EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY

City of Brentwood

City of Clayton

City of Oakley

City of Pittsburg

Contra Costa County

Public Advisory Committee

Thursday, August 13, 2009
1:00 p.m. to 3:00 p.m.

City of Pittsburg, Council Chambers
65 Civic Avenue
Pittsburg, CA 94565

Agenda

1:00 **Introductions.**

1:05 **Public comment on items not on the agenda.** Public comment will also be accepted on each agenda item during discussion of that item.

1:10 **Approve the Meeting Record from the East Contra Costa County Habitat Conservancy ("Conservancy") Public Advisory Meetings on January 12, 2009 and May 14, 2009.**

1:15 **Review recent actions of Governing Board:**
- 2009 Conservancy Budget, Mid-Year Status Report *
- Joined the California Habitat Conservation Planning Coalition

1:30 **Review of Proposed Provisions on Land Acquisition in Wind Turbine Areas***

1:50 **Land Acquisition Update:**
1) Upcoming, approved land acquisitions 2009-2010
2) Schwartz and Souza II properties

2:10 **Wetland Restoration Project: August-December 2009**
1) Souza II Wetland Restoration Project Update*

2:30 **Applicant and agency roles and responsibilities in requesting take authorization under the HCP:** A brief overview and question/answer session.

2:45 **Volunteer opportunities**

2:55 **Consider agenda items for future Public Advisory Committee meetings**

3:00 **Adjourn.**

Times are approximate. If you have questions about this agenda or desire additional meeting materials, you may contact Krystal Hinojosa of the Contra Costa County Community Development Department at 925-335-1271. The Conservancy will provide reasonable accommodation for persons with disabilities planning to participate in this meeting who contact staff at least 72 hours before the meeting.

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*Additional materials attached for these items

Draft Meeting Record

East Contra Costa County Habitat Conservancy
Public Advisory Meeting
Thursday, February 12, 2009

1) Introductions. Welcome new members.

Committee Attendees:

Private Permit Seekers	Conservation Advocates	Landowners/Agriculturalists	Suburban/Rural Residents
Contra Costa Council	**California Native Plant Society:** Lech Naumovich	**Agricultural/Natural Resource Trust of Contra Costa County:** Joe Ciolek	**Dick Vrmeer:** In attendance
Discovery Builders: Jim Coniglio	**Friends of Marsh Creek:** Brian Curran	**Contra Costa County Citizens Land Alliance:** Mike Vukelich, Jim Gwerder	**Sharon Osteen:** In attendance
Home Builders Association of Northern California	**Save Mount Diablo:** Seth Adams	**Contra Costa County Farm Bureau:** Dee Munk, Mike Vukelich	**Mary F. Dahlquist:** In attendance

Other Attendees:

Chris Barton East Bay Regional Park District
Christina Wong Greenbelt Alliance

Conservancy Staff members in attendance: :

John Kopchik Conservancy Staff
Abby Fateman Conservancy Staff
Krystal Hinojosa Conservancy Staff

2) Public Comment: Jim Coniglio, of Discovery Builders, suggested adding an item to next meetings agenda to discuss/provide an overview of the planning survey application process and discuss typical processing protocol between the Conservancy, Permittees, and Applicants.

3) Review recent actions of Governing Board:

a) Take authorizations for covered activities: John Kopchik provided an update on the Amerresco, State Hwy 4 Bypass, and PG&E approved Participating Special Entity Agreements. Mr. Kopchik informed the Committee about the upcoming Cal-Trans road improvement project.

b) 2009 Conservancy Budget: John Kopchik provided a comprehensive overview of the approved 2009 Conservancy Budget.

c) Covering communication towers in rural areas under the HCP/NCCP: John Kopchik provided an overview of the Board approved communication tower policy, which included Committee comments from the 11/13/08 PAC meeting.

4) **Land Acquisition Update:** John Kopchik discussed potential acquisition opportunities for the Schwartz and Fox Ridge properties. He informed the Committee of the ongoing partnership with East Bay Regional Park District to purchase, restore, and conserve land within the HCP inventory area.

5) **Wetland Restoration: 2009:** Abby Fateman provided an update of the Lentzner and Vasco Caves/Souza I Restoration projects, while John Kopchik provided an overview of the Souza II Wetland Restoration Project Preliminary Plan. It was suggested by a member of the committee that we offer more volunteer opportunities with upcoming restoration/creation projects.

6) **Consider making an annual report for the Conservancy Governing Board regarding Public Advisory Committee activities, operations, and membership. (See current roster and 2007 report from stakeholders on forming the Public Advisory Meeting):** A member of the committee suggested contacting Contra Costa Council and Home Builders Association of Northern California to see if they would still like to be a part of the Conservancy PAC.

7) **Consider agenda items for future Public Advisory Committee meetings:**
   - Committee members would like staff to host a fieldtrip to the upcoming restoration sites/new properties to the Preserve System. A date of May 14, 2009 was suggested for this trip.
   - Discussion of application process protocol between Conservancy, Permittees, and Applicants.
   - University research opportunities for restoration projects.

8) **Adjourn:** To next meeting May 14, 2009.

Draft Meeting Record

Public Advisory Committee Field Trip

Thursday, May 14, 2009
1:00 p.m. to 4:00 p.m.

Meet at: Pittsburg City Hall
65 Civic Drive in Pittsburg,
Pittsburg, CA

1) **Introductions**. Participants introduced themselves. Participants in attendance were:

Committee Attendees:

Private Permit Seekers	Conservation Advocates	Landowners/Agriculturalists	Suburban/Rural Residents
Contra Costa Council Mitchell Randall	**California Native Plant Society:**	**Agricultural/Natural Resource Trust of Contra Costa County:**	**Dick Vrmeer:**
Discovery Builders: Jim Coniglio	**Friends of Marsh Creek:** Brian Curran	**Contra Costa County Citizens Land Alliance:** Jim Gwerder	**Sharon Osteen:** In attendance
Home Builders Association of Northern California	**Save Mount Diablo:** Seth Adams, Troy Bristol	**Contra Costa County Farm Bureau:**	**Mary F. Dahlquist:**

Other Attendees:
Michelle Giollo Zenter and Zenter
Sean Micallef Zentner and Zenter
Lesley Hunt Friends of the Creeks

Conservancy Staff members in attendance: :
John Kopchik Conservancy Staff
Abby Fateman Conservancy Staff

2) **Public comment on items not on the agenda**: None

3) **Drive to Project Site, Souza 1-Vasco Caves Wetland restoration Project**: Participants boarded a van and were transported to the site. John Kopchik pointed out features along the way, such as the site of the next wetland restoration project on Souza 2.

4) **Tour site**: John Kopchik and Abby Fateman described features of the project and answered questions.

5) **Depart for Pittsburg City Hall**.

6) **Consider agenda items for future Public Advisory Committee meetings:** Not discussed.

7) **Adjourn**. The meeting adjourned at 4 pm.

Table 1: 2009 Conservancy Budget Status as of July 7, 2009

Cost Category	*Expenditures*			
	A	***B***	***C= A minus B***	***D= C/A*100***
	Approved 2009 Conservancy Budget	***Actual Expenditures as of 7/6/09[1]***	***Amount Remaining***	***Percent Remaining***
Program Administration	$493,665	$201,988	$291,677	59%
Land Acquisition	$14,046,495	$1,502,319	$12,544,176	89%
Management, Restoration and Recreation Planning and Design	$328,170	$114,529	$213,641	65%
Habitat Restoration/Creation	$980,239	$79,950	$900,289	92%
Environmental Compliance	$166,495	$41,602	$124,893	75%
HCP/NCCP Preserve Management and Maintenance	$293,247	$0	$293,247	100%
Monitoring, Research, and Adaptive Management	$94,345	$16,765	$77,580	82%
Remedial Measures	$6,000	$0	$6,000	100%
Contingency Fund (5% of non-land acquisition costs)	$117,808	$0	$117,808	100%
TOTAL EXPENDITURES	**$16,526,464**	**$1,957,154**	**$14,569,311**	88%
FEE REVENUES IN 2009 (as of July 2009)		**$1,472,818**		
GRANT REVENUES IN 2009 (as of July 2009)		**$1,352,662**		
TOTAL REVENUES IN 2009 (as of July 2009)		**$2,825,480**		
APPROXIMATE CURRENT BALANCE IN CONSERVANCY ACCOUNT[2]		**$1,678,538**		

Notes:

(1) Cost for work performed but not yet billed is not included. Staff costs through the end of April are included.

(2) Current balance does not include approved grants.

EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY

DATE: August 13, 2009

TO: Public Advisory Committee (PAC)

FROM: Conservancy Staff

SUBJECT: **Draft Provision on Land Acquisition in Wind Turbine Areas**

INTRODUCTION:
East Contra Costa County Conservancy (Conservancy) staff, in conjunction with the United States Fish and Wildlife Service (FWS) and California Department of Fish and Game (DFG) have developed a policy memo in order to clarify provisions of the East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan (HCP/NCCP) as they relate to land acquisition in wind turbine areas and better achieve the goals and objectives set forth in the HCP/NCCP. The purpose of this memo is to provide a brief overview of the issue and set forth the draft clarification the Conservancy is considering in order to approach land acquisition and preserve management in wind turbine areas. Comments of the PAC on the draft provision will be provided to the Governing Board, who will consider the matter at an upcoming meeting.

OVERVIEW:
The presence of wind turbines in the southeastern section (wind turbine areas) of the inventory area presents a potential challenge in acquiring and managing preserve lands for the benefit of covered species and other species. Wind turbine areas provide important breeding and foraging habitat for several covered species, including, golden eagle (a fully protected species under the California Fish and Game Code), western burrowing owl, San Joaquin kit fox, California red-legged frog, and California tiger salamander. Wind turbine areas are also a critical landscape connection between existing and proposed conserved lands. Consequently, the HCP/NCCP requires substantial conservation to occur in wind turbine areas. However, the operation of wind turbines poses a serious hazard to avian species and compromises efforts to manage habitat and enhance populations of covered species, especially avian species, without a set of policy measures that work toward achieving the biological goals, objectives, and conservation requirements of the HCP/NCCP.

HCP/NCCP on Wind Turbines
The HCP/NCCP contains only three references to how wind turbines are to be addressed if they are incorporated into the Preserve System, and one reference to leases of properties with wind turbines, they are as follows:

Reference 1: Page 5-38 (Conservation Strategy). This reference clearly states that areas mapped as wind turbine land cover will not be credited against land acquisition requirements of the Plan:

> "Wind turbines are abundant and somewhat evenly distributed within Zone 5, so they will inevitably occur in some lands acquired under the HCP/NCCP preserves. However, land mapped as wind turbines[1] cannot be credited toward any land acquisition requirement."

Reference 2: Page 5-38 (Conservation Strategy). This section contains the only detailed provisions in the Plan for addressing wind turbines in the Preserve System:

> "Land acquisition in wind turbine areas can contribute to the goals and objectives of this HCP/NCCP. However, the Implementing Entity is encouraged to consider retiring wind turbine leases on land it acquires when these leases come up for renewal, or require turbine reconfiguring (e.g., replace many old turbines with fewer turbines of new design in locations better for wildlife). Either action could significantly reduce wind turbine impacts on covered species and other native wildlife. Decisions to retire wind turbine leases will be made in consultation with CDFG and USFWS. (Note that take of covered species by wind turbines or take of migratory birds by wind turbines under the Migratory Bird Treaty Act is not covered by this Plan.)"

The HCP/NCCP does not provide any criteria by which decisions will be made to retire wind turbines, but it does require that these decisions be made in consultation with CDFG and USFWS.

Reference 3: Page 4 of Table ES-3 (Summary Evaluation of Species Proposed for Coverage by the Plan), under golden eagle. This is the last sentence of the golden eagle summary, under the heading "Conditions on Covered Activities:"

> "Wind turbine leases acquired within the Preserve System will be retired to reduce injury and mortality of golden eagles and other raptors."

This sentence is part of an executive summary of all the impacts and conservation measures within the HCP/NCCP. The summary acknowledges that some wind turbine leases will be retired but it does not say how many.

Other references: The HCP/NCCP describes the land acquisition process in the Implementation chapter. This process includes the necessary step of examining all leases.

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[1] The wind turbine land cover type was mapped as strips of wind turbines and 50 feet on either side; see Chapter 3 for further details. This may be a good estimate of the actual footprint of turbines and associated facilities. Grassland between sets of turbines was mapped as grassland and includes most of the access roads between sets of turbines.

> "Examine all leases that apply to the property for consistency with HCP/NCCP goals and objectives. Inconsistent leases will be terminated or modified to conform with the HCP/NCCP."

This step applies to wind leases as well as other types of leases. The impacts of existing wind leases were considered in the HCP/NCCP, so the presence of wind turbine leases on a property does not automatically disqualify the property from consideration for the Preserve System. On the contrary, the HCP/NCCP anticipated that wind turbines would be incorporated into the Preserve System (for example, Table 5-3 cites 150 acres of wind turbines in the Acquisition Analysis Zones which were used as the basis for the Preserve System).

Wind Rights

During the creation of the HCP/NCCP it was assumed that the purchaser of a fee simple interest in a property with wind turbines would take over the role of lessor in existing wind leases and have authority to approve future wind leases. Initial land acquisition within the wind turbine areas of the inventory area has revealed that this is not always true. In *Contra Costa Water District vs. Vaquero Farms, Inc*. (1997), a case in which Contra Costa Water District (CCWD) prevailed, wind rights were expressly severed from surface rights. This severance allowed Vaquero Farms, Inc. to maintain its wind power rights, including "an easement for ingress and egress and such other access rights as may be required for the maintenance and development of these wind power rights" while allowing Contra Costa Water District (CCWD) to maintain the surface rights. This case demonstrates that the owner of the wind rights holds the authority as the lessor of the wind rights, as well as, the ability to gain royalties from use of the wind resource.

PROPOSED POLICY CLARIFICATION:

To address these issues, the following is proposed with respect to purchasing lands within the wind turbine areas:

In order to reduce impacts of wind turbines within the Preserve System, the following measures and conditions will apply:

- There will be no lands credited to the Preserve System with severed wind rights unless and until all the wind rights are also acquired, other then the Vaquero Farms South and Vaquero Farms North properties.
- For all acquisitions, the Conservancy and the future fee simple owner of the subject Preserve System lands are encouraged to not renew wind leases and remove turbines as this will eliminate impacts, unless these turbines are shown to have minimal adverse impacts with FWS and DFG concurrence. Prior to the Conservancy and the future owner of the subject Preserve System lands choosing to renew wind leases on Preserve System lands, the reasons for this decision will be provided to FWS and DFG in a letter authorized by the Conservancy Board.
- If wind leases are renewed on future acquisitions, DFG, FWS, the Conservancy and the fee simple owner of the Preserve System lands in question will meet and confer to discuss and agree on the measures that will be included in such

renewal to reduce the effects of wind turbine operations on covered species, provided that the parties recognize that these measures will continue to permit reasonable generation of electricity from the Contra Costa County's (County) wind energy resource area. The following measures will be considered to reduce the biological effects: siting of turbines to minimize impacts, reduction in the number of turbines, road removal and reduction, restoration of past effects from wind activity, or other measures that limit or reduce the impact of wind projects. This measure will also apply to Vaquero Farms, should the Conservancy and the future fee simple owner of the land subsequently secure the wind rights.

- Prior to any acquisition with wind turbines, the Conservancy, FWS, DFG and future fee simple owner will agree on i) a structure of the transaction that allows the wind turbine review process outlined above to take place at the appropriate time; and ii) how the future wind turbine review process will be conducted; to ensure the acquisition meets the intent described above.
- The Conservancy, FWS, and DFG recognize that the Souza 1 property was identified in the HCP/NCCP as an existing acquisition and an initial component of the Preserve System. The Conservancy and the fee simple owner of this property are encouraged to pursue the range of measures outlined above.

The Conservancy, FWS, and DFG support the following measures to address impacts related to wind turbines on Vaquero Farms South, and when applicable, on Vaquero Farms North:

- Continue to pursue acquisition of all wind rights.
- Cooperate in reviewing and providing input on applications to modify or extend existing wind generation activities, including repowering activities.
- Improve accounting for wind turbine infrastructure impacts. The HCP/NCCP excludes a 50-foot buffered width around each wind turbine string from land acquisition credits. If repowering projects result in substantially larger turbines, the Conservancy, FWS, and DFG will meet and agree on a larger buffer and associated reduced credit to the Preserve System.
- The HCP/NCCP does not specify a minimum mapping unit for mapping roads and other supporting infrastructure (i.e., storage areas) in the Preserve System nor does it specify exclusion of such features from land acquisition credits. In order to more accurately account for the physical infrastructure, the area of the roads and supporting infrastructure will be mapped to a minimum mapping unit of 0.1 acre and excluded from grassland and other landcover acquisition credits (roads will generally be mapped as ruderal unless paved, in which case they will mapped as urban; building and corporation yards will be mapped as urban). With this approved accounting, removal and reclamation of wind power infrastructure will result in an increase in land acquisition credits when natural land cover is restored. Conversely, expansion of wind turbines and supporting infrastructure will result in a decrease in land acquisition credits as natural land cover types are converted to disturbed land cover types.

EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY

DATE: July 16, 2009

TO: Governing Board

FROM: John Kopchik, Executive Director

SUBJECT: Souza II Wetland Restoration Project

RECOMMENDATION

Consider the following actions to implement the Souza II Wetland Restoration Project (Project):

a) AUTHORIZE Conservancy staff to execute an agreement with the East Bay Regional Park District (District) for construction of the Project.
b) AUTHORIZE the payment of $306,215 to the District for construction of the Project.
c) DIRECT Conservancy staff to monitor construction of the Project and inspect final improvements to confirm completion of the Project in accordance with the plans and specifications.

RECOMMENDATION

As reported at previous Governing Board meetings, Conservancy staff, consultants and staff at the District have been working hard to prepare the Souza II Wetland Restoration Project for construction this summer. Like the two projects completed in 2008, the Souza II Wetland Restoration Project will contribute to achieving a critical jump start on the Conservancy's wetland restoration program. The Project is proposed to start construction in early August 2009. It would be constructed by the District and funded by the Conservancy. The detailed plans and specifications have been finalized, construction bids have been solicited, the lowest bid has been identified by the District and the project budget has been defined. For the Project to move forward, action is needed by the Conservancy Board to approve the agreement with the District and authorize payment of project costs. The District Board will meet July 21, 2009 to consider the project and to award the contract. Conservancy staff recommends that Board approve the above actions to initiate work on this important restoration project.

CONTINUED ON ATTACHMENT: _X_ YES
ACTION OF BOARD ON: July 16, 2009 APPROVED AS RECOMMENDED: See Below
OTHER: Items (b) and (c) were approved as recommended. Item (a) was approved as recommended pending: 1) modifications to the language of the agreement with the District, and 2) review and approval of modifications by the Chair.

VOTE OF BOARD MEMBERS
_X_ UNANIMOUS
AYES: Glover, Connelley, Casey, Stratford
NOES: _____
ABSENT: Stonebarger
ABSTAIN: _____

I HEARBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN

ATTESTED _____
CATHERINE KOSSURIS, SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY

BY _____, DEPUTY

Overview: The proposed project will be the third wetland restoration to be implemented as a result of the adoption of the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP). A critical component to the HCP/NCCP is the implementation of the Conservation Strategy, which provides for the creation of a preserve system that will protect land for the benefit of covered species, natural communities, biological diversity, hydrologic function and ecosystem function, and the restoration or creation of specific habitats and land cover types both to compensate for impacts and to contribute to recovery of listed species.

The table below summarizes the amount of restoration/creation to result from the Project.

Land Cover Types	**Amount of Restoration/Creation to Be Accomplished by Project**
Seasonal Wetland	8.5 acres
Ponds	0.18 acres
Intermittent Streams	0.38 miles
Grassland Restoration	15.1 acres

The Project as designed will restore/create far more wetland area than the first two restoration projects performed by the Conservancy. The Lentzner project restored/created about 0.15 acres of alkali wetland and the Souza 1 project created a 1.09-acre pond.

The objectives of the Project are:

- Initiate restoration of the natural hydraulic function of the tributary to Brushy Creek that crosses the site by reconnecting it to its flood plain.
- Restoration/creation and enhancement of a seasonal wetland system on the north and south sides of the creek.
- Increase California red-legged frog breeding habitat by improving in-stream habitat.
- Increase California tiger salamander breeding habitat by creating a pond.
- Increase abundance and improve habitat for covered plant species, in particular alkali species such as brittlescale (*Atriplex depressa*) (currently present on the site) and spearscale (*Atriplex joaquiniana*) (not currently present on the site), by restoring suitable habitat conditions and by disbursing seed collected from the site and other lands in the immediate vicinity.
- Increase and improve habitat for covered shrimp species by creating pools capable of remaining inundated for the period necessary to support shrimp reproduction; inoculate pools with top soil possibly containing shrimp cysts collected onsite and with top soil collected as a permit requirement for a pipeline repair in a vernal pool area on the Cuello property immediately to the north.

- Better address water quality/water flow rates from culverts draining Vasco Road by restoring/creating a swale and seasonal wetland downstream of the drainage.
- Improve hydrologic function of the intermittent tributary to Brushy Creek by restoring connections to the flood plain and reactivating parallel historic channels that were by bypassed when the creek was straightened and contained within berms.
- Increase the abundance and distribution of native perennial grassland and wetland species within the project boundary by seeding with wetland and native grassland mix.
- Inform the feasibility of activities for future phases of restoration of the parcel.

A Collaborative Effort: Substantial work by a variety of individuals and organizations has advanced the Project to this point. Jones and Stokes designers, District staff and Conservancy staff worked closely together and with a range of other partners to perform the background work and multiple plan iterations necessary to make the Project ready for construction. The hard work and expertise of Jones and Stokes and District staff is greatly appreciated. Additional key collaborators include San Francisco Estuary Institute (historical ecological assessment), Pacific Legacy (archeological assessment), the Watershed Nursery (seed collection and propagation), Doble Thomas (topographic mapping), H.T. Harvey and Associates (design peer review), U.S. Fish and Wildlife Service and California Department of Fish and Game (peer review and permitting), and the U.S. Army Corps of Engineers (permitting).

Value of Project to Conservancy: There are a number of reasons why it is critical to pursue this wetland restoration project this year. Over the 30-year life of the HCP/NCCP, the Conservancy may be required to restore or create a large number of acres of various types of wetlands and waters. If impacts to wetlands and waters are substantial during those 30 years, the cumulative total restoration/creation acreage could exceed 500 acres. A more likely but still conservative[1] projection is 300 acres, which amounts to 10 acres of restoration/creation per year. By the end of the second year of implementing the HCP, the Conservancy must have caught up to the mitigation requirements of impacts that have occurred. At this point, no wetland impact has occurred as a result of projects directly covered by the HCP/NCCP. However, less than an acre of wetland impact has occurred as a result of projects completed before the HCP/NCCP took effect and from which the Conservancy has received wetland fees (stream impacts were approximately 500 linear feet). The Conservancy's intention as stated in the Work Plan is to be aggressive in its wetlands restoration and creation program. The Conservancy created or restored about 1.25 acres of wetlands in 2008 (0.15 acres of alkali wetland and 1.09 acre of pond). The Project will dramatically expand this total to almost 10 wetland acres altogether. The Souza 2 project will also restore or create a diversity of habitat types, including types like intermittent stream and seasonal wetland that have not been performed previously. Construction of the Project will enable the Conservancy to meets its goal of achieving substantial wetland restoration early in the life of the program and well in advance of impacts.

[1] Creation/restoration needs could very likely be less than 300 acres, but 300 acres is a conservative projection in the sense that is prudent for the Conservancy not to under-plan.

Potential Future Phases: The Project primarily addresses the eastern third of the property where the stream resides in a relatively shallow channel. Future phases may address the more deeply eroded sections of channel to the west. The Project will help inform future phases.

Selection of a Contractor: The District published a Notice to Bidders for this project on June 11, 2009 in two newspapers and on their project website. Sixteen (16) firms submitted responsible bids by Thursday, July 2, 2009. The table below summarizes the bids received. The lowest bidder was Restoration Resources. The cost estimate generated by District and Conservancy staff and consultants for the Notice to Bidders was $586,000. Submitted bids were generally lower than expected.

NAME OF BIDDER	TOTAL BASE BID
Restoration Resources Rocklin, CA	$249,336.00
Evans Brothers, Inc. Livermore, CA	$281,698.00
William G. McCullough Antioch, CA	$299,140.00
Siteworks Construction Lafayette, CA	$313,459.56
Grade Tech, Inc. Castro Valley, CA	$323,800.00
Niles Freeman Excavating Knightsen, CA	$324,200.00
Robert Burns Construction, Inc. Stockton, CA	$332,952.00
Thunder Mountain Enterprises Sacramento, CA	$355,000.00
Top Grade Construction Livermore, CA	$359,450.00
Finta Enterprises Byron, CA	$383,854.00
Kubly Golf Course Construction, Inc. Scottsdale, AZ	$433,900.00
McNabb Construction Lafayette, CA	$438,914.00
Fanfa, Inc. San Lorenzo, CA	$471,000.00
R.J. Gordon Construction Pleasant Hill, CA	$497,650.00
Suarez & Munoz Hayward, CA	$492,500.00
Sean W. Smith San Francisco, CA	$503,394.00
	(DISTRICT ESTIMATE: $586,000)

Project Budget for District Construction: The proposed budget for the District to construct the Project is presented below. It reflects the bid submitted by Restoration Resources and also includes District costs proposed in the Agreement. Please note that the District will apply unspent funds from prior collaborations toward this project, reducing the Conservancy's payment for the project by $37,821. Estimated Conservancy expenses for tasks not performed by the District are described below the table.

CONSTRUCTION CONTRACTOR COSTS	
Mobilization/Demobilization	$29,075
Erosion Control	$2,885
Demolition	$15,090
Well Destruction	$5,160
Earthwork	$51,320
Pond Construction	$34,725
Boulder Weirs	$13,255
Concrete Mat	$5,575
Planting	$73,905
Barb Wire Fencing	$9,981
Plant Maintenance	$8,365
SUBTOTAL CONSTRUCTION CONTRACTOR (BASE)	**$249,336**
Construction contingency (15%)	$37,400
TOTAL CONSTRUCTION CONTRACTOR COSTS (WITH CONTINGENCY)	**$286,736**
Construction Management, Inspection, Soil Testing and Administration By District (estimate)	$57,300
TOTAL DISTRICT CONSTRUCTION COSTS	**$344,036**
Unspent District Funds from Lentzner Project to be applied to Souza 2 Project (contingency and construction inspector)	$21,929.59
Unspent District Funds from Souza 2 planning to be applied to Souza 2 Project (design oversight and bid process management)	$15,891.78
TOTAL UNSPENT DISTRICT FUNDS FROM PAST PROJECTS TO BE APPLIED TO SOUZA 2	**$37,821**
BALANCE: FUNDS TO BE PAID TO DISTRICT TO CONSTRUCT PROJECT	**$306,215**

The Project Budget includes a 15% construction contingency. This contingency may only be used to fund additional costs incurred by the contractor if work beyond that described in project plans and specification is required. Such additional work requires change orders approved by the District. The Budget also includes $57,300 to cover the bulk of the District's expense to manage the Project. These funds will pay for daily supervision by a District inspector, construction management by the District's Construction and Design sections and soil testing. The District's

wetland restoration specialists will also be closely involved in supervising the Project and coordinating the District's efforts, but the costs of these staff will be born by the District.

Not reflected in the table above are Conservancy's costs for Project components not conducted through the District (e.g., project components to be managed directly by the Conservancy). These additional costs include: a) the $42,000 contract with the Watershed Nursery for seed collection, plant propagation and delivery of approximately 15,000 plants (see agenda item #4 for more information); b) the Conservancy's existing $27,000 contract with Pacific Coast Seed for large quantities of local wetland and upland hydroseed stock (to ensure local seeds could be provided, the Conservancy had to contract for the seeds in advance of the construction project); c) Jones and Stokes costs as project designers to advise on construction management and their costs to perform pre-construction surveys, all of which would be covered under the $220,000 contract recommended under item #4 ($25,000 is a rough estimate for this task); d) and Conservancy staff costs estimated at $25,000.

All construction costs, including the construction contractor's costs, the District's costs to manage the Project, and the various direct Conservancy expenses described in the prior paragraph are consistent with the Conservancy's approved 2009 Budget.

To ensure the Project succeeds and to meet the requirements of the HCP/NCCP, the Conservancy will also need to manage and monitor the project. For wetland projects, the first five years of management are generally the most difficult. For the first five years, staff estimates that management and monitoring costs will be $20,000 to $35,000 per year, perhaps higher if remedial measures are necessary. After the plants become established, the features typically become self-sustaining and can be managed in a less specific way as part of the overall Preserve System. A management plan and management funding agreement will be developed for the entire Souza 2 property and nearby properties also in the process of being acquired. Long term maintenance and funding for this restoration project will be subsumed into that larger effort. This will enable cost-savings due to economy of scale and will enable certain management tasks, such as invasive plant management, to be performed on a large enough scale to be effective over the long term.

Funding for the Project: Conservancy staff intends to cover most if not all of the cost of the project with two approved grants: a) a $750,000 grant from the State Water Resources Control Board, a component of the regional Proposition 50 grant awarded to group of east county agencies to begin implementing the East Contra Costa County Integrated Regional Water Management Plan; and b) a $150,000 grant from the California Department of Fish and Game's Local Assistance Program. The Conservancy will submit invoices on these grants to cover as much of the Project cost as possible (certain expenses, such as staff costs, may not be eligible). Given the State's fiscal crisis, it may be many months before the invoices are paid. Sufficient cash exists in the Conservancy's account to cover the full expense of the Project.

Agreement with District: The proposed Agreement with the District is attached. It sets forth the roles and responsibilities of the District and Conservancy in constructing the Project. The Agreement is based on the previously approved agreement for construction of the Lentzner project which had a similar division of responsibility (e.g., District constructs the project).

Anticipated Project Schedule: Below is a rough estimate of the construction schedule.

July 21, 2009: District Board considers authorizing Project contract.
August 3: Pre-construction meeting
August 10 – October 15: Construction (approximate)
November 2: Planting commences
December 1: Plant inspection. If plants are healthy, construction of the project concludes. If not, replanting occurs and another inspection occurs in four weeks. This process is repeated until the plants are established.

Permits: One of the more challenging aspects of this project and a potential reason the project schedule could be delayed is the need for permits. Because the project seeks to restore wetlands and includes work in a jurisdictional stream, the project requires permits from the U.S. Army Corps of Engineers, the Central Valley Regional Water Quality Control Board, the California Department of Fish and Game, and consultation by the U.S. Fish and Wildlife Service. The Conservancy is responsible for procuring these permits. Applications were submitted several months ago. Each permitting agency has been briefed on the project and the timing and has indicated they will make every effort to process the permits in time for August construction.

California Environmental Quality Act (CEQA): As the Lead Agency for the HCP/NCCP under CEQA, the East Contra Costa County Habitat Conservation Plan Association (HCPA), the predecessor to the Conservancy, prepared and certified an environmental impact report (EIR) for the HCP/NCCP on November 8, 2006. As a responsible agency under the California Environmental Quality Act (CEQA), prior to approving the HCP/NCCP project, the Conservancy found, for each significant impact identified in the EIR, that the HCP/NCCP project has been changed or mitigated to reduce the impacts to a less than significant level (Public Resources Code §15091). The proposed Souza II Wetland Restoration Project is within the scope of the EIR prepared for the HCP/NCCP and is proposed to be constructed consistent with the mitigation measures identified in the EIR. As indicated in the findings and in the EIR, significant impacts identified for the HCP/NCCP can be mitigated to a less than significant level. Staff will file a Notice of Determination with the County Clerk following Board approval.

Detailed Information on Project Components: The primary components of the project are: 1) wetland restoration and creation, 2) channel restoration, 3) pond creation, 4) planting and seeding, and 5) top soil transplantation to promote fairy shrimp.

To perform these restoration tasks, the project area will first be cleared, grubbed, and graded to establish the contours and elevations shown on the Grading Plan.

Wetland restoration and creation: The primary component of the wetland restoration effort will be restoration and creation of wetlands in the flood plain of the intermittent tributary to Brushy Creek on the eastern portion of the project site. Artificial berms along both banks of the channel will be removed. North of the channel a hydrologic link will be reestablished to a remnant historical channel. This swale will retain and convey water from the intermittent tributary to Brushy Creek during high flow events and will also collect local runoff. East of the junction

between the main channel and the remnant channel, the site will be graded to create depressions where wetland vegetation will be planted. The complex of restored/created wetlands north of the creek will be shaped like a crescent, paralleling the main channel on its west end then curving north and east. At the northeast corner of the site, an ephemeral drainage that flows west to east along the northern boundary of the property will be diverted before exiting the property to a roadside ditch to feed the restored and created wetlands.

Channel restoration: Banks of the intermittent tributary to Brushy Creek will be laid back in the most denuded portions of the channel using an excavator or backhoe to stabilize the banks in these areas and enable re-vegetation. Channel banks will be sloped in a manner to promote expanded vegetative cover. Excavated soil will be used to construct other project features (e.g. berms) or will be disposed on-site in one of the designated soil disposal areas. Graded areas will be reseeded with a native grassland seed mix or a sterile mix (more information on seeding below). Work in the bank lay back areas will total 1.7 acres.

Three types of boulder weirs will be placed in the creek bed, a total of 11 boulder weir installations altogether, to increase channel complexity, create ponding along the stream channel and create additional habitat for California red-legged frog. One J-hook boulder weir, eight boulder clusters and two boulder cross weirs will be installed. The boulder weirs will be installed by hand.

The sinuosity of the intermittent tributary to Brushy Creek will be enhanced along a 500 foot reach at the east end of the project site. In this area, the creek is not deeply incised at present. Heavy equipment such as backhoes and graders will be used to remove the berms that parallel both sides of the creek approximately 30 feet from top of bank, regrade a stream with more meander than exists at present and reconnect the stream to the floodplain. The stream channel will be revegetated with seasonal wetland vegetation using a combination of seeding with local seed stock and planting of plugs propagated from seeds collected from the watershed.

Pond Creation: The project includes creation of a 0.18 acre pond on the western portion of the property south of the main channel. The pond will create habitat for California tiger salamander and possibly for California red-legged frog. The pond will be approximately 5 feet deep and designed so that is does not retain water long enough to support establishment of bullfrog or other predators but also designed to remain ponded for sufficient duration to support successful breading of California tiger salamander. It may also support California red-legged frog breeding, though the pond may not have a sufficiently large watershed to support the inundation period necessary for red-legged frog breeding and has not been specifically designed to meet such an objective. Native emergent aquatic vegetation will be planted in the pond to provide suitable breeding habitat for these special status species.

Planting and seeding: Three approaches will be used to vegetate the restoration site. In approach number one, seed has been collected from native species on the Souza II site and other local sites in the immediate vicinity of the Souza II parcel. The Watershed Nursery is growing these seeds to provide plants for the onsite restoration. Two of these species, brittlescale (Atriplex depressa) and San Joaquin spearscale (Atriplex joaquniana), are from species that are difficult to grow in a nursery and will therefore not be grown offsite and instead be seeded directly onsite following

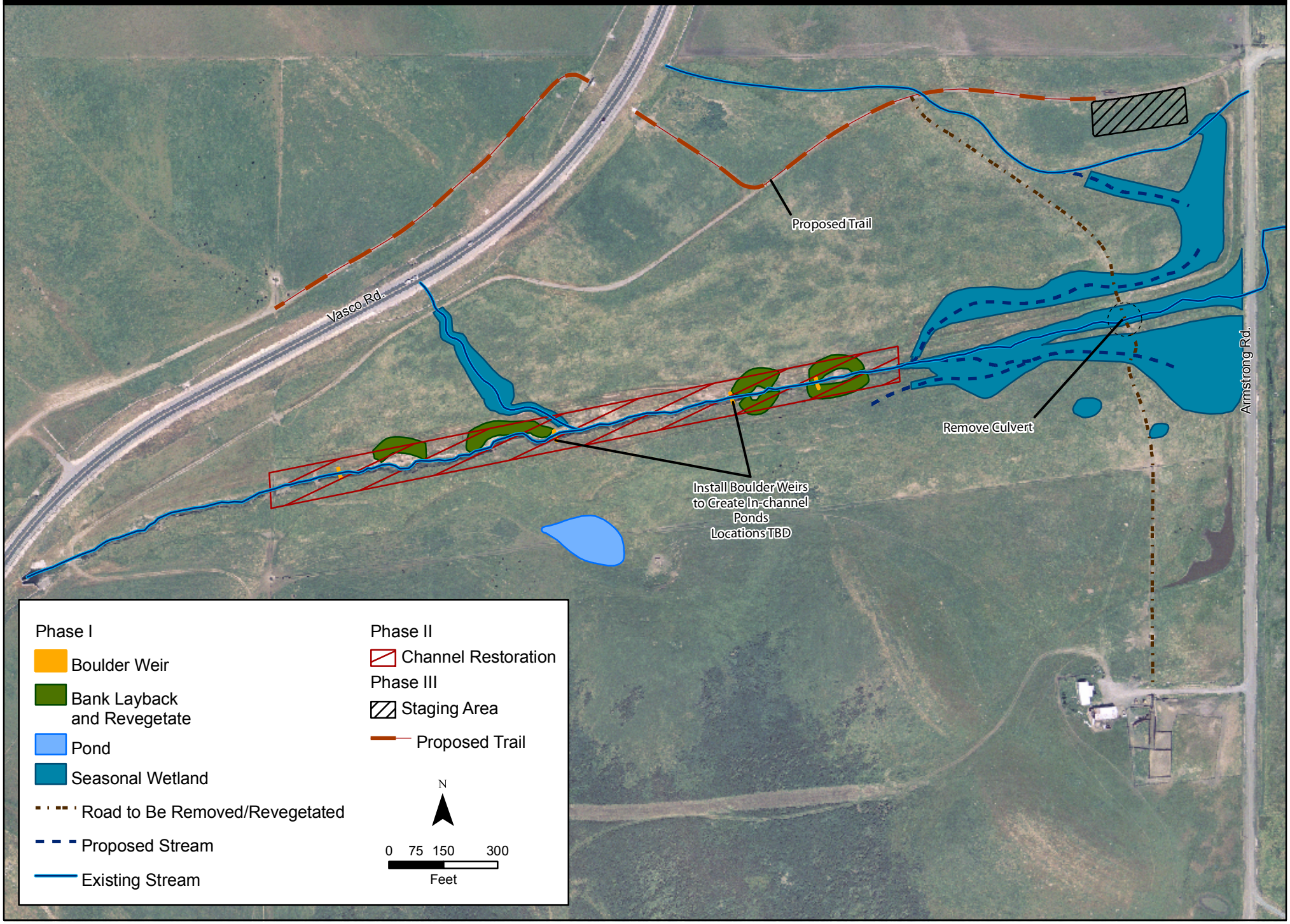
the restoration. Additionally, the Watershed Nursery has collected saltgrass plugs from the project area and is currently growing them to provide stock for the restoration. In approach number two, native seed will be obtained from local sources and supplied by Pacific Coast Seed. These native seeds will be used to supplement the plugs in the wetland and grassland areas surrounding the wetlands. In approach number three, sterile seed will be obtained by the contractor to provide erosion protection in staging, spoils and other areas disturbed as a consequence of the project.

Topsoil transplant to attempt fairy shrimp inoculation: Created pools on the south side of the intermittent tributary where the present day topography remains hummocky are designed to provide inundation periods suitable for covered fairy shrimp species. The bottoms of these pools will contain topsoil harvested from other pools on and offsite that have suitable habitat for covered fairy shrimp species and may contain fairy shrimp cysts. The purpose of this measure is to promote reproduction of covered fairy shrimp in the restored pools.

Attachments:

- Agreement with East Bay Regional District (please note, the Draft Resource Management Plan Outline that would be attached to the Agreement is quite long and is provided in a separate packet)
- Schematic Illustrating Key project Components

Larger Attachments in Separate Packet:

- Complete plan set for the Project
- Notice to bidders, general and specific conditions, and Project specifications
- Addendum #1 to Notice to Bidders
- Draft Resource Management Plan Outline

Souza II Wetland Restoration Project: Schematic of Restoration Design and Location of Potential Future Phases