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U.S. FISH AND WILDLIFE SERVICE

Ecological Services
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003



IN REPLY REFER TO:
2024-0026986

February 15, 2024

FINDINGS AND RECOMMENDATIONS PURSUANT TO THE ENDANGERED SPECIES ACT AND FINDING OF NO SIGNIFICANT IMPACT PURSUANT TO THE NATIONAL ENVIRONMENTAL POLICY ACT FOR THE ISSUANCE OF SECTION 10(A)(1)(B) INCIDENTAL TAKE PERMIT ESPER8245217 ASSOCIATED WITH IMPLEMENTATION OF THE HABITAT CONSERVATION PLAN FOR THE UNINCORPORATED COMMUNITY OF LOS OSOS IN SAN LUIS OBISPO COUNTY, CALIFORNIA

I. DESCRIPTION OF PROPOSAL

The County of San Luis Obispo (County or Applicant) has submitted the Los Osos Habitat Conservation Plan (HCP) and application to the U.S. Fish and Wildlife Service's (Service) Ventura Fish and Wildlife Office for an incidental take permit (ITP or Permit) for the federally threatened Morro shoulderband snail (*Helminthoglypta walkeriana*) under the authority of section 10(a)(1)(B) of the Endangered Species Act, as amended (Act). The HCP also addresses impacts to designated critical habitat for Morro shoulderband snail and the federally endangered Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*), as well as impacts to the Morro Bay kangaroo rat, the federally threatened Morro manzanita (*Arctostaphylos morroensis*) and federally endangered Indian Knob mountainbalm (*Eriodyctyon altissimum*).

The permit area for the HCP encompasses 3,209 acres in the unincorporated community of Los Osos, within which 532 areas are proposed to be impacted by the HCP covered activities. The covered activities are listed below and will result in impacts on the covered species from development and construction on previously undeveloped parcels, facilities maintenance and operation, fire fuels reduction, and restoration and land management activities. The covered activities include:

1. Private development: commercial and residential development and redevelopment (including remodels or additions) on privately-owned legal parcels;
2. Capital projects: public and private infrastructure development projects, such as buildings or expanding roads, libraries, parks, and water facilities;

3. Facilities operations and maintenance: public and private activities to operate and maintain, including the repair and replacement of existing facilities such as roads, drainage basins, water systems, and parks;
4. Fire hazard abatement activities: this includes mowing and thinning of vegetation to create a defensible space from structures as required by California State Public Resources Code 4291 (State of California 2022), and the Los Osos Community Services District Weed Abatement Ordinance (LOCSD 2020) to comply with statutory hazard abatement and fire protection measures; and
5. Conservation program implementation: pre-activity surveys and relocation of Morro shoulderband snails prior to construction, fuel abatement, or restoration activities; and implementation of the conservation program described in Chapter 5 of the HCP which includes activities associated with restoration, management, maintenance, and monitoring of habitat preserves used to mitigate the effects of the covered activities.

The covered activities would result in direct impacts to the Morro shoulderband snail and Morro manzanita. The covered activities would result in indirect impacts to all the covered species from conversion of occupied or potential habitat to development. All covered activities will include pre-activity surveys for Morro shoulderband snails which may result in the capture and relocation of individuals. Pre-activity surveys will also include habitat assessment for the Morro Bay kangaroo rat. The Morro Bay kangaroo rat is both federally listed as endangered, and also State-listed as endangered and fully protected. Therefore, if warranted by evidence of potential Morro Bay kangaroo rat occupancy in suitable habitat, qualified biologists will conduct a Morro Bay kangaroo rat detection methodology approved by both the Service and the California Department of Fish and Wildlife. The Applicant seeks an ITP for 25 years for the take of the Morro shoulderband snail associated with its proposed development and restoration activities throughout the permit area.

Effects to Indian Knob mountainbalm will be avoided through implementation of the HCP conservation program which includes pre-activity surveys to locate, avoid, and protect individuals in the project areas. The conservation and restoration activities proposed as part of the HCP conservation strategy will enhance the health and vitality of the maritime chaparral habitat which supports Indian Knob mountainbalm.

The Service published the reclassification of Morro shoulderband snail from endangered to threatened with a section 4(d) rule on February 3, 2022 (Service 2022). The 4(d) rule exempts habitat restoration and fire hazard reduction activities from take prohibitions if implemented under a Service-approved plan. Although the 4(d) rule was published while the HCP was in draft, while producing the final HCP, the County opted to retain fire fuel reduction as a covered activity with the measures within the HCP that are designed to minimize impacts to Morro shoulderband snail and Morro manzanita and avoid impacts to Morro Bay kangaroo rat and Indian Knob mountainbalm. A signed ITP is the Service's approval of an HCP. As such, if fire hazard reduction activities are implemented following the measures in the final HCP, they would be exempt from take prohibitions.

Although the HCP can serve as a Service-approved plan under the 4(d) rule exempting these activities from take prohibitions for the Morro shoulderband snail, the County has decided to include the creation and maintenance of defensible space in the impact analysis and mitigation fee assessment for covered activities, such as residential development, because the HCP covers species other than the Morro shoulderband snail.

II. SECTION 10(a)(2)(A) HCP CRITERIA – ANALYSIS AND FINDING

1. The Impact to Result from Such Taking

The Service has determined that the impacts to the covered species likely to result from the proposed action will be minimized and mitigated to the maximum extent practicable by measures described in the HCP and the associated permit. The effects of the proposed action on the covered species are fully analyzed in the HCP and the Service's biological opinion, which are incorporated by reference. A summary of the analysis is provided below.

Direct impacts to Morro shoulderband snail individuals could occur if they are present within the project area during implementation of the covered activities. Indirect impacts to Morro shoulderband snail may include effects resulting from changed distribution of suitable habitat vegetated with coastal dune scrub and other suitable vegetation and refugia, and impacts associated with increased human presence. Effects would be offset through conservation and restoration activities within the HCP Preserve System.

Direct impacts to Morro Bay kangaroo rat will be avoided through implementation of the HCP conservation strategy of pre-activity habitat suitability surveys, followed by presence/absence surveys if unique sign of the species is observed. Indirect impacts to Morro Bay kangaroo rat would include removal or degradation of remaining fragmented habitat in the permit area. Indirect effects would be offset by restoration of degraded habitat within the HCP Preserve System.

Direct impacts to Morro manzanita within the permit area would be from habitat removal or modification during the development of residential and commercial project sites and in some cases, implementation of the fire fuels abatement activities. Indirect impacts to Morro manzanita would include habitat degradation from invasive species and incompatible and intensified recreational use of the habitat leading to erosion of habitat. Effects would be offset through conservation and restoration activities within the HCP Preserve System.

Direct impacts to Indian Knob mountainbalm will be avoided through implementation of the HCP conservation strategy of pre-activity surveys to locate the species and create avoidance areas in the project design. Indirect impacts to Indian Knob mountainbalm would include removal or degradation of potential habitat in the permit area. Indirect effects would be offset by restoration of degraded habitat within the HCP Preserve System that will prioritize the recovery needs of Indian Knob mountainbalm.

2. The steps taken to minimize and mitigate such impacts, and the funding that will be available to implement them.

The Applicant has developed an HCP that would minimize and mitigate the impact of the proposed take through a variety of measures including, but not limited to pre-activity surveys, biological monitors, capture and relocation, design and planning requirements, best management practices, and habitat restoration. A more detailed list and description of the proposed minimization and mitigation measures can be found in section 5.2 of the HCP (McGraw 2022).

The responsibility for ensuring implementation of the measures included in the HCP is understood and has been accepted by the Applicant (Gibson 2023). The cost for implementing the HCP including the conservation program will be funded through County discretionary funds until fees can be generated through the issuance of Certificates of Inclusion as described in section 7.3. The County will offer Certificates of Inclusion after they accrue mitigation credits through reaching success criteria for restoration of habitat or by obtaining habitat for preservation through fee title, rezoning and dedication of County-owned land, or conservation easement as described in section 5.3.

3. Alternative actions to the take were considered by the Applicant and reasons why such alternatives are not being utilized.

The Applicant considered two alternatives to the proposed action: the No Project Alternative and the Reduced Take Alternative.

Under the No Project Alternative, the HCP would not be implemented. Activities would continue in a manner consistent with current practices. Project proponents would prepare individual ITP applications, including HCPs. Due to the purpose and need of the project, the No Action Alternative was rejected.

Under the Reduced Take Alternative, development would occur on 266 acres, which is 50 percent of the maximum amount in the HCP Alternative. After the cap is reached, no additional permits would be issued and project proponents would instead prepare individual ITP applications, including HCPs, in order to receive take coverage. The Reduced Take Alternative would not achieve the goal to streamline the permitting process and consolidate mitigation to provide landscape-level conservation at a level to accommodate the anticipated need. Therefore, the Reduced Take Alternative was not selected.

4. Other measures the Secretary may require as being necessary or appropriate for purposes of the plan.

The ITP includes terms and conditions to clarify details for HCP implementation related to: the Implementing Entity, reporting, mitigation, funding, Certificates of Inclusion, surveys for Morro Bay kangaroo rat, and adapting methodologies to utilize the best available science.

III. SECTION 10(A)(2)(b) PERMIT ISSUANCE CRITERIA - ANALYSIS AND FINDINGS

1. The taking will be incidental.

The HCP supports the issuance of an ITP that would only authorize take incidental to otherwise lawful activities associated with the covered activities. Take of Morro shoulderband snail would occur on 532 acres within the 3,209-acre permit area.

2. The Applicant will, to the maximum extent practicable, minimize and mitigate the impacts of the taking.

The Service finds that the HCP contains those measures necessary to minimize and mitigate the effects of the taking. The Applicant will retain a qualified restoration entity approved by both the Service and California Department of Fish and Wildlife (CDFW) for restoration work on the CDFW-owned Morro Dunes Ecological Reserve (MDER) as well as protected lands throughout the Preserve System, as acquired. The permit area is divided between the centrally-located and highly fragmented and degraded area within the Urban Services Line, and the peripheral Priority Conservation Area where habitat has been less impacted and is, in general, of higher quality. Within the Urban Services Line and outside the Priority Conservation Area, the Applicant will mitigate at a ratio of 1:1 for habitat loss. For projects within the Urban Services Line, the project footprint plus all direct and indirect impacts will be included in impact assessment and fee calculation, including areas needed to create and maintain defensible space around structures. Covered activities within the Priority Conservation Area will result in a mitigation ratio of 3:1 to reflect the higher conservation value of those more intact habitat areas. Whenever possible, projects will be sited near developed areas or in lower habitat quality areas with fewer sensitive resources. For larger parcels in the Priority Conservation Area, a maximum 30,000 square foot disturbance area will minimize impacts to the higher valued habitat.

Within predefined areas within the permit area, participants will be required to hire a qualified biologist to conduct pre-activity surveys to locate, capture and relocate Morro shoulderband snails out of harm's way in the project site. In other predefined areas, pre-activity surveys will also be required to identify sign of the Morro Bay kangaroo rat so that, if warranted, further surveys can ensure Morro Bay kangaroo rats do not occupy the site. Pre-activity surveys will also locate and avoid Indian Knob mountainbalm

throughout the permit area where suitable habitat occurs. Pre-activity surveys throughout the permit area will locate Morro manzanita so that impacts to the species can be minimized.

Restoration and management of the MDER will mitigate for unavoidable impacts to habitat and species by restoring coastal dune scrub and maritime chaparral, and repairing and restoring erosion and impacts from unauthorized use. In addition, the Applicant will acquire conservation land through fee title or easement for preservation and management in perpetuity as part of the Preserve System.

The Service published a final rule to downlist the Morro shoulderband snail from endangered to threatened prior to the finalization of the HCP (Service 2022). The rule included a 4(d) take exemption for restoration activities and fire hazard reduction activities if conducted under a Service-approved plan. The HCP includes fire hazard abatement to create defensible space for new structures as a covered activity (section 2.2.3, McGraw 2022). The impacts associated with these activities are subject to mitigation fees. However, the construction of 89.4 acres of fuel breaks at the wildlife urban interface surrounding the community of Los Osos as part of a community-wide fire protection plan is also a covered activity but will not be subject to mitigation fees. Although there are no take prohibitions for the Morro shoulderband snail for conducting fire hazard reduction activities if conducted under a Service-approved plan, such as the HCP, the County has decided to retain fire hazard reduction as a covered activity and will include areas where these activities occur outside the community-wide fuel break in the impact assessment and fee calculation in order to retain the integrity of the HCP impact assessment and conservation program as written.

3. The Applicant will ensure that adequate funding for the conservation plan and procedures to deal with unforeseen circumstances will be provided.

The responsibility for ensuring implementation of the measures included in the HCP is understood and has been accepted by the Applicant. These measures include avoidance, minimization, and mitigation measures as described in section 5 and the changed circumstances as described in section 6. Furthermore, the Applicant will use general funds authorized by the County of San Luis Obispo Board of Supervisors to implement restoration and HCP administration prior to the issuance of Certificates of Inclusion and the assessment of mitigation fees. The County of San Luis Obispo Board of Supervisors have expressed their commitment to the success of the HCP (Gibson 2023). The HCP includes adaptive financial management to ensure the HCP funding is sustainable and provides an endowment for management of mitigation in perpetuity.

The Applicant also assumes responsibility for the full cost of the restoration and land protection on the MDER and elsewhere in the Preserve System, once acquired, for compensatory mitigation, as well as the operation and maintenance of the conserved areas in perpetuity funded by the creation of a sustaining endowment. The restoration, operation, and maintenance activities and associated costs are described in HCP sections 5, 6, and 7, in the Interim Adaptive Management and Monitoring Plan (IAMMP)

(McGraw 2021), and in the Adaptive Management and Monitoring Plan (AMMP) that will be developed during the first 3 years of permit implementation.

As mentioned above and pursuant to the Service's "No Surprises" regulations [50 CFR 17.22(b)(5) and 17.32(b)(5)], the HCP includes mechanisms to deal with unforeseen circumstances. In the event of an unforeseen circumstance that would affect the covered species, the Applicant would not, absent their consent, be required to provide the additional commitment of land, water, or financial compensation or made subject to additional restrictions on the use of land, water, or other natural resources beyond the level otherwise agreed upon for this species, provided the HCP has been properly implemented throughout the permit term.

4. The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild.

The wording of this criterion is identical to the "jeopardy" definition in the Service's section 7 implementing regulation (50 C.F.R. § 402.02), which defines "jeopardize the continued existence of" as "to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species." In accordance with section 7 of the Act, the Service prepared an intra-agency biological opinion to evaluate whether the project effects and/or taking associated with the HCP would jeopardize the continued existence of the covered species. In the biological opinion, which is incorporated herein by reference, the Service concluded that the proposed issuance of an incidental take permit for the Morro shoulderband snail and implementation of the HCP, is not likely to jeopardize the continued existence of the covered species (Service 2024a).

5. Additional measures as required by the Director of the Service will be implemented.

The HCP and the ITP terms and conditions incorporate all elements necessary for issuance of a section 10(a)(1)(B) permit. The ITP includes terms and conditions to clarify details for HCP implementation related to: the Implementing Entity, reporting, mitigation, funding, Certificates of Inclusion, surveys for Morro Bay kangaroo rat, and adapting methodologies to utilize the best available science.

6. The Director of the Service has received the necessary assurances that the plan will be implemented.

As described in the HCP, the Applicant has committed to implementing the conservation strategy, monitoring, and reporting requirements. Any permit issued in this matter would only be effective when the mitigation measures have been carried out in accordance with the special conditions of the permit. Failure to perform the obligation outlined by the conditions of the section 10(a)(1)(B) permit may be grounds for suspension or revocation of the permit.

IV. GENERAL CRITERIA AND DISQUALIFYING FACTORS

The Service has no evidence the ITP application should be denied on the basis of criteria and conditions set forth in 50 CFR § 13.21(b)-(c).

V. PUBLIC COMMENTS

On October 2, 2019, a Notice of Availability (NOA) was published in the Federal Register announcing the availability of the draft Environmental Assessment (EA) and draft HCP for public comment (Service 2019). Publication of the NOA initiated a 45-day comment period. The NOA, draft EA, and the draft HCP were made available in the Service's Ventura Fish and Wildlife Office and via the internet. Twelve individuals provided a total of 54 comments on the EA, and 33 individuals provided 79 comments on the HCP during the public comment period.

Collectively, comments on the EA were focused on outdated impact analysis, wildfire risk management, future development, subdivisions, project impacts to water quality and quantity, impacts to Morro manzanita individuals and habitat, and management of the MDER. The comments received on the EA are included in Appendix F, and the responses to the comments received are in Appendix G of the final EA. The comments received on the draft EA did not necessitate substantive modifications to the final EA (Service 2024b).

Collectively, comments received on the draft HCP focused on the impacts of future development on water quality and quantity, wildfire risk management, and the need to preserve open space within the center of the community. Comments on the draft HCP can be found in Appendix K of the final HCP; the responses to draft HCP comments can be found in Appendix L of the HCP (McGraw 2022). The responses to the comments on the draft HCP did not necessitate substantive changes in the final HCP (McGraw 2022).

VI. Changes between the Draft and Final HCP

Some substantive and clarifying changes were made between the draft and final HCP as a result of coordination between the County and the Service. Some of the changes were made to update the status of the Morro shoulderband snail, to redefine roles and responsibilities of the Implementing Entity, to update the financial chapter and clarify the funding mechanisms, to clarify the inclusion of defensible space in impact and mitigation fee assessment, and the influence from the relative condition of the water table on the scope of covered activities due to resulting development quantity and timing restrictions. The changes are summarized in a document provided by the County in December 2023, and included in this document as Appendix A (McGraw 2023).

VII. National Environmental Policy Act – Analysis and Findings

Issuance of the ITP will result in the authorization of take of the Morro shoulderband snail incidental to residential and commercial development and redevelopment, infrastructure installation and maintenance, implementation of fire hazard reduction, and restoration activities within the 3,209-acre permit area. Issuance of the Permit would be predicated on the full implementation of the Permittee's HCP and compliance with all other requirements for ITP issuance, including the terms of the permit. The Applicant modified drafts of the HCP based on pre-application consultations with the Service and provided mitigation and minimization measures for incidental take associated with the proposed activities.

Our evaluation in the EA of the direct, indirect, and cumulative impacts of issuing the ITP concluded in finding that the action would not have a significant effect on the human environment. The total effects from issuing the ITP would not cause permanent and irreversible changes in the current state of the physical and biological environment, infrastructure, societal issues, economics, aesthetics, or public health and safety and, therefore, not affect the sustainability of the human environment. The incremental impact of the proposed action, when added to past, present, and reasonably foreseeable future actions, will not be significant to the human environment.

VIII. RECOMMENDATIONS ON ISSUANCE OF PERMIT

Based on our findings with respect to the ITP application, HCP, EA, and section 7 biological opinion, we recommend the issuance of the section 10(a)(1)(B) ITP, ESPER8245217, to the County of San Luis Obispo. Within the spirit and intent of the Council of Environmental Quality's regulations for the implementation of the National Environmental Policy Act of 1969 (as amended), other statutes, orders, and policies that protect fish and wildlife resources, I have determined a finding of no significant impact for the proposed action. I have also determined that this application meets the issuance criteria of section 10(a)(2)(B) of the Act.

Stephen P. Henry, Field Supervisor,
Ventura Fish and Wildlife Office

February 15, 2024
Date

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[Service] U.S. Fish and Wildlife Service. 2022. Endangered and Threatened Wildlife and Plants; Reclassification of Morro Shoulderband Snail (*Helminthoglypta walkeriana*) from Endangered to Threatened with a 4(d) Rule. *Federal Register* 87(23): 6063-6077.

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**FINDINGS AND RECOMMENDATIONS PURSUANT TO THE ENDANGERED
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10(A)(1)(B) INCIDENTAL TAKE PERMIT ESPER8245217 ASSOCIATED WITH
IMPLEMENTATION OF THE HABITAT CONSERVATION PLAN FOR THE
UNINCORPORATED COMMUNITY OF LOS OSOS IN SAN LUIS OBISPO COUNTY,
CALIFORNIA**

Appendix A:

Los Osos Habitat Conservation Plan Substantive Changes in the Final Draft

**Jodi McGraw Consulting
December 2023**

**Los Osos Habitat Conservation Plan
Substantive Changes in the Final Draft
December 2023**

Introduction

This document outlines the substantive changes that were made to the Los Osos Habitat Conservation Plan (LOHCP) between the Public Draft Plan that was provided for public review on the Federal Register in fall 2019 (JMc 2019), and the Final Plan (JMc 2023) which was submitted with the incidental take permit application package in summer 2023.

It was developed per the request of the United States Fish and Wildlife Service (USFWS) for a table showing what changes were made to the draft in response to public comments or as a result of correspondence between the County and the USFWS.

Table 1 lists the substantive changes to the LOHCP by section and topic. For each change, it identifies the commentor(s) that requested the change, and provides the rationale for the change. It also identifies other sections of the LOHCP that were adjusted to reflect the change, other than the Executive Summary which was also revised where needed to reflect the changes outlined in Table 1.

For purposes of this analysis, substantive changes were operationally defined as changes to the plan components including plan/ permit area, covered activities, covered species, impacts analysis, conservation strategy, implementation, financial/funding analysis, and alternatives.

Substantive changes exclude text additions, deletions, and other modifications including reorganization that don't alter these fundamental elements of the plan.

A complete redline document (*LOHCP Public Draft 2018 to Final HCP 2023 compare 10-10-23.docx*) was created to show all of the changes to the public draft to create the final draft. It was created using the "Compare" function in MS Word to compare the April 5, 2019, public draft, and the July 17, 2023, final draft, and is provided along with this document.

Table 1: Substantive Changes to the Los Osos Habitat Conservation Plan between the Fall 2019 Public Draft and the Summer 2023 Final Draft

Change #	Section and Topic	Additional Sections Affected	Change	Requestor(s)	Rationale
Chapter 1: Introduction and Background					
1	Plan Area and Permit Area (Section 1.3)	Sections 2.1.3.3, 2.2.1, 2.2.2, 2.2.7	The permit area was revised from 3,644 acres to 3,209 acres, by excluding BLM land as well as all land owned by State Parks except those portions of State Parks lands proposed for a fuel break as part of the Community Wildfire Protection Plan, which is one of the covered activities.	USFWS	BLM lands were excluded since take from federal actions cannot be covered under Section 10. State Parks lands were excluded at USFWS request. During development of the LOHCP, State Parks did not identify any activities requiring take coverage through the LOHCOP and also declined to have their lands used for mitigation in the LOHCP Conservation Program. Because the LOHCP is a 25-year, programmatic plan, State Parks lands were included in the Public Draft LOHCP to provide flexibility should State Parks identify activities for coverage at a later date. However, USFWS requested that State Parks lands be excluded from the permit area in the Final LOHCP.
Chapter 2: Covered Activities					
2	Basin Plan influence on Anticipated Development (Section 2.1.2.2)		The LOHCP was updated to outline implications of the Basin Plan for anticipated future development.	USFWS	The Basin Plan may alter the pace of development as well as the types of covered activities relative to what is described in the LOHCP. Since the LOHCP is a programmatic plan, it is not necessary to reflect the precise implications which are unknown.

3	Definition of Defensible Space (Section 2.2.3)	Section 2.2.4	The LOHCP was revised to describe defensible space and how impacts associated with development would incorporate the need for landowners to maintain defensible space.	USFWS	The methods to calculate defensible space were expanded to facilitate plan implementation including calculation of impact areas and thus mitigation obligations during County permitting.
4	Prohibition against parcel subdivision (Section 2.2.4)	Section 2.3	The LOHCP text was updated to further clarify that the requested incidental take permit cover only development of existing legal parcels at the time the LOHCP is adopted by the County.	USFWS	These changes reflect now additional impacts associated with parcel subdivision will be avoided.
5	Community Wildfire Protection Plan Responsibility (Section 2.2.7)		The Plan text was updated to clarify the entities responsible for implementing the CWPP (Calfire) and that landowner permission is required.	USFWS	This language was needed to clarify that the CWPP activities must be authorized by landowners and that the LOHCP and incidental take permit do not grant Calfire permission to modify land.
Chapter 3: Environmental Setting and Biological Resources					
6	Morro shoulderband snail status (Section 3.2.2)	Sections 1.4, B.1	The status of Morro shoulderband snail was changed from endangered to threatened	USFWS	This change was needed to address the downlisting of Morro shoulderband snail in 2022.
Chapter 4: Potential Biological Impacts/Take Assessment					
7	Low-Effect HCPs (Section 4.5.2)		The description of the prior LEHCPs in the Baywood Fine Sands Ecosystem was updated to reflect additional LEHCPs since the Public Draft.	USFWS	The section was updated to include the additional LEHCP permitted during the four-year period following public review of the LOHCP.
Chapter 5: Conservation Program					
8	IAMMP (Appendix M)	Numerous including: Section 2.2.8.3, many sections in Chapter 5, including 5.3.3.3. Also Appendices G,	The LOHCP was updated to include an <i>Interim Adaptive Management and Monitoring Plan</i> , which was developed for the conservation strategy. The plan was inserted into Appendix N and all related sections on restoration, management, and monitoring were updated to reflect development of the IAMMP.	USFWS	The USFWS requested a plan to guide restoration and management while the overall AMMP is being developed during initial plan implementation.

9	Breeding bird season (Section 5.2.3)		The language describing the breeding bird season for purposes nest protection was adjusted to reflect the potential for the calendar dates defining nesting bird season to be adjusted during the permit term to reflect changes in the timing of nesting.	USFWS	Climate change may change the seasonality of breeding.
10	Restoration and Management Definitions and Phases (Section 5.2.4)	IAMMP	The operational definitions for “restoration” and “management” were refined in the LOHCP as part of work to develop the IAMMP. The Plan further describes how ‘restoration’ areas will be transitioned into ‘management’ areas following successful restoration.	USFWS	Clearer distinctions between “restoration” and “management” were needed to guide mitigation crediting methods.
11	Reporting on (Section 5.6)	Section 7.4	The “Reporting” section was updated to state: financial reports will include an assessment of the financial viability of the plan. The County and Implementing Entity will meet in the second quarter of each year to discuss plan changes and in the fall to discuss preliminary implications of monitoring for next steps.	USFWS	This financial reporting information will ensure the plan maintains viability. The revised meeting schedule was designed to reflect the annual cycle of monitoring and work planning.
12	Collaborative Mitigation Projects (Section 5.7.2.3.1)		A new subsection was added describing how mitigation credits can be assigned during collaborative mitigation projects between the county and other entities.		The language was developed to enable the County to collaborate with other entities to leverage the conservation program without ‘double dipping’: having mitigation counted for two or more projects.
Chapter 6: Plan Implementation					
13	Roles and Responsibilities for Plan Implementation (Section 6.1)	Many sections in Chapters 5 and 7, as well as the text throughout Chapter 6	The County and Implementing Entity roles were updated to describe the County will handle all aspect of permitting (application review, determination of species protection measures, fee collection, and compliance, etc.) and the Implementing Entity will assist with implementation of the compensatory mitigation for the conservation program	USFWS, Anticipated Implementing Entity	The Land Conservancy of San Luis Obispo County, which is anticipated to serve as the Implementing Entity, indicated that they did not wish to participate in managing the covered activities and instead only implementation of the conservation strategy.

		(habitat restoration, management, and monitoring). Additionally, the Plan was revised to clarify that the County is ultimately responsible for implementation of all aspects of the plan. Accordingly, language describing tasks attributed to the Implementing Entity was updated to read “the County will work with the IE to...”		The USFWS requested that the Plan state that the County is responsible for Plan implementation.
14	Easement Grantee (Section 6.2.2.2)	The County was designated as a potential grantee of conservation easements by participants dedicated land as mitigation rather than paying the habitat protection fee.	Anticipated Implementing Entity	The Land Conservancy of San Luis Obispo County (LCSLOC), which is anticipated to serve as the Implementing Entity, indicated that they did not wish to be granted small conservation easements on developed lots. Accordingly, the Plan was updated to enable the County to receive these easements while still allowing LCSLOC to hold easements on new fee-title acquisitions.
15	Alternative Compensatory Mitigation (Section 6.2.3.1)	The Plan was revised to state that the County will be responsible for providing alternative compensatory mitigation acceptable to the USFWS for any loss of mitigation value resulting from a change in condition of the habitat due to a change in land use where landowners cannot provide written, legal assurances that the enrolled habitat will be permanently protected from development or other activities that could affect habitat.	USFWS	Some public landowners cannot record easements or deed restrictions on their lands. By agreeing to replace any habitat impacted, the Plan is meeting the durability requirement for mitigation in HCPs.
16	Stay Ahead Provision (Section 6.2.4)	The Plan was updated to state that the County will ensure it does not permit take beyond the available habitat benefits accrued from implementation of the conservation program and document this in annual reports showing the	USFWS	The USFWS requested that the Stay Ahead provision be updated to ensure that the mitigation exceed take at any given period, rather than at just the end of the

			running total take/impacts covered by the permit do not exceed the total compensatory mitigation credits accrued through implementation of the conservation program.		year as was stated in the public draft plan.
17	Jump Start for the LOHCP (Section 6.2.5)		This section was updated to provide additional specificity about the methods that will be used to initiate mitigation for (i.e., jump start) the LOHCP. Specifically, it describes how the County will either implement restoration projects identified in the IAMMP or new habitat protection, including protection of two existing parcels managed by the County Department of Public Works.	USFWS	These adjustments provided more specificity about the anticipated initial mitigation relative to what was in the Public Draft LOHCP, which stated that the County will conduct approximately 15 acres of initial exotic plant management.
18	Exempt Projects (Section 6.3.2)		The Plan was revised to state that the landowners with biological opinions or incidental take permits issued for the specific covered activity for which they are seeking permits will be exempt from participating in the LOHCP. The option to provide a letter from the USFWS stating that their project is not anticipated to result in take (i.e., a no-take concurrence letter) was removed.	USFWS	The USFWS stated it will not be providing project proponents with letters stating that their projects will not result in take (i.e., no-take concurrence letters). A biological opinion can be used to substantiate take coverage under Section 7 of the ESA.
19	Climate Change (Section 6.5.3)		Additional links to the scientific literature were added to the section on Climate Change in the Changed Circumstances (Section 6.5).	USFWS, Public Comment	More current and specific information was needed to clarify what level of climate change would constitute a changed circumstance.
Chapter 7: Funding					
20	Updated Mitigation Fees (Section 7.1)	Chapter 7 text and tables	The habitat protection fee was updated (increased) from \$0.1393/sf to \$0.1696/sf based on a 2021-22 analysis of the costs to protect habitat based on comparable land sales between 2017-2021 (Table 7-2). The restoration, management, and administrative fee was updated from 0.7488/sf to \$1.0295/sf to reflect a variety of new information including:	USFWS, Anticipated Implementing Entity	The financial analysis in the Public Draft plan was several years old and also needed to be updated to reflect the new Plan implementation roles as outlined in Chapter 6.

			Estimates of costs to implement compensatory mitigation including habitat restoration, management, and monitoring, which were provided by the anticipated IE (LCSLOC), as outlined in Tables 7-4 and 7-5; The specific restoration and management projects identified in the IAMMP (Appendix M) which will constitute a portion of the preserve system start up (Table 7-6). County assumptions about County about staff costs to conduct all permitting (which was previously attributed to the IE), as outlined in Table 7-7.		
21	County Jump Start (Section 7.3.2)		Section 7.3.2 was added to describe development restrictions from the Basin Plan and how the County will use general fund appropriations, as necessary, to maintain existing mitigation areas.	USFWS	This section was developed to provide financial assurances given the uncertainty posed by development restrictions from the Basin Plan.
22	Financial Viability Analysis (Section 7.4)	Section 5.4	The financial adaptive management process was revised to include an element of annual financial viability analysis.	USFWS	This financial reporting information will ensure the plan maintains viability.
Chapter 8: Alternatives to Take					
23	Alternative 3: Greater Mitigation Requirement (Section 8.3)		The text describing the infeasibility of greater mitigation was revised to eliminate reference to Cost Burden Analysis, which was not updated as part of the updated financial analysis in 2021-22.	County	The old cost burden analysis information was no longer relevant.
Appendices					
24	Cost Burden Analysis (Former Appendix J)	Section 8.3	The cost burden analysis was eliminated.	County	The analysis was based on the financial analysis conducted for the Public Draft plan and was not updated per the revised financial analysis.

25	Public Comments (Appendix K)		This new appendix provides the 33 letters (incl. emails) received from the public during the public comment period in fall 2019. The letters were bracketed to track responses to the public comments, which are provided in Appendix L.	USFWS	Providing the original letters enables those engaged in the public process to view the actual comments.
26	Response to Public Comments (Appendix L)		This new appendix provides responses to the written comments on the Public Draft LOHCP, which are included in Appendix K. Responses address the questions and issues raised by the commenters and indicate where and how the LOHCP was revised to address the comments.	USFWS	This analysis is required as part of the HCP development process.
26	IAMMP (Appendix M)	Chapters 5, 6, and 7	This new appendix contains the <i>Interim Adaptive Management and Monitoring Plan</i> which describes restoration, management, and monitoring anticipated to be implemented during the first five years of the LOHCP, including to jump start the conservation strategy. It also describes how management of the Morro Dunes Ecological Reserve will help reduce the risk of wildfire.	USFWS, Public Comment	The USFWS requested a plan to guide restoration and management while the overall AMMP is being developed during initial plan implementation. The IAMMP addresses public concerns about the risk of wildfire by reducing fuel in a shaded fuel break between the LOHCP Preserve and adjacent development.
27	Letter of Intent (Appendix N)	Chapter 6	This new appendix contains a letter from the County of San Luis Obispo to the United States Fish and Wildlife Service, which describes the intent of the County to contract with the Land Conservancy of San Luis Obispo County to serve as the Implementing Entity for the Los Osos Habitat Conservation Plan (LOHCP).	USFWS	This letter of intent was requested by the USFWS.