

# **HCPA** East Contra Costa County Habitat Conservation Plan Association

## **HCPA Coordination Group Meeting**

Thursday, January 15, 2004  
1 p.m. to 3 p.m.

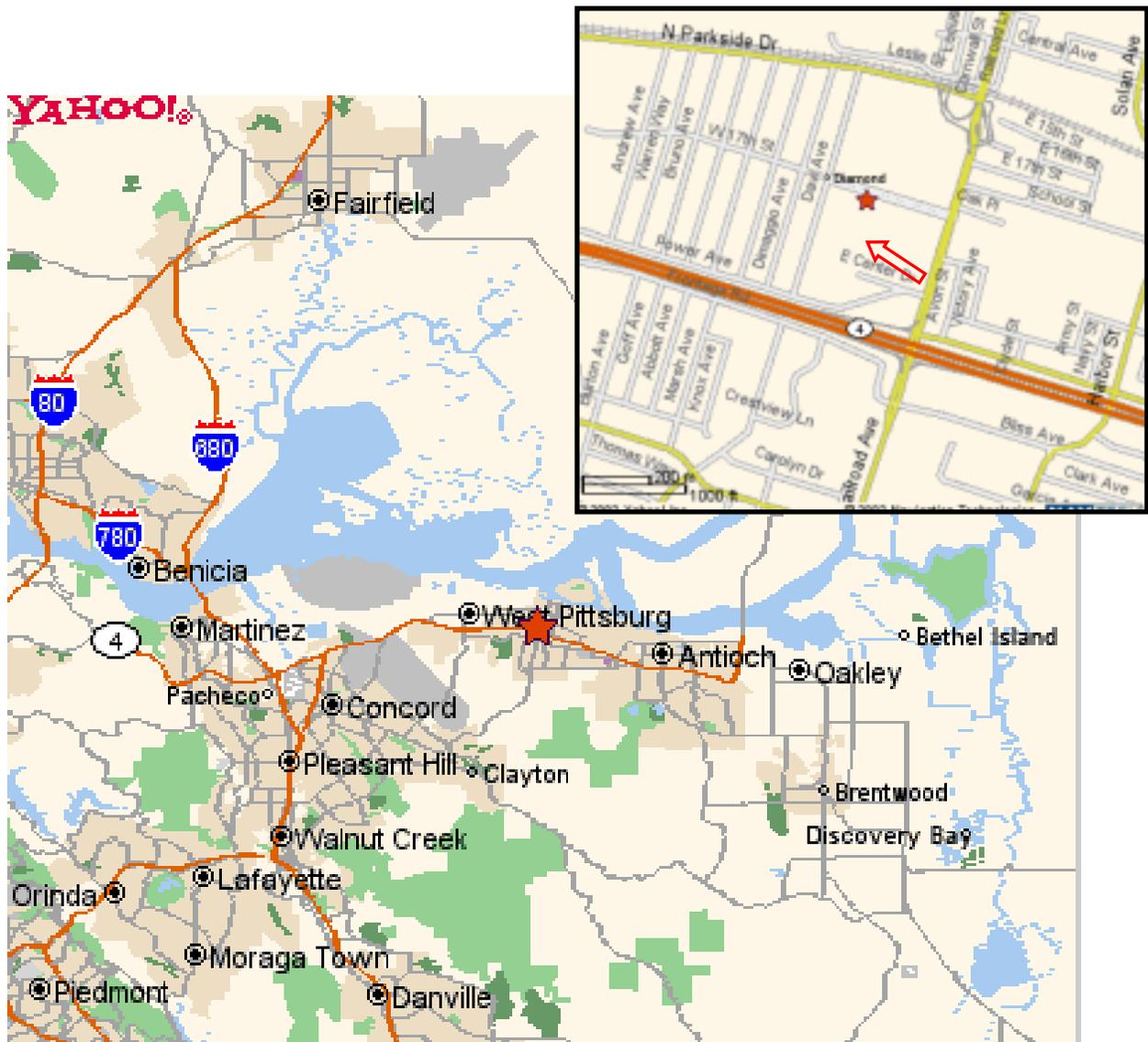
City of Pittsburg Council Chambers  
65 Civic Drive in Pittsburg, 3<sup>rd</sup> Floor  
(see map on reverse)

### **Agenda**

- 1:00 Introductions. Review contents of meeting packet.
- 1:05 Review and approve Draft Meeting Record of the December 18, 2003 Coordination Group meeting.
- 1:10 Updates:
- Two Science Panel reports expected soon: meeting report from December 9 at composite report summarizing outcomes of all 4 meetings organized by subject
  - Reminder: comment deadline on Preliminary Working Draft HCP/NCCP is January 31, 2004
- 1:20 “Big picture” verbal comments of Coordination Group participants on the planning effort and the working draft plan.
- 2:00 Continue examination of Preliminary Working Draft HCP/NCCP and begin to attempt to frame group comments. Specific discussion items including the following:
- Updated text of the Framework document (a.k.a. summary document)
  - Additional case studies on how the plan would work in practice: At this meeting, we will continue to look at hypothetical case studies of plan implementation. Request for presentation of “big picture” verbal comments at January Coordination Group meeting
- 2:40 Request for representatives of the Coordination Group to attend the January 22 Executive Governing Committee meeting to present an overview of comments
- 2:50 Confirm upcoming meeting dates. Upcoming Coordination Group meetings are scheduled as follows for the City of Pittsburg Council Chambers (usually 3<sup>rd</sup> Thursdays):  
Thursday, February 18, 1 p.m. to 3 p.m.  
Thursday, March 18, 1 p.m. to 3 p.m.  
*HCPA Executive Governing Committee: Thursday, January 22, 2003, 5:30 pm*
- 2:55 Public comment.
- 3:00 Adjourn.

*Times are approximate. If you have questions about this agenda or desire additional meeting materials, you may contact John Kopchik of the Contra Costa County Community Development Department at 925-335-1227.*

## Map and Directions to Pittsburg City Hall 65 Civic Drive



### Directions from I-680, Central County

- 1) Take Hwy 4 East toward Antioch/Stockton
- 2) Follow Hwy East over the hill (Willow Pass)
- 3) Exit Railroad Ave. (the 2<sup>nd</sup> exit after the hill)
- 4) At the end of the exit ramp, turn left on Railroad Ave.
- 5) Turn left at the second intersection, East Center Drive (signs for various city offices will also point you this way)
- 6) Immediately bear right into the large parking lot next to City Hall
- 7) Meeting is on the 3<sup>rd</sup> floor

### Directions from Antioch and points east

- 1) Take Hwy 4 West toward Martinez/Richmond
- 2) Exit Railroad Ave.
- 3) At the end of the exit ramp, turn right on Railroad Ave.
- 4) Turn left at the next intersection, East Center Drive (signs for various city offices will also point you this way)
- 5) Immediately bear right into the large parking lot next to City Hall
- 6) Meeting is on the 3<sup>rd</sup> floor

# DRAFT MEETING RECORD

## East Contra Costa County Habitat Conservation Plan Association (HCPA) Coordination Group Meeting

Thursday, December 18, 2003  
1 p.m. to 3 p.m.

City of Pittsburg Council Chambers

**1:00 Welcome and Introductions.** Meeting attendees introduced themselves. Coordination Group members and staff in attendance were:

Chris Barton, City of Pittsburg  
Paul Campos, HBA  
Abigail Fateman, CCC Community Dev.  
Janice Gan, CA Dept. of Fish and Game  
Bob Glover, HBA  
Jim Gwerder, CCC Citizens Land Alliance

Barry Hand, City of Oakley  
John Kopchik, CCC Community Dev.  
Sheila Larsen, US Fish & Wildlife Service  
Mike Vukelich, CC Farm Bureau  
Carl Wilcox, CA Dept of Fish & Game  
David Zippin, Jones & Stokes, Inc.

Also in attendance: John Hopkins, Institute for Ecological Health, Bob Glover, HBA, and Cheryl Morgan

**1:05 Review and approve Draft Meeting Record of the November 20, 2003 Coordination Group meeting.** Draft was approved without amendments

**1:10 Updates:**

- **December 4 Conservation Planning Conference & December 9 Science Review Panel** John Hopkins, Mike Vukelich, Chris Barton and Bob Glover gave a brief synopsis of the Conference.
- **Reminder: comment deadline on Preliminary Working Draft HCP/NCCP is January 31, 2004**

**1:20 Continue discussion of Preliminary Working Draft HCP/NCCP, including the following:**

- **Review updated plan summary: the Framework document discussed many times in the past has been updated to reflect current status of the planning effort.** John Kopchik reviewed updates to the Framework document. Mike Vukelich raised concerns that the plan was attempting to cover species that were not listed by USFWS or DFG. Carl Wilcox explained why that the plan is typical in this regard, attempting to provide a more durable take permit by covering species that are not yet listed. If a species not covered by the plan were to become listed, development projects would be covered for some listed species impacts but not for others and the permit would therefore be less useful). Paul Campos said that HBA generally prefers that more species are covered in the plan so as to anticipate listings by USFW and DFG. Carl Wilcox suggested that the HCPA look to see how Western Riverside dealt with anticipated transportation issues. Dick Vrmeer raised questions about the Organizational Structure flowchart (page 11).
- **Case studies on how the plan would work in practice: At this meeting, we will begin to look at hypothetical case studies of plan implementation. For instance, how would the plan work for a hypothetical development, for a hypothetical willing seller, and for a particular set of circumstances (i.e. what happens if a species the plan intends to benefit are not thriving in preserves?). The purpose of these case studies is to help us all understand how the plan would work and what sections of the plan affect what**

**aspects of the process. Another purpose is to identify what aspects of the plan need to be clarified or improved.** David Zippin reviewed case studies of the HCP implementation. The scenarios presented dealt with different types of projects seeking permits and different types of impacts. Overall the group agreed that it was a useful exercise.

- **Request for presentation of “big picture” verbal comments at January Coordination Group meeting:** John Kopchik explained that staff hoped participants would be willing and able to provide a verbal overview of their major, “big-picture” comments at the January meeting.
- **Request for representatives of the Coordination Group to attend the January 22 Executive Governing Committee meeting to present an overview of comments.** John Kopchik also explained that the Executive Governing Committee had requested structured stakeholder input at its next meeting and staff hoped that major constituencies (e.g., landowner, conservation, and development/business) could select a representative to attend the January 22 meeting and share their thoughts.

**2:50 Confirm upcoming meeting dates. Upcoming Coordination Group meetings are scheduled as follows for the City of Pittsburg Council Chambers (usually 3<sup>rd</sup> Thursdays):**

**Thursday, January 15, 1 p.m. to 3 p.m.**

***HCPA Executive Governing Committee: Thursday, January 22, 2003, 5:30 pm***

**2:55 Public comment.** None.

**3:00 Adjourn.**



# East Contra Costa County Habitat Conservation Plan Association

PRELIMINARY WORKING DRAFT (12-19-03)

## Framework for the East Contra Costa County HCP/NCCP

*This document is intended to outline key components of the HCP/NCCP and serve as a focus of discussion for the Coordination Group. The document will record key recommendations of the Coordination Group as they are made. The Framework cannot replace the detailed information that will be contained in supporting documentation such as the Conservation Strategy and other chapters of the plan itself (these will continue to be discussed), but it can guide development of the more detailed work products and allow the Coordination Group to focus on the most important policy questions.*

*The Principles of Participation approved by HCPA member agencies upon joining the HCPA are included as an attachment. The Principles have been referenced to the section of this Framework that discusses the relevant subject matter.*

### Contents

- I Purpose of the HCP/NCCP
- II Background: The Intersection of Natural Resources, Development, and Agriculture in East County
- III Mechanism: the HCP/NCCP as an Alternative to Project-By-Project Permitting and Mitigation
- IV Key Permit Terms and Conditions
- V Biological Commitments
- VI Landowner Commitments
- VII Implementing Entity
- VIII Funding to Implement HCP/NCCP
- IX Regulatory Assurances
- X Amendment

### I Purpose of the HCP/NCCP

*Mission statement (below) recommended by Coordination Group on 5-17-02 and approved by the Executive Governing Committee on 5-23-02.*

The East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan will provide comprehensive species, wetlands and ecosystem conservation and contribute to recovery of endangered species within East Contra Costa County, while:

- balancing open space, habitat, agriculture, and urban development;

- reducing the cost and increasing the clarity and consistency of federal and state permitting by consolidating and streamlining these processes into one, locally-controlled plan,
- encouraging, where appropriate, the multiple use of protected areas, including recreation and agriculture,
- sharing the costs and benefits of the habitat conservation plan as widely and equitably as possible, and
- protecting the rights of private property owners.

## II Background: The Intersection of Natural Resources, Development, and Agriculture in East County

*Language below has been refined over time to reflect suggestions made by the Coordination Group.*

Eastern Contra Costa County is one of the fastest growing regions in the state--with a population that is predicted to grow by 127,000 people by 2025<sup>1</sup>--providing important new housing for the Bay Area's growing workforce. Though efforts are underway to direct future growth toward infill opportunities (to the maximum extent practicable) and to finding more sustainable ways to grow, existing land use plans and development approvals allow significant new development on rangelands and irrigated crop lands. This new development will displace a variety of natural habitats, including valley floor and foothill grassland, oak woodland, oak woodland savannah, chaparral, riparian woodland, emergent wetland, and vernal pool habitat. Anticipated growth could also threaten key habitat corridors needed to protect a variety of state and federally listed threatened and endangered species. Approximately 154 special status species occur or could occur in the East County area, including the San Joaquin Kit Fox, California Red-Legged Frog, Alameda Whipsnake, Golden Eagle, Western Burrowing Owl, Vernal Pool Fairy Shrimp, and Diablo Helianthella. The East County area is also home to productive agricultural lands, including intensively cultivated areas with high quality soils in lower elevations and productive grazing lands in the hills that cover a large part of the region. Agriculturalists depend on these lands for income and as an important investment.

Conflict between these different land-uses or community values is, to some extent, unavoidable. However, coordinated conservation planning is an opportunity to reduce the level of conflict and to identify mutually acceptable approaches to these problems.



Scott Hein

<sup>1</sup> ABAG, Projections 2002. By 2025, the populations of Brentwood, Oakley, Pittsburg, and Antioch are expected to grow by 123%, 57%, 52%, and 30%, respectively.

### III Mechanism: the HCP/NCCP as an Alternative to Project-By-Project Permitting and Mitigation

#### **Current Process for Complying with Endangered Species Acts and Other Resource Protection Regulations:**

Public agencies, developers, and other project sponsors currently address endangered species regulations individually on a project-by-project basis. Potential impacts to endangered species are considered and potentially mitigated within the California Environmental Quality Act (CEQA) process, but in many cases must also be addressed through individual consultation with the USFWS and CDFG. Regardless of regulatory venue, endangered species compliance typically requires:

- a) thorough field surveys of the site at appropriate times for endangered species;
- b) negotiations on mitigation, site design, and construction practices; and
- c) identification and procurement of any needed off-site mitigation and/or dedication of on-site mitigation (e.g., open space easements) and establishment of mitigation monitoring program.

The above compliance is performed individually by the landowner/developer and the USFWS and CDFG in order to obtain an individual take permit (ITP) pursuant to CESA section 2081 and FESA section 10 when a non-federal action (i.e., project or activity) may jeopardize or impact a listed species, or its habitat. In Contra Costa County, the ITP is more often issued under section 7 of FESA which applies when a project has federal funding or requires federal permits, such as for wetlands. The local land use agency is usually not involved, but does separately negotiate mitigation under CEQA.

The amount of time and funding dedicated to each of the above three tasks varies, sometimes dramatically, from one project to another. Some project proponents in East County have incurred significant expense in this process. All project proponents must contend with some uncertainty regarding how long endangered species compliance will take, how much mitigation will be required, and what will happen in the future if unforeseen circumstances arise that affect a protected species before an ITP issued.

In addition to endangered species requirements, CEQA (and NEPA if a federal project), and any resource protection measures adopted by the local land use planning agency, project proponents must also comply with a number of other environmental regulations. For example, actions that could affect wetlands must have a thorough site survey and formal wetland delineation sanctioned by an appropriate regulatory agency. Such projects must also receive permits from the U.S. Army Corps of Engineers (COE), and the Regional Water Quality Control Board (RWQCB). Depending on the project, the U.S. Environmental Protection Agency (EPA), USFWS, and CDFG might be involved in processing the wetlands permit from the COE. Projects affecting streams require a streambed alteration agreement with CDFG and may also be subject to wetland regulations.

Construction activities require a separate permit from the RWQCB to control water quality impacts. Projects might also face local and other restrictions on impacts to prime agricultural lands.

### **How the HCP/NCCP Will Provide an Alternative Process for Compliance:**

The East County HCP/NCCP establishes a coordinated process for permitting and mitigating the incidental take of endangered species that can be used in place of the current, project-by-project approach. Rather than individually surveying, negotiating, and securing mitigation, project proponents will receive an ITP by paying a fee (and/or dedicating land), performing limited surveys, and adhering to protocols to avoid and minimize impacts during construction. The fees are collected by the Implementing Entity (TBD) (often a Joint Powers Authority composed of representatives of local agencies). The Implementation Entity then uses the fee money, as well as grants and any other funding sources established in the plan, to purchase habitat lands or easements from willing sellers. Collected funds are also used for monitoring and any habitat enhancement or management actions.

The HCP/NCCP will (we hope) also offer an alternative, parallel means for complying with wetlands regulations, including the Sections 404 and 401 of the federal Clean Water Act (wetlands fill and water quality certification) and Section 1601 of the California Fish and Game Code (Streambed Alteration). The approach to complying with wetlands regulations will be similar to the approach used for endangered species compliance: coordination of off-site mitigation through the plan when impacts cannot be avoided.

#### **Key Unresolved Issue: Will the Plan Be Able to Provide Wetland Permits?**

There are a number of reasons why it is desirable for the plan to fulfill the requirements of the Federal Clean Water Act and provide permits for wetlands impacts, including better delivery of a "one-stop-shop" for natural resource permits and assurances that wetlands and species conservation objectives are achieved in a complementary fashion. Unfortunately, there is no precedent for including wetlands permits in a Regional HCP for urban development. However, the East Contra Costa HCP effort is cooperating with three similar efforts in Northern California to explore with the Army Corps of Engineers and the U.S. EPA opportunities for securing Regional General Permits for the activities covered in the HCP.

A comprehensive, landscape-level analysis of the biological resources of East County forms the basis for the permits issued and conservation actions taken under the plan. By examining conservation priorities at a regional scale, the plan is better suited for implementing key conservation biology principles than more focused work with perhaps greater detail. The biological work in this plan cannot replace the site-specific biological work that will still be required under the California Environmental Quality Act for specific projects, but it can provide a broader scientific context, assist with evaluating cumulative impacts, and should facilitate both the preparation and review of future site-specific studies.

### **Expected Benefits of the HCP/NCCP:**

The HCP/NCCP is intended to benefit developers by improving regulatory certainty, by reducing the need for surveys and mitigation negotiations, and by providing a coordinated, more cost effective system for acquiring mitigation. HCP/NCCP's are also intended to benefit species by replacing the current project-by-project mitigation with a coordinated system more suitable for protecting connected blocks of habitat in a biologically sound manner. Larger and connected blocks of conserved lands will increase the potential to benefit and preserve multiple species. Because

conservation objectives will be achieved with purchase of land or easements from willing sellers rather than through new regulations, the HCP/NCCP may be viewed more favorably by landowners.

## IV Key Permit Terms and Conditions

Summarized below are key aspects of the permits to be requested through the HCP/NCCP.

**Term of permit:** 30 years

**Permit holders:** TBD (Could be the implementing entity or each individual jurisdiction (i.e., County, cities, CCWD, and the organization responsible for managing the Preserves)

**Permit issuers:** U.S. Fish and Wildlife Service  
California Department of Fish and Game  
Wetlands agencies like USACE and SWRCB and EPA (we hope)

### Desired permits:

- a) Section 10 of FESA (Incidental Take Permit under Section 10 of the Federal Endangered Species Act)
- b) Section 2835 of CESA (Incidental Take Permit under the California Endangered Species Act through provisions of the California Natural Community Conservation Planning Act)
- c) Section 1601 (Master streambed alteration agreement under the California Fish and Game Code)
- d) Section 404 of CWA (Regional General Permit under Section 404 of the Federal Clean Water Act)
- e) Section 401 of CWA (Water Quality Certification from the State Water Resources Control Board)

(note: no-take requirements will be in place for half a dozen species that are either fully protected under the California Fish and Game Code (e.g. Peregrine Falcon), or are so rare that it would not be possible for the agencies to issue take permits (e.g. Mount Diablo Buckwheat, which is presumed extinct))

### 26 Species To Be Covered by the Permit:

Townsend's Western Big-eared Bat  
San Joaquin Kit Fox  
Tricolored Blackbird  
Golden Eagle  
Western Burrowing Owl  
Swainson's Hawk  
Silvery Legless Lizard  
Alameda Whipsnake  
Giant Garter Snake  
California Tiger Salamander  
California Red-legged Frog  
Foothill Yellow-legged Frog  
Longhorn Fairy Shrimp  
Vernal Pool Fairy Shrimp  
Midvalley Fairy Shrimp  
Vernal Pool Tadpole Shrimp  
Mount Diablo Manzanita  
Brittlescale  
San Joaquin Spearscale  
Big Tarplant  
Mount Diablo Fairy Lantern  
Recurved Larkspur  
Diablo Helianthella  
Brewer's Dwarf Flax  
Showy Madia  
Adobe Navarretia

**Permit area:** The permit area for urban development under the HCP/NCCP shall be adjusted by the implementing entity as follows, subject to the conditions imposed by the Implementation Agreement for the HCP/NCCP:

a) The permit area authorized by the implementing entity shall be the area within the HCP inventory area, and within the Urban Limit Line (ULL) or the city limits of participating cities, whichever is larger.

b) Should the ULL or city limits expand or contract during the term of the plan, the implementing entity would expand or contract the permit area accordingly.

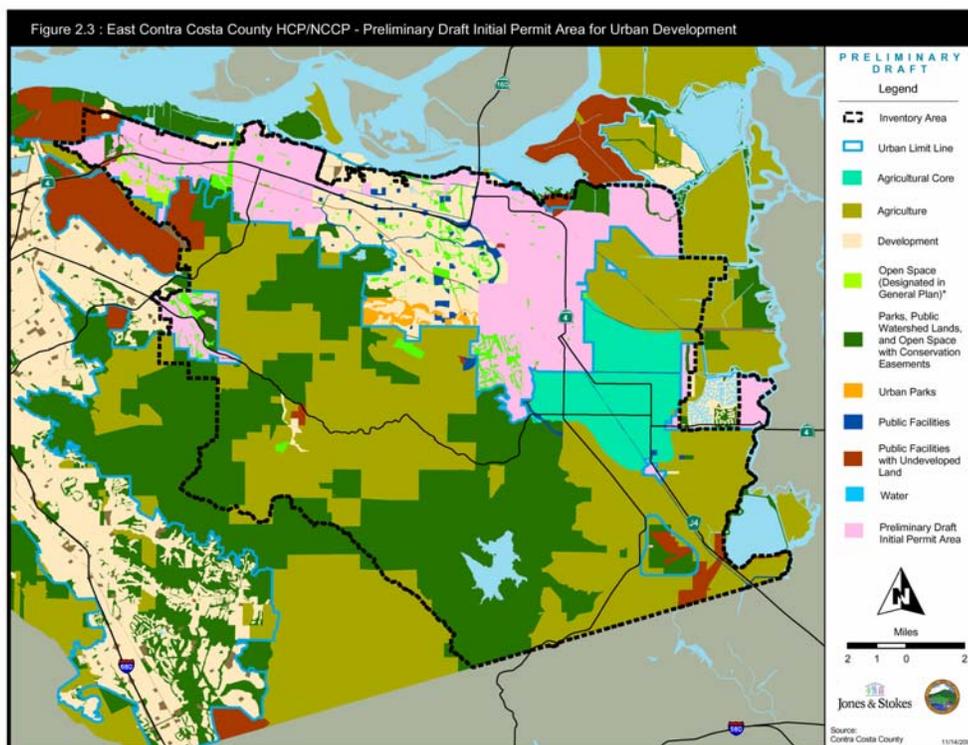
c) The HCP/NCCP shall define an area that will not be covered by the permit area for urban development, now or in the future, regardless of the location of the ULL or city limits. The area excluded from future permit coverage under the HCP/NCCP shall reflect the high and medium acquisition priorities of the Conservation Strategy for the HCP/NCCP. There shall also be an acreage limit on the amount of land that can be added to the permit area

The permit areas for preserve management, for rural infrastructure projects, and for rural residential (if covered) shall be defined separately.

**Key Issue: Defining the Permit Area for Urban Development**

The Working Draft NCCP/HCP incorporates a more flexibly-defined permit area for urban development. This preliminary approach was chosen because there is uncertainty in East Contra Costa County over where growth should or will occur over the next 30 years. This issue will be resolved over time and in different forums that consider not only habitat needs, but also transportation, jobs, economic growth, housing, and quality of life.

**Figure 2.3: Initial Permit Area for Urban Development**



**Covered activities:**

Working Draft Covered Activities List<sup>2</sup>

1. Residential, commercial, and industrial development (and other development activities, such as described in items 2 thru 4, inside the Urban Limit Line)
2. Road and highway construction and maintenance outside the ULL
3. Water infrastructure construction and maintenance outside the ULL
4. Flood control project construction and maintenance outside the ULL
5. Sanitary system infrastructure construction and maintenance
6. Rural recreational facility construction, maintenance, and operation
7. Recreational use of rural parks and preserves
8. Mining facility construction, operation, and maintenance (if requested by mining companies)
9. Miscellaneous development outside the ULL (to be defined later)
10. Population surveys, species relocation, habitat restoration, management, and scientific research on preserve lands or potential preserve lands

**Preliminary List of Rural Infrastructure Projects Proposed for Permit Coverage** (see Chapter 2 for more details; many items are listed as placeholders pending further discussion)

Armstrong Road Extension  
Balfour Road Shoulders  
Buchanan Bypass  
Byron Airport Commercial Services (105 acres)  
Byron Highway Northern Extension and Widening  
Byron Highway South Improvements / Re-designation as State Route 237 (info pending)  
Byron Sewer Line (info pending)  
EBART  
Kirker Pass Road Widening (truck climbing lane)  
Marsh Creek Road Realignment at Selected Curves  
State Route 4 Bypass  
Vasco Road Improvements (info pending)

**Key Issues Regarding Covered Activities:**

- Agricultural operations have not been recommended for permit coverage by the Coordination Group because no request was received for coverage from the agricultural community and the Coordination Group saw little need for covering an activity that traditionally has not received ESA permits.
- Wind turbine construction and re-powering has not been covered because these activities have a very different suite of impacts that are outside the scope and budget of this planning effort.
- Rural residential permit coverage is an unresolved issue

**Voluntary participation:** participation principle #12 needs to be articulated more fully here in conjunction with refinement of the funding plan.

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<sup>2</sup> The introductory text on this subject should explain the difference between Section 7 and Section 10 of the Federal Endangered Species Act and make clear that, while an HCP can only provide coverage under section 10, HCPs can be an instrument for identifying permit conditions under Section 7.

## V Biological Commitments

### Qualitative Conservation Requirements:

The conservation strategy will be designed to meet the biological goals and objectives of the plan. The strategy will be based on four fundamental regulatory goals: mitigate the impacts to the covered species to the maximum extent practicable, contribute to the recovery of the covered species, maintain ecosystem processes, and conserve biological diversity.

### Preserve Design Principles\*

Maximum Size  
 Minimize the Number of Preserve Units  
 Link Preserves  
 Include Urban Buffer  
 Minimize Edge  
 Maximize Environmental Gradients  
 Consider Watersheds  
 Consider Full Ecological Range of  
 Communities

\*See Chapter 5 for a description of each of these principles

- Conservation dollars must be spent efficiently and effectively. Conservation easements may be an effective tool in this regard, though the funding strategy for the plan should not assume that such transactions will be as common as they might be in an ideal situation. Conservation easements have not been common in this area in the past and factors that have limited their use may continue to be limiting in the future.
- Habitat restoration should be included in the conservation strategy for habitats that have historically been lost or degraded such as riparian woodland, seasonal wetlands, and native grasslands.
- Habitat restoration should only occur within HCP/NCCP Preserves except in cases where there are no restoration opportunities within the new preserves. If restoration must occur outside preserves, it will occur only on public lands adjacent to or near HCP/NCCP preserves and in direct support of these preserves (e.g., along the same stream).
- The plan will include “stay ahead” provisions to ensure that land acquisition and restoration occurs ahead of development. The plan will also include a “jump start” provision to ensure that the implementing entity acquires and begins to restore some land before any impacts occur.
- Agriculture can be compatible with conservation. Many agricultural activities, such as grazing, will be critical for maintaining and restoring habitat values in some areas.
- The impacts of development close to the proposed HCP/NCCP Preserves will be minimized through the use of planning surveys (as described in the conservation strategy), creation of buffer zones, and more intensive management along the urban-wildland interface. The plan assumes that minimization measures will not be required for most species in isolated areas such as urban infill.
- Development will not take “no take” species (see Key Permit Terms and Conditions)
- HCP/NCCP Preserves will conserve biological resources at all scales including small-scale features such as rock outcrops, native grassland vegetation associations, seeps, springs, and other features determined to be important to native biological diversity.

- The plan will contribute substantially to the recovery of the Alameda whipsnake despite relatively low impacts to this species because the inventory area includes such a large proportion of this species' entire range (approximately 20%).
- The implementing entity will acquire and manage land in key areas to maintain connectivity between Contra Costa County and neighboring counties to support landscape-level ecological functions such as the long-term survival of the San Joaquin kit fox in Contra Costa County.
- Recreational use of HCP/NCCP Preserves will be limited to areas and types of uses that have negligible impacts on covered species and habitats.
- All relevant elements of this plan will be monitored in the field to ensure that the biological goals and objectives will be achieved and to inform the on-going adaptive management process.
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**Partially-Scaling Conservation to Keep Pace with Development:**

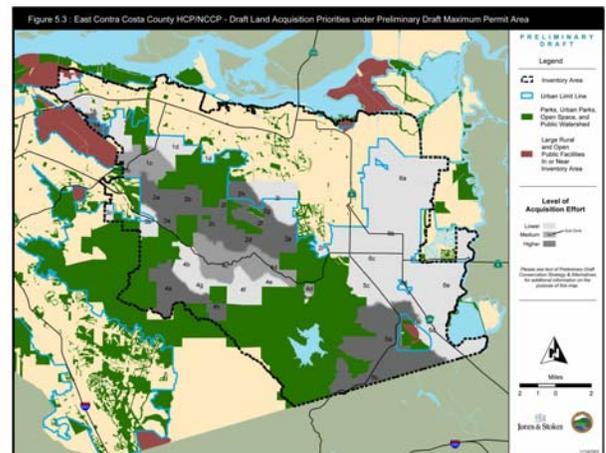
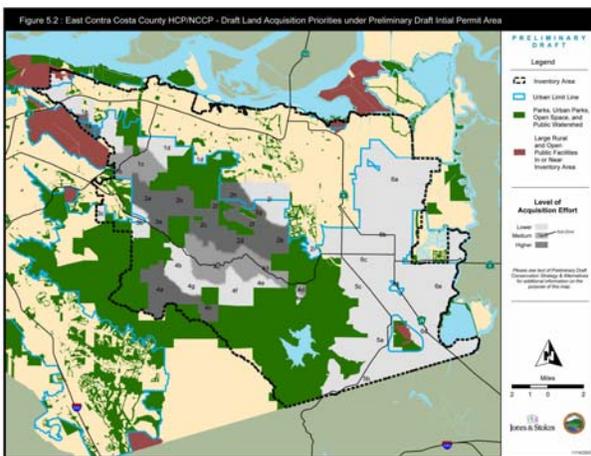
To reflect the phased approach to the permit area for urban development and the uncertainty over how much development and how much habitat impact will occur over the life of the plan--and therefore how much money will be raised from development fees—staff propose introducing an element of scalability to the Conservation Strategy. For example, the Conservation Strategy would include a baseline of required conservation actions, including acreage requirements for habitat protection, but some of the conservation requirements could increase as the level of impact increases. Such scaling would need to have a strong geographic component so conservation actions establish a base of preserves and build on these over time.

**Advantages and Challenges of Scaled Conservation Requirements**

**Advantages:** 1) more assurance that funding levels will match conservation requirements; and 2) more assurance that if growth stops unexpectedly, the preserve system will have integrity.

**Challenges:** Distinctive requirements of the state and federal laws with which the HCP/NCCP must comply and the associated tension between mitigation-based requirements and requirements for general conservation of species and ecological processes.

Figures 5.2 and 5.3: Preliminary Acquisition Priorities for the Initial Permit Area (left) and Max Permit Area (right)



## Quantitative Conservation Requirements:

**Table 5-10.** Estimated Minimum and Maximum Size of Preserve System under each Permit Area (acres)

Zone	Preliminary Draft Initial Permit Area		Preliminary Draft Maximum Permit Area	
	Est. Minimum <sup>1</sup>	Est. Maximum <sup>1</sup>	Est. Minimum <sup>1</sup>	Est. Maximum <sup>1</sup>
1	2,050	2,700	2,050	2,700
2	8,250	10,350	8,250	10,350
3	400	750	400	750
4	6,500	8,150	6,500	8,150
5	2,150	2,700	8,000	10,350
6	1,300	1,750	1,900	2,500
<b>Total</b>	<b>20,650</b>	<b>26,400</b>	<b>27,100</b>	<b>34,800</b>

Notes:

<sup>1</sup> Numbers rounded to the nearest 50 acres.

## VI Landowner Commitments

*This section still needs more work, though several comments were made on March 20 that seem appropriate for including here as we start to fill this section out. Likewise, the work of the Agricultural Subcommittee has generated material for this section and should continue to do so.*

### Fundamental assurances:

- The plan should respect and protect the rights of property owners.
- All land or easements purchased by the implementer of the plan must be from willing sellers. Eminent domain cannot be used.
- The plan should assume that agricultural lands not purchased for conservation will not necessarily continue to be operated and to function as they do now.

### Neighboring landowner assurances:

- The plan must consider the interests of property owners adjacent to HCP/NCCP Preserves. Such land owners should be offered assurances that any proliferation of endangered species on the Preserves will not hinder their existing operations (i.e., beyond conditions before the Preserves are established).
- Questions to be worked out: “opt-in” vs. “opt-out” (i.e., whether all neighboring lands are automatically covered and landowners can choose to opt out, or whether all neighboring lands must choose to receive protection) and how the pre-preserve baseline of endangered species is established

**Financial assurances:**

- HCP/NCCP fees and other funding sources must fully fund the cost of land acquisition and maintenance, but must not be so high as to discourage development.
- The plan should provide the option of purchasing either conservation easements or fee title, but, given the limited use of easements in this area to date, the economic analysis should be fiscally conservative and assume that easement purchases will be rare.
- The plan will operate in and affect the local real estate market. This role must be undertaken sensitively to avoid significant disruptions of the private marketplace.

**Agricultural assurances:**

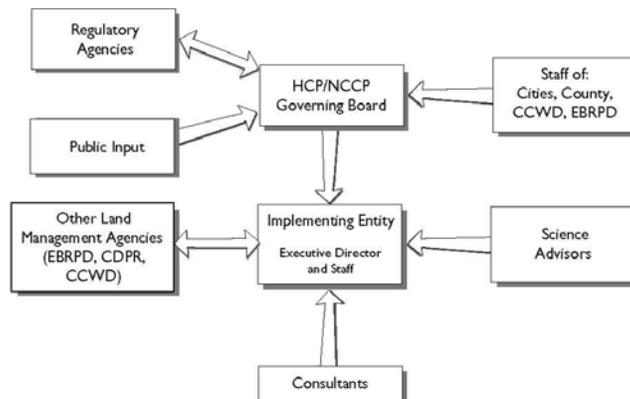
- The plan should contribute to keeping grazing viable, both as an economical agricultural activity and as a necessary habitat and species management tool.
- Lands conserved for habitat may constitute an increasingly significant portion of the agricultural resource in the area. Land management practices must maximize the compatibility of agriculture with conservation, avoid all unnecessary restrictions of agricultural operations, and generally support the viability of agriculture in East County.
- The plan will include a provision to allow for a transfer of agricultural conservation easements to lands with equal or greater biological value to allow for flexibility in future agricultural operations

**VII Implementing Entity**

**General Principles discussed (but not necessarily recommended) by Coordination Group:**

- The Working Draft Plan is quite flexible with respect to the structure of the Implementing Entity (IE). The IE is given the flexibility to evolve “organically” over time to develop structures and relationships necessary at different phases of the implementation process.
- The Implementing Entity is likely to act through partnerships and to rely on the experience and resources of existing institutions. For instance, it is foreseeable that the Implementing Entity may not actually own any of the lands purchased according to the requirements of the plan, relying instead.
- Flexibility in the structure of the IE must not compromise its ability to meet its requirements under the plan. If responsibilities are passed on to other organizations (e.g., for land management), this must be done in a binding and effective manner.

Figure 7.1: Working Draft Organizational Structure for Implementation



## VIII Funding to Implement HCP/NCCP

### Costs:

The preliminary cost estimates for implementing the HCP/NCCP have been estimated both for the Preliminary Draft Initial Permit Area and for the Preliminary Draft Maximum Permit Area. Cost estimates include the costs of land acquisition, land management, restoration, monitoring, administration and other actions required by the Implementing Entity over the 30 year life of the Plan. Detailed information on these estimates is provided in Chapter 8 and in Appendix g. The preliminary grand total estimates are:

Preliminary Draft Initial Permit Area  
\$233 million

Preliminary Draft Maximum Permit Area  
\$287 million

### Funding:

Funding scenarios have been developed in parallel with the cost estimation process and have assumed an overall implementation cost of \$300 million (which now appears slightly high, but the Plan is not finalized yet...). Additional detail on the funding strategy may be rfound in Chapter 8 and in Appendix H. The 2 scenarios under consideration are described below.

#### Hypothetical Funding Scenarios and Funding Gap Analysis

Item	Scenario 1: No Funding Gap	Scenario 2: “Fair Share” Apportionment
Total Plan Costs	\$300m	\$300m
Non-Fee Funding		
Potential Existing Sources	\$70m	\$70m
Contra Costa Open Space Funding Measure*	<u>\$30m</u>	<u>\$30m</u>
Total Non-Fee Funding	\$100m	\$100m
Remaining	\$200m	\$200m
Fee per Acre**	\$18,000	\$11,000
Fee Funds	\$200m	\$120m
Fee % of Total Cost	67%	40%
<b>Funding Gap</b>	<b>\$0</b>	<b>\$80m</b>

\* Open Space Measure must pass for these funds to be available.

\*\* The question of whether to scale fees based on type of habitat impacted has not yet been addressed. Preliminary fee per acre calculations are rough estimates of what the fee might be for impacts to natural lands if agricultural impacts were charged 50% as much.

## IX Regulatory Assurances

*This section will summarize & expand on key assurances such as described in principles 6 and 7.*

### **No Surprises Assurances:**

- The permittees will obtain “No Surprises” assurances so that the implementing entity will not be responsible for additional land, water, money, or other restrictions beyond that provided in the plan for any unforeseen circumstances or changed circumstances not provided for in the plan.
- The unlisted covered species are addressed in the plan as if they were listed, so if the unlisted covered species are listed in the future, the permit will be amended to include these species with no additional mitigation requirements.
- The plan should not impose costs of any contingent mitigation on private property owners. However, the plan may include inflation corrections in the mitigation fee, different fees for different types of impacts, and assurances that funding keeps pace with habitat protection benchmarks established in the plan.

## IX Amendment

*Consideration of the amendment process may help us balance the desire to resolve all issues in the plan with the need to maintain some flexibility over the long term.*

## X Next Steps and Schedule

January 31, 2004	Comments requested from Stakeholders on Preliminary Working Draft HCP/NCCP
Spring 2004	Draft HCP/NCCP, EIR/EIS, and Implementation Agreement
Fall 2004	Final Draft HCP/NCCP, EIR/EIS, and Implementation Agreement and local agency decisions on approving the Plan
Spring 2005	Expected Completion of Wildlife Agency Review and Permit Issuance
Spring 2005	Local agency’s form an Implementing Entity (likely a JPA of permit holders) and likely adopt Implementing Ordinance