

CHAPTER 1. INTRODUCTION

1.1 OVERVIEW

The Butte Regional Conservation Plan (BRCP) is intended to establish and implement an effective program to conserve ecologically important resources in the lowland and foothill region of Butte County (the “Plan Area”), including sensitive, at-risk species and their habitats, natural communities, and biodiversity. Important to the success of the BRCP is the continued ecological and economic function of working landscapes, including certain farming and ranching practices, and the preservation of open space. The BRCP addresses state and federal endangered species compliance requirements for the County of Butte, the City of Oroville, the City of Chico, the City of Biggs, the City of Gridley, the Butte County Association of Governments (BCAG)¹, the California Department of Transportation (Caltrans), Western Canal Water District (WCWD), Biggs West Gridley Water District, Butte Water District, Richvale Irrigation District, and the BRCP Implementing Entity that will be established to implement the Plan (collectively, the “Permit Applicants” prior to permit issuance or “Permittees” following permit issuance) for activities and projects in the Plan Area that they conduct or approve. This Plan provides a more efficient, consistent, and effective alternative to project-by-project permitting that may be costly and time consuming for applicants and often results in uncoordinated and biologically ineffective mitigation.

1.1.1 Background

In 2007, the BRCP Planning Agreement (“Planning Agreement”) regarding the initial planning scope and goals and planning and preparation process for the BRCP was entered into by and among the “Local Agencies” (i.e., the County of Butte, the City of Oroville, the City of Chico, the City of Biggs, and the City of Gridley), the California Department of Fish and Game (DFG), the United States Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NMFS), and BCAG (Appendix H, *Butte Regional Conservation Planning Agreement*). In 2010, WCWD, Biggs West Gridley Water District, Butte Water District, Richvale Irrigation District and Caltrans became signatories to the Planning Agreement.

An organizational structure was created to develop the BRCP efficiently and with substantial opportunity for input from stakeholders and the general public. This structure included a Steering Committee composed of the Permit Applicants and a Stakeholder Committee composed of parties with a broad range of interests in the Plan Area, including biological resources, agriculture, land use and development, education, transportation, resource management, water delivery, and others. BCAG served as the lead in coordination of the process and preparation of the BRCP, including contracting the Consultant to support drafting of the Plan. The federal and

¹ BCAG is a Joint Powers Authority formed pursuant to the Joint Exercise of Powers Act, Government Code sections 6500 *et seq.*

1 state permitting agencies, USFWS, NMFS, and DFG, were involved and provided input
2 throughout the BRCP development and participated in Steering Committee and Stakeholder
3 Committee meetings as well as separate meetings with BCAG and the Consultant. Public
4 involvement was encouraged through various means, including publicly open Stakeholder
5 Committee meetings, several public workshops, newsletters, and a regularly updated website
6 (see Section 1.4.2.2, *Public Outreach* for more details).

7 The BRCP was developed in coordination with the development of city and county general plans
8 in the Plan Area with feedback loops between the BRCP and general plan processes. These
9 feedback loops identified opportunities and constraints and allowed for improvements in the
10 general plans regarding the avoidance and minimization of impacts on biological resources and
11 the development of open space and conservation elements that dovetail with the BRCP.

12 *[Note to reviewers: Additional background discussion will be provided to this section as needed,*
13 *particularly on the CEQA/NEPA process as it proceeds.]*

14 **1.1.2 Purpose**

15 The BRCP's Conservation Strategy provides a regional approach for the long-term conservation
16 of covered species (see Section 1.3.3, *Covered Species*) and natural communities within the Plan
17 Area while allowing for compatible future land use and development under county and city
18 general plan updates and the regional transportation plan. The BRCP identifies and addresses
19 the covered activities carried out by the Permittees that may result in take of covered species
20 within the Plan Area. Covered activities may include those existing, planned and proposed land
21 uses over which the Permittees have land use authority; state and local transportation projects;
22 operation of water delivery systems (e.g., WCWD canals and similar delivery systems); habitat
23 restoration, enhancement, and management actions; and adaptive management and monitoring
24 activities. The permits issued under the BRCP will allow covered activities in the Plan Area to
25 be carried out in compliance with the Natural Community Conservation Planning Act (NCCPA),
26 the California Endangered Species Act (CESA) and the federal Endangered Species Act (ESA or
27 FESA).

28 The BRCP satisfies the requirements for a Habitat Conservation Plan (HCP) under section
29 10(a)(1)(B) of ESA, and a Natural Community Conservation Plan (NCCP) under the NCCPA,
30 and serves as the basis for take authorizations under both Acts. Section 2835 of the Fish and
31 Game Code provides that after the approval of an NCCP, DFG may permit the taking of any
32 covered species, both CESA-listed and non-listed, whose conservation and management is
33 provided for in the NCCP. ESA provides that after the approval of an HCP, USFWS and NMFS
34 may permit the taking of covered species (both ESA-listed and nonlisted), if the HCP meets the
35 requirements of section 10(a)(2)(A) of ESA.

36 The regional approach to planning and development of an HCP/NCCP, in conjunction with
37 general plan updates developed by local governments, provides significant benefits to biological

1 resources conservation and regional growth and development over existing processes of planning
2 and compliance. Conservation planning and implementation at a regional scale allows for more
3 efficient and effective creation of a system of conservation lands to meet the needs of species
4 covered by the BRCP than the existing ad hoc project-by-project process. The BRCP allows for
5 the integration of habitat conservation with the long-term general plan implementation to balance
6 the need for growth with species protection and to make future development compliance with
7 endangered species regulations more predictable and certain. The regional BRCP also addresses
8 the integration of species conservation into the existing agricultural working landscape and
9 allows for compatible multiple uses within specific areas important for habitat conservation.

10 **1.1.3 Overall Planning Goals and Conservation Objectives**

11 As described in the Planning Agreement, the BRCP planning goals include the following:

- 12 • Provide for the conservation and management of covered species within the Plan Area;
- 13 • Preserve aquatic and terrestrial resources through conservation partnerships with the
14 Local Agencies;
- 15 • Allow for appropriate and compatible growth and development consistent with applicable
16 laws;
- 17 • Balance open space, habitat, agriculture and urban development;
- 18 • Protect the rights of property owners;
- 19 • Provide a means to implement covered activities in a manner that complies with
20 applicable state and federal fish and wildlife protection laws, including CESA and ESA,
21 and other environmental laws, including the California Environmental Quality Act
22 (CEQA) and the National Environmental Policy Act (NEPA);
- 23 • Provide a basis for permits necessary to lawfully take covered species;
- 24 • Provide a comprehensive means to coordinate and standardize mitigation and
25 compensation requirements of ESA, CEQA, NEPA, and NCCPA within the Plan Area;
- 26 • Provide a less costly, equitable, more efficient project review process that results in
27 greater conservation values than project-by-project, species-by-species review; and
- 28 • Comply with the ESA.

29 The BRCP's goal to "provide for the conservation and management of covered species" means
30 that the BRCP will ensure the implementation of measures that will contribute to the recovery of
31 covered species, taking into consideration the scope of the Plan Area in relation to the
32 geographic range of the covered species, and the effect of covered activities on these species in
33 relation to other activities not addressed by the BRCP.

1 As further described in the Planning Agreement, the conservation objectives intended to be
2 achieved through the BRCP are as follows:

- 3 • Provide for the protection of species, natural communities, and ecosystems on a
4 landscape level;
- 5 • Preserve the diversity of plant and animal communities throughout the Plan Area;
- 6 • Protect threatened, endangered or other special-status plant and animal species, and
7 minimize and mitigate the take or loss of covered species;
- 8 • Identify and designate biologically sensitive habitat areas;
- 9 • Preserve habitat and contribute to the recovery of covered species;
- 10 • Reduce the need to list additional species;
- 11 • Set forth species-specific goals and objectives;
- 12 • Set forth specific habitat-based goals and objectives expressed in terms of amount,
13 quality, and connectivity of habitat; and
- 14 • Implement an adaptive management and monitoring program to respond to changing
15 ecological conditions.

16 **1.2 REGULATORY CONTEXT**

17 The BRCP operates within and assists in achieving the requirements of numerous applicable
18 federal and state laws and regulations. This section describes the applicable federal and state
19 laws and regulations with which the BRCP is intended to comply and other federal and state laws
20 and regulations with which the BRCP implementation may need to comply.

21 **1.2.1 The Federal Endangered Species Act**

22 The ESA has three major components relevant to the BRCP: the section 9 prohibition against the
23 “taking” of listed species; the section 10 provisions for the permitting of non-federal entities (the
24 Permittees) for the incidental take of listed species; and the section 7 requirement that federal
25 agencies (in this case, USFWS and NMFS by issuance of FESA section 10 permits) ensure, in
26 consultation with the federal fish and wildlife agencies (USFWS and NFMS conduct intra-
27 agency consultations), that their actions are not likely to jeopardize the continued existence of
28 species or result in modification or destruction of critical habitat.

29 Section 9(a)(1)(B) of the ESA prohibits the take by any person of any endangered fish or wildlife
30 species; take of threatened fish or wildlife species is prohibited by regulation. The ESA prohibits
31 the take of any listed threatened fish or wildlife species in violation of any regulation
32 promulgated by the USFWS or NMFS. “Take” is defined broadly to mean harass, harm, hunt,

1 shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct.² “Harm”
2 is defined by regulation to mean an act which actually kills or injures wildlife, including those
3 activities that cause significant habitat modification or degradation resulting in the killing or
4 injuring of wildlife by significantly impairing essential behavior patterns, including breeding,
5 feeding, or sheltering.³ The take prohibitions of the ESA apply unless take is otherwise
6 specifically authorized or permitted pursuant to the provisions of section 7 or section 10 of the
7 ESA. The protections for listed plant species under the ESA are more limited than for fish and
8 wildlife.⁴

9 Section 10 of the ESA specifically addresses the authorization for take by non-federal entities
10 through the development of an HCP. For those actions for which no federal nexus exists (i.e.,
11 not authorized, funded, or carried out by a federal agency), private individuals, corporations,
12 state and local government agencies, and other non-federal entities who wish to conduct
13 otherwise lawful activities that may incidentally result in take of a listed species must first obtain
14 a section 10 incidental take permit from USFWS or NMFS. The non-federal entity is required to
15 develop an HCP as part of the permit application process. The BRCP is intended to meet all
16 regulatory requirements necessary for USFWS and NMFS to issue section 10 permits to allow
17 incidental take of all covered species as a result of covered activities undertaken by the permitted
18 entities. Before issuing a section 10 incidental take permit, the USFWS and NMFS must make
19 the following findings:

- 20 • The taking is incidental to an otherwise lawful activity;
- 21 • Impacts are monitored, minimized, and mitigated to the maximum extent practicable;
- 22 • Procedures are provided to deal with unforeseen circumstances;
- 23 • Adequate funds exist to implement the HCP; and
- 24 • The taking will not appreciably reduce the likelihood of the survival and recovery of the
25 species in the wild. [16 U.S.C. § 1539(2)(2)(B).]

26 In June 2000, the USFWS and NMFS adopted the “Five-Point Policy” designed to clarify
27 elements of the habitat conservation planning program as they relate to biological goals, adaptive
28 management, monitoring, permit duration, and public participation.⁵ The Five-Point Policy

² 16 USC § 1532 (1988).

³ 50 CFR § 17.3. NMFS has a similar definition that adds the concepts of spawning and migrating to examples of injury. NMFS defines “harm” as “an act which actually kills or injures fish or wildlife. Such an act may include significant habitat modification or degradation which actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including, breeding, spawning, rearing, migrating, feeding or sheltering” (50 C.F.R § 222.102).

⁴ Section 9(a)(2)(B) of the ESA prohibits removal, possession, or malicious damage or destruction of endangered plants in areas under federal jurisdiction, as well as actions that remove, cut, dig up, damage, or destroy endangered plants in areas outside of federal jurisdiction in violation of any state law or regulation, including state criminal trespass law. Protection for threatened plant species is limited to areas under federal jurisdiction. 50 CFR § 17.71(a). The ESA section 7(a)(2) prohibition against jeopardy applies to plants, wildlife, and fish equally, and USFWS and NMFS may not issue a section 10(a)(1)(B) permit if the issuance of that permit would result in jeopardy to any listed species.

⁵ Final Addendum to the Handbook for Habitat Conservation Planning and Incidental Take Permitting, 65 FR 106, June 1, 2000 (hereinafter referred to as the “Five-Point Policy”).

1 directs that the following elements be addressed in the development of habitat conservation
2 plans:

- 3 • **Biological Goals and Objectives.** HCPs are required to define biological goals and
4 objectives that the plan is intended to achieve. Biological goals and objectives clarify the
5 purpose and direction of the plan’s conservation program. The BRCP sets out biological
6 goals and objectives, including specific measurable targets that the Plan is intended to
7 meet. These targets are based on the best available scientific information and have been
8 used as parameters and benchmarks to guide the conservation strategies for the species
9 and natural communities covered by the Plan. The biological objectives of the BRCP are
10 described in Chapter 5.
- 11 • **Adaptive Management.** The Five-Point Policy encourages the inclusion of adaptive
12 management strategies in HCPs in appropriate circumstances to address uncertainty
13 related to species covered by a plan. The policy describes adaptive management as a
14 “method for examining alternative strategies for meeting measurable biological goals and
15 objectives, and then, if necessary, adjusting future conservation management actions
16 according to what is learned.”⁶ The BRCP incorporates an adaptive management process
17 designed to facilitate and improve decision-making during the implementation of the
18 BRCP and identify adjustments and modifications to the Conservation Strategy, as
19 defined in the BRCP, as new information becomes available over time. The framework
20 for the BRCP adaptive management program is set out in Section 5.9, *Adaptive*
21 *Management Plan*.
- 22 • **Monitoring.** HCPs are required to include provisions for monitoring to gauge the
23 effectiveness of the Plan in meeting the biological goals and objectives and to verify that
24 the terms and conditions of the Plan are being properly implemented. The monitoring
25 provisions of the BRCP are found in Section 5.8, *Monitoring Plan*.
- 26 • **Permit Duration.** Consistent with the Five-Point Policy, the USFWS and NMFS
27 consider several factors in determining the term of an incidental take permit. The
28 agencies, for instance, take into account the expected duration of the activities proposed
29 for coverage and the anticipated positive and negative effects on covered species that will
30 likely occur during the course of Plan implementation. The agencies also factor in the
31 level of scientific and commercial data underlying the proposed operating conservation
32 program, the length of time necessary to implement and achieve the benefits of the
33 operating conservation program, and the extent to which the program incorporates
34 adaptive management strategies. The duration of the permits to be issued pursuant to the
35 BRCP is anticipated to be 40 years and is discussed in more detail in Section 1.3, *Scope*
36 *of the BRCP*.
- 37 • **Public Participation.** Under the Five-Point Policy, the federal fish and wildlife agencies
38 have sought to increase public participation in the HCP process, including greater

⁶ 65 FR 35242

1 opportunity for the public to assess, review, and analyze HCPs and associated NEPA
2 documentation. As part of this effort, the agencies have expanded the public review
3 process for most HCPs, particularly those with regional scopes. As described in Section
4 1.4, *Overview of the BRCP Process*, the BRCP process afforded extensive opportunities
5 for public involvement and input throughout the development of the BRCP as well as
6 under the CEQA/NEPA process.

7 Section 7 of the ESA requires that all federal agencies (including USFWS when it issues a ESA
8 section 10 permit) must ensure, in consultation with USFWS and/or NMFS, that any actions
9 authorized, funded, or carried out by the agency are not likely to jeopardize the continued
10 existence of any endangered or threatened species or result in the destruction or adverse
11 modification of areas determined to be critical habitat.⁷ Section 7 requires federal agencies to
12 engage in formal consultation with the USFWS and NMFS for any proposed actions that are
13 likely to adversely affect listed species. A biological opinion (BO) is issued by the USFWS and
14 NMFS at the completion of formal consultation. The BO may conclude that the project as
15 proposed (in this case the BRCP covered activities and Conservation Strategy) is either likely or
16 not likely to jeopardize the continued existence of the species. If the BO concludes that the
17 proposed action would jeopardize the continued existence of a listed species or adversely modify
18 its critical habitat, the opinion must suggest “reasonable and prudent alternatives” that would
19 avoid that result. If the BO concludes that the project as proposed would involve take of a listed
20 species, but not to an extent that would jeopardize the species’ continued existence, it must
21 include an “incidental take statement.” The incidental take statement specifies an amount of take
22 that may occur as a result of the action and may include “reasonable and prudent measures” to
23 minimize the impact of the take. If the action complies with the BO and incidental take
24 statement, it may be implemented without violation of the ESA, even if incidental take occurs.

25 It is expected that, during BRCP implementation, covered activities with a federal nexus to
26 federal agencies other than USFWS and NMFS will use the conservation measures described in
27 the BRCP as conservation actions under future section 7 consultation processes. Unless
28 otherwise required by law or regulation, USFWS and NMFS will ensure that the activities and
29 conservation measures for the specific proposed project are consistent with the BRCP and the
30 BO issued for the BRCP. For example, projects in the Plan Area that require a permit from the
31 U.S. Army Corps of Engineers (USACE) under section 404 of the Clean Water Act (CWA) have
32 a federal nexus. The USACE, as the authorizing agency under CWA, must consult with USFWS
33 or NMFS on the effects of their action on federally listed species. Similarly, projects in the Plan
34 Area are provided funding by the Federal Highways Administration (FHWA) would also be
35 eligible to proceed in reliance on the BRCP conservation measures.

⁷ 16 USC § 1536(a)(2).

1.2.2 Natural Community Conservation Planning Act

The NCCPA provides a mechanism for compliance with state endangered species regulatory requirements through the development of comprehensive, broad-scale conservation plans that focus on the needs of natural communities and the range of species that inhabit them.⁸ The NCCP program has provided the basis for successful collaborations throughout California between state and federal agencies, local governments, community groups, and private interests that have resulted in long-term, habitat-based protections for regional biodiversity and related ecosystems. It has also proved to be an effective tool in achieving these protections while reducing conflicts between conservation goals and the reasonable use of natural resources and lands for economic development. The BRCP adopts the approaches set out in the NCCPA and incorporates those elements necessary to meet regulatory requirements of the NCCPA.

Specifically, the BRCP has been developed in a manner consistent with the process identified in its Planning Agreement, including processes to ensure ample public participation and engagement throughout Plan development and review, input from independent scientists, and coordination with federal fish and wildlife agencies with respect to ESA requirements. Consistent with the requirements of the NCCPA, the BRCP further provides a comprehensive approach to the conservation and management of covered species and their habitats, incorporating a Conservation Strategy that provides for the protection of habitat, natural communities, and species diversity on an ecosystem level; establishes conservation measures, including measures sufficient to mitigate the effects of covered activities; integrates adaptive management strategies that can be modified based on new information developed through monitoring and research; and sets out an implementation program, including provisions that ensure adequate funding to carry out the BRCP.

The BRCP addresses all of the requirements of the NCCPA for covered species of fish, wildlife, and plants and natural communities in the Plan Area. On that basis, DFG may issue permits for the taking of the BRCP covered species.⁹

1.2.3 California Endangered Species Act

The CESA prohibits the take of state-listed threatened and endangered species of fish, wildlife, and plants.¹⁰ CESA also prohibits the take of candidate species.¹¹ “Take” is defined under CESA as “to hunt, pursue, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” The CESA definition of “take” does not include the ESA’s concepts of “harm” or “harass.”¹² Take authorizations may be obtained under CESA, provided the permit applicant minimizes and “fully

⁸ Fish and Game Code § 2800 *et seq.*

⁹ Fish and Game Code § 2835.

¹⁰ Fish and Game Code § 2080.

¹¹ Fish and Game Code § 2085.

¹² Fish and Game Code § 86.

1 mitigates” the take that will be caused by the covered activities.¹³ The NCCPA offers a separate
2 means for authorization of take of CESA-listed species through development of an NCCP and
3 take authorization under NCCPA section 2835.

4 Although the BRCP has been designed to comply with the NCCPA, and take authorizations are
5 being sought under NCCPA section 2835, the Plan’s provisions have also been developed to be
6 consistent with the regulatory standards of CESA. Specifically, the BRCP Conservation Strategy
7 incorporates measures that adequately minimize and fully mitigate the effects of covered activities
8 on state-listed species and includes other measures as required by CESA. As such, the actions set
9 out in the BRCP are expected to be sufficient to allow for findings to be made by DFG to support
10 the issuance of incidental take authorizations under CESA.

11 **1.2.4 The National Environmental Policy Act**

12 The purpose of the National Environmental Policy Act (NEPA) is to ensure that federal agencies
13 consider the environmental impacts of their actions and decisions.¹⁴ NEPA requires that the
14 federal government use all practicable means and measures to protect environmental values and
15 makes environmental protection a part of the mandate of every federal agency and department.
16 To accomplish this goal, NEPA establishes a process and approach to analysis to determine the
17 environmental impacts associated with proposed federal actions that significantly affect the
18 quality of the human environment.

19 The permitting and implementation of the BRCP involve several federal actions and decisions
20 that constitute a major federal action and are subject to review under NEPA. USFWS and
21 NMFS will make decisions regarding the issuance of incidental take permits under section
22 10(a)(1)(B) of the ESA. USFWS and NMFS are joint federal lead agencies and BCAG is the
23 CEQA lead agency for the preparation of the BRCP Environmental Impact
24 Report/Environmental Impact Statement (EIR/EIS) to satisfy CEQA and NEPA concurrently.

25 **1.2.5 The California Environmental Quality Act**

26 The California Environmental Quality Act (CEQA) serves as a counterpart to NEPA, and applies
27 to all discretionary activities proposed to be carried out or approved by California public
28 agencies. CEQA requires state and local agencies to identify significant environmental impacts
29 of their actions and to take all feasible steps to avoid or mitigate those impacts. CEQA sets forth
30 both procedural and substantive requirements, and its procedures are intended to ensure adequate
31 public participation and input into the decision-making process.

32 The BRCP is a project subject to CEQA, as are numerous BRCP-related actions that will be
33 implemented over the term of the Plan.¹⁵ BCAG is the lead agency for the preparation of the

¹³ Fish and Game Code § 2081(b)(2).

¹⁴ 42 USC § 4371 *et seq.*

¹⁵ California Public Resources Code (CPRC) section 21000 *et seq.* and CEQA Guidelines 14 CCR 15000 *et seq.*

1 EIR/EIS on the BRCP, which will include analyses of the proposed adoption of the Plan. DFG is
2 participating in the preparation of the EIR/EIS as both a responsible and trustee agency. The
3 EIR/EIS will also serve as the CEQA document for the purpose of regulatory permits issued by
4 DFG pursuant to the BRCP. USFWS and NMFS are joint federal lead agencies and BCAG is
5 the CEQA lead agency for the preparation of the BRCP EIR/EIS to satisfy CEQA and NEPA
6 concurrently.

7 **1.2.6 Section 404 of the Clean Water Act**

8 In 1972, Congress passed the Federal Water Pollution Control Act, commonly known as the
9 Clean Water Act (CWA), with the goal of “restor[ing] and maintain[ing] the chemical, physical,
10 and biological integrity of the Nation’s waters.”¹⁶ In furtherance of this goal, the CWA prohibits
11 the discharge of any pollutants into navigable waters, except as allowed by permit issued under
12 certain sections of the CWA.¹⁷ Specifically, section 404 authorizes the USACE to issue permits
13 for and regulate the discharge of dredged or fill materials into “waters of the United States.”
14 Under the CWA and its implementing regulations, “waters of the United States” are broadly
15 defined to consist of rivers, creeks, streams, and lakes extending to their headwaters, including
16 adjacent wetlands.¹⁸

17 Many of the actions that will be implemented under the BRCP may result in the discharge of
18 dredged or fill materials into waters of the U.S. and will need to be authorized by the USACE.
19 These BRCP actions may receive such authorizations through General Permits or Individual
20 Permits. Typically, General Permits apply to specific classes of activities that have been
21 determined to cause no more than minimal impact to the aquatic environment (e.g., construction
22 of road crossings, installation of utility lines, and operations and maintenance activities).¹⁹
23 Individual Permits are designed for activities that have the potential to have more than a minimal
24 effect on jurisdictional waters or that otherwise do not qualify under the conditions of a General
25 Permit. Substantively, the USACE must evaluate applications for Individual Permits to
26 determine their consistency with the requirements of the section 404(b)(1) guidelines²⁰ and the
27 USACE regulations.²¹

28 The BRCP intends to develop Regional or Programmatic General Permits with USACE to
29 address specific activities within the Plan Area that will enhance the conservation of wetlands
30 while streamlining the section 404 permit process for activities such as land development
31 projects that impact wetlands and other waters of the U.S.

¹⁶ 33 USC § 1251(a).

¹⁷ See 33 USC §§ 1311, 1342, and 1344.

¹⁸ 33 CFR § 328.3(a)(3).

¹⁹ 33 CFR § 325.5(c)

²⁰ 40 CFR Part 230.

²¹ 33 CFR Part 325.

1 1.2.7 California Fish and Game Code Section 1600 et seq.

2 Section 1602 of the California Fish and Game Code requires any person, state or local
3 governmental agency to provide advance written notification to DFG prior to initiating any
4 activity that would (1) divert or obstruct the natural flow of, or substantially change or remove
5 material from the bed, channel, or bank of any river, stream, or lake; or (2) result in the disposal
6 or deposition of debris, waste, or other material into any river, stream, or lake.²² The State
7 definition of “lakes, rivers, and streams” includes all rivers or streams that flow at least
8 periodically or permanently through a bed or channel with banks that support fish or other
9 aquatic life, and watercourses with surface or subsurface flows that support or have supported
10 riparian vegetation.²³

11 Certain actions that will be implemented under the BRCP may require Streambed Alteration
12 Agreements under section 1602. As part of that process, DFG will review notifications
13 submitted by the Implementing Entity to determine if the proposed project would impact existing
14 fish and wildlife resources that are directly dependent on a lake, river, or stream. If DFG
15 determines that the proposed activity will not substantially adversely affect an existing fish and
16 wildlife resource, it will notify the Implementing Entity that no Streambed Alteration Agreement
17 is required, and the project may proceed.²⁴ If DFG determines that the project may substantially
18 adversely affect an existing fish and wildlife resource, it will require, as part of a Streambed
19 Alteration Agreement, reasonable measures necessary to protect the fish and wildlife resource.²⁵

20 The BRCP intends to develop a Master Streambed Alteration Agreement or Memorandum of
21 Agreement (MOA) with DFG to address specific activities within the Plan Area that will
22 enhance the conservation of streams and associated riparian and wetlands habitat while
23 streamlining the section 1602 process.

24 1.2.8 California Fully Protected Species

25 In the 1960s, before the CESA was enacted, the California Legislature identified species for
26 specific protection under the California Fish and Game Code. These “fully protected species”
27 may not be taken or possessed at any time, and no licenses or permits may be issued for their
28 take except for collecting these species for necessary scientific research and relocation of the bird
29 species for the protection of livestock. Fully protected species are described in sections 3511
30 (birds), 4700 (mammals), 5050 (reptiles and amphibians), and 5515 (fish) of the California Fish
31 and Game Code. These protections state that “...no provision of this code or any other law shall
32 be construed to authorize the issuance of permits or licenses to take any fully protected [bird],
33 [mammal], [reptile or amphibian], [fish].”

²² Fish and Game Code §1602.

²³ 14 CCR § 1.72.

²⁴ Fish and Game Code § 1602(a)(4)(A)(i).

²⁵ Fish and Game Code § 1603(a).

1 The BRCP includes specific measures to avoid take, as defined under section 86 of the California
2 Fish and Game Code, of fully protected species to comply with the specific sections of the Fish
3 and Game Code that protect these species.

4 **1.2.9 Migratory Bird Treaty Act**

5 The Migratory Bird Treaty Act (MBTA) of 1918 implements four international treaties for the
6 conservation and management of bird species that may migrate through more than one country.²⁶
7 The MBTA makes it unlawful to take, possess, buy, sell, purchase, or barter any migratory bird
8 listed in 50 CFR Part 10, including feathers or other parts, nests, eggs, or products, except as
9 allowed by implementing regulations.²⁷ For federally listed migratory bird species covered under
10 the BRCP for which an ESA section 10(a) permit has been issued, the Permit Applicants may
11 also obtain an MBTA Special Use Permit for those species. Measures set forth in the BRCP
12 conservation strategy to minimize and mitigate impacts to covered species will provide a
13 significant “benefit to the migratory bird resource” as required by the MBTA regulations to
14 obtain a Special Purpose Permit.²⁸ Therefore, if any of the covered birds become listed under the
15 ESA during the permit term, the ESA permit would also constitute an MBTA Special Purpose
16 Permit for that species for a 3-year term as specified under 50 CFR section 21.27 of the
17 regulations, subject to renewal by the Permittees. Until a covered bird species is listed under the
18 ESA, however, it will be the responsibility of individual project applicants to fully comply with
19 the MBTA.

20 **1.2.10 Bald Eagle and Golden Eagle Protection Act**

21 The Bald Eagle and Golden Eagle Protection Act prohibits the taking or possession of and
22 commerce in bald and golden eagles, with limited exceptions. Under the Act, it is a violation to
23 “...take, possess, sell, purchase, barter, offer to sell, transport, export or import, at any time or in
24 any manner, any bald eagle commonly known as the American eagle, or golden eagle, alive or
25 dead, or any part, nest, or egg, thereof...” Take is defined to include pursue, shoot, shoot at,
26 poison, wound, kill, capture, trap, collect, molest, and disturb. The BRCP includes specific
27 measures to avoid take of eagles to comply with provisions of the Bald Eagle and Golden Eagle
28 Protection Act.

29 **1.2.11 California Fish and Game Code 3503 (Bird Nests)**

30 Section 3503 of the Fish and Game Code makes it unlawful to take, possess or needlessly
31 destroy the nests or eggs of any bird, unless otherwise authorized under the Fish and Game Code
32 or regulations. The BRCP includes conservation measures to avoid and minimize take of

²⁶ 16 USC § 703 *et seq.*

²⁷ 50 CFR § 21.

²⁸ Likewise, migratory birds that are not specifically covered by the BRCP will benefit from seasonal restrictions on construction and other conservation measures described in this Plan.

1 covered species and specifically nests and eggs that serve as the basis for compliance with
2 section 3503.

3 **1.2.12 California Fish and Game Code 3503.5 (Birds of Prey)**

4 Section 3503.5 of the Fish and Game Code prohibits the take, possession or destruction of any
5 birds of prey or their nests or eggs, unless otherwise authorized under the Fish and Game Code
6 or regulations. The DFG may issue permits authorizing take pursuant to the CESA or NCCPA.
7 The BRCP includes conservation measures to avoid and minimize such take and will serve as a
8 basis for compliance with section 3503.5.

9 **1.2.13 National Historic Preservation Act**

10 Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended (16 U.S.C.
11 470 et seq.), requires federal agencies to take into account the effects of their actions on
12 properties eligible for inclusion in the National Register of Historic Places. The issuance of
13 incidental take permits by the USFWS and NMFS are actions subject to Section 106 of the
14 NHPA. Therefore, compliance with the NHPA is required as part of the BRCP environmental
15 review process.

16 **1.2.14 Porter-Cologne Water Quality Control Act**

17 Section 13000 of the California Water Code (the Porter-Cologne Water Quality Control Act, or
18 “Porter-Cologne”) outlines the State’s interest in the “conservation, control, and utilization of the
19 water resources of the state”, and the protection of the quality of all the waters of the state “for
20 use and enjoyment by the people of the state.” The law controls all “waters of the state” which
21 are defined as “any surface water or groundwater, including saline waters, within the boundaries
22 of the state” (Section 13050[e]). The overall responsibility for water rights and water quality
23 protection is assigned to the State Water Resources Control Board (SWRCB), which in turn
24 delegates its authority to nine geographically discreet, semi-autonomous Regional Water Quality
25 Control Boards (RWQCBs) to develop and enforce water quality standards within their
26 boundaries. The Central Valley Regional Water Quality Control Board (CVRWQCB) covers
27 nearly one-fifth of the state, including the BRCP Plan Area.

28 RWQCBs are required by Porter-Cologne to prepare and adopt basin plans that include water
29 quality objectives and an implementation program. The CVRWQCB’s basin plan was adopted
30 in 2009, and is currently undergoing a mandatory triennial review. In addition to basin planning,
31 the state and RWQCB’s have been delegated the following federal responsibilities:

- 32 • Administration of National Pollution Discharge Elimination System (NPDES) permits
33 described in section 402 of the Clean Water Act; and

- 1 • Water quality certification of section 404 permits issued by the U.S. Army Corps of
2 Engineers to place fill in waters under federal jurisdiction (which includes some but not
3 all waters of the state), pursuant to section 401 of the Clean Water Act.

4 The instrument for Clean Water Act and Porter-Cologne compliance for the BRCP will be a
5 Wetlands and Aquatic Resources Program. This program will be a concurrent document that is
6 consistent with the BRCP goals and objectives and conservation measures applicable to aquatic
7 features in Plan Area. The Wetlands and Aquatic Resources Program will mirror the objectives
8 of the adopted CVRWQCB basin plan, and include those technical elements necessary to support
9 issuance of a General Permit by the USACE as discussed in Section 1.2.6 of this Chapter.

10 **1.3 SCOPE OF THE BRCP**

11 This section identifies and describes the following:

- 12 • The description and rationale for the geographic scope of the BRCP, defined as the Plan
13 Area;
- 14 • The list of and rationale for the natural communities addressed in the BRCP;
- 15 • The covered species selection process and selected covered species;
- 16 • The activities to be covered under the BRCP; and
- 17 • The anticipated permit duration.

18 **1.3.1 Geographic Scope**

19 The BRCP Plan Area is shown in Figure 1-1 and encompasses 564,270 acres (228,352 hectares)
20 of land. The Plan Area includes the western lowlands and foothills of Butte County bounded on
21 the west by county boundaries with Tehama, Glenn, and Colusa counties; bounded on the south
22 by boundaries with Sutter and Yuba counties; bounded on the north by the boundary with
23 Tehama County; and bounded on the east by the upper extent of landscape dominated by oak
24 woodland natural communities. The eastern oak woodland boundary is defined by a line below
25 which land cover types dominated by oak trees comprise more than one half of the land cover
26 present (referred to hereafter as the oak zone) plus a small portion of the City of Chico that
27 extends above the oak zone. The upper elevation range of the oak zone varies from about 800 to
28 1,500 feet above mean sea level. Typically, oak tree-dominated land cover types are replaced
29 with either chaparral or conifer-dominated land cover types at higher elevations. Although the
30 Plan Area includes portions of the Sacramento River within Butte County, the BRCP does not
31 address activities that could affect listed fish species in the Sacramento River; such activities are
32 addressed under other regional conservation planning efforts for the Sacramento River (e.g., the
33 Anadromous Fish Restoration Program). The Sacramento River floodplain within Butte County
34 is included in the BRCP for implementing conservation measures for covered species and natural
35 communities that would not have adverse effects on fish.

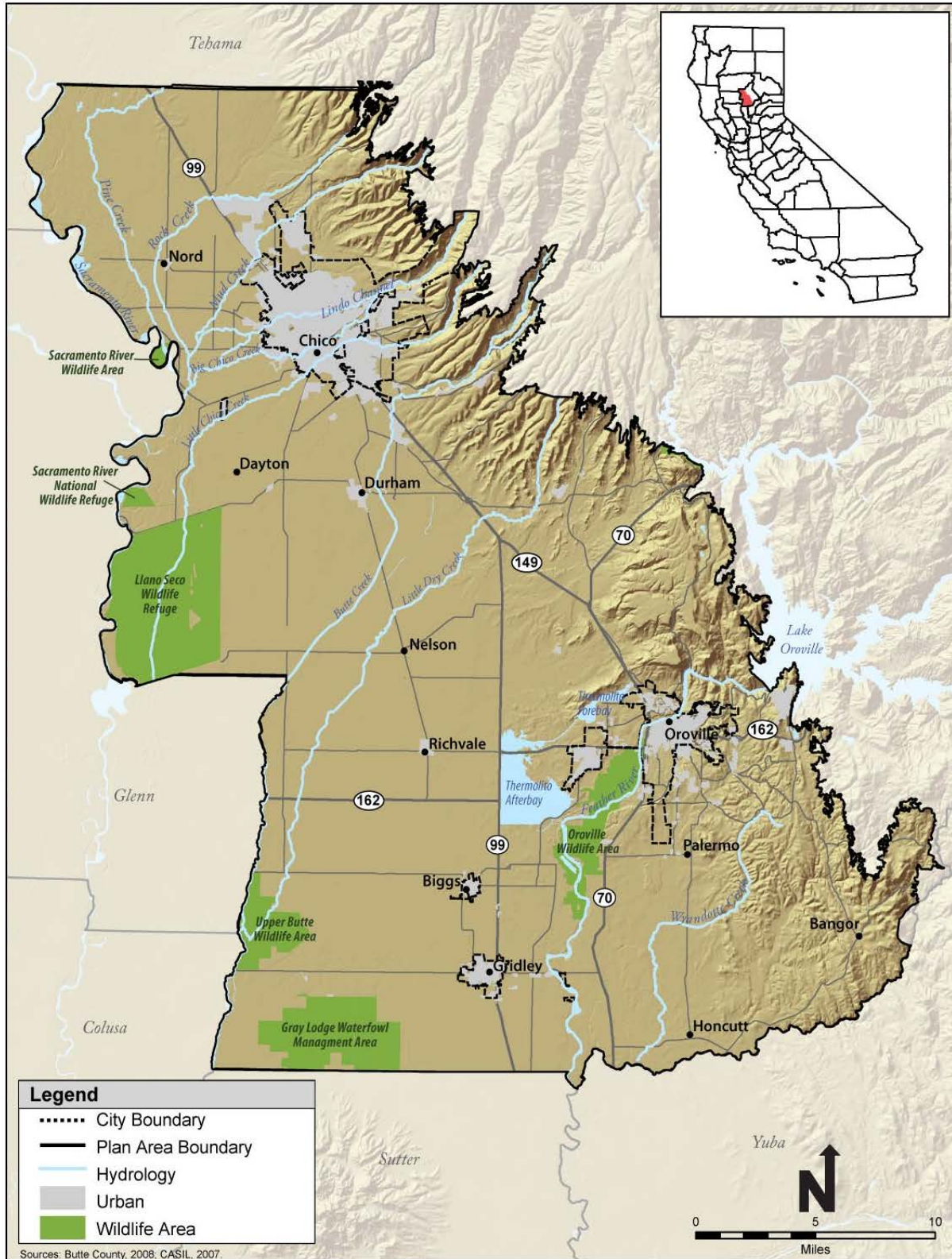


Figure 1–1. Plan Area for the Butte Regional Conservation Plan

1

2

1 The Plan Area was designed to encompass the area within which covered activities would be
2 implemented and to provide sufficient land and resources to implement measures to provide for
3 the conservation of covered species and habitats impacted by the covered activities.

4 **1.3.2 Natural Communities**

5 The natural communities addressed under the BRCP include oak woodland and savanna,
6 grassland, riparian, wetland, aquatic, and agriculture (although agriculture is not a natural
7 community, it provides important habitat for a number of covered species and so is included
8 here). Each of the natural communities is comprised of certain land cover types. The
9 classification, description, and mapping procedures for natural communities and land cover
10 types, listed below, are provided in Chapter 3, *Ecological Baseline Conditions*.

- 11 • Oak Woodland and Savanna
 - 12 ○ Blue oak savanna
 - 13 ○ Blue oak woodland
 - 14 ○ Interior live oak woodland
 - 15 ○ Mixed oak woodland
- 16 • Grassland
 - 17 ○ Grassland
 - 18 ○ Grassland with vernal swale complex
 - 19 ○ Vernal pool
 - 20 ○ Altered vernal pool
- 21 • Riparian
 - 22 ○ Cottonwood-willow riparian forest
 - 23 ○ Valley oak riparian forest
 - 24 ○ Willow scrub
 - 25 ○ Herbaceous riparian and river bar
 - 26 ○ Dredger tailings with riparian forest/scrub
- 27 • Wetland
 - 28 ○ Emergent wetland
 - 29 ○ Managed wetland
- 30 • Aquatic
 - 31 ○ Open water
 - 32 ○ Major canal
 - 33 ○ Stock pond

- 1 • Agriculture
- 2 ○ Rice
- 3 ○ Cropland
- 4 ○ Irrigated pasture
- 5 ○ Orchard/vineyard
- 6 ○ Nonnative woodland

7 The urban and disturbed land cover types (e.g., dredger tailings with sparse herbaceous
8 vegetation) are not considered natural communities because they typically provide low-value
9 habitat for native species and are subject to ongoing human disturbances.²⁹ Chaparral and conifer
10 forests are natural communities not addressed in the Plan, as the BRCP is focused on the
11 conservation of lowland natural communities. Chaparral and conifer forests are higher elevation
12 communities located primarily outside of the Plan Area and are found in the Plan Area only as
13 relatively small inclusions within the oak woodland-dominated landscape.

14 **1.3.3 Covered Species**

15 Species identified for coverage under the BRCP (“covered species”) are those for which
16 incidental take authorizations may be required under the ESA and NCCPA to implement the
17 covered activities over the term of the BRCP. The evaluation process used to select the covered
18 species is described in Chapter 3, *Ecological Baseline Conditions* and Appendix B, *Evaluation of*
19 *Species Considered for Coverage*. Species considered for coverage were special-status species
20 that could be present in the BRCP Plan Area. Consideration for coverage of non-listed species
21 was limited to special-status species because, by definition, they are recognized by federal and
22 state wildlife agencies as declining and, therefore, are more likely than other non-listed species to
23 become listed at some time during implementation of the covered activities. Special-status
24 species are defined as species that are:

- 25 • Listed as threatened or endangered under the federal Endangered Species Act (ESA or
26 FESA);
- 27 • Proposed or candidates for listing under ESA;
- 28 • Listed as threatened or endangered under CESA;
- 29 • Candidates for listing under CESA;
- 30 • Fully protected species under California Fish and Game Code;
- 31 • California species of concern;
- 32 • Plants listed as rare under the California Native Plant Protection Act; or

²⁹ Although the urban and disturbed land cover types are not included as natural communities, some lands supporting these land cover type are suitable for restoration of covered species’ habitats and may be acquired for this purpose.

- 1 • Plants included in the CNPS List 1A, 1B, or 2.
- 2 Sources of information used to identify the special-status species that could be present in the
3 Plan Area are as follows:
- 4 • DFG's CNDDDB³⁰;
- 5 • USFWS list of endangered and threatened species that occur in or may be affected by
6 projects in Butte County³¹;
- 7 • Butte County General Plan Background Report; and
- 8 • Recorded observations of special-status species provided by local resource experts.

9 A total of 108 special-status species (61 animals and 47 plants) were identified as being present
10 or having the potential to be present in the Plan Area based on the sources of information
11 described above (see Chapter 3, *Ecological Baseline Conditions* and Appendix B, *Evaluation of*
12 *Species Considered for Coverage*).

13 Four criteria (listed below) were used to evaluate the species identified as special-status species.
14 All four of the criteria had to be met for the species to be covered under the BRCP.

- 15 1. **Occurrence in the Plan Area.** Species is known to occur in the Plan Area or could occur
16 based on presence of habitat in the Plan Area and known occupied habitat near the Plan
17 Area.
- 18 2. **Potential for Listing.** The species is listed threatened or endangered under ESA or
19 CESA or is reasonably likely to become listed under these laws during the term of the
20 permit, or is fully protected under the California Fish and Game Code.
- 21 3. **Potential to be Affected.** The species or its habitats could be affected by the types of
22 activities anticipated to be covered under the BRCP.
- 23 4. **Sufficient Information.** Sufficient scientific information and data are available to
24 determine the likely impacts of the covered activities on the species and to formulate
25 conservation measures that could effectively mitigate impacts and conserve the species.

26 A total of 41 species met all four of the selection criteria and constitute the covered species under
27 the BRCP. The covered species are provided in Table 1-1.

³⁰ Source: CNDDDB RareFind 3 database (2006) and http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer.

³¹ Source: http://www.fws.gov/sacramento/es/spp_lists/auto_list.cfm.

Table 1-1. BRCP Covered Species

Common Name/Scientific Name		Status ¹ (Federal/State/CNPS)
Birds		
1	Tricolored blackbird <i>Agelaius tricolor</i>	-/SSC/-
2	Yellow-breasted chat <i>Icteria virens</i>	-/SSC/-
3	Bank swallow <i>Riparia riparia</i>	-/T/-
4	Western burrowing owl <i>Athene cunicularia hypugea</i>	-/SSC/-
5	Western yellow-billed cuckoo <i>Coccyzus americanus occidentalis</i>	C/E/-
6	Greater sandhill crane <i>Grus canadensis tabida</i>	-/T,FP/-
7	California black rail <i>Laterallus jamaicensis coturniculus</i>	-/T,FP/-
8	American peregrine falcon <i>Falco peregrinus anatum</i>	D/D,FP/-
9	Swainson's hawk <i>Buteo swainsoni</i>	-/T/-
10	White-tailed kite <i>Elanus leucurus</i>	-/FP/-
11	Bald eagle <i>Haliaeetus leucocephalus</i>	D/E,FP/-
Reptiles		
12	Giant garter snake <i>Thamnophis gigas</i>	T/T/-
13	Blainville's horned lizard <i>Phrynosoma blainvillii</i> ³²	-/SSC/-
14	Western pond turtle <i>Actinemys marmorata</i>	-/SSC/-
Amphibians		
15	Foothill yellow-legged frog <i>Rana boylei</i>	-/SSC/-
16	Western spadefoot toad <i>Spea hammondi</i>	-/SSC/-
Fish		
17	Central Valley steelhead <i>Oncorhynchus mykiss</i>	T/-/-
18	Sacramento River winter-run Chinook salmon <i>Oncorhynchus tshawytscha</i>	E/E/-
19	Central Valley spring-run Chinook salmon <i>Oncorhynchus tshawytscha</i>	T/T/-
20	Central Valley fall/late fall-run Chinook salmon <i>Oncorhynchus tshawytscha</i>	-/SSC/-
21	Sacramento splittail <i>Pogonichthys macrolepidotus</i>	-/SSC/-
22	Green sturgeon <i>Acipenser medirostris</i>	T/SSC/-

³² Formerly California horned lizard (*Phrynosoma coronatum frontale*)

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Table 1-1. BRCP Covered Species (continued)

Common Name/Scientific Name		Status ¹ (Federal/State/CNPS)
Fish		
23	River lamprey <i>Lampetra ayresii</i>	-/SSC/-
Invertebrates		
24	Valley elderberry longhorn beetle ² <i>Desmocerus californicus dimorphus</i>	T/-/-
25	Vernal pool tadpole shrimp <i>Lepidurus packardii</i>	E/-/-
26	Conservancy fairy shrimp <i>Branchinecta conservatio</i>	E/-/-
27	Vernal pool fairy shrimp <i>Branchinecta lynchi</i>	T/-/-
Plants		
28	Ferris' milkvetch <i>Astragalus tener</i> var. <i>ferrisiae</i>	-/-/1B
29	Lesser saltscale <i>Atriplex minuscula</i>	-/-/1B
30	Hoover's spurge <i>Chamaesyce hooveri</i>	T/-/1B
31	Ahart's dwarf rush <i>Juncus leiospermus</i> var. <i>ahartii</i>	-/-/1B
32	Red Bluff dwarf rush <i>Juncus leiospermus</i> var. <i>leiospermus</i>	-/-/1B
33	Butte County meadowfoam <i>Limnanthes floccosa</i> ssp. <i>californica</i>	E/E/1B
34	Veiny Monardella <i>Monardella douglasii</i> ssp. <i>venosa</i>	-/-/1B
35	Hairy Orcutt grass <i>Orcuttia pilosa</i>	E/E/1B
36	Slender Orcutt grass <i>Orcuttia tenuis</i>	T/E/1B
37	Ahart's paronychia <i>Paronychia ahartii</i>	-/-/1B
38	California beaked-rush <i>Rhynchospora californica</i>	-/-/1B
39	Butte County checkerbloom <i>Sidalcea robusta</i>	-/-/1B
40	Butte County golden clover <i>Trifolium jokerstii</i>	-/-/1B
41	Greene's tuctoria <i>Tuctoria greenei</i>	E/R/1B

¹Status:Federal

E = Listed as endangered under ESA

T = Listed as threatened under ESA

C = Candidate for listing under ESA

D = Delisted under ESA

California Native Plant Society (CNPS)

1B = rare or endangered in California and elsewhere

State

E = Listed as endangered under CESA

T = Listed as threatened under CESA

D = Delisted under CESA

R = Listed as rare under the California Native Plant Protection Act

SSC = California species of special concern

FP = Fully protected under the California Fish and Game Code

² Valley elderberry longhorn beetle was proposed for de-listing by USFWS in October 2006. If it is removed from federal protection status, it may no longer meet the criteria for coverage under the BRCP.

1 1.3.4 Local Concern Species

2 In addition to the species selected as covered species, the Stakeholder Committee identified
 3 species they desire to be conserved within the Plan Area. These species were identified as
 4 “Local Concern Species” (Table 1-2) and each of these species is evaluated in the BRCP for the
 5 expected conservation outcome with implementation of the Conservation Strategy.

Table 1-1. Local Concern Species

<i>Common Name/Scientific Name</i>		<i>Status¹ (Federal/State/CNPS)</i>
Birds		
1	Yellow warbler <i>Dendroica petechia</i>	-/SSC/-
2	California thrasher <i>Toxostoma redivivum</i>	-/-/-
3	Purple martin <i>Progne subis</i>	-/SSC/-
4	California horned lark <i>Eremophila alpestris actia</i>	-/-/-
5	Yellow-billed magpie <i>Pica nuttalli</i>	-/-/-
6	Loggerhead shrike <i>Lanius ludovicianus</i>	-/SSC/-
7	Willow flycatcher ² <i>Empidonax traillii</i>	-/E/-
8	Short-eared owl <i>Asio flammeus</i>	-/SSC/-
9	Long-eared owl <i>Asio otus</i>	-/SSC/-
10	Greater roadrunner <i>Geococcyx californianus</i>	-/-/-
11	Golden eagle ³ <i>Aquila chrysaetos</i>	-/FP/-
12	Northern harrier <i>Circus cyaneus</i>	-/SSC/-
13	Merlin <i>Falco columbarius</i>	-/-/-
14	Prairie falcon <i>Falco mexicanus</i>	-/-/-
Fish		
15	Tule perch <i>Hysterocarpus traski</i>	-/-/-
16	Hitch <i>Lavinia exilicauda</i>	-/-/-
17	Hardhead <i>Mylopharodon conocephalus</i>	-/SSC/-

¹Status:

State

E = Listed as endangered under CESA

SSC = California species of special concern

FP = Fully protected under the California Fish and Game Code

²Although listed, this species was not included as a covered species because the species only occurs as a migrant in the Plan Area and will not be affected by the covered activities.

³Although a DFG-designated fully protected species, this species was not included as covered because it is not expected to become listed over the term of the BRCP and is not expected to be adversely affected by covered activities.

1 1.3.5 Covered Activities

2 The types of covered activities within the Plan Area of the BRCP for which incidental take
3 permit coverage is requested from USFWS, NMFS, and DFG in compliance with the ESA and
4 the NCCPA are summarized below and described in more detail in Chapter 2, *Covered Activities*.
5 The covered activities are grouped by geographic location within the Plan Area:

- 6 • **Within urban permit areas (UPAs).** UPAs are those mapped locations in the Plan Area
7 within which the cities and county anticipate urban development under their respective
8 general plan updates. The UPAs are discussed in more detail in Chapter 2.
- 9 • **Outside UPAs.** This designation includes all areas of the county within the Plan Area
10 and outside of the UPAs. It includes covered activities such as linear utilities and
11 transportation construction or maintenance projects; it does not include areas that become
12 part of the BRCP habitat preserves.
- 13 • **Within habitat preserves.** This includes new habitat preserves established under the
14 BRCP. It includes conservation actions within preserves such as habitat restoration,
15 enhancement, and management.

16 The covered activities include the construction and maintenance of facilities and infrastructure,
17 both public and private that are consistent with local general plans, transportation plans, and
18 local, state, and federal laws. The covered activities are divided into activities that result in
19 permanent development and activities involving maintenance measures that happen periodically
20 over the duration of the permit. The reason for these two categories is that the impacts resulting
21 from such activities and the conservation measures used to address such activities tend to differ
22 based on the permanence or ongoing nature of the activity.

23 1.3.6 Permit Duration

24 The Permittees are seeking permits from USFWS, NMFS, and DFG to implement the BRCP
25 covered activities and retain incidental take coverage under those permits for a term of 40 years.
26 This timeframe takes into account the expected time necessary to implement proposed land
27 development under the city and county general plans and transportation plan and to assess the
28 impacts of such actions on the covered species and natural communities. This 40-year duration
29 provides for sufficient time to implement and achieve the benefits of the conservation strategy,
30 including habitat acquisition and restoration, impact minimization and avoidance measures and
31 the implementation of monitoring and adaptive management to ensure success in the
32 achievement of biological goals and objectives. See Chapter 6, *Plan Implementation*, for the
33 implementation schedule for conservation measures.

1 **1.4 OVERVIEW OF THE BRCP PROCESS**

2 This section describes the composition of the Steering Committee and Stakeholder Committee
3 and the role of these committees in the BRCP; the participation of DFG, USFWS, and NMFS as
4 technical advisors to the planning process; public involvement (e.g., public newsletters and
5 public informational workshops); and the integration of science to inform the development of the
6 BRCP.

7 **1.4.1 Organizational Structure for Planning**

8 **1.4.1.1 Stakeholder Committee**

9 The Stakeholder Committee was responsible for reviewing draft sections of the BRCP and
10 providing recommendations for BRCP development to BCAG and the Steering Committee. The
11 role of the Stakeholder Committee's members included representing the interests of their
12 organizations at meetings and reporting on development of the BRCP to other members of their
13 organizations on a regular basis. The Stakeholder Committee generally met monthly throughout
14 the development of the BRCP. All such meetings were open to the public and provided for
15 public participation.

16 The member organizations of the Stakeholder Committee are listed below.

- 17 • Butte County Builders Association
- 18 • Butte County Farm Bureau
- 19 • Ducks Unlimited
- 20 • Butte Environmental Council
- 21 • Altacal Audubon Society
- 22 • Sierra Club
- 23 • CSU Chico
- 24 • Butte Glenn Community College District
- 25 • Butte County Agricultural Commission
- 26 • The Nature Conservancy
- 27 • California Native Plant Society (CNPS)
- 28 • Butte Co. Resource Conservation District
- 29 • Caltrans
- 30 • Western Canal Water District (WCWD)
- 31 • Biggs West Gridley Water District

- 1 • Butte Water District
- 2 • Richvale Irrigation District

3 The names of members and alternates of the Stakeholder Committee over the time of BRCP
4 development are provided in Chapter 11, *List of Preparers*.

5 **1.4.1.2 Steering Committee**

6 The Steering Committee acts in an administrative capacity and was responsible for the
7 preparation of the BRCP. Responsibilities of the Steering Committee include the following:

- 8 • Managing the Consultants and working with the Consultants to establish timelines, work
9 products and outreach processes;
- 10 • Reviewing key BRCP elements (e.g., covered species, Plan Area, covered activities,
11 Conservation Strategy, impact assessment, implementing entity);
- 12 • Providing guidance as requested by technical subcommittees;
- 13 • Monitoring the BRCP development budgets;
- 14 • Securing grant funding for BRCP preparation;
- 15 • Providing oversight of the BRCP development;
- 16 • Communicating BRCP progress and issues to the County and City Administrators
17 Committee, Stakeholder Committee, and Planning Directors Group;
- 18 • Providing for public participation and outreach;
- 19 • Reviewing and formulating responses to recommendations for the BRCP development
20 made by DFG, USFWS, NMFS, the Science Advisory Panel and the Stakeholder
21 Committee; and
- 22 • Reviewing the BRCP scopes of work, budgets, and scope modifications of the
23 Consultants.

24 Membership of the Steering Committee over the course of BRCP development included the
25 following:

- 26 • Butte County, Supervisor District 1
- 27 • Butte County, Supervisor District 2
- 28 • Butte County, Supervisor District 4
- 29 • City of Chico, Mayor
- 30 • City of Oroville, Mayor or City Council Member
- 31 • Caltrans District 3, Director

- 1 • Western Canal Water District, District Manager
- 2 The names of members and alternates of the Steering Committee over the time of BRCP
3 development are provided in Chapter 11, *List of Preparers*.

4 **1.4.2 Coordination with Agencies and Public Outreach**

5 **1.4.2.1 Agency Coordination**

6 Regular technical agency meetings with USFWS, DFG and NMFS were held to discuss specific
7 agency concerns related to administrative draft document sections. These agencies provided
8 technical input on the baseline data, covered species list, covered species accounts, existing
9 ecological conditions report, covered activities, impact analysis, and the Conservation Strategy.

10 **1.4.2.2 Public Outreach**

11 *[Note to reviewers: As public outreach is an ongoing part of the BRCP development, this section*
12 *will be updated as additional outreach activities occur (e.g., public workshops, newsletters,*
13 *scoping and public meetings associated with the EIR/EIS).]*

14 The NCCPA requires the establishment of a process for public participation and outreach
15 throughout the development of a plan. Similarly, policies governing the ESA emphasize the
16 importance of public involvement in the development of large-scale HCPs and encourage plan
17 participants to facilitate the engagement of the public. Under the Five-Point Policy, the federal
18 fish and wildlife agencies have sought to increase public participation in the HCP process,
19 including greater opportunity for the public to assess, review, and analyze HCPs and associated
20 NEPA documentation.

21 Beginning at the initial stage of the BRCP planning process, the public has been afforded a wide
22 range of opportunities to learn about the various elements of the BRCP and provide input during
23 the course of its development. In addition to the public involvement associated with the
24 Stakeholder and Steering Committee meetings discussed above, other public outreach and
25 involvement has occurred throughout the development of the Plan. Public Workshops were held
26 on September 5, 2007 in the City of Chico and September 12, 2007 in the City of Oroville; the
27 purpose of the workshops was to do the following:

- 28 • Educate and involve the public in the BRCP development process including project
29 scope, timing, and objectives;
- 30 • Answer community questions regarding the process;
- 31 • Provide an opportunity for the public to understand and participate in the BRCP
32 development process;
- 33 • Secure support for the BRCP through education, interaction, and sharing of ideas and
34 materials; and

- 1 • Update the community on BRCP developments and share community feedback with the
2 Steering Committee.

3 BRCP Newsletters were made available to the public regularly to keep interested parties up-to-
4 date with the latest information on the development of the Plan. The following newsletters were
5 released: Summer/Fall 2007, Spring/Summer/Fall 2008, Fall 2009, Spring 2010, and Winter
6 2011.

7 To further facilitate the dissemination of information, the BRCP maintained a project website
8 (<http://www.buttehpc.com/index.html>.) that provided access to administrative draft chapters of
9 the BRCP and other documents, information about Stakeholder and Steering Committee
10 meetings, background and benefits of the BRCP, information on public workshops, access to
11 newsletters and detailed informational brochures, contact information and links to other
12 important websites, and other relevant information associated with the BRCP.

13 Additionally, an “interested parties” email distribution list containing 50 to 75 individuals
14 including landowners, environmentalists, agriculturalists, developers, hunting advocates,
15 members of academia, and others, was maintained to provide these individuals with the
16 information the Stakeholder Committee received.

17 **1.4.3 Integration of Science**

18 Use of the best available science is a priority for the BRCP. To ensure the best scientific
19 information was being used, the Steering Committee and Stakeholder Committee, in 2007,
20 coordinated to assemble an independent science advisors group composed of experts in
21 conservation ecology and the specific biological resources in the Plan Area. A science advisor
22 facilitator was hired to assist in the formation of and to coordinate with the Science Advisory
23 Group. A draft of the science advisory report was provided to the Steering Committee and
24 Stakeholder Committee in September of 2007, and the final science advisory report on the BRCP
25 was released in January of 2008 (Appendix G, *Independent Science Advisors Reports*).

26 The Independent Science Advisors Reports summarize recommendations from the group of
27 independent science advisors for the BRCP. This NCCPA-required scientific input was provided
28 early in a planning process, before preparation of the draft Plan, to help ensure that the BRCP
29 was developed using best available science. To ensure objectivity, the advisors operated
30 independent of the Plan applicants, their consultants, and other entities involved in the BRCP
31 development. The advisors reviewed information prepared by the BRCP consultants, attended a
32 workshop, completed subsequent information searches, and engaged in discussions. The science
33 advisors met in June of 2007 to review information gathered for the BRCP planning process,
34 hear the concerns of Plan participants, tour portions of the Plan Area, and begin formulating
35 recommendations for BRCP development and implementation. The Advisors were encouraged
36 to seek expert input from other scientists. Recommendations were provided in the report related
37 to the Draft Ecological Baseline Report, the scope of the Plan, information gaps, the

1 conservation design, the conservation analyses, and the adaptive management and monitoring.
2 Refer to Appendix G, *Independent Science Advisors Reports* for additional details.

3 In May 2011, the Independent Science Advisors were again assembled to review a draft of the
4 BRCP Conservation Strategy (including biological goals and objectives, conservation measures,
5 monitoring program, and adaptive management program. *[Text to come when ISA review of*
6 *conservation strategy is complete.]*

7 **1.5 ORGANIZATION OF THE BRCP**

8 This section provides a brief overview of the contents of the BRCP document chapters and
9 appendices. Specifically, the document includes the following components:

- 10 • Chapter 1, *Introduction*, provides the context for the development of the BRCP, including
11 the background, purpose, goals and objectives; regulatory context; scope of the Plan; the
12 process that guided the development of the BRCP; and an overview of the document
13 contents and organization.
- 14 • Chapter 2, *Covered Activities*, describes the activities identified for regulatory coverage
15 in the Plan Area, including activities within and outside of the UPAs, and activities
16 within habitat preserves.
- 17 • Chapter 3, *Ecological Baseline Conditions*, describes the existing environmental
18 conditions within the Plan Area, providing the context in which the BRCP and its various
19 elements have been developed.
- 20 • Chapter 4, *Impact Assessment and Estimated Level of Take*, includes an analysis of the
21 beneficial and adverse effects of the covered activities and conservation measures on
22 covered natural communities and covered species within the Plan Area. The chapter also
23 describes the cumulative and indirect effects resulting from the implementation of the
24 BRCP Conservation Strategy and the covered activities.
- 25 • Chapter 5, *Conservation Strategy*, sets out the BRCP Conservation Strategy, including
26 the biological goals and objectives of the BRCP, approach to conservation adopted by the
27 BRCP, the range of conservation measures for terrestrial and aquatic species and habitats,
28 avoidance and minimization measures, and the monitoring and adaptive management
29 plans.
- 30 • Chapter 6, *Plan Implementation*, addresses matters relating to the implementation of the
31 BRCP, including the schedule for the implementation of conservation actions, the
32 monitoring and reporting process to ensure compliance, regulatory assurances anticipated
33 by the entities seeking authorizations and the approach to unforeseen circumstances, and
34 a section discussing permit duration, amendment, renewal and enforcement.
- 35 • Chapter 7, *Implementation Structure*, describes the implementing entity, structure and
36 decision-making process.

- 1 • Chapter 8, *Implementation Costs and Funding Sources*, estimates the costs of BRCP
2 implementation and the sources of funding that will be relied on by the BRCP
3 participants.
- 4 • Chapter 9, *Alternatives to Take Considered and Rejected*, sets out the alternatives to take
5 of covered species that were developed and considered and the reasons why they were
6 not adopted.
- 7 • Chapter 10, *Independent Science Advisory Process*, describes BRCP coordination with
8 the BRCP independent science advisors and other science bodies that may provide input
9 during BRCP development.
- 10 • Chapter 11, *List of Preparers*, lists the preparers of the BRCP.
- 11 • Chapter 12, *References*, lists the printed references and personal communications cited in
12 the BRCP.
- 13 • The following appendices are also included:
- 14 ○ Appendix A, Covered Species Accounts
- 15 ○ Appendix B, Evaluation of Species Considered for Coverage
- 16 ○ Appendix C, Common and Scientific Names of Species Mentioned in the Text
- 17 ○ Appendix D, Native Species Supported by BRCP Natural Communities
- 18 ○ Appendix E, Survey Protocols and Mitigation Guidelines
- 19 ○ Appendix F, Implementation Costs Supporting Materials
- 20 ○ Appendix G, Independent Science Advisors Reports
- 21 ○ Appendix H, Butte Regional Conservation Planning Agreement
- 22 ○ Appendix I. Feasibility Study for Vernal Pool and Swale Complex Mapping
- 23 ○ Appendix J, Glossary of Terms
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