

## Chapter 6

# Consultation and Coordination

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This chapter provides an overview of the agency consultation and other regulatory requirements and the scoping and public involvement process for the proposed action and alternatives.

## 6.1 Consultation Requirements

### 6.1.1 Federal Endangered Species Act

Threatened and endangered species are listed under the provisions of Section 4 of Endangered Species Act (ESA); prohibitions in Section 9 provide for substantial protection of these listed species. Through Section 7 and Section 10 processes, U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) ensure that activities undertaken by federal agencies and nonfederal entities do not result in jeopardy of listed species or adverse modification of critical habitat.

If federally listed species may be affected, the federal lead agency must informally consult with USFWS and/or NMFS to assess the consequences of its actions and to determine whether formal consultation is warranted. USFWS and NMFS are proposing to issue Section 10 incidental take permits, a federal action that triggers Section 7 consultation requirements under the proposed action. As the federal action agency for the proposed action and permit, USFWS will consult internally pursuant to Section 7. USFWS and NMFS will initiate internal consultation following the submission of the Section 10 permit application package by the Permit Applicants. If USFWS and/or NMFS conclude that the proposed action is not likely to adversely affect a listed species, then no formal consultation will be conducted and no Biological Opinion (BO) will be prepared. If the proposed action is likely to result in adverse effects on a listed species, then USFWS and NMFS will prepare BOs that describe how the proposed action will affect the listed species. Each opinion will either be a *jeopardy opinion* or a *no-jeopardy opinion*. A jeopardy opinion concludes that the proposed action would jeopardize the continued existence of a federally listed species or would adversely modify designated critical habitat. Under this finding, the BO must suggest “reasonable and prudent alternatives” that would avoid jeopardy. If USFWS and/or NMFS issue a no-jeopardy opinion, this opinion may include “reasonable and prudent measures” to minimize adverse effects on listed species and an “incidental take statement” that specifies the allowable amount of take that may occur as a result of the proposed action.

### 6.1.2 Magnuson-Stevens Fishery Conservation and Management Act

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) establishes a management system for national marine and estuarine fishery resources. This legislation requires that all federal agencies consult with NMFS regarding all actions or proposed actions permitted, funded, or undertaken that may adversely affect essential fish habitat (EFH). *EFH* is defined as “waters and substrate necessary to fish for spawning, breeding, feeding, or growth to

maturity.” The legislation states that migratory routes to and from anadromous fish spawning grounds are considered EFH. The term *adversely affect* refers to the creation of any effect that reduces the quality or quantity of EFH. Federal activities that occur outside of an EFH but may nonetheless have an effect on EFH waters and substrate must also be considered in the consultation process.

Under the Magnuson-Stevens Act, effects on habitat managed under the *Pacific Coast Salmon Fishery Management Plan* must also be considered. The Magnuson-Stevens Act states that consultation regarding EFH should be consolidated, where appropriate, with the interagency consultation, coordination, and environmental review procedures required by other federal statutes, such as NEPA, Fish and Wildlife Coordination Act, Clean Water Act, and ESA. EFH consultation requirements can be satisfied through concurrent environmental compliance if the lead agency provides NMFS with timely notification of actions that may adversely affect EFH and the notification meets requirements for EFH assessments.

### **6.1.3 National Historic Preservation Act**

Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to inventory historic properties and evaluate the eligibility of those properties for listing in the National Register of Historic Places (NRHP). The potential effects of the proposed action or action alternatives on cultural resources, including properties listed or eligible for the NRHP, and any necessary measures to avoid or reduce impacts on these resources, are described in Section 4.4, *Cultural and Paleontological Resources*, of this EIS/EIR. As presented in that section, the proposed action is not expected to result in any significant effects on cultural resources. A cultural resources management plan would be developed as a basis for establishing a programmatic memorandum of agreement between U.S. Army Corps of Engineers (USACE), State Historic Preservation Officer, and Advisory Council on Historic Preservation for compliance with the requirements of the NHPA Section 106 process such that no NRHP-listed eligible or potentially eligible resources would be affected.

### **6.1.4 Farmland Protection Policy Act**

The Farmland Protection Policy Act (FPPA) of 1981 requires federal agencies to consider project alternatives that minimize or avoid adverse impacts on important farmland. As described in Section 4.1, *Agricultural and Forestry Resources*, of this EIS/EIR, the FPPA does not apply to federal permitting (7 Code of Federal Regulations Section 658.2[a][1][i]).

### **6.1.5 Clean Air Act**

Section 176(c) of the Clean Air Act (CAA) requires federal agencies to ensure that their actions are consistent with the CAA and with federally enforceable state implementation plans (air quality management plans). The conformity review process is intended to ensure that federal agency actions will not cause or contribute to new violations of any federal ambient air quality standards; will not increase the frequency or severity of any existing violations of federal ambient air quality standards; and will not delay the timely attainment of federal ambient air quality standards.

The proposed action is within an area designated by U.S. Environmental Protection Agency as a nonattainment area for ozone and particulate matter less than or equal to 2.5 microns in diameter (PM<sub>2.5</sub>) and a maintenance area for carbon monoxide. Consequently, to fulfill General Conformity requirements, a General Conformity evaluation would be required to identify whether the total

ozone, carbon monoxide, and PM2.5 emissions for the proposed action alternatives are subject to the General Conformity rule.

As described in Section 4.2, *Air Quality, Greenhouse Gases, and Climate Change*, of this EIS/EIR, a General Conformity determination is not required, as it was concluded emissions would likely not exceed the *de minimis* thresholds. However, if emissions would exceed *de minimis* thresholds, offsets would reduce emissions to net zero.

## 6.1.6 Migratory Bird Treaty Act

Migratory birds are protected by USFWS under the provisions of the Migratory Bird Treaty Act (MBTA) of 1916 as amended (16 U.S.C. Chapter 7, 703-712), which governs the taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests. The take of all migratory birds is governed by the MBTA's regulation of taking migratory birds for educational, scientific, and recreational purposes and requiring harvest to be limited to levels that prevent overutilization. Section 704 of the MBTA states that the Secretary of the Interior is authorized and directed to determine if, and by what means, the take of migratory birds should be allowed and to adopt suitable regulations permitting and governing take. The Secretary of the Interior, in adopting regulations, is to consider such factors as distribution and abundance to ensure that take is compatible with the protection of the species. This guidance would be utilized in informal consultation on any such activities within the Plan Area for the proposed action.

## 6.2 Lead and Cooperating Agencies and Stakeholders

The PCCP EIS/EIR was prepared under the combined efforts of the following partners.

- USFWS
- NMFS
- USACE
- Placer County

The County is the lead agency and the other Permit Applicants, the City of Lincoln, SPRTA, and PCWA, and CDFW are responsible agencies for the CEQA portion of this environmental document. USFWS is the lead agency and NMFS is a cooperating agency for the NEPA portion of this environmental document. California Department of Fish and Wildlife (CDFW), in addition to being a CEQA responsible agency, is a CEQA trustee agency. The Central Valley Regional Water Quality Control Board is also a responsible agency under CEQA. USACE and NMFS are cooperating agencies pursuant to NEPA. To comply with both NEPA and CEQA, these agencies combined efforts to notify stakeholders, the public, agencies, and tribes of the proposed permits and intent to prepare a joint EIS/EIR.

The PCCP was prepared under the combined efforts of the following partners (collectively known as the *Permit Applicants*).

- Placer County
- City of Lincoln

- South Placer Regional Transportation Authority (SPRTA)
- Placer County Water Agency (PCWA)

An organizational structure that allowed for input from stakeholders and the general public was created to develop the PCCP. This organizational structure consisted of an Interagency Working Group, a Biological Working Group, a Finance Subcommittee, and an Ad Hoc Committee composed of county, agency, and consulting staff. These groups worked together to address a broad range of interests in the Plan Area. These interests include biological resources, agriculture, land use and development, education, transportation, resource management, and water delivery. USFWS, NMFS, and CDFW provided input throughout the development of the PCCP and participated in technical working groups and committee meetings as well as in separate meetings with Placer County and the consultant team who helped draft the PCCP. Public involvement was encouraged through open stakeholder committee meetings, public workshops and hearings, newsletters, and a regularly updated website.

## 6.3 Scoping

The notice of intent (NOI) for the purposes of NEPA and the notice of preparation (NOP) for the purposes of CEQA served to inform the public of scoping meetings and the public comment period regarding the scope of the EIS/EIR (Appendix D). Additional details regarding meeting locations and times and the public comment period were provided in the NOI/NOP.

In compliance with the requirements set forth in NEPA, USFWS prepared an NOI describing its intent to prepare an EIS, the proposed action, the possible alternatives, and relevant scoping meeting and contact information. The NOI was posted in the Federal Register, the U.S. Government's official noticing and reporting publication, on March 7, 2005. The official comment period for the NOI was March 7, 2005, to April 8, 2005.

In compliance with the requirements set forth in CEQA, Placer County prepared an NOP. The NOP contained a brief description of the proposed action; the anticipated timeframe; probable environmental effects; the date, time, and place of the public scoping meeting; and contact information. The NOP solicited participation in determining the scope and content of the environmental content of the EIR. In March 2005, the NOP was sent to responsible and trustee agencies and involved federal agencies, to the State Clearinghouse, and to parties previously requesting notice in writing. The comment period on the NOP was March 7, 2005, to April 8, 2005.

Three scoping meetings were held during the NOI/NOP public comment period. They were held on March 15, 16, and 17, 2005, at the following locations:

### **Roseville**

Monday, March 15, 2005

6:00 p.m. to 8:00 p.m.

City of Roseville Corporation Yard, Rooms 2 and 3

2005 Hilltop Circle

Roseville, CA 95747

**Auburn**

Tuesday, March 16, 2005  
6:00 p.m. to 8:00 p.m.  
Placer County Planning Commission Chambers  
11414 B Avenue  
Auburn, CA 95603

**Lincoln**

Wednesday, March 17, 2005  
7:30 p.m. to 9:30 p.m.  
City of Lincoln McBean Pavilion  
65 McBean Park Drive  
Lincoln, CA 95648

Comments were received from the following stakeholders.

- Placer County Flood Control and Water Conservation District
- Placer County Department of Facility Services
- California Department of Fish and Game (now CDFW)
- California Department of Conservation, Division of Land Resource Protection
- California Department of Transportation, District 3, Sacramento Area Office
- City of Lincoln

Comments identified the following areas to be analyzed in the EIS/EIR.

- Assess effects related to peak flows at downstream locations, effects on stormwater facilities, and whether there would be alterations of 100-year floodplains.
- Baseline and existing environmental conditions in and around the Plan Area should be used to analyze direct and reasonably foreseeable indirect changes to existing conditions resulting from implementation of the PCCP.
- Covered Activities associated with approval and implementation of the PCCP, including conservation and restoration activities, and urban development activities, should be clearly described.
- Land use analysis should clearly characterize agricultural land resources and identify conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance as potentially significant. Important Farmland and Williamson Act land maps should be included and effects on Williamson Act lands presented.