

CHAPTER 1. INTRODUCTION

1 *[Note to Reviewers: This handout provides an in-progress draft of Chapter 1, Introduction, of*
2 *the Butte Regional Conservation Plan (BRCP). The text of this in-progress draft Chapter is*
3 *subject to change and revision as the BRCP planning process progresses. The Chapter has been*
4 *formatted and drafted with word tenses as it would appear in the draft HCP/NCCP document.]*

5 **1.1 OVERVIEW**

6 The Butte Regional Conservation Plan (BRCP) is intended to establish an effective
7 program to conserve ecologically important resources in the Planning Area, including
8 covered species and their habitats, natural communities, open space, and working
9 landscapes. The BRCP will allow the County of Butte, the City of Oroville, the City of
10 Chico, the City of Biggs, the City of Gridley, the Butte County Association of
11 Governments (BCAG)¹, the California Department of Transportation (Caltrans), Western
12 Canal Water District (WCWD), and the Implementing Entity that will be established to
13 implement the plan (collectively, the “Permit Applicants” prior to permit issuance or
14 “Permittees” following permit issuance) to control endangered species permitting for
15 activities and projects in the Planning Area that they conduct or approve. This plan
16 provides a more efficient, consistent and effective alternative to project-by-project
17 permitting that may be costly and time consuming for applicants and often results in
18 uncoordinated and biologically ineffective mitigation.

19 **1.1.1 Background**

20 In 2007, a Planning Agreement regarding the planning and preparation of the BRCP
21 (Planning Agreement) was entered into by and among the “Local Agencies” (i.e., the
22 County of Butte, the City of Oroville, the City of Chico, the City of Biggs, and the City of
23 Gridley), the California Department of Fish and Game (DFG), the United States Fish and
24 Wildlife Service (USFWS), the National Marine Fisheries Service (NMFS), and BCAG. In
25 2010, WCWD and Caltrans became signatories to the Planning Agreement.

26 An organizational structure was created to develop the BRCP efficiently and with
27 substantial opportunity for input from stakeholders and the general public. This
28 structure included a Steering Committee composed of the Permit Applicants and a
29 Stakeholder Committee composed of parties with a broad range of interests in the
30 Planning Area including biological resources, agriculture, land use and development,
31 education, transportation, resource management, water delivery, and others. BCAG
32 served as the lead in coordination of the process and preparation of the BRCP, including
33 contracting of the Consultant to support drafting of the plan. The federal and state
34 permitting agencies, USFWS, NMFS, and DFG were involved and provided input
35 throughout the BRCP development and participated in both Steering Committee and
36 Stakeholder meetings as well as separate meetings with BCAG and the Consultant.

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

1 Public involvement was encourage through various means including publicly open
2 Stakeholder Committee meetings, several public workshops, newsletters, and a
3 regularly updated website (see section 1.4.2.2, *Public Outreach* for more details).

4 *[Note to reviewers: Additional background discussion will be provided to this section as*
5 *needed.]*

6 **1.1.2 Purpose**

7 The BRCP’s Conservation Strategy provides a regional approach for the long term
8 conservation of covered species and natural communities within the Planning Area
9 while allowing for compatible future land development under the county and cities’
10 general plan updates and regional transportation plan. The BRCP identifies and
11 addresses the Covered Activities carried out by the Permittees that may result in take of
12 Covered Species within the Planning Area. Covered Activities may include: those
13 existing, planned and proposed land uses over which the permittees have land use
14 authority; state and local transportation projects; operation of water delivery systems;
15 habitat restoration, enhancement, and management actions; and adaptive management
16 and monitoring activities. The BRCP allows Covered Activities in the Planning Area to
17 be carried out in compliance with the Natural Community Conservation Planning Act
18 (NCCPA), the California Endangered Species Act (CESA) and the federal Endangered
19 Species Act (ESA).

20 The BRCP satisfies the requirements for a HCP under section 10(a)(1)(B) of ESA, and an
21 NCCP under the NCCPA, and serves as the basis for take authorizations under both
22 Acts. Section 2835 of the Fish and Game Code provides that after the approval of an
23 NCCP, DFG may permit the taking of any covered species, both CESA-listed and non-
24 listed, whose conservation and management is provided for in the NCCP. ESA provides
25 that after the approval of an HCP, USFWS and NMFS may permit the taking of covered
26 species (both ESA-listed and non-listed) in the HCP, if the HCP meets the requirements
27 of section 10(a)(2)(A) of ESA.

28 This regional approach to planning and development of a HCP/NCCP in conjunction
29 with local government developed general plan updates provides significant benefits to
30 biological resources conservation and regional growth and development over existing
31 process of planning and compliance. Conservation planning and implementation at a
32 regional scale allows for more efficient and effective creation of a natural preserve
33 system to meet the needs of species covered by the BRCP than the existing ad-hoc
34 project-by-project process. The regional BRCP also allows for integration of habitat
35 conservation with the long-term general plan process to balance the need for growth
36 with species protection and to make future development compliance with endangered
37 species regulations more predicable and certain. The regional BRCP also addresses the
38 integration of species conservation into the existing agricultural working landscape and
39 allows for compatible multiple uses within some of the areas needed for habitat
40 conservation.

1.1.3 Overall Planning Goals and Conservation Objectives

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

- Provide for the conservation and management of Covered Species within the Planning Area;
- Preserve aquatic and terrestrial resources through conservation partnerships with the Local Agencies;
- Allow for appropriate and compatible growth and development that is consistent with applicable laws;
- Balance open space, habitat, agriculture and urban development;
- Protect the rights of property owners;
- Provide a means to implement Covered Activities in a manner that complies with applicable state and federal fish and wildlife protection laws, including CESA and ESA, and other environmental laws, including CEQA and NEPA;
- Provide a basis for permits necessary to lawfully take Covered Species;
- Provide a comprehensive means to coordinate and standardize mitigation and compensation requirements of ESA, CEQA, NEPA, and NCCPA within the Planning Area;
- Provide a less costly, equitable, more efficient project review process which results in greater conservation values than project-by-project, species-by-species review; and
- Comply with the ESA.

The BRCP's goal to "provide for the conservation and management of Covered Species" means that the BRCP will ensure the implementation of measures that will contribute to the recovery of Covered Species, taking into consideration the scope of the Planning Area in relation to the geographic range of the Covered Species, and the effect of Covered Activities on these species in relation to other activities not addressed by the BRCP.

As further described in the Planning Agreement, the preliminary conservation objectives intended to be achieved through the BRCP are to:

- Provide for the protection of species, natural communities, and ecosystems on a landscape level;
- Preserve the diversity of plant and animal communities throughout the Planning Area;
- Protect threatened, endangered or other special-status plant and animal species, and minimize and mitigate the take or loss of proposed Covered Species;
- Identify and designate biologically sensitive habitat areas;

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- 1 • Preserve habitat and contribute to the recovery of Covered Species;
 - 2 • Reduce the need to list additional species;
 - 3 • Set forth species specific goals and objectives;
 - 4 • Set forth specific habitat-based goals and objectives expressed in terms of
 - 5 amount, quality, and connectivity of habitat; and
 - 6 • Implement an adaptive management and monitoring program to respond to
 - 7 changing ecological conditions.

8 **1.2 REGULATORY CONTEXT**

9 This section describes the applicable federal and state laws and regulations with which
10 the HCP/NCCP is intended to comply. Other federal and state laws and regulations
11 with which the BRCP implementation may need to comply are also described (e.g., the
12 Migratory Bird Treaty Act).

13 **1.2.1 The Federal Endangered Species Act**

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

22 Section 9(a)(1)(B) of the ESA prohibits the take by any person of any endangered fish or
23 wildlife species; take of threatened fish or wildlife species is prohibited by regulation.
24 The ESA prohibits the take of any listed threatened fish or wildlife species in violation of
25 any regulation promulgated by the USFWS or NMFS. “Take” is defined broadly to
26 mean harass, harm, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to
27 engage in any such conduct.² “Harm” is defined by regulation to mean an act which
28 actually kills or injures wildlife, including those activities that cause significant habitat
29 modification or degradation resulting in the killing or injuring of wildlife by
30 significantly impairing essential behavior patterns, including breeding, feeding, or
31 sheltering.³ The take prohibitions of the ESA apply unless take is otherwise specifically
32 authorized or permitted pursuant to the provisions of section 7 or section 10 of the ESA.

² 16 U.S.C. § 1532 (1988).

³ 50 C.F.R. § 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).

1 The protections for listed plant species under the ESA are more limited than for fish and
2 wildlife.⁴

3 Section 10 of the ESA specifically addresses the authorization for take by non-federal
4 entities through the development of a HCP. For those actions for which no federal
5 nexus exists, private individuals, corporations, state and local government agencies, and
6 other non-federal entities who wish to conduct otherwise lawful activities that may
7 incidentally result in the take a listed species must first obtain a Section 10 incidental
8 take permit from USFWS or NMFS. The non-federal entity is required to develop an
9 HCP as part of the permit application process. The BRCP is intended to meet all
10 regulatory requirements necessary for USFWS and NMFS to issue section 10 permits to
11 allow incidental take of all proposed covered species as a result of Covered Activities
12 undertaken by the permitted entities. Before issuing a Section 10 incidental take permit,
13 the USFWS and NMFS must make the following findings:

- 14
- 15 • the taking is incidental to an otherwise lawful activity;
- 16 • impacts are monitored, minimized, and mitigated to the maximum extent
17 practicable;
- 18 • procedures are provided to deal with unforeseen circumstances;
- 19 • adequate funds exist to implement the Habitat Conservation Plan; and
- 20 • the taking will not appreciably reduce the likelihood of the survival and recovery
21 of the species in the wild. [16 U.S.C. § 1539(2)(2)(B).]
- 22

23 Section 7 of the ESA requires all federal agencies to ensure that any action they
24 authorize, fund, or carry out is not likely to jeopardize the continued existence of any
25 listed species or result in the destruction or adverse modification of habitat critical to
26 such species' survival. To ensure that its actions do not result in jeopardy to listed
27 species or in the adverse modification of critical habitat, each federal agency must
28 consult with USFWS or NMFS or both regarding federal agency actions that have the
29 potential to harm listed species. Consultation begins when the federal agency submits a
30 written request for initiation to USFWS or NMFS, along with the agency's biological
31 assessment of its proposed action (in this case the HCP serves as the biological
32 assessment), and USFWS or NMFS accepts that biological assessment as complete. If
33 USFWS or NMFS concludes that the action is not likely to adversely affect a listed
34 species, the action may be conducted without further review under ESA. Otherwise,
35 USFWS or NMFS must prepare a written biological opinion describing how the agency's
36 action will affect the listed species and its critical habitat. The issuance of a permit for
37 this plan is a federal action that triggers a Section 7 consultation. To address this
38 requirement the USFWS and NMFS will conduct intra-agency consultations (i.e., they
39 consult within their own agency) to evaluate the effects of their issuance of Section 10

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 C.F.R. § 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.

1 permits to the Permit Applicants. As part of this ESA Section 7 consultation process the
2 USFWS and NMFS must determine whether issuing their incidental take permits could
3 jeopardize the continued existence of species including an analysis of direct, indirect,
4 and cumulative effects on threatened and endangered fish, wildlife, plants, and critical
5 habitat designated for such species.

6 If the biological opinion concludes that the proposed action would jeopardize the
7 continued existence of a listed species or adversely modify its critical habitat, the
8 opinion must suggest “reasonable and prudent alternatives” that would avoid that
9 result. If the biological opinion concludes that the project as proposed would involve the
10 take of a listed species, but not to an extent that would jeopardize the species’ continued
11 existence, the biological opinion must include an *incidental take statement*. The incidental
12 take statement specifies an amount of take that may occur as a result of the action and
13 may suggest reasonable and prudent measures to minimize the impact of the take. If the
14 action complies with the biological opinion and incidental take statement, it may be
15 implemented without violation of the FESA, even if incidental take occurs.

16 It is expected that, during BRCP implementation, Covered Activities with a federal
17 nexus to federal agencies other than USFWS and NMFS will use the conservation
18 measures described in the HCP/NCCP as conservation actions under future Section 7
19 consultation processes. Unless otherwise required by law or regulation, USFWS and
20 NMFS will ensure that the activities and conservation measures for the specific
21 proposed project are consistent with the HCP/NCCP and the biological opinion issued
22 for the HCP/NCCP. For example, projects in the Planning Area that require a permit
23 from the U.S. Army Corps of Engineers (USACE) under Section 404 of the Clean Water
24 Act (CWA) have a federal nexus. Many of these projects may be eligible to use the
25 regional general permit program that is being developed in parallel with this
26 HCP/NCCP. The USACE, as the permitting agency under CWA, must consult with
27 USFWS or NMFS on the effects of their action on federally-listed species. Similarly,
28 projects in the Planning Area that require approval from the Federal Highways
29 Administration (FHWA) may be eligible to proceed in reliance on the HCP/NCCP
30 conservation measures.

31 **1.2.2 Compliance with the Federal Five-Point Policy Guidance**

32 In June 2000, the USFWS and NMFS adopted a five-point policy designed to clarify
33 elements of the habitat conservation planning program as they relate to biological goals,
34 adaptive management, monitoring, permit duration, and public participation.⁵ The five-
35 point policy directs that the following elements be addressed in the development of
36 habitat conservation plans:

37 ***Biological Goals and Objectives:*** HCPs are required to define biological goals and
38 objectives that the plan is intended to achieve. Biological goals and objectives clarify the
39 purpose and direction of the plan’s conservation program. The BRCP sets out biological
40 goals and objectives, including specific measurable targets that the plan is intended to

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 meet. These targets are based on the best available scientific information and have been
2 used as parameters and benchmarks to guide the conservation strategies for the species
3 and natural communities covered by the plan. The biological objectives of the BRCP are
4 described in Chapter 5.

5 ***Adaptive Management:*** The five-point policy encourages the inclusion of adaptive
6 management strategies in HCPs in appropriate circumstances to address uncertainty
7 related to species covered by a plan. The agencies describe adaptive management as a
8 “method for examining alternative strategies for meeting measurable biological goals
9 and objectives, and then if necessary, adjusting future conservation management actions
10 according to what is learned.”⁶ The BRCP incorporates an adaptive management
11 process that is designed to facilitate and improve decision-making during the
12 implementation of the BRCP and identify adjustments and modifications, as defined in
13 the BRCP, to the conservation strategy as new information becomes available over time.
14 The framework for the BRCP adaptive management program is set out in section 5.7
15 *Adaptive Management Plan*.

16 ***Monitoring:*** HCPs are required to include provisions for monitoring to gauge the
17 effectiveness of the plan in meeting the biological goals and objectives and to verify that
18 the terms and conditions of the plan are being properly implemented. The monitoring
19 provisions of the BRCP are found in section 5.6 *Monitoring and Research Plan*.

20 ***Permit Duration:*** Consistent with the five-point policy, the USFWS and NMFS consider
21 several factors in determining the term of an incidental take permit. The agencies, for
22 instance, take into account the expected duration of the activities proposed for coverage
23 and the anticipated positive and negative effects on covered species that will likely occur
24 during the course of the plan’s implementation. The agencies also factor in the level of
25 scientific and commercial data underlying the proposed operating conservation
26 program, the length of time necessary to implement and achieve the benefits of the
27 operating conservation program, and the extent to which the program incorporates
28 adaptive management strategies. The duration of the permits to be issued pursuant to
29 the BRCP is anticipated to be █ years and is discussed in more detail in section 1.3
30 below.

⁶ 65 FR at X,

1 **Public Participation:** Under the five-point policy, the federal fish and wildlife agencies
2 have sought to increase public participation in the HCP process, including greater
3 opportunity for the public to assess, review, and analyze HCPs and associated NEPA
4 documentation. As part of this effort, the agencies have expanded the public review
5 process for most HCPs, particularly those with regional scopes. As described in section
6 1.4 below, the BRCP process afforded extensive opportunities for public involvement
7 and input throughout the development of the BRCP as well as under the CEQA/NEPA
8 process.

9 **1.2.3 Natural Community Conservation Planning Act**

10 The NCCPA provides a mechanism for compliance with State endangered species
11 regulatory requirements through the development of comprehensive, broad-scale
12 conservation plans that focus on the needs of natural communities and the range of
13 species that inhabit them.⁷ The NCCP program has provided the basis for successful
14 collaborations throughout California between State and federal agencies, local
15 governments, community groups, and private interests that have resulted in long-term,
16 habitat-based protections for regional biodiversity and related ecosystems. It has also
17 proved to be an effective tool in achieving these protections while reducing conflicts
18 between conservation goals and the reasonable use of natural resources and lands for
19 economic development. The BRCP adopts the approaches set out in the NCCPA and
20 incorporates those elements necessary to meet regulatory requirements of the Act.

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

34 The BRCP addresses all of the requirements of the NCCPA for covered species of fish,
35 wildlife, and plants and natural communities in the Planning Area. On that basis, DFG
36 may issue permits for the taking of the species proposed for coverage under the BRCP.⁸

37 **1.2.4 California Endangered Species Act**

38 The CESA prohibits the take of State-listed threatened and endangered species of fish,

7 Fish & Game Code § 2800 *et. seq.*

8 Fish & Game Code § 2835.

1 wildlife, and plants.⁹ CESA also prohibits the take of candidate species.¹⁰ “Take” is
2 defined under CESA as “to hunt, pursue, capture, or kill, or attempt to hunt, pursue,
3 catch, capture, or kill.” The CESA definition of “take” does not include the ESA’s
4 concepts of “harm” or “harass.”¹¹ Take authorizations may be obtained under CESA,
5 provided the permit applicant minimizes and “fully mitigates” the take that will be
6 caused by the covered activities.¹² The NCCPA offers a separate means for
7 authorization of take of CESA-listed species through development of an NCCP and take
8 authorization under NCCPA Section 2835.

9 **1.2.5 The National Environmental Policy Act**

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

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

24 The state and federal lead agencies are preparing a joint BRCP EIR/EIS to satisfy CEQA
25 and NEPA concurrently.

26 **1.2.6 The California Environmental Quality Act**

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

34 The BRCP is a project subject to CEQA, as are numerous BRCP-related actions that will

9 Fish & Game Code § 2080.

10 Fish & Game Code § 2085.

11 Fish & Game Code § 86.

12 Fish & Game Code § 2081(b)(2).

13 42 U.S.C. § 4371 *et seq.*

1 be implemented over the term of the plan.¹⁴ BCAG is the lead agency for the
2 preparation of the EIR/EIS on the BRCP, which will include analyses of the proposed
3 adoption of the plan. DFG is participating in the preparation of the EIR/EIS as both a
4 responsible and trustee agency. The EIR/EIS will also serve as the CEQA document for
5 the purpose of regulatory permits issued by DFG pursuant to the BRCP.

6 The state and federal lead agencies are preparing a joint BRCP EIR/EIS to satisfy CEQA
7 and NEPA concurrently.

8 **1.2.7 Section 404 of the Clean Water Act**

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

19 Many of the actions that will be implemented under the BRCP may result in the
20 discharge of dredged or fill materials into waters of the U.S. and will need to be
21 authorized by the USACE. These BRCP actions may receive such authorizations
22 through General Permits or Individual Permits. Typically, General Permits apply to
23 specific classes of activities that have been determined to cause no more than minimal
24 impact to the aquatic environment (e.g., construction of road crossings, installation of
25 utility lines, and operations and maintenance activities).¹⁸ Individual Permits are
26 designed for activities that have the potential to have more than a minimal effect on
27 jurisdictional waters or that otherwise do not qualify under the conditions of a General
28 Permit. Substantively, the USACE must evaluate applications for Individual Permits to
29 determine their consistency with the requirements of the Section 404(b)(1) Guidelines¹⁹
30 and the USACE regulations.²⁰

31 The BRCP intends to develop Regional General Permits with USACE to address specific
32 activities within the Planning Area that will enhance the conservation of wetlands while
33 streamlining the Section 404 permit process for activities that impact wetlands and other
34 waters of the U.S., such as land development projects.

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

15 33 U.S.C. § 1251(a).

16 *See* 33 U.S.C. §§ 1311, 1342, and 1344.

17 33 C.F.R. § 328.3(a)(3).

18 33 C.F.R. § 325.5(c)

19 40 C.F.R. Part 230.

20 33 C.F.R. Part 325.

1 **1.2.8 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
4 any activity that would: (1) divert or obstruct the natural flow of, or substantially
5 change or remove material from the bed, channel, or bank of any river, stream, or lake;
6 (2) result in the disposal or deposition of debris, waste, or other material into any river,
7 stream, or lake.²¹ The State definition of “lake, rivers, and streams” includes all rivers or
8 streams that flow at least periodically or permanently through a bed or channel with
9 banks that support fish or other aquatic life, and watercourses with surface or
10 subsurface flows that support or have supported riparian vegetation.²²

11 Certain actions that will be implemented under the BRCP may require Streambed
12 Alteration Agreements under Section 1602. As part of that process, DFG will review
13 notifications submitted by the Implementing Entity to determine if the proposed project
14 would impact existing fish and wildlife resources that are directly dependent on a lake,
15 river, or stream. If DFG determines that the proposed activity will not substantially
16 adversely affect an existing fish and wildlife resource, it will notify the Implementing
17 Entity that no Streambed Alteration Agreement is required and the project may
18 proceed.²³ If DFG determines that the project may substantially adversely affect an
19 existing fish and wildlife resource, it will require, as part of a Streambed Alteration
20 Agreement, reasonable measures necessary to protect the fish and wildlife resource.²⁴

21 The BRCP intends to develop a Master Streambed Alteration Agreement with DFG to
22 address specific activities within the Planning Area that will enhance the conservation of
23 streams and associated riparian and wetlands habitat while streamlining the Section
24 1602 process.

25 **1.2.9 California Fully Protected Species**

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

21 Fish & Game Code § 1602.

22 14 C.C.R. § 1.72.

23 Fish & Game Code § 1602(a)(4)(A)(i).

24 Fish & Game Code § 1603(a).

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

4 **1.2.10 Migratory Bird Treaty Act**

5 The Migratory Bird Treaty Act (MBTA) of 1918 implements four international treaties
6 for the conservation and management of bird species that may migrate through more
7 than one country.²⁵ The MBTA makes it unlawful to take, possess, buy, sell, purchase,
8 or barter any migratory bird listed in 50 CFR Part 10, including feathers or other parts,
9 nests, eggs, or products, except as allowed by implementing regulations.²⁶ For federally
10 listed migratory bird species covered under the BRCP for which an ESA Section 10(a)
11 permit has been issued, the Permit Applicants may also obtain a MBTA permit for those
12 species.

13 **1.2.11 Bald Eagle and Golden Eagle Protection Act**

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

22 **1.2.12 California Fish and Game Code 3503 (Bird Nests)**

23 Section 3503 of the Fish and Game Code makes it unlawful to take, possess or needlessly
24 destroy the nests or eggs of any bird, unless otherwise permitted by the Fish and Game
25 Code. The BRCP includes conservation measures to avoid and minimize take of covered
26 species and specifically nests and eggs, and will serve as a basis for compliance with
27 Section 3503.

28 **1.2.13 California Fish and Game Code 3503.5 (Birds of Prey)**

29 Section 3503.5 of the Fish and Game Code prohibits the take, possession or destruction
30 of any birds of prey or their nests or eggs, unless otherwise permitted by the Fish and
31 Game Code. The DFG may issue permits authorizing take pursuant to the CESA or
32 NCCPA. The BRCP includes conservation measures to avoid and minimize such take
33 and will serve as a basis for compliance with Section 3503.5.

34 **1.3 SCOPE OF THE BRCP**

35 This section identifies and describes:

²⁵ 16 U.S.C. § 703 *et seq.*

²⁶ 50 C.F.R. § 21.

-
- 1 • the description and rationale for the geographic scope of the BRCP, defined as
 - 2 the Planning Area;
 - 3 • the list of and rationale for the natural communities addressed in the BRCP;
 - 4 • the covered species selection process and selected proposed covered species;
 - 5 • the activities to be covered under the BRCP; and
 - 6 • the anticipated permit duration.

7 **1.3.1 Geographic Scope**

8 The BRCP Planning Area is shown in Figure 1-1 and encompasses 564,270 acres (228,352
9 hectares) of land. The Planning Area includes the western

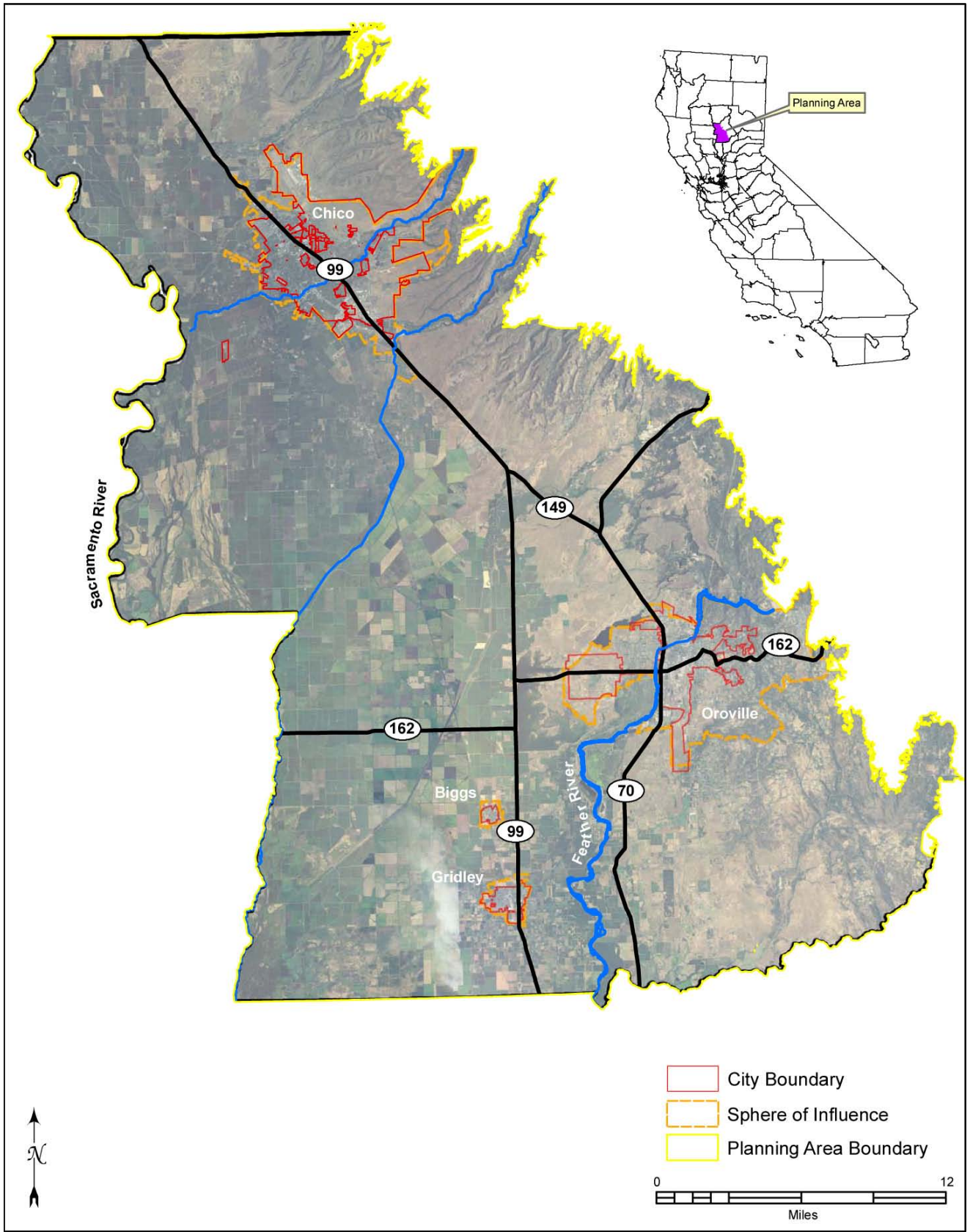


Figure 1-1. Planning Area for Butte Regional HCP/NCCP

1 lowlands and foothills of Butte County bounded on the west by the County’s boundaries
2 with Tehama, Glenn, and Colusa Counties; bounded on the south by the boundaries
3 with Sutter and Yuba Counties; bounded on the north by the boundary with Tehama
4 County; and bounded on the east by the upper extent of landscape dominated by oak
5 woodland natural communities. The eastern oak woodland boundary is defined by a
6 line below which land cover types dominated by oak trees comprise more than one half
7 of the land cover present (referred to hereafter as the oak zone) plus a small portion of
8 the City of Chico that extends above the oak zone. The upper elevation range of the oak
9 zone varies from about 800 to 1,500 feet above mean sea level. Typically oak tree-
10 dominated land cover types are replaced with either chaparral or conifer-dominated
11 land cover types at higher elevations. Although the Planning Area includes portions of
12 the Sacramento River within Butte County, the BRCP does not address activities that
13 could affect listed fish species in the Sacramento River; such activities are addressed
14 under other regional conservation planning efforts for the Sacramento River (e.g., the
15 Anadromous Fish Restoration Program). The Sacramento River floodplain within Butte
16 County is included in the BRCP for implementing conservation measures for covered
17 species and natural communities that would not have adverse effects on fish.

18 The Planning Area was designed to encompass the area within which Covered Activities
19 would be implemented and to provide sufficient land and resources to implement
20 measures to provide for the conservation of covered species and habitats impacted by
21 the proposed Covered Activities.

22 **1.3.2 Covered Natural Communities**

23 The natural communities proposed for coverage under the BRCP include oak woodland
24 and savanna, grassland, riparian, wetland, aquatic, and agriculture (although
25 agriculture is not a natural community, it provides important habitat for a number of
26 covered species and so is included here). Each of the natural communities is comprised
27 of certain land cover types as listed below.

- 28 ▪ *Oak Woodland and Savanna*
 - 29 ○ Blue oak savanna
 - 30 ○ Blue oak woodland
 - 31 ○ Interior live oak woodland
 - 32 ○ Mixed oak woodland
- 33 ▪ *Grassland*
 - 34 ○ Grassland
 - 35 ○ Grassland with vernal swale complex
 - 36 ○ Vernal pool
 - 37 ○ Altered vernal pool
- 38 ▪ *Riparian*
 - 39 ○ Cottonwood-willow riparian forest
 - 40 ○ Valley oak riparian forest
 - 41 ○ Willow scrub
 - 42 ○ Herbaceous riparian and river bar
 - 43 ○ Herbaceous riparian and river bar

-
- 1 ▪ *Wetland*
 - 2 ○ Emergent wetland
 - 3 ○ Managed wetland
 - 4 ▪ *Aquatic*
 - 5 ○ Open water
 - 6 ○ Major canal
 - 7 ○ Stock pond
 - 8 ▪ *Agriculture*
 - 9 ○ Rice
 - 10 ○ Irrigated cropland
 - 11 ○ Irrigated pasture
 - 12 ○ Orchard/vineyard
 - 13 ○ Non-native woodland
 - 14

15 Developed/disturbed land cover types are not proposed as a natural community
16 because they typically provide low-value habitat for native species and are subject to
17 ongoing human disturbances. Chaparral and conifer forests, although natural land
18 cover types, are not included in the plan as covered natural communities because the
19 BRCP is focused on conservation of lowland communities. Chaparral and conifer forests
20 are higher elevation communities located primarily outside of the Planning Area and
21 occur in the Planning Area only as relatively small inclusions within the oak woodland
22 dominated landscape.

23 **1.3.3 Covered Species**

24 Species proposed for coverage are those for which incidental take authorizations may be
25 required under the ESA and NCCPA to implement the Covered Activities over the term
26 of the BRCP (Covered Species). Species considered for coverage were limited to special-
27 status species that could be present in the BRCP Planning Area. Consideration for
28 coverage of non-listed species was limited to special-status species because, by
29 definition, they are recognized by federal and state wildlife agencies as declining and,
30 therefore, are more likely than other non-listed species to become listed at some time
31 during implementation of the Covered Activities. Special-status species are defined as
32 species that are:

- 33 • listed as threatened or endangered under the federal Endangered Species Act
34 (ESA);
- 35 • proposed or candidates for listing under ESA;
- 36 • listed as threatened or endangered under the California Endangered Species Act
37 (CESA);
- 38 • candidates for listing under CESA;
- 39 • fully protected species under California Fish and Game Codes
- 40 • California species of concern;
- 41 • plants listed as rare under the California Native Plant Protection Act; or

-
- 1 • plants included in the California Native Plant Society (CNPS) List 1A, 1B, or 2.

2 Sources of information used to identify the special-status species that could be present in
3 the Planning Area include:

- 4 • Department of Fish and Game’s (DFG’s) California Natural Diversity Database
5 (CNDDDB)²⁷;
- 6 • USFWS list of endangered and threatened species that occur in or may be
7 affected by projects in Butte County²⁸;
- 8 • Butte County General Plan Background Report; and
- 9 • recorded observations of special-status species provided by local resource
10 experts.

11 A total of 108 special-status species (61 animals and 47 plants) were identified as being
12 present or having the potential to be present in the Planning Area based on the sources
13 of information described above.

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

- 17 1. **Potential for Listing:** The species is listed under ESA or CESA or could become
18 listed during implementation of the BRCP Covered Activities. Non-listed species
19 are considered likely to become listed in the future if:
- 20 • they are currently proposed for listing under ESA or are candidates for listing
21 under ESA or CESA;
- 22 • they are a California species of special concern or CNPS List 1A, List 1B, or
23 List 2 plant species whose populations or habitats are continuing to decline;
- 24 • their populations are known to be declining rapidly; and
- 25 • a substantial proportion of their population is located in the Planning Area
26 that could be substantially affected by Covered Activities.
- 27 2. **Occurrence in the Planning Area:** The species is known to occur in the Planning
28 Area or could occur based on presence of habitat in the Planning Area and
29 known occupied habitat near the Planning Area.
- 30 3. **Potential to be Affected:** The species or its habitats could be affected by the
31 types of activities anticipated to be covered under the BRCP.
- 32 4. **Sufficient Information:** Sufficient scientific information and data are available to
33 determine the likely impacts of the Covered Activities on the species and to
34 formulate conservation measures that could effectively mitigate impacts and
35 conserve the species.

²⁷ Source: CNDDDB Rarefind 3 database (2006) and http://imaps.dfg.ca.gov/viewers/cnddb_quickviewer/.

²⁸ Source: http://www.fws.gov/sacramento/es/spp_lists/auto_list.cfm.

- 1 A total of 41 of the species met all four of the selection criteria and are proposed for
 2 coverage under the BRCP. The proposed Covered Species are listed in Table 1.1.

Table 1.1. Proposed BRCP Covered Species

<i>Common Name/Scientific Name</i>	<i>Status¹ (Federal/State/CNPS)</i>
BIRDS	
Tricolored blackbird <i>Agelaius tricolor</i>	-/SSC/-
Yellow-breasted chat <i>Icteria virens</i>	-/SSC/-
Bank swallow <i>Riparia riparia</i>	-/T/-
Western burrowing owl <i>Athene cunicularia hypugea</i>	-/SSC/-
Western yellow-billed cuckoo <i>Coccyzus americanus occidentalis</i>	C/E/-
Greater sandhill crane <i>Grus canadensis tabida</i>	-/T,FP/-
California black rail <i>Laterallus jamaicensis coturniculus</i>	-/T,FP/-
Peregrine Falcon <i>Falco peregrinus anatum</i>	D/E,FP/-
Swainson's hawk <i>Buteo swainsoni</i>	-/T/-
White-tailed kite <i>Elanus leucurus</i>	-/FP/-
Bald eagle <i>Haliaeetus leucocephalus</i>	D/E,FP/-
REPTILES	
Giant garter snake <i>Thamnophis gigas</i>	T/T/-
California horned lizard <i>Phrynosoma coronatum frontale</i>	-/SSC/-
Northwestern pond turtle <i>Actinemys marmorata marmorata</i>	-/SSC/-
AMPHIBIANS	
Foothill yellow-legged frog <i>Rana boylei</i>	-/SSC/-
Western spadefoot <i>Spea hammondi</i>	-/SSC/-
FISH	
Sacramento splittail <i>Pogonichthys macrolepidotus</i>	-/SSC/-
Central Valley steelhead <i>Oncorhynchus mykiss irideus</i>	T/-/-
Central Valley fall/late-fall run Chinook salmon <i>Oncorhynchus tshawytscha</i>	-/SSC/-
Central Valley spring run Chinook salmon <i>Oncorhynchus tshawytscha</i>	T/T/-

Table 1.1. Proposed BRCP Covered Species

<i>Common Name/Scientific Name</i>	<i>Status¹ (Federal/State/CNPS)</i>
Sacramento River winter run Chinook salmon <i>Oncorhynchus tshawytscha</i>	E/E/-
Green sturgeon <i>Acipenser medirostris</i>	T/SSC/-
River lamprey <i>Lampetra ayresii</i>	-/SSC/-
INVERTEBRATES	
Valley elderberry longhorn beetle ² <i>Desmocerus californicus dimorphus</i>	T/-/-
Vernal pool tadpole shrimp <i>Lepidurus packardi</i>	E/-/-
Conservancy fairy shrimp <i>Branchinecta conservatio</i>	E/-/-
Vernal pool fairy shrimp <i>Branchinecta lynchi</i>	T/-/-
PLANTS	
Ferris's milkvetch <i>Astragalus tener</i> var. <i>ferrisiae</i>	-/-/1B
Lesser saltscare <i>Atriplex minuscula</i>	-/-/1B
Hoover's spurge <i>Chamaesyce hooveri</i>	T/-/1B
Ahart's dwarf rush <i>Juncus leiospermus</i> var. <i>ahartii</i>	-/-/1B
Red Bluff dwarf rush <i>Juncus leiospermus</i> var. <i>leiospermus</i>	-/-/1B
Butte County meadowfoam <i>Limnanthes floccosa</i> ssp. <i>californica</i>	E/E/1B
Veiny Monardella <i>Monardella douglasii</i> ssp. <i>venosa</i>	-/-/1B
Hairy Orcutt grass <i>Orcuttia pilosa</i>	E/E/1B
PLANTS	
Slender Orcutt grass <i>Orcuttia tenuis</i>	T/E/1B
Ahart's paronychia <i>Paronychia ahartii</i>	-/-/1B
California beaked-rush <i>Rhynchospora californica</i>	-/-/1B
Butte County checkerbloom <i>Sidalcea robusta</i>	-/-/1B
Butte County golden clover <i>Trifolium jokerstii</i>	-/-/1B
Greene's tuctoria <i>Tuctoria greenei</i>	E/R/1B
¹ Status: <u>Federal</u> E = Listed as endangered under ESA	<u>California Native Plant Society (CNPS)</u> 1B = rare or endangered in California and elsewhere

Table 1.1. Proposed BRCP Covered Species

<i>Common Name/Scientific Name</i>	<i>Status¹ (Federal/State/CNPS)</i>
T = Listed as threatened under ESA C = Candidate for listing under ESA D = Delisted under ESA	2 = rare and endangered in California, more common elsewhere
<u>State</u>	
E = Listed as endangered under CESA T = Listed as threatened 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 Species of Local Concern**

2 In addition to the species selected as Covered Species, the Stakeholder Committee
 3 identified species they desire to be conserved within the Planning Area. These species
 4 were identified as “Species of Local Concern” and each of these species is evaluated in
 5 the BRCP for the expected conservation outcome with implementation of the
 6 Conservation Strategy. These Species of Local Concern are listed in Table 1.2.

Table 1.2 Species of Local Concern

<i>Common Name/Scientific Name</i>	<i>Status¹ (Federal/State/CNPS)</i>
BIRDS	
Yellow warbler <i>Dendroica petechia sonorana</i>	-/SSC/-
California thrasher <i>Toxostoma redivivum</i>	-/-/-
Purple martin <i>Progne subis</i>	-/SSC/-
California horned lark <i>Eremophila alpestris actia</i>	-/-/-
Yellow-billed magpie <i>Pica nuttalli</i>	-/-/-
Loggerhead shrike <i>Lanius ludovicianus</i>	-/SSC/-
Willow flycatcher <i>Empidonax traillii</i>	-/E/-
Short-eared owl <i>Asio flammeus</i>	-/SSC/-
Long-eared owl <i>Asio otus</i>	-/SSC/-
Greater roadrunner <i>Geococcyx californianus</i>	-/-/-
Golden eagle <i>Aquila chrysaetos</i>	-/FP/-
Northern harrier <i>Circus cyaneus</i>	-/SSC/-
Merlin <i>Falco columbarius</i>	-/-/-
Prairie falcon <i>Falco mexicanus</i>	-/-/-
FISH	
Tule perch <i>Hysterocarpus traski</i>	-/-/-
Hitch <i>Lavinia exilicauda</i>	-/-/-
Hardhead <i>Mylopharodon conocephalus</i>	-/SSC/-
¹ Status: <u>Federal</u> E = Listed as endangered under ESA T = Listed as threatened under ESA C = Candidate for listing under ESA D = Delisted under ESA	
<u>State</u> E = Listed as endangered under CESA T = Listed as threatened under CESA SSC = California species of special concern FP = Fully protected under the California Fish and Game Code	

1 **1.3.5 Covered Activities**

2 The types of Covered Activities within the Planning Area of the BRCP for which
 3 incidental take permit coverage is requested from USFWS, NMFS, and DFG in
 4 compliance with the ESA and the NCCPA are summarized below and described in more

1 detail in Chapter 2, *Covered Activities*. The Covered Activities are grouped by
2 geographic location within the Planning Area:

- 3 1. *Within urban permit areas (UPAs)* - urban permit areas are those mapped
4 locations in the Planning Area within which the cities and County anticipate
5 urban development under their respective general plan updates. The UPAs are
6 discussed in more detail in Chapter 2.
- 7 2. *Outside UPAs* - all areas of the County within the Planning Area and outside of
8 the UPAs; includes Covered Activities such as linear utilities and transportation
9 construction or maintenance projects; does not include areas that become part of
10 HCP/NCCP habitat preserves.
- 11 3. *Within habitat preserves* - new habitat preserves established under the BRCP;
12 includes conservation actions within preserves such as habitat restoration,
13 enhancement, and management.

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

22 **1.3.6 Permit Duration**

23 The permittees are seeking permits from USFWS, NMFS, and CDFG to implement the
24 BRCP and retain incidental take coverage under those permits for a term of █ years.

25 *[Note to reviewers: This section will be updated going forward and include the permit duration*
26 *and rationale for selecting that duration.]*

27 **1.4 OVERVIEW OF THE BRCP PROCESS**

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

33 **1.4.1 Organizational Structure for Planning**

34 **1.4.1.1 Stakeholder Committee**

35 The Stakeholder Committee is responsible for reviewing draft sections of the
36 HCP/NCCP and providing recommendations for HCP/NCCP development to BCAG
37 and the Steering Committee. The role of the Stakeholder Committee's members includes

1 representing the interests of their organizations at meetings and reporting on
2 development of the BRCP to other members of their organizations on a regular basis.
3 The Stakeholder Committee generally met monthly throughout the development of the
4 BRCP. All such meetings were open to the public and provided for public participation.

5 The members of the Stakeholder Committee are listed below.

- 6 ▪ Butte County Builders Association
- 7 ▪ Butte County Farm Bureau
- 8 ▪ Ducks Unlimited
- 9 ▪ Butte Environmental Council
- 10 ▪ Altacal Audubon Society
- 11 ▪ Sierra Club
- 12 ▪ CSU Chico
- 13 ▪ Butte Glenn Community College District
- 14 ▪ Butte County Agricultural Commission
- 15 ▪ The Nature Conservancy
- 16 ▪ California Native Plant Society
- 17 ▪ Butte Co. Resource Conservation District
- 18 ▪ Caltrans
- 19 ▪ Western Canal Water District

20 **1.4.1.2 *Steering Committee***

21 The Steering Committee acts in an administrative capacity and is responsible for the
22 preparation of the BRCP. Responsibilities of the Steering Committee include:

- 23 • managing the Consultants and working with the Consultants to establish
24 timelines, work products and outreach processes;
- 25 • reviewing key HCP/NCCP elements (e.g., covered species, Planning Area,
26 Covered Activities, conservation strategy, impact assessment, implementing
27 entity);
- 28 • providing guidance as requested by technical subcommittees;
- 29 • monitoring HCP/NCCP development budgets;
- 30 • securing grant funding for Plan preparation;
- 31 • providing oversight of HCP/NCCP development;
- 32 • communicating HCP/NCCP progress and issues to the County and City
33 Administrators Committee, Stakeholder Committee, and Planning Directors
34 Group;
- 35 • providing for public participation and outreach;
- 36 • reviewing and formulating responses to recommendations for HCP/NCCP
37 development made by DFG, USFWS, NMFS, the Science Advisory Panel and the
38 Stakeholder Committee; and

-
- 1 • reviewing HCP/NCCP scopes of work, budgets, and scope modifications of the
2 Consultants.

3 The members of the Steering Committee are listed below.

- 4 ▪ Jane Dolan, Butte County
- 5 ▪ Curt Josiassen, Butte County (2007-2009)
- 6 ▪ Steve Lambert, Butte County
- 7 ▪ Jamie Johansson, City of Oroville
- 8 ▪ Scott Gruendl, City of Chico (2007-2008)
- 9 ▪ Ann Schwab, City of Chico
- 10 ▪ Jody Jones, Caltrans District 3
- 11 ▪ Ted Trimble, Western Canal Water District

12 **1.4.2 Coordination with Agencies and Public Outreach**

13 **1.4.2.1 Agency Coordination**

14 Regular technical agency meetings with USFWS, DFG and NMFS were held to discuss
15 specific agency concerns related to administrative draft document sections. These
16 agencies provided technical input on the baseline data, Covered Species list, covered
17 species accounts, existing ecological conditions report, Covered Activities, impact
18 analysis, and the Conservation Strategy.

19 **1.4.2.2 Public Outreach**

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

23 The NCCPA requires the establishment of a process for public participation and
24 outreach throughout the development of a plan. Similarly, policies governing the ESA
25 emphasize the importance of public involvement in the development of large-scale
26 HCPs and encourage plan participants to facilitate the engagement of the public. Under
27 the five-point policy, the federal fish and wildlife agencies have sought to increase
28 public participation in the HCP process, including greater opportunity for the public to
29 assess, review, and analyze HCPs and associated NEPA documentation.

30 Beginning at the initial stage of the BRCP planning process, the public has been afforded
31 a wide range of opportunities to learn about the various elements of the BRCP and
32 provide input during the course of its development. In addition to the public
33 involvement associated with the Stakeholder and Steering Committee meetings
34 discussed above, other public outreach and involvement has occurred throughout the
35 development of the plan. Public Workshops were held on September 5, 2007 in the City
36 of Chico and September 12, 2007 in the City of Oroville. Newsletters were provided
37 regularly to keep interested parties up-to-date with the latest information on the
38 development of the plan including in the summer/fall of 2007, spring/summer/fall of
39 2008, and in the fall of 2009. To further facilitate the dissemination of information, the
40 BRCP maintained a project website (<http://www.buttehcp.com/index.html>) that

1 provided access to administrative draft chapters of the HCP/NCCP and other
2 documents, information about Stakeholder and Steering Committee meetings,
3 background and benefits of the BRCP, information on public workshops, access to
4 newsletters and detailed informational brochures, contact information and links to other
5 important websites, and other relevant information associated with the BRCP.

6 Additionally, an “interested parties” email distribution list containing 50-75 individuals
7 that include land owners, environmentalists, agriculturalists, developers, hunting
8 advocates, members of academia, and others, is maintained to provide these individuals
9 with all of the information that the Stakeholder Committee receives.
10

11 **1.4.3 Integration of Science**

12 Use of the best available science is a priority for the BRCP and to assure that the best
13 scientific information was being used, the Steering Committee and Stakeholder
14 Committee, in 2007, coordinated to assemble an independent science advisors group
15 composed of experts in conservation ecology and the specific biological resources in the
16 Planning Area. A science advisor facilitator was hired to assist in the formation of and
17 to coordinate with the Science Advisory Group. A draft of the science advisory report
18 was provided to the Steering Committee and Stakeholder Committee in September of
19 2007 and the final science advisory report on the BRCP was released in January of 2008
20 (see Appendix X).

21 The aforementioned report summarizes recommendations from the group of
22 independent science advisors for the BRCP. This statutorily required scientific input is
23 provided early in a planning process, before preparation of a draft plan, to help ensure
24 that a plan is developed using best available science. To ensure objectivity, the advisors
25 operated independent of the plan applicants, their consultants, and other entities
26 involved in the HCP/NCCP. The advisors reviewed information prepared by the
27 HCP/NCCP consultants, attended a workshop, and completed subsequent research and
28 engaged in discussions. The science advisors met in June of 2007, to review information
29 gathered for the HCP/NCCP planning process, hear the concerns of plan participants,
30 tour portions of the Planning Area, and begin formulating recommendations for BRCP
31 development and implementation. Advisors were also encouraged to seek expert input
32 from other scientists. Recommendations were provided in the report related to the Draft
33 Ecological Baseline Report, the scope of the plan, information gaps, the conservation
34 design, the conservation analyses, and the adaptive management and monitoring. Refer
35 to Appendix X for additional details.

36 *[Note to reviewers: This section will be expanded as addition science review processes take*
37 *place during development of the HCP/NCCP]*

38 **1.5 ORGANIZATION OF THE BRCP**

39 This section provides a brief overview the contents of HCP/NCCP document chapters
40 and appendices. The document consists of an Executive Summary, twelve chapters, and
41 ■ appendices. Specifically, the plan includes the following components:

-
- 1 • Executive Summary - provides an overview of the BRCP, including a summary
2 of the Covered Activities, impact assessment, conservation strategy, and
3 approach to plan implementation.
- 4 • Chapter 1, *Introduction* - sets the context for the development of the BRCP,
5 including: the background, purpose, goals and objectives; regulatory context;
6 scope of the plan; the process that guided the development of the BRCP; and an
7 overview of the document contents and organization.
- 8 • Chapter 2, *Covered Activities* - identifies the activities proposed for regulatory
9 coverage in the Planning Area, including activities within and outside of the
10 UPAs, and activities within habitat preserves.
- 11 • Chapter 3, *Ecological Baseline Conditions* - describes the existing environmental
12 conditions within the Planning Area, providing the context in which the BRCP
13 and its various elements have been developed.
- 14 • Chapter 4, *Impact Assessment and Estimated Level of Take* - includes an analysis of
15 the beneficial and adverse effects of the Covered Activities and conservation
16 measures on covered natural communities and covered species within the
17 Planning Area. The chapter also describes the cumulative and indirect effects
18 resulting from the implementation of the BRCP conservation strategy and the
19 Covered Activities.
- 20 • Chapter 5, *Conservation Strategy* - sets out the BRCP conservation strategy,
21 including the biological goals and objectives of the BRCP, approach to
22 conservation adopted by the BRCP, the range of conservation measures for
23 aquatic and terrestrial species and habitats, avoidance and minimization
24 measures, and the monitoring and adaptive management plans.
- 25 • Chapter 6, *Plan Implementation* - addresses matters relating to the implementation
26 of the BRCP, including the schedule for the implementation of actions, the
27 monitoring and reporting process to ensure compliance, regulatory assurances
28 anticipated by the entities seeking authorizations and the approach to unforeseen
29 circumstances, and a section discussing permit duration, amendment, renewal
30 and enforcement.
- 31 • Chapter 7, *Implementation Structure* - describes the implementing entity, structure
32 and decision-making process.
- 33 • Chapter 8, *Implementation Costs and Funding Sources* - estimates the costs of BRCP
34 implementation and the sources of funding that will be relied on by the BRCP
35 participants.
- 36 • Chapter 9, *Alternatives to Take Considered and Rejected* - sets out the alternatives to
37 take of covered species that were developed and considered and the reasons why
38 they were not adopted.
- 39 • Chapter 10, *Independent Science Advisory Process* - describes BRCP coordination
40 with the BRCP Independent Science Advisors and other science bodies that may
41 provide input during BRCP development.
- 42 • Chapter 11, *List of Preparers* - lists the preparers of the BRCP.

-
- 1 • Chapter 12, *References* - lists the printed references and personal communications
2 cited in the BRCP.
- 3 • Appendices including the following:
- 4 ○ Species Accounts
- 5 ○ List of Species Mentioned in the BRCP
- 6 ○ Methods for Delineating Natural Communities and Constituent Habitat
7 Types
- 8 ○ Covered Natural Communities x Species Matrix
- 9 ○ List of species considered for coverage
- 10 ○ Independent Science Advisors Report
- 11 ○ Acronyms and Abbreviations used in the BRCP
- 12 ○ Glossary of Terms used in the BRCP
- 13 *[Note to reviewers: Additional appendices will be added as needed]*