure 1-2). The Non-Participating Cities (NPC) and some of their Sphere of Influence lands comprise an additional 48,555 acres within the Plan area. Nearly all (approximately 95 percent) of the Plan area is in private ownership.

Land use and biology within the Plan area reflect the transition from the Sacramento Valley to the Sierra Nevada Foothills across these watersheds. Figure 1-3 depicts the physical geography from the western edge of the Plan Area (Valley) to the northeastern edge of the Plan Area (Foothills). The PCCP uses this fundamental division between Valley and Foothills as a way of organizing the analysis of take and mitigation. For analytical purposes, the PCCP divides the Plan area into five “analysis zones” (Figure 1-4 and Table 1-1). The zone boundaries are drawn largely along jurisdictional and land-use lines but reflect the fundamental character of the western Placer landscape.

The Valley portion of the Plan area comprises the West Valley and Lincoln Planning Area analysis zones. Vernal pool grassland complexes and annual grasslands are the primary natural communities in the Valley analysis zones.

The Foothills portion of the Plan area comprises the North Foothills and Interstate 80 Corridor Analysis Zones. These analysis zones support most of the woodland communities in the Plan area.

The Non-Participating Cities are designated as the fifth analysis zone for geographical completeness. These analysis zones are used to estimate take of covered species in the Plan area from anticipated covered activities over the term of the PCCP. Western Placer County contains the following four major⁴ watersheds (see Figure 3-1), all flowing down the Sierra west slope and all part of the Lower Sacramento River Basin:

- The Bear River, which defines the northern Plan area boundary;
- The Coon Creek/ Auburn Ravine watershed, which covers the majority of the Plan area;
- The American River; and
- The North Fork American River, which defines the southeastern Plan area boundary.

⁴ Major watersheds here are subbasins defined as USGS hydrologic unit code level HUC-8.

1.3.2 Covered Activities

The primary goal of this Plan is to protect species and their habitats in order to obtain authorization for incidental take of covered species under the ESA and the NCCP Act for certain types of activities in specific areas of Placer County, in accordance with approved land use plans. Covered activities are those projects or ongoing activities that will receive incidental take authorization. Covered activities fall into the following categories.

- Urban and suburban growth;
- In-stream projects;
- Capital (infrastructure) projects;
- Operation and maintenance;
- Rural growth; and,
- Conservation strategy implementation.

For details on the covered activities and the criteria used to select them, see Chapter 2, Land Use and Covered Activities.

The Plan analyzes the biological resources and identifies a conservation strategy reflecting the geography of natural communities and covered species. The Plan also analyzes land use patterns and forecasts the extent and location of urban, suburban, and rural growth and seeks to reconcile potential future growth with the conservation strategy. The result are depicted in the Placer County Conservation Reserve map (Figure 1-5) which generally shows where the Reserve System should be established in the Reserve Acquisition Area and integrated with existing reserves. The Figure 1-5 also shows where the majority of take from covered urban, suburban, and rural growth may occur, which is designated as Potential Future Growth.

1.3.3 Permit Term

The permit term is the time period during which all covered activities can receive take authorization, consistent with the requirements of the Plan. The permit term is also the time in which all conservation actions must be successfully completed to offset the impacts of the covered activities

The initial permit term is proposed to be 50 years, which corresponds to the planning horizon used in long-range growth projection forecasts. The Permittees are requesting the following permits and authorizations:

- A renewable, 50-year, incidental take permit issued by the USFWS under the ESA for 31 covered species;
- A renewable, 50-year, incidental take permit issued by the NMFS under the ESA for two covered species;

- A renewable, 50-year, incidental take authorization issued by the CDFG under the NCCP Act for 31 covered species (also fulfills the requirements of the CESA);
- A renewable, five-year, Programmatic Section 404 permit issued by the United States Army Corps of Engineers (USACE) under the Clean Water Act (CWA);
- A renewable, five-year, Section 401 certification for the Section 404 permit issued by the Central Valley Regional Water Quality Control Board (CVRWQB) under the CWA;
- “Joint Procedures” referred to as the County Aquatic Resources Plan (CARP) approved by the USACE that may be used by the Permittees for aquatic resource permit processing under the CWA and Section 106 of the National Historic Preservation Act; and
- A 50-year, programmatic master streambed alteration agreement issued by the CDFG pursuant to Section 1600 et seq. of the Fish and Game Code.

These permits will be tied to this Plan and to the Implementing Agreement (Appendix B). Each permit will be issued to all Permittees collectively. Prior to permit expiration, the Permittees may apply to renew or amend the Plan and its associated permits and authorizations to extend their terms. The permit term of 50 years was selected because it allows for the full and successful implementation of: 1) the covered activities (Chapter 2); 2) the conservation strategy (Chapter 5); 3) the monitoring and adaptive management program (Chapter 7); and, 4) the funding strategy (Chapter 9). Each of these components is discussed below.

Time to Implement Covered Activities

A summary of major local planning documents and their respective time horizons is provided in Table 1-2. These planning documents have durations between 20 and 50 years, reflecting the time it takes to secure the funding and permits, and to construct the projects identified in the plans. The largest source of covered activities is projected urban growth within the Placer County and City of Lincoln general plans. The City of Lincoln’s general plan has a 50-year time frame. Placer County’s General Plan and community plans have various timelines. The County has plans to update their General Plan in the near future. The general plans describe how and where growth may occur, but full build-out is not anticipated within the next 50 years for the County.

Time to Implement, Monitor, and Adjust Conservation Actions

The length of the permit term provides adequate time for the assembly of a Reserve System and development of a management program on reserve lands. Land will only be acquired from willing sellers. Landowners may not be willing to sell at a reasonable price for many years. A 50-year permit term provides adequate time for willing landowners to become available and for the land agents of the Plan to negotiate a fair price for the land in fee title or conservation easement (see Chapter 5 for a description of the land acquisition requirements of the Plan and Chapter 8 for a description of the land acquisition process). It may take several years to complete a single land acquisition or purchase a conservation easement. Because many such transactions will be required to assemble the Reserve System, adequate time is needed to ensure this can happen before the end of the permit term. Conservation actions that occur outside the Reserve System on stream segments (e.g., stream barrier removal or modification) may require similarly long time periods to negotiate and implement.

A permit term of 50 years also allows the monitoring and adaptive management programs to become well established and successful. As described in Chapter 7, the monitoring and adaptive management program will go through three distinct phases: data inventory, targeted studies, and long-term monitoring. Each phase will take many years to complete successfully⁵. One type of monitoring, called “status and trend monitoring”, will track long-term trajectories of species populations and other physical and biological conditions in the Plan area. A permit term of 50 years will provide adequate time to collect enough data to detect trends for all of the covered species; if management responses are necessary, the permit term will also allow sufficient time to adjust management. Monitoring the success of restoration actions (described in Chapter 5) is expected to take 5-10 years for each restoration project. Most restoration actions cannot be initiated until land is acquired. A permit term of 50 years is necessary to allow enough time to complete land acquisition with at least 5-10 years remaining on the permit in which to successfully initiate or complete (and possibly remediate if necessary) all restoration actions.

A successful program for management, monitoring, and adaptive management is essential to the success of the Reserve System after the permit term. The Permittees will be obligated during the permit term to address changes in circumstances foreseen by the Plan (see Chapter 10) and to remediate the conservation areas affected by these changes. A longer permit term is more likely to encompass a changed circumstance that will require a remedial action.

⁵ Many regional HCPs and NCCPs approved in southern California over 10 years ago are still developing their monitoring programs, demonstrating that it takes decades to develop and implement a successful monitoring program on such a large scale.

Time to Secure Adequate Funding

A 50-year permit term allows sufficient time to generate the necessary funding for Plan implementation. As described in Chapter 9, the Plan will be funded by a wide variety of local, state, and federal sources. Some of these sources will not be available for 10-30 years or more. To take advantage of these funding sources the permit term must be at least 50 years.

Funding is also needed during the permit term to implement management and monitoring after the permit expires (e.g., an endowment). In Chapter 9, the Plan describes how and when this will be accomplished. The permit term must therefore allow sufficient time to accumulate long-term funding.

Permit Term

Based on the implementation horizon for covered projects, the ongoing regulatory requirement of operation and maintenance activities, the need to acquire lands for a successful Reserve System, and the need for adequate funding, the Plan Permittees have determined that a 50-year permit term will best address regulatory and biological considerations. In summary, the 50-year permit term provides sufficient time to accomplish the following critical elements of the Plan:

- Allow sufficient time for implementation of current general plans;
- Fully implement the Permittees' projects that are covered by the Plan;
- Implement the Permittees' conservation activities as long as is feasible;
- Allow sufficient time to assemble the Plan Reserve System from willing sellers and partnerships with local agencies and private landowners;
- Secure all necessary funding for Plan implementation during the permit term and to generate funding for the Plan in perpetuity;
- Develop an effective adaptive management program that will be implemented in perpetuity, given the uncertainties about the ecology of covered species and appropriate responses to resource management; and
- Provide sufficient incentive for the Plan Permittees to commit the substantial resources necessary to complete the Conservation Plan (i.e., the permit term covers enough projects and activities to make the large up-front investment in the Conservation Plan cost effective).

Take authorization for all covered activities, including covered operations and maintenance activities, will expire at the end of the permit term, unless the permit is renewed or replaced. Near the end of the permit

term, the Permittees will determine whether to extend the term of the permit through the formal amendment process described in Chapter 10.

1.3.4 Covered Species

In accordance with the NCCP Act, this Plan will protect native biological diversity, habitat for native species, natural communities, and local ecosystems. This broad scope will conserve a wide range of natural resources including native species that are common or rare. However, the permits issued by the Wildlife Agencies will name specific species that are either currently listed as threatened or endangered or that may become listed during the permit term.

This Plan addresses 31 listed and non-listed species: 26 animals and five plants are on the proposed list of covered species (Table 1-3). These covered species will be named on the ESA and NCCP Act permits. In exchange, the Plan will provide long-term conservation and management of these species.

The Plan includes conservation measures to protect all 31 covered species, whether or not they are currently listed. Accordingly, any non-listed species addressed by the Plan's conservation strategy will not require additional conservation within the Plan area should that species become listed during the permit term. See Regulatory Setting in Section 1.4 for a discussion of why plants are included as covered species.

Species Evaluation

A list of special status species that occur or have the potential to occur in western Placer County was compiled after consultants conducted a literature review of the regional status and distribution of the species within the Plan area. Species were chosen for coverage in the PCCP by the County's Interagency Working Group based on their potential to occur in western Placer County, their current state or federal listing status, their potential to be listed in the foreseeable future, or their local importance to the Plan area ecosystems. The preliminary list of covered species was contained in the April 2002 Draft Conservation Strategy Overview. Members of the County's Biological Working Group had the opportunity to comment on the covered species list and the list was further refined for the PCCP in 2004 and again in 2009.

There are some special-status species that could occur within the Plan area (see Appendix C) but that are not covered due to their low likelihood of becoming state or federally listed in the foreseeable future and/or the inability to manage the population through the adaptive management of natural communities.

Definition of Special-Status Species

Special-status species are defined as plants and animals that are legally protected under ESA, CESA, or other regulations, and species that are considered sufficiently rare by the scientific community to qualify for such listing.

Special-status plants are species with one or more of the following characteristics:

- Listed or proposed for listing as threatened or endangered under ESA (50 Code of Federal Regulations [CFR] 17.12 [listed plants] and various notices in the Federal Register [FR] [proposed species]);
- Candidates for possible future listing as threatened or endangered under the ESA (70 FR 24870–24934, May 11, 2005);
- Listed or candidates for listing by the State of California as threatened or endangered under CESA (14 California Code of Regulations [CCR] 670.5);
- Listed as rare under the California Native Plant Protection Act (California Fish and Game Code Section 1900 et seq.);
- Determined to meet the definitions of rare or endangered under CEQA (State CEQA Guidelines, Section 15380);
- Considered by CNPS to be “rare, threatened or endangered in California” (Lists 1B and 2 in California Native Plant Society 2007) or vascular plants, bryophytes, and lichens listed as having special status by CDFG (California Department of Fish and Game 2007); and,
- Listed by CNPS as plants about which more information is needed to determine their status and plants of limited distribution (Lists 3 and 4 in California Native Plant Society 2007) that may be included on the basis of local significance or recent biological information.

Special-status animals are species with one or more of the following characteristics.

- Listed or proposed for listing as threatened or endangered under the ESA (50 CFR 17.11 [listed animals] and various notices in the FR [proposed species]);
- Candidates for possible future listing as threatened or endangered under the ESA (70 FR 24870-24934, May 11, 2005), or as species of concern (NMFS);
- Determined to meet the definitions of rare or endangered under CEQA (State CEQA Guidelines, Section 15380);
- Listed or candidates for listing by the State of California as threatened or endangered under CESA (14 CCR 670.5);
- Wildlife species of special concern to CDFG (California Department of Fish and Game 2003);

- Fully protected species under the California Fish and Game Code Section 3511(birds), Section 4700 (mammals), Section 5515 (fish), and Section 5050 (reptiles and amphibians); and
- Species with no formal special status but thought by experts to be rare or in serious decline and to warrant special status based on recent information.

Covered Species Criteria

For each special-status species with potential to occur in the Plan area (Appendix C), information was gathered on its status, population trends, distribution, threats, conservation, and management efforts.

1.4 Regulatory Setting

The PCCP is designed to comply with the ESA, CESA, NCCP Act, CWA (Sections 401 and 404), and the CDFG Master Streambed Alteration Agreement for Streambed Modification (Fish and Game Code § 1600 – 1610) and support the issuance of permits under those laws for covered activities. The PCCP is also consistent with several other California and federal environmental laws as they may pertain to covered activities, including:

- Migratory Bird Treaty Act (16 U.S.C.A. § 703 et seq.);
- Bald and Golden Eagle Protection Act (16 U.S.C.A. § 668 et seq.);
- National Environmental Policy Act (42 U.S.C.A. § 4321 et seq.);
- The California Native Plant Protection Act (Fish and Game Code § 1900 et seq.)
- California Fish and Game Code Sections 3511, 4700, 5050, 5515 (Fully Protected Species);
- California Fish and Game Code Section 3503 (Bird Nests);
- California Fish and Game Code Section 3503.5 (Birds of Prey);
- The California Environmental Quality Act (Public Resources Code § 21000, et seq.).

Additionally, land uses within unincorporated Placer County and the City of Lincoln are governed by the respective jurisdiction's general plan and ordinances. Those general plans and ordinances provide the local regulatory setting for western Placer and are discussed below. More detailed discussion of these plans and ordinances is provided in the PCCP EIR/EIS.

1.4.1 Federal and State Endangered Species Laws

Federal Endangered Species Act

The USFWS and NMFS administer the ESA. The ESA requires each agency to maintain lists of imperiled native species and affords substantial protections to these “listed” species. NMFS’ jurisdiction under the ESA is limited to the protection of marine mammals, marine fishes, and anadromous fishes; all other species are subject to USFWS jurisdiction.

The USFWS and NMFS may “list” a species if it is endangered (at risk of extinction throughout all or a significant portion of its range) or threatened (likely to become endangered within the foreseeable future). Section 9 of the ESA prohibits the “take” of any wildlife species listed as endangered and most species listed as threatened. Take, as defined by the ESA, means “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.” Harm is defined as “any act that kills or injures the species, including significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering” (50 CFR 17.3).

The ESA includes exceptions to this general take prohibition that allow an action to be carried out, despite the fact that the action may result in the take of listed species, where conservation measures are included for the species. Section 7 of the ESA provides an exception for actions authorized (e.g., under a Section 404 permit), funded, or carried out by a federal agency and Section 10 provides an exception for actions that do not involve a federal agency.

To receive a Section 10(a)(1)(B) incidental take permit (ITP) for take of federally listed fish and wildlife species “that is incidental to, but not the purpose of, otherwise lawful activities,” the permit applicant is required to provide:

- A complete description of the activity sought to be authorized;
- An HCP that specifies:
 - The impact that will likely result from the taking of covered species;
 - The steps the applicant will take to monitor, minimize, and mitigate such impacts to the maximum extent practicable;
 - The funding that will be available to implement such steps;

- The procedures to be used to deal with unforeseen circumstances;
- The alternative actions to such taking the applicant considered and the reasons why such alternatives are not proposed to be utilized; and
- Such other measures that the Interior Secretary or Commerce Secretary may require as being necessary or appropriate for purposes of the plan (50 CFR 17.22(b)).

The USFWS or NMFS will issue an ITP if the Interior Secretary or Commerce Secretary, as the case may be, finds with respect to the ITP application and HCP that:

- The taking will be incidental;
- The applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking;
- The applicant will ensure that adequate funding for the plan will be provided;
- The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and
- The measures, if any, required by the Secretary of Interior or Commerce Secretary, will be met. (16 U.S.C.A. § 1539(a)(2)(B).)

Section 9 also prohibits the “removal or reduction to possession” of any listed plant species “under federal jurisdiction” (i.e., on federal land, where federal funding is provided, or where federal authorization is required). The ESA does not prohibit take of listed plants on non-federal land, other than prohibiting the removal, damage, or destruction of such species in violation of state law. Consistent with section 7 (a)(2) of the ESA, however, Section 10 prohibits the issuance of an ITP that would appreciably reduce the likelihood of the survival and recovery in the wild (i.e., “jeopardize”) of any endangered or threatened species, including plants. Although not specifically addressed by Section 10, plants can be covered by HCPs and are included in the PCCP as is consistent with the NCCP Act. Some plants are covered in order to meet regulatory obligations under ESA Section 7 and to comply with CESA. Incidental take authorization is also requested for plants to provide no-surprises assurances for these species (see Chapter 10, Assurances).

California Endangered Species Act

Administered by CDFG, CESA prohibits the take of listed species and also species formally under consideration for listing (“candidate” species) in California. Under CESA, take means “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill” (Fish and Game Code § 86.). Therefore, take under the CESA does not include “the

taking of habitat alone or the impacts of the taking”⁶. However, the killing of a listed species that is incidental to an otherwise lawful activity and not the primary purpose of the activity is a take under CESA. CESA does not protect insects, but with certain exceptions prohibits the take of plants on private land. Incidental take of state-listed species may be authorized if an applicant submits an approved plan that minimizes and “fully mitigates” the impacts of this take.

Natural Community Conservation Planning Act

The NCCP Act was enacted to implement broad-based planning to provide for effective protection and conservation of California’s wildlife heritage while continuing to accommodate growth. The NCCP Act does not focus only on listed species and is broader in its orientation and objectives than are the ESA or CESA. The NCCP Act encourages local, state, and federal agencies to prepare comprehensive conservation plans that maintain the continued viability of species and biological communities impacted by human changes to the landscape. The NCCP Act is broader in its orientation and objectives than are ESA and CESA, and preparation of an NCCP is voluntary. The primary objective of the NCCP program is to conserve natural communities at the ecosystem scale while accommodating compatible land use. To be approved by CDFG, an NCCP must provide for the conservation of species and protection and management of natural communities in perpetuity within the area covered by permits. Conservation is defined by the NCCP Act and the California Fish and Game Code as actions that result in the delisting of state-listed species. Thus, NCCPs must contribute to the recovery of listed species or prevent the listing of nonlisted species rather than just mitigate the effects of covered activities. This recovery standard is one of the major differences between an NCCP and an HCP prepared to satisfy ESA or CESA.

The NCCP Act provides for incidental take authorization, such that covered activities resulting in incidental take of listed species may be carried out without violating CESA⁷. Permits issued under the NCCP Act can also be broad and may include both listed species and non-listed species. The California Department of Fish and Game shall approve a natural community conservation plan for implementation after making certain findings. The required findings are listed here, accompanied by *italic text* explaining how the requirement is addressed in the PCCP:

(1) The plan has been developed consistent with the process identified in the planning agreement entered into pursuant to Section 2810.

⁶ Environmental Council of Sacramento v. City of Sacramento, 142 Cal. App. 4th 1018 (2006).

⁷ The NCCP Act states that CDFG “may authorize by permit the taking of any covered species whose conservation and management is provided for in a natural community conservation plan approved by [CDFG].” (Fish and Game Code § 2.835.)

A representative of the Department of Fish and Game has been an active participant with the County's Interagency Working Group and Biological Stakeholder Group and has ensured that the County has developed the plan in accordance with the Planning Agreement. In addition, a group of independent Science Advisors prepared and submitted a report (Brussard et al. 2004) providing guidance for use in the development of the PCCP. Many of the recommendations of the Science Advisors have been incorporated in the PCCP.

(2) The plan integrates adaptive management strategies that will be periodically evaluated and modified based on the information from the monitoring program and other sources, which will assist in providing for the conservation of covered species and ecosystems within the Plan area.

An adaptive management and monitoring program has been developed for the PCCP (Chapter 7). The adaptive management and monitoring program reflects suggestions presented in the recent publication "Designing Monitoring Programs in an Adaptive Management Context for Regional Multiple Species Conservation Plans," (Atkinson et al. 2004).

(3) The plan provides for the protection of habitat, natural communities, and species diversity on a landscape or ecosystem level through the creation and long-term management of habitat reserves or other measures that provide equivalent conservation of covered species appropriate for land, aquatic, and marine habitats within the Plan area.

The PCCP calls for the ultimate establishment of over 50,000 acres of reserves or other protected lands containing a variety of natural communities including vernal pools, annual grasslands, valley foothill riparian, stream systems, valley oak and other types of oak woodlands (Chapter 5). The reserves will be managed in perpetuity either in fee title or as conservation easements (Chapter 5). Most of the reserve land area will be acquired as mitigation lands required to offset impacts of habitat loss resulting from growth (Chapter 5); other reserve land area will be conservation lands acquired using state, federal, and other public funds (Chapter 9).

(4) The reserve systems and conservation measures in the Plan area provide for the conservation of species by:

- (A) Conserving, restoring, and managing representative natural and semi-natural landscapes to maintain the ecological integrity of large habitat blocks, ecosystem function, and biological diversity.
- (B) Establishing one or more reserves or other measures that provide equivalent conservation of covered species within the Plan area and linkages between them and adjacent habitat areas outside of the Plan area.
- (C) Protecting and maintaining habitat areas large enough to support sustainable populations of covered species.

- (D) Incorporating a range of environmental gradients (such as slope, elevation, aspect) and high habitat diversity to provide for shifting species distributions due to changed circumstances.
- (E) Sustaining the effective movement and interchange of organisms between habitat areas in a manner that maintains the ecological integrity of the habitat areas within the Plan area.

The PCCP will ultimately create a system of large, interconnected reserves that meet the goals and objectives for specific natural communities and for specific covered species (Chapter 5). These goals and objectives include recommendations from the Science Advisors and other PCCP studies regarding, among other things: reserve sizes, connectivity, buffers, and use of best management practices. The PCCP includes specific reserve selection criteria, which will contribute toward achieving this goal, and describes the expected future conditions of the reserve lands.

- (5) The plan identifies activities, and any restrictions on those activities, allowed within reserve areas that are compatible with the conservation of species, habitats, natural communities, and their associated ecological functions.

As the Placer Conservation Authority or equivalent land management entity acquires reserve lands, site-specific management plans (SSMP) will be prepared for each reserve or reserve complex (Chapter 5). Each SSMP will outline the policies under which the parcel will be managed, will describe the specific management activities that will be implemented, will specify the restoration and enhancement needs, and will define reserve water management. The SSMP will also address activities that can take place within the reserves and those that would be prohibited. Examples of activities that will typically be prohibited include dumping, vandalism, unauthorized hunting and fishing, collection of plants or animals, and off-road vehicle use.

- (6) The plan contains specific conservation measures that meet the biological needs of covered species and that are based upon the best available scientific information regarding the status of covered species and the impacts of permitted activities on those species.

Specific conservation measures for covered species are contained in Chapter 5. The analysis of impacts of urban development and other covered activities on covered species is contained in Chapter 4.

- (7) The plan contains a monitoring program.

See Chapter 7 and number (2) above.

- (8) The plan contains an adaptive management program.

See Chapter 7 and number (2) above.

(9) The plan includes the estimated timeframe and process by which the reserves or other conservation measures are to be implemented, including obligations of landowners and plan signatories and consequences of the failure to acquire lands in a timely manner.

The intent of the PCCP is to keep the establishment of mitigation reserve lands ahead of habitat loss from growth. The PCCP contains a requirement that 500 acres of reserve lands be acquired at plan start up through a combination of public and mitigation funding. The 500 acres requirement is roughly proportional to the projected habitat impacts. Thereafter, the program will always have reserve lands in excess of those required to mitigate cumulative losses from growth. The obligations of PCCP participants and plan signatories are contained in Chapter 8.

(10) The plan contains provisions that ensure adequate funding to carry out the conservation actions identified in the plan. *See Chapter 9.*

1.4.2 Federal and State Wetland Laws and Regulations

Federal Clean Water Act, Section 404— Programmatic General Permit for Wetland Fill

The Permittees are proposing a program to issue 404 permits under certain circumstances. This program, the Placer County Aquatic Resources Program (CARP), provided in Appendix M and described in Section 1.5.1, as well as other Local Programs, Plans and Resource Management Efforts, provide a framework that will be implemented as part of the PCCP to comply with USACE regulations. This program will specify procedures and avoidance, minimization and mitigation measures for waters of the United States, including vernal pools, that will be used by the USACE to develop and issue a Section 404 general permit for certain covered activities.

The CARP will provide a process through which Placer County can authorize projects under Section 404 of the CWA for projects impacting 10.0 acres or less of jurisdictional waters. The CARP proposes that the Army Corps of Engineers (Corps) delegate the permitting role to the County through a Programmatic General Permit for certain categories of projects that only impact aquatic resources. The CARP identifies two categories of projects by impact thresholds. Currently, under the standard permitting process, the Corps requires permit applicants to follow the Individual Permit (IP) process if their proposed projects will directly impact 0.5 acres or more of jurisdictional waters.

As a general rule, activities resulting in the discharge of dredged or fill material will not be permitted if there is a practicable alternative to the proposed discharge that would have a less adverse impact on the aquatic

ecosystem, so long as the alternative does not present other significant environmental consequences, 40 C.F.R. sec. 230.10(a). As a part of this process, the Corps must analyze a range of alternatives and determine that the proposed activity is the least environmentally damaging practicable alternative or “LEDPA” before it can grant a permit authorizing the discharges. Unless clearly demonstrated otherwise, the Corps will assume that there are practicable alternatives to discharge activities that occur in, but are not dependent upon being in or having access to, a wetland or other “special aquatic site.” 40 C.F.R. sec. 230.10(a)(3). In addition to this alternatives analysis, the Guidelines also require the Corps to determine if the proposed discharge will result in violations of certain laws such as the ESA or other regulatory requirements, cause or contribute to significant degradation of waters, and whether it will include appropriate and practicable steps to minimize potential adverse impacts on the aquatic ecosystem, 40 C.F.R. sec 230.10(b) through (d).

Accordingly, the Corps would normally need to conduct an alternatives analysis and ensure compliance with NEPA before it can determine whether to grant the County a programmatic permit, as contemplated in the CARP. However, the Corps need not prepare two separate alternatives analyses to satisfy both the Guidelines and NEPA, as the Guidelines provide that in most cases, the alternatives analysis required for NEPA will provide the information necessary for the alternatives analysis required by the Guidelines 40 C.F.R. sec. 230.10(a)(4). Here, the County anticipates that the CARP and the PCCP will be analyzed in the same environmental impact statement (EIS), with the FWS as the lead agency and the Corps as a cooperating agency, and that the EIS’s alternatives analysis will be sufficiently complete that it will satisfy the Corps’s alternative analysis obligations under the Guidelines as well as NEPA.

Moreover, the Corps can rely on and tier from the EIS’s alternatives analysis in reviewing subsequent individual permit applications for projects that fall within the PCCP and the CARP’s parameters. In fact, the Guidelines require the Corps to consider such an analysis, 40 C.F.R. sec. 230.10(a)(5) (“To the extent that practicable alternatives have been identified and evaluated under a Coastal Zone Management Plan . . . or other planning process, such evaluation shall be considered by the permitting authority as part of the consideration of alternatives under the Guidelines.”).

The CARP will allow for a consistent review of aquatic resources and will provide a streamlined approach to projects that qualify for this process.

Federal Clean Water Act, Section 401— Programmatic Water Quality Certification

Under the CWA Section 401, applicants for a federal license or permit to conduct activities that may result in the discharge of a pollutant into

waters of the United States must obtain certification from the state in which the discharge would originate. Therefore, all projects that have a federal component and may affect state water quality (including projects that require federal agency approval, such as issuance of a Section 404 permit) must also comply with CWA Section 401 and the State's Porter-Cologne Water Quality Control Act. In California, Section 401 certification is handled by the Regional Water Quality Control Boards. The PCCP falls under the jurisdiction of the Central Valley Regional Water Quality Control Board (CVRWQCB). The CVRWQCB must certify that the discharge will comply with state water quality standards and other requirements of the CWA. Any Section 404 permit issued by the USACE based on the wetland conservation program in the PCCP must be certified under Section 401 by the CVRWQCB.

It is anticipated that this permit will be included as a part of the CARP process and that a programmatic approach will be implemented for 401 permits in conjunction with Army Corps of Engineers 404 permit.

State Fish and Game Code Section 1600-1616— Master Streambed Alteration Agreement for Streambed Modifications

CDFG has jurisdictional authority over streams, lakes, and wetland resources associated with these aquatic systems under California Fish and Game Code Section 1600 et seq. CDFG has the authority to regulate work that will “substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris waste or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake” (Fish and Game Code § 1602). An entity that proposes to carry out such an activity must first inform CDFG. Where CDFG concludes that the activity will “substantially adversely affect an existing fish or wildlife resource,” the entity proposing the activity must negotiate an agreement⁸ with CDFG that specifies terms under which the activity may be carried out in a way that protects the affected wildlife resource.

CDFG can enter into programmatic agreements that cover recurring operation and maintenance activities or regional plans. These agreements are sometimes referred to as “master streambed alteration agreements.” The PCCP includes the CARP that specifies avoidance, minimization and mitigation requirements for streams, rivers, and lakes and will be used by CDFG and the County to create a “master streambed alteration agreement” for covered activities or similar process through which permits will be issued.

⁸ “Lake or streambed alteration agreements” are not permits, but rather a mutual agreement between the CDFG and the entity proposing the action. If an agreement cannot be reached, the matter is referred to arbitration.

1.4.3 Other Federal and State Wildlife Laws and Regulations

Migratory Bird Treaty Act

The Migratory Bird Treaty Act of 1918, as amended (MBTA), implements various treaties and conventions between the U.S. and Canada, Japan, Mexico, and the former Soviet Union for the protection of migratory birds. Under the MBTA, taking, killing, or possessing migratory birds is unlawful, as is taking of any parts, nests, or eggs of such birds (16 U.S.

Government Code [USC] 703). Take is defined more narrowly under the MBTA than under ESA and includes only the death or injury of individuals of a migratory bird species or their eggs. As such, take under the MBTA does not include the concepts of harm and harassment as defined under ESA. The MBTA defines migratory birds broadly; all covered birds in this Plan are considered migratory birds under the MBTA.

USFWS provides guidance regarding take of federally listed migratory birds (Appendix 5 in the HCP Handbook [U.S. Fish and Wildlife Service and National Marine Fisheries Service 1996]). According to these guidelines, an incidental take permit can function as a Special Purpose Permit under the MBTA (50 CFR 21.27) for the take of all ESA-listed covered species in the amount and/or number and subject to the terms and conditions specified in an HCP. Any such take will not be in violation of the MBTA (16 USC 703-12). None of the covered bird species (see below), however, are ESA-listed covered species, so the USFWS cannot issue a Special Purpose Permit under the MBTA for take of covered bird species. Should any of these covered birds become listed under ESA during the permit term, the ESA permit would also constitute a Special Purpose Permit under the MBTA for that species for a 3-year term as specified under 50 CFR 21.27 subject to renewal by the Permittees.

The following covered species are protected by the MBTA:

- Bald eagle,
- Swainson's hawk,
- American peregrine falcon,
- California black rail,
- Bank swallow,
- Burrowing owl,
- Cooper's hawk,
- Loggerhead shrike,

- Northern harrier,
- Ferruginous hawk,
- Yellow warbler,
- Yellow-breasted chat,
- Modesto song sparrow,
- Grasshopper sparrow, and
- Tricolored blackbird.

Non-listed covered species, as well as other migratory birds not covered by the permit, will benefit from seasonal restrictions on construction and other conservation measures described in this Plan. The creation of the Reserve System and subsequent restoration and management will also be a significant “benefit to the migratory bird resource” as required by the Special Purpose Permit. Compliance with the conditions on covered activities described in Chapter 6 is consistent with the requirements of the MBTA for the covered migratory birds. It will be the responsibility of individual project applicants to fully comply with the MBTA for non-covered migratory birds.

Bald and Golden Eagle Protection Act

The Bald and Golden Eagle Protection Act prohibits the taking or possession of and commerce in bald and golden eagles, with limited exceptions. Under the Act, it is a violation to “...take, possess, sell, purchase, barter, offer to sell, transport, export or import, at any time or in any manner, any bald eagle commonly known as the American eagle, or golden eagle, alive or dead, or any part, nest, or egg, thereof...”. Take is defined to include pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest, and disturb. Disturb is further defined in 50 CFR Part 22.3 as “to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.” Golden eagle is not a covered species in this Plan, but the bald eagle is. The Plan complies with provisions of the Bald and Golden Eagle Protection Act for bald eagles and does not permit direct injury or death of the species or its eggs or disturbance to nests.

California Fully Protected Species

In the 1960s, before CESA was enacted, the California legislature identified specific species for protection under the California Fish and Game Code. These fully protected species may not be taken or possessed at any time, and no licenses or permits may be issued for their

take except for collecting these species for necessary scientific research and relocation of bird species for the protection of livestock. Fully protected species are described in Sections 3511 (birds), 4700 (mammals), 5050 (reptiles and amphibians), and 5515 (fish) of the California Fish and Game Code. These protections state that "...no provision of this code or any other law shall be construed to authorize the issuance of permits or licenses to take any fully protected [bird], [mammal], [reptile or amphibian], [fish]." This Plan includes conservation measures to avoid taking fully protected species as defined by the California Fish and Game Code. The fully protected species covered by the Plan are bald eagle, American peregrine falcon, and California black rail. Other fully protected species expected to occur in the Plan area but are not covered under the PCCP include, but not restricted to, white-tailed kite, golden eagle and ring-tailed cat.

California Fish and Game Code 3503 (Bird Nests)

Section 3503 of the California Fish and Game Code makes it "unlawful to take, possess, or needlessly destroy the nests or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto." Therefore, CDFG may issue permits authorizing take. The Plan contains conservation measures to avoid and minimize such take to the maximum extent practicable in order to comply with Section 3503. However, some take to covered birds may still occur; the NCCP permit will serve as the authorization for take of nests or eggs of covered birds pursuant to Section 3503.

California Fish and Game Code 3503.5 (Birds of Prey)

Section 3503.5 of the California Fish and Game Code prohibits the take, possession, or destruction of any birds of prey or their nests or eggs "except as otherwise provided by this code or any regulation adopted pursuant thereto." CDFG may issue permits authorizing take of birds of prey or their nests or eggs pursuant to CESA or the NCCP Act. The birds of prey covered by the Plan are bald eagle, Swainson's hawk, American peregrine falcon, Cooper's hawk, northern harrier, ferruginous hawk, and western burrowing owl. Bald eagle and American peregrine falcon are fully protected and therefore no take of individuals is allowed. The Plan contains conservation measures to avoid take of bald eagle and American peregrine falcon and to avoid and minimize take of Swainson's hawk, Cooper's hawk, northern harrier, and western burrowing owl in order to comply with Section 3503.5. Ferruginous hawk overwinters, but does not breed, in the Plan area so conditions to minimize impacts to nesting ferruginous hawk are not necessary. The NCCP permit will serve as the authorization for take of birds, eggs, or nests of Swainson's hawks and western burrowing owl that cannot be avoided pursuant to Section 3503.5.

1.4.4 National Environmental Policy Act

The National Environmental Policy Act (NEPA) requires federal agencies to include in their decision-making process appropriate and careful consideration of all environmental effects of a proposed action and of possible alternatives. Documentation of the environmental impact analysis and efforts to avoid or minimize the adverse effects of proposed actions must be made available for public notice and review. This analysis is documented in either an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). Project proponents must disclose in these documents whether their proposed action will adversely affect the human or natural environment. NEPA's requirements are primarily procedural rather than substantive in that NEPA requires disclosure of environmental effects and mitigation possibilities but includes no requirement to mitigate.

The issuance by USFWS and NMFS of an incidental take permit under Section 10 of the ESA constitutes a federal action. Therefore, USFWS and NMFS must comply with NEPA and will need to ensure that the EIS/EIR satisfies all regulatory requirements prior to the take permit being issued for the NCCP/HCP. A draft EIS was released on [date TBD] for a 90-day comment period that closed on [date TBD]. The draft EIS accompanies this draft HCP/NCCP.

1.4.5 California Environmental Quality Act

CEQA is similar to, but more extensive than NEPA in that it requires significant environmental impacts of proposed projects be reduced to a less-than-significant level through adoption of feasible avoidance, minimization, or mitigation measures unless overriding considerations are identified and documented that make the mitigation measures or alternative infeasible. CEQA applies to certain activities in California undertaken by either a public agency or a private entity that must receive some discretionary approval from a California government agency. In issuing the NCCP Act permit, CDFG must comply with CEQA. Similarly, the action of the Permittees in adopting the Plan is subject to CEQA compliance. Placer County is serving as the lead agency under CEQA. To comply with CEQA, the Permittees released a draft joint environmental impact statement/ environmental impact report (EIS/EIR) on [date TBD]. The public comment period on the draft EIS/EIR closed on [date TBD]. The draft EIS/EIR accompanies this draft HCP/NCCP.

The draft EIS/EIR prepared for this HCP/NCCP is intended to provide programmatic compliance with CEQA for all activities covered by this Plan. Future projects that receive take coverage under the Plan must also comply with CEQA at the project level through their local jurisdiction. It is expected that the conservation provided in this Plan will be sufficient to meet all CEQA mitigation standards for impacts on the special-status species and natural communities that are covered in this Plan. However, because circumstances may change, full CEQA coverage through the EIS/EIR prepared for this HCP/NCCP cannot be guaranteed. Barring

major changes, it is expected that future CEQA documents for activities that receive take coverage under this Plan will incorporate the conservation measures in this Plan by reference to comply with CEQA for the covered species and natural communities addressed in this Plan. The Plan implements a conservation strategy designed to achieve a comprehensive set of biological goals and objectives. Furthermore, as an NCCP, the Plan provides for broad-based planning to preserve natural communities at the ecosystem scale.

Many of the conservation measures in the Plan will also benefit other special status species (i.e., species not covered by the Plan); such measures may be sufficient to meet CEQA standards for these other species as well.

1.5 Other Local Programs and Resource Management Efforts

1.5.1 County Aquatic Resources Program

The County Aquatic Resource Program, or CARP (Appendix M), is a component of the PCCP and provides an approach to identify, classify, rank, and protect aquatic resources within Placer County. It is intended to be a programmatic approach to obtain permits for impacts to aquatic resources within the Plan area. The CARP will provide a method for implementing a future Aquatic Resource Ordinance as part of the PCCP. The program classifies the various aquatic resources within the County that are under USACE (404 permit), RWQCB (401 permit) and CDFG (1602 permit) authority. It also identifies categories of permits that would be allowed under the program.

The CARP authorizes work in “waters of the County” for a variety of activities, including discharges of fill material, alterations to the bed, bank, shoreline, or channel of County streams, lakes, and ponds, and removal of riparian and wetland vegetation. The CARP will provide avoidance, minimization and mitigation at a landscape level by implementing buffers, identifying areas for protection and acquisition into the larger reserve system and outlines additional requirements for permit issuance under the larger PCCP conservation strategy.

Although 401 and 1602 permits are relatively straight forward, the 404 permit is required to consider cultural resources under Section 106 on the National Historic Preservation Act (16 U.S.C 470). This Act created the President’s Advisory Council on Historic Preservation (ACHP) to review and comment upon activities sponsored or licensed (permitted) by the Federal Government (USACE) that may have an effect on resources listed or eligible for listing on the National Register of Historic Places. Compliance through Section 106 involves a demarcation of the area to be affected and may include surveys to ascertain the presence of artifacts that are eligible for National Register listing.

The ACHP, State Historic Preservation Officer/Tribal Historic Preservation Officer (SHPO/THPO) and other consulting parties advise and assist the federal agency official in this effort. This consultation occurs between federal agencies, with rare exceptions. This consultation can take a considerable amount of time depending upon the circumstances. As the CARP is intended to streamline the permit process, the County is proposing a Memorandum of Understanding (MOU) with SHPO to allow the County to issue permits on behalf of Army Corps of Engineers while adhering to specific requirements under Section 106 of the National Historic Preservation Act.

1.5.2 Coordinated Resource Management Plans and Placer Legacy

The PCCP targets riverine and stream systems and their associated riparian habitats as a natural community covered under the Plan. Existing Coordinated Resource Management Plans on Dry Creek and Auburn Ravine/Coon Creek provide valuable information to assist the Placer Conservation Authority in developing mitigation efforts, conservation actions, and Best Management Practices (BMP) for watersheds and stream systems for the PCCP. See Chapter 2, Conservation, Restoration, and Open Space Policies for more information on these resource management plans

Placer Legacy

Although Placer Legacy was the impetus for the development of the PCCP, Placer Legacy is a separate County program that was developed to protect Placer County's diverse open-space and agricultural resources and help maintain the County's high quality of life while promoting its economic vitality. The Placer Legacy program has goals that may overlap with some PCCP goals, but it was developed within a different context of local, state and federal regulatory environmental requirements, relying upon existing statutes and General Plan policies for implementation.

The Placer Legacy program will remain an active program within the County. The Placer Legacy program will continue to acquire land and may, depending upon funding sources and land suitability, be considered as contributing to the PCCP Reserve System.

Through Placer Legacy, open space will be protected to:

- Maintain agriculture as a viable part of the economy;
- Protect the diversity of plant and animal communities, including endangered and other special-status species;

- Protect and expand outdoor recreation areas;
- Protect areas that are scenic or historically significant;
- Establish open-space buffers between communities, and
- Ensure public safety.

Key elements of the Placer Legacy Program are to:

- Provide a wide variety of ownership, preservation, and funding methods to address the diverse circumstances present in the County;
- Benefit the County's economic future by clearly maintaining the County as an outstanding place to live and do business;
- Maintain local land use control by taking a leadership role in the preservation of endangered species and habitat protection;
- Identify open spaces of importance to residents of the cities as well as the unincorporated area;
- Improve certainty in the regulatory process; and
- Design the program to allow phasing and early opportunities for successful implementation.

The program requires identifying and working with willing sellers and willing buyers for all land transactions, which will be similar to the PCCP. A core interest of the program is to enable the County to make itself a willing buyer to persons wishing to sell interests in lands having value for conservation purposes. No property owner may be coerced or forced to sell any rights to their property, nor may condemnation proceedings be used to implement the program.

1.6 Overview of HCP/NCCP Planning Process

1.6.1 The Planning Process

The Placer County PCCP was a coordinated effort by four local agencies (i.e., the Permittees).

- Placer County;
- City of Lincoln;
- South Placer Regional Transportation Authority; and
- Placer County Water Agency.

Coordination and management of the Plan involved the legislative governing bodies of the four Permittees, an Interagency Working Group consisting of designated staff from each of the Permittees and Wildlife Agencies, a Biological Working Group, and a Stakeholder Group. A

Placer County Program Manager reported to the various groups and was responsible for day-to-day administration of the planning effort. Each group is described in the following section.

The legislative governing bodies of each Permittee were responsible for making significant decisions, such as approval or amendment of the Planning Agreement with CDFG and USFWS, approval of project financing, approval of the EIS/EIR, and approval of the draft and final Conservation Plan.

1.6.2 Interagency Working Group

After the Planning Agreement was signed by all parties, the conservation planning process for the PCCP began with the establishment of an Interagency Working Group (IAWG). The IAWG is made up of County planning staff, Wildlife Agency staff, staff of other participating agencies, and the County's consultants. The group initially met monthly in Auburn, or more frequently as necessary, to assist the Permittees with the preparation of the PCCP. Later meetings were held less frequently to discuss the drafting of the conservation strategy. The IAWG has guided the scope of work and methodologies used in the various biological studies conducted in support of the PCCP. Members have also provided input on the development of numerous aspects of the conservation strategy, including the different analysis zones, conservation areas, mitigation ratios, and reserve acquisition criteria.

1.6.3 Biological Stakeholders Working Group

During the PCCP preparation, the Biological Working Group (BWG) generally met twice a year, or as necessary, to provide stakeholder input into the conservation planning process. Meetings were held in an open public forum and comprised members from local environmental organizations, farming interests, development industry representatives, and other landowner representatives. The BWG has been involved with reviewing and discussing findings of biological studies conducted in the PCCP area and reviewing and commenting on the development of the conservation strategy. The group was also be asked to provide specific input on various aspects of the draft PCCP.

1.6.4 Science Advisors

Under its Five-Point Policy, USFWS “encourage[s] the use of scientific advisory committees during development and implementation of an HCP” (65 FR 106 35256, June 1, 2000). Independent scientific input is required by the NCCP Act [Section 2810(b)(5)]. The CDFG provides guidelines for “obtaining independent scientific analysis and input, to assist ... permittees in meeting scientifically sound principles for the conservation and management of species” for assembling a science advisory group, defining their scope of work, involving a facilitator, and providing scientific advice (California Department of Fish and Game 2002). The science advisory process for the PCCP was guided by CDFG’s guidelines.

The Science Advisors are an independent group of scientists retained by Placer County under the direction of CDFG. The Science Advisors reviewed available information on biological resources and published a report in January 2004 (Brussard et al. 2004). The Science Advisors identified the ecosystems described in Chapter 3 and made recommendations for their conservation and management. Those recommendations are included in Chapter 5. Permittees considered all comments from the Science Advisors' report when developing the Plan.

1.6.5 Management Team

The Management Team, which had primary responsibility for developing the Plan, was made up of planners and managers from the Permittees. The Management Team, Plan Program Manager, and key representatives of the consultants generally met monthly during the beginning stages of PCCP development and on an as-needed basis thereafter. Responsibilities included making decisions that were outside the responsibility of the elected bodies and providing direction to staff working on the Plan, consultants, and the Plan Program Manager. The Management Team and Program Manager actively and regularly coordinated with representatives of the three Wildlife Agencies in development of the Plan.

1.6.6 Local Agency and Wildlife Agency Technical Coordination

Representatives of the Permittees, consultants, and the three Wildlife Agencies initially held monthly meetings to address project coordination and technical issues. As development of the PCCP progressed, meetings were held less frequently.

1.6.7 Consultant Team

This Plan was prepared by a consultant team under the guidance and direction of the County Management Team. The consulting team provided scientific, planning, legal, and other technical assistance. The members of the consulting team had the following responsibilities.

- TRA Environmental Sciences, Inc.: Preparation of the PCCP.
- Hausrath Economics Group: Cost and funding analysis.
- North Fork Associates: Preparation of the CARP and Valley land cover analysis.
- ICF Jones & Stokes: Baseline data and preparation of the EIS/EIR.
- Resources Law Group: Implementation Agreement, legal documents and legal assistance.
- Willdan Financial Services: Development of the financial plan.

1.6.8 Public Outreach and Involvement

Public involvement has been an integral part of the process of developing this Plan. Stakeholders and the public have been actively involved throughout the planning process and have had the opportunities to provide their input and influence on the development of the Plan through public meetings and hearings.

In addition, a website was created that provided information on all public meetings and PCCP documents, while also providing opportunities for comments and feedback.

The Permittees developed this Plan in compliance with public involvement guidelines established by USFWS and NMFS (U.S. Fish and Wildlife Service and National Marine Fisheries Service 1996) and the requirements of the NCCP Act.

1.6.9 Document Organization

This Plan and supporting information are presented in two volumes: Volume 1 includes the Plan narrative with supporting tables and figures included at the end of each chapter; Volume 2 includes all appendices.

Volume 1

Chapter 1, *Introduction*, discusses the background, purpose, and objectives of the Plan; reviews the regulatory setting; and summarizes the HCP/NCCP process.

Chapter 2, *Land Use and Covered Activities*, describes the land uses of the Plan area and the activities covered under the Plan.

Chapter 3, *Physical and Biological Resources*, describes the existing conditions of the Plan area relevant to the Plan.

Chapter 4, *Impact Assessment and Level of Take*, presents the impacts of the covered activities.

Chapter 5, *Conservation Strategy*, summarizes the conservation strategy and describes the specific conservation actions to be implemented to mitigate the impacts of the covered activities and contribute to the recovery of the covered species.

Chapter 6, *Conditions on Covered Activities*, describes the specific surveys and other actions required of all covered activities to avoid, minimize, and mitigate impacts to covered species consistent with federal and state regulations.

Chapter 7, *Monitoring and Adaptive Management Program*, discusses the monitoring requirements and adaptive management procedures associated with implementation of conservation actions and reserve management.

Chapter 8, *Plan Implementation*, details the administrative requirements associated with Plan implementation and the roles and responsibilities of the Permittees and Wildlife Agencies.

Chapter 9, *Funding*, reviews the costs associated with Plan implementation and the funding sources proposed to pay for those costs.

Chapter 10, *Assurances*, describes the protections for Permittees in the event of changed circumstances or unforeseen circumstances, as well as the procedures for modifying or amending the Plan.

Chapter 11, *Alternatives*, presents the required analysis of alternatives to take of covered species.

Chapter 12, *Reference Materials*, includes a *List of Acronyms and Abbreviations*, a *Glossary* of terms and their definitions, a *List of Preparers*, which identifies the individuals involved in the preparation of this document, and *Literature Cited*, which is a comprehensive bibliography of references cited in the text.

Volume 2

Appendix A, *Covered Activities Project Lists*, provides detailed lists of activities covered by the Plan; these lists were provided by certain Permittees.

Appendix B, *Draft Implementing Agreement*, is a copy of the draft Implementing Agreement that will be entered into by the Permittees and the Wildlife Agencies.

Appendix C, *Evaluation of Special-Status Species for Coverage in the Placer County Conservation Plan*, lists the special-status species that were considered for coverage under this HCP/NCCP, their legal status, and their coverage under the Plan (covered, not covered, or no-take status).

Appendix D, *Species Accounts and Envirograms*, presents detailed ecological accounts of all covered species, including known occurrence and models of habitat distribution and envirograms (charts that depict the relationships between factors that affect a population or group of populations of a species).

Appendix E, *Fuel Management*, provides information and recommendations to provide fuel management and resource protection within reserves.

Appendix F, *Draft Template of Implementing Ordinance*, is a draft template of the local ordinances that participating local jurisdictions are expected to adopt to implement the Plan.

Appendix G, *Take Assessment Methodology*, likely land conversion projected growth and other covered activities are evaluated over the 50-year permit term.

Appendix H: *Deleted*

Appendix I, *Deleted*

Appendix J, *Cost Model*, describes the cost model used to estimate Plan costs described in Chapter 9.

Appendix K, *Funding Material*, provides supporting memoranda and other material to support the funding analysis in Chapter 9.

Appendix L, *Deleted*

Appendix M, *County Aquatic Resource Program*, describes the general program that will be implemented to issue permits for impacts to aquatic resources.

Appendix N, *PCWA Natural Resource Management Plan*, provides information on PCWA activities, potential impacts and recommended measures to reduce these impacts.

Appendix O, *Deleted*

Appendix P, *Project Specific Take and Mitigation Assessment Example*, shows how conditions on land conversion would be applied to a hypothetical land development.

Appendix Q, *Placer County Vernal Pool Functionality Assessment Method*, developed by Christopher Rogers, EcoAnalysts, Inc. (2009), presents a quantitative method for monitoring the health and functionality of vernal pools.

Appendix R, *Placer County Vernal Pool Restoration Feasibility Assessment*, developed by Christopher Rogers, EcoAnalysts, Inc. (2009), evaluates the likelihood of success of restoring vernal pools, design criteria, restoration actions, monitoring and performance standards for vernal pool restoration, and various issues that could affect the success of restoration.