



EAST CONTRA  
COSTA COUNTY  
HABITAT  
CONSERVANCY

City of Brentwood

City of Clayton

City of Oakley

City of Pittsburg

Contra Costa County

# GOVERNING BOARD

## REGULAR MEETING

Wednesday, January 28, 2009  
10:00 am

Note change of meeting  
location and start time!

Los Medanos College  
Community Room, inside the Library Facility  
2700 East Leland Road, Pittsburg, CA

### AGENDA

- 1) **Introductions. Determine process for selecting Chair and Vice-Chair and determine who will hold these positions in this and future years.**
- 2) **Public Comment** on items that are not on the agenda (public comment on items on the agenda will be taken with each agenda item).
- 3) **Consider approving the Meeting Record from the East Contra Costa County Habitat Conservancy (“Conservancy”) Governing Board Regular Meeting of December 17, 2008.**
- 4) **Consider the following actions related to extending take coverage to Pacific Gas and Electric Company (PG&E) for Contra Costa--Las Positas Transmission Line Reconductoring Project:**
  - a) Consider approving Initial Study & Mitigated Negative Declaration for the project;
  - b) Consider authorizing staff to execute the Participating Special Entity Agreement with Pacific Gas & Electric Company (PG&E) for take coverage of temporary impacts associated with replacing transmission lines on the existing Contra-Costa—Las Positas Transmission Line.
- 5) **Consider the following actions related to legislative matters:**
  - a) Consider approving 2009 Legislative Platform;
  - b) Consider approving Resolution 2009-01 requesting the U.S. Congress increase overall funding of U.S. Fish and Wildlife Service Cooperative Endangered Species Fund by approximately \$50 million in the Fiscal Year 2010 Interior and Related Agencies Appropriations bill;
  - c) Consider authorizing measures to communicate the Platform and support working collaboratively with organization across California.

(continued)

## Adjourn to Closed Session

**6) Closed Session: Conference With Real Property Negotiators**

Property: APN 007-020-013, (Briones Valley Rd, Brentwood area)

Agency Negotiators: John Kopchik and Abby Fateman

Negotiating Parties: East Contra Costa County Habitat Conservancy and East Bay Regional Park District

Under negotiation: payment terms

**7) Closed Session: Conference With Real Property Negotiators**

Property: APN 080-080-002, (Morgan Territory Road, Contra Costa County)

Agency Negotiators: John Kopchik and Abby Fateman

Negotiating Parties: East Contra Costa County Habitat Conservancy and East Bay Regional Park District

Under negotiation: payment terms

## Reconvene Open Session

**8) Report on any actions taken in Closed Session.**

**9) Adjourn.**

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

*The Conservancy will provide reasonable accommodation for persons with disabilities planning to participate in this meeting who contact staff at least 24 hours before the meeting.*

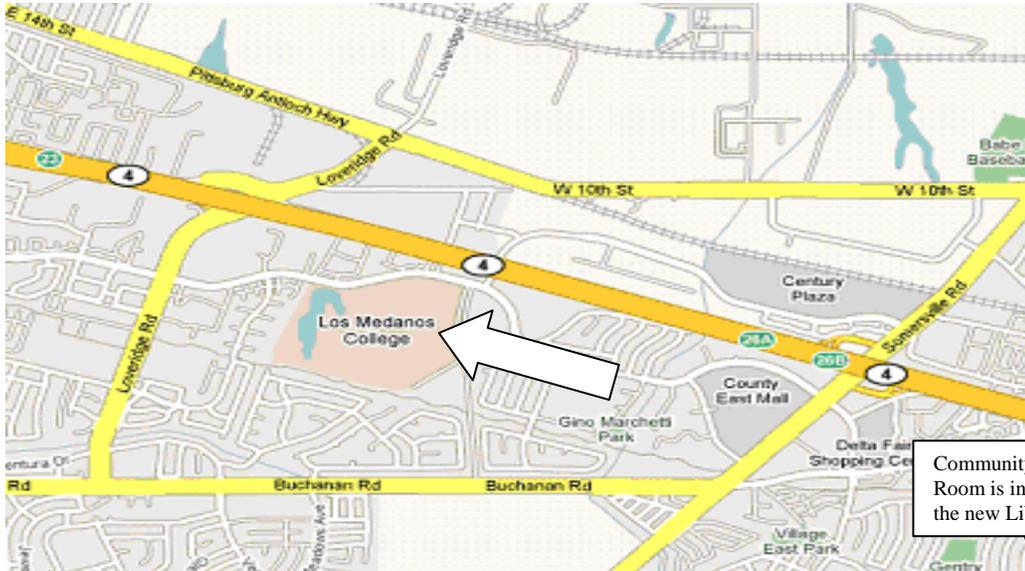
# Los Medanos College

2700 E. Leland Rd, Pittsburg CA, 94565 (Community Room in the new Library)

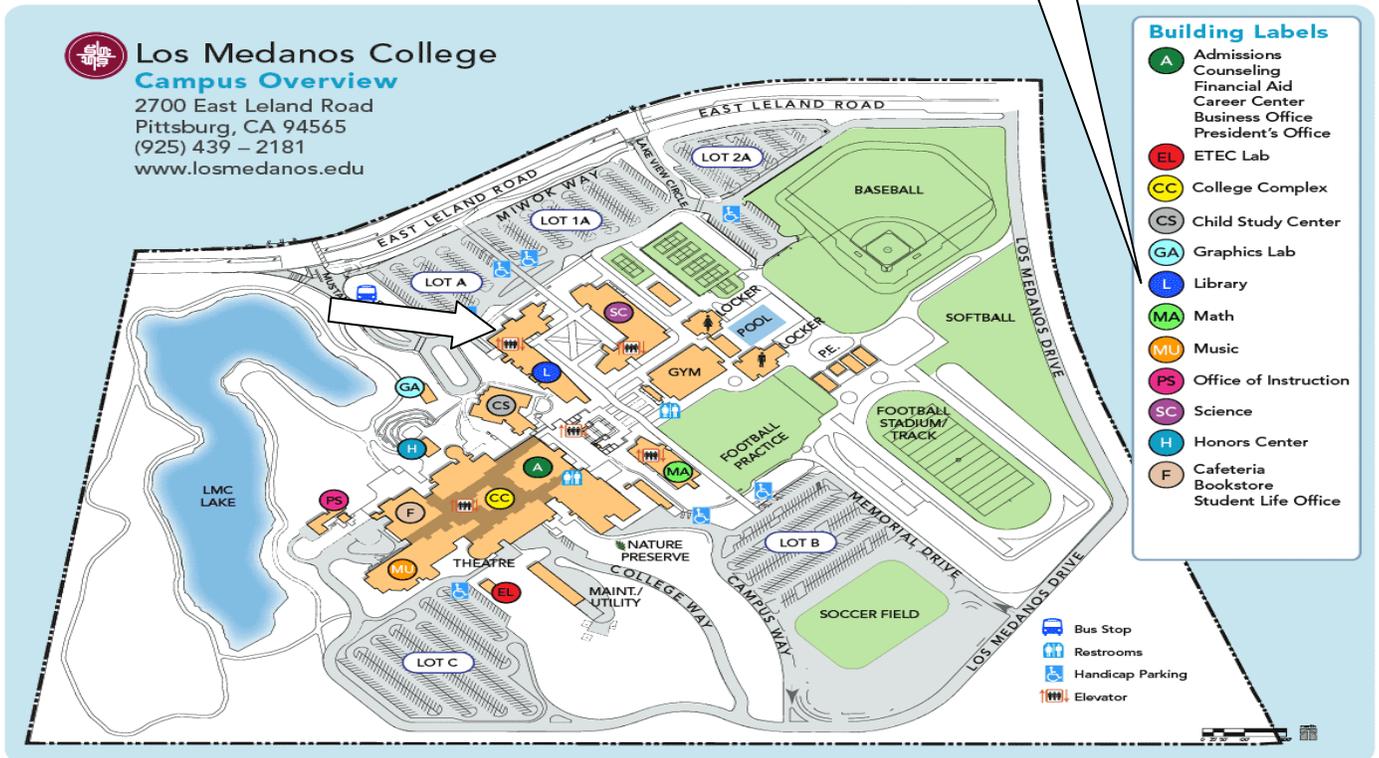
**From Martinez:** Take State Highway 4 East. Take the Loveridge Road exit and turn right onto Loveridge Road. Turn left onto Leland Road. Turn right at the entrance to LMC and park in parking lot A (as shown in the map).

**From Brentwood:** Take State Highway 4 West. Take the Loveridge Road exit and proceed right around the loop and turn right onto Loveridge Road. Turn left onto Leland Road. Turn right at the entrance to LMC and park in parking lot A (as shown in the map).

**Parking at LMC:** Please find available parking in Lot A on campus (see map below). A parking pass is required for all visitors. A pass can be purchased for \$2 (make sure you have \$2 in quarters) at any of the kiosks located throughout the parking lot. Overflow parking is available in Lots B & C.



Community Room is inside the new Library.



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**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY**

**DATE:** January 28, 2009  
**TO:** Governing Board  
**FROM:** Conservancy Staff  
**SUBJECT:** Determine process for selecting Chair and Vice-Chair and determine who will hold these positions in this and future years.

**RECOMMENDATION**

DETERMINE process for selecting Chair and Vice-Chair and determine who will hold these positions in this and future years.

**DISCUSSION**

Clayton Mayor Gregg Manning served as the Chair of the Governing Board from time of the Board's first meeting in May of 2007 until December 2008. Contra Costa County Supervisor Mary Piepho served as the Vice Chair for the same period. Mayor Manning's term on the Clayton City Council expired in December when he did not seek reelection. The Clayton City Council appointed Hank Stratford as their new representative to the Governing Board.

At the December 17, 2008 meeting the Governing Board elected Supervisor Mary Piepho as Chair and Councilmember Bruce Connelley as Vice Chair. At that time it was requested that a system for rotating Chair and Vice Chair be established. A number of proposals are listed below:

- 1) Chair and Vice Chair change at the last meeting of the Governing Board each year. These positions rotate by some pre-determined method (such as alphabetically by jurisdiction: Brentwood, Clayton, Contra Costa County, Oakley, Pittsburg). The Vice Chair one year would rotate to the Chair position the subsequent year.
- 2) Chair and Vice Chair are elected at the last meeting of the year of the Governing Board (with no predetermined order).

CONTINUED ON ATTACHMENT: \_\_\_\_\_ YES  
ACTION OF BOARD ON \_\_\_\_\_ APPROVED AS RECOMMENDED \_\_\_\_\_  
OTHER \_\_\_\_\_

**VOTE OF BOARD MEMBERS**

\_\_\_ UNANIMOUS  
AYES: \_\_\_\_\_  
NOES: \_\_\_\_\_  
ABSENT: \_\_\_\_\_  
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 KUTSURIS, SECRETARY OF THE EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY*

BY: \_\_\_\_\_, DEPUTY

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**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY**

**DATE:** January 28, 2009  
**TO:** Governing Board  
**FROM:** Conservancy Staff  
**SUBJECT:** Meeting Record for December 17, 2008 Governing Board Meeting

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**RECOMMENDATION**

Consider approving the Meeting Record from the East Contra Costa County Habitat Conservancy (“Conservancy”) Governing Board Regular Meeting of December 17, 2008.

**DISCUSSION**

Please find the draft meeting record attached.

CONTINUED ON ATTACHMENT:  X  YES  
ACTION OF BOARD ON \_\_\_\_\_ APPROVED AS RECOMMENDED \_\_\_\_\_  
OTHER \_\_\_\_\_

**VOTE OF BOARD MEMBERS**

UNANIMOUS  
AYES: \_\_\_\_\_  
NOES: \_\_\_\_\_  
ABSENT: \_\_\_\_\_  
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 KUTSURIS, SECRETARY OF THE EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY*

BY: \_\_\_\_\_, DEPUTY

**Draft Meeting Record**

East Contra Costa County Habitat Conservancy  
 Governing Board Meeting  
 December 17, 2008

**1) Introductions. Elect Chair and Vice Chair.**

***Governing Board members in attendance were:***

Mary Piepho	Supervisor, Contra Costa County (Chair)
Erick Stonebarger	Councilman, City of Brentwood
Bruce Connelley	Mayor, City of Oakley (Vice Chair)
Hank Stratford	Councilman, City of Clayton
Will Casey	Councilman, City of Pittsburg

***Other Attendees:***

Joe Ciolek	Ag and Natural Resources Trust of Contra Costa
Liam Davis	California Department of Fish and Game
David Frazier	Supervisor Federal Glover’s Office
Suzanne Gilmore	California Department of Fish and Game
Greg Manning	City of Clayton
Mark Mueller	Contra Costa Water District
Brad Olson	East Bay Regional Park District
Ian Swift	Contra Costa Water District

***Conservancy Staff members in attendance were:***

Abby Fateman	Conservancy Staff
John Kopchik	Conservancy Staff

A new Chair and Vice Chair were elected. Supervisor Mary Piepho is the new Chair, and Bruce Connelley is the new Vice Chair of the Conservancy. These elections were made unanimously (5-0).

**2) Public Comment.** Greg Manning commended the Board on their efforts, stated that the work was important, thanked John Kopchik and Abby Fateman for their work as staff to the East Contra Costa County Habitat Conservancy and indicated that it had been a pleasure serving as a member and Chair. Supervisor Piepho thanked Mr. Manning for his years of service.

**3) Consider approving the Meeting Record from the East Contra Costa County Habitat Conservancy (“Conservancy”) Governing Board Regular Meeting of September 24, 2008.** The Board approved the Meeting Record. (5-0)

**4) Consider update on completed and planned wetland restoration projects:**

- a) **Vasco Caves-Souza 1 HCP Pond Project;**
- b) **Lentzner Springs Wetland Restoration Project; and**
- c) **Souza 2 Stream and Wetland Restoration Project.**

Abby Fateman provided an update on all three projects. The construction of the Vasco Caves – Souza I Pond project and the Lentzner Springs Wetland project are complete.

The Conservancy is moving into the maintenance and monitoring phases with both of these projects. The Souza II Stream and Wetland project is still in design phase. The conceptual design for work anticipated to start in late summer was presented. The concept design included information from a variety of background studies including: hydrology, historical ecology, soils, topography and vegetative cover. The Board accepted the updates. (5-0)

- 5) **Consider the following actions related to extending take coverage:** John Kopchik presented the two proposed actions related to extending take coverage.
- a. **Consider authorizing staff to execute a Participating Special Entity agreement with the State Route 4 Bypass Authority for the Segment 2, Phase 2 Project.** The Board authorized staff to execute a Participating Special Entity Agreement with the State Route 4 Bypass Authority for the Segment 2, Phase 2 Project. (5-0)
  - b. **Consider update on request by PG&E for take coverage for temporary impacts associated with replacing conductors on the Contra Costa--Las Positas Transmission Line.** The Board discussed the proposal and expressed concern about subsidizing the contribution to recovery aspects of the HCP for an application such as this. The Board directed staff to request that PG&E make a contribution to recovery on the order of 10% of the total fees due Final action on the item will occur at the January 2009 meeting.
- 6) **Consider the following actions on Conservancy finances.**
- a. **Consider approving the 2009 Conservancy Budget.** The Board reviewed the 2009 Conservancy Budget. The Board asked that in future years that a complete history of prior year allocations be maintained. Questions were raised regarding the State and Federal grant funds that have been awarded to the Conservancy. John Kopchik explained that the Federal funding can be considered secure, but that State funds are less certain (and are not included in the funding totals). The Board approved the budget, after correcting minor errors in the footnotes on page one where the date should have been 2009. (5-0)
  - b. **Consider authorizing staff to execute an agreement with the East Bay Regional Park District for the provision of specific land acquisition and wetland restoration services during 2009.** The Board authorized staff to execute the agreement with the East Bay Regional Park District. (5-0)
  - c. **Consider authorizing staff to execute contracts for on-going biological and conservation planning services with Jones and Stokes for \$220,000, and with Monk and Associates for \$20,000. Consider extending duration of existing contract with H.T. Harvey & Associates to June 30, 2009.** Board members asked questions about whether the contracts were as lean as possible considering the overall economic situation and staff indicated that the contract allocations were flat as compared with 2008 yet the amount of work to be done was larger and that the Jones and Stokes contract was for six months to facilitate mid-year adjustment in workload. The Board authorized staff to execute new contracts with Jones and Stokes and Monk and Associates. The Board approved the extension of the existing contract with H.T. Harvey and Associates. (5-0)
  - d. **Consider authorizing staff to execute a contract for legal services with Resources Law Group for \$90,000.** The Board authorized staff to execute a contract with Resources Law Group. (5-0)

- 7) **Consider approving the 2009 Conservancy Work Plan.** The Board reviewed and approved the 2009 Conservancy Work Plan. (5-0)
- 8) **Consider action on applications received for two vacant positions on the Public Advisory Committee (suburban/rural residents category).** The Board reviewed the applications. The Board indicated a preference to represent areas not already represented on the PAC. The Board also clarified that the composition was to be reviewed annually. The Board selected two applicants to serve as official members for the Public Advisory Committee: Mary F. Dahlquist from Pittsburg and Sharon L. Osteen of Clayton, CA. (5-0)
- 9) **Consider action on proposed protocol for covering communication towers under the HCP/NCCP.** John Kopchik presented the proposed protocol for covering communication towers under the HCP/NCCP. The Board approved the protocol (5-0).

### Adjourn to Closed Session

**10) Closed Session: Conference With Real Property Negotiators**

Property: APN 007-020-013 (Briones Valley Rd, Brentwood area)

Agency Negotiators: John Kopchik and Abby Fateman

Negotiating Parties: East Contra Costa County Habitat Conservancy and East Bay Regional Park District

Under negotiation: payment terms

**11) Closed Session: Conference With Real Property Negotiators**

Property: APNs 005-120-007, 005-120-008, 005-130-001, 005-090-006, 005-100-005, 005-140-003, 005-150-003, 005-150-004, 005-160-001, 005-160-004 (Vasco Road area)

Agency Negotiators: John Kopchik and Abby Fateman

Negotiating Parties: East Contra Costa County Habitat Conservancy, California Wildlife Foundation and East Bay Regional Park District

Under negotiation: payment terms

### Reconvene Open Session

**Report on any actions taken in Closed Session.** The Chair reported that the Governing Board had taken reportable action on item 11. The Board authorized staff to execute an agreement with the California Wildlife Foundation and the East Bay Regional Park District to cooperate in the acquisition of the subject property.

**12) Adjourn.**

**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY**

**DATE:** January 28, 2008  
**TO:** Governing Board  
**FROM:** Conservancy Staff  
**SUBJECT:** Agreement with Pacific Gas & Electric Company (PG&E) for Take Coverage

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**RECOMMENDATION**

- A) CONSIDER and ADOPT the proposed “PG&E Contra Costa—Las Positas 230 kV Transmission Line Reconductoring Project Initial Study & Negative Declaration,” dated December 2008, prepared in accordance with the California Environmental Quality Act (CEQA) and CONSIDER REQUIRING additional mitigation measures to address comments received.
- B) AUTHORIZE staff to execute the Participating Special Entity Agreement with Pacific Gas & Electric Company (PG&E) for take coverage of temporary impacts associated with replacing transmission lines on the existing Contra-Costa—Las Positas Transmission Line (“Project”).

**DISCUSSION**

**Item A: California Environmental Quality Act (CEQA):** Conservancy approval of an agreement with PG&E to grant take coverage for the Project is a discretionary action requiring compliance with CEQA. As the Conservancy is the only agency required to take such discretionary action, the Conservancy is the lead agency pursuant to CEQA. The Conservancy prepared a Draft Initial Study and Negative Declaration for the Project (see document attached: “PG&E Contra Costa—Las Positas 230 kV Transmission Line Reconductoring Project Initial Study & Negative Declaration” or “Negative Declaration”). Conservancy staff provided copies of the Negative Declaration and a public notice to the State Clearinghouse and others, published notice in local newspapers, filed a Notice of Intent with County Clerks’ offices and made the Negative Declaration and public notice available on the Conservancy website. Public notices were published on December 23, 2008. The notices provided a comment deadline of 5 pm on January 23, 2009. One comment letter was received from the California Department of Transportation (attached).

CONTINUED ON ATTACHMENT: <input checked="" type="checkbox"/> YES	
ACTION OF BOARD ON _____ APPROVED AS RECOMMENDED _____	
OTHER _____	
<b><u>VOTE OF BOARD MEMBERS</u></b>	
___ UNANIMOUS	
AYES: _____	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 _____ <i>CATHERINE KUTSURIS, SECRETARY OF THE EAST CONTRA COSTA COUNTY                  HABITAT CONSERVANCY</i>
NOES: _____	
ABSENT: _____	
ABSTAIN: _____	
	BY: _____, DEPUTY

The Negative Declaration analyzed all potential environmental impacts of the Project and determined that potentially significant impacts were possible in the areas of Biological Resources, Cultural Resources, Noise and Air Quality. However, the Negative Declaration included a number of mitigation measures in these areas and concluded that the Project will not have a significant effect on the environment in this case because revisions to the Project have been made or agreed to by PG&E.

The comment letter from the California Department of Transportation (“Department”) offers the following three comments: (1) detours are needed before closing State Highways or Routes, (2) that a staff archaeologist be immediately consulted if cultural resources are discovered within State Right of Way, and (3) that an encroachment permit be pursued with the Department. Staff recommends requiring additional mitigation measures for the project in response to items 2 and 3. No State Highway or Route will be closed for the Project so no detours are necessary. The applicant was prepared to comply with item 2. Regarding item 3, encroachment permit applications are already in process to the department and other agencies that require such permits. However, staff recommends calling these items out as formal mitigation measures. The recommended additional mitigation measures are:

MM-CUL-04: If ground-disturbing activities occur within the State’s Right of Way and there is an inadvertent archaeological or burial discovery, the Department of Transportation’s Office of Cultural resource Studies in District 4 shall immediately be contacted.

MM-TRA-01: Applicant shall apply for an encroachment permit from the Department of Transportation and from all other entities that require such permits for construction of the Project.

**Item B:** PG&E has applied to the East Contra Costa County Habitat Conservancy for incidental take coverage for potential impacts to protected species pursuant to East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan. PG&E is proposing to replace electrical transmission wires on (e.g. reconductor) the Contra Costa-Las Positas 230 Kilovolt (kV) Line and the Contra Costa-Lone Tree 230 kV Line (Project). The Contra Costa-Las Positas 230 kV Line and the Contra Costa-Lone Tree 230 kV Line both originate at the Contra Costa Power Plant located in northern Contra Costa County just north of City of Antioch and extend south approximately 5.6 miles to the Lone Tree Substation, also located in Contra Costa County. The Contra Costa-Las Positas 230 kV Line then continues south for approximately 18.4 miles to the Las Positas Substation in Alameda County. The project includes work at approximately 131 existing towers along the line and at approximately ten temporary pull and tension sites (pull sites) interspersed along the length of the corridor. See Figure 1 and the Project Description in the Negative Declaration for more information on the Project and its location.

Pacific Gas & Electric Company (PG&E) is requesting take authorization for this project from the Conservancy as a Participating Special Entity (PSE). Chapter 8.4 of the East Contra Costa County Habitat Conservation / Natural Community Conservation Plan (HCP/NCCP) provides that entities with projects not subject to the jurisdiction of the local land-use agencies participating in the HCP/NCCP may request coverage under the HCP/NCCP from the

Conservancy. In order to receive permit coverage under the HCP/NCCP, the Conservancy and the PSE must enter into an agreement obligating compliance with the applicable terms and conditions of the Implementing Agreement, the HCP/NCCP, and the state and federal permits. The agreement must describe and bind the PSE to perform all avoidance, minimization, and mitigation measures applicable to the project.

Conservancy staff has worked with PGE to prepare a draft PSE Agreement for this Project (attached). Attached as Exhibit 1 to the Agreement is the completed Application and Planning Survey Report for the Project (Report). The Exhibit 1 documents the results of the planning-level surveys conducted at the locations where temporary impacts will occur and describes the specific pre-construction surveys, avoidance, and mitigation measures that are required in order for the project to be covered. Attached to Exhibit 1 are approximately 60 detailed maps showing land cover and other detailed information at each of the temporary impact locations. These detailed maps are available on CD-ROM. Exhibit 2 to the Planning Survey Report is the Fee Calculator Worksheet.

**Key provisions of the Agreement:**

- The project will have a total of 66.93 acres of temporary impacts within the HCP/NCCP Inventory Area, with the majority to occur in urban land cover exempt from payment of HCP/NCCP fees. A total of 22.36 acres of non-urban land cover will be temporarily disturbed within the project area. There will be no impacts to wetland land cover types. Consistent with Chapter 9.3.2 of the HCP/NCCP, PG&E has agreed to mitigate for temporary impacts by paying the full HCP/NCCP Development Fee for the acreage of direct temporary impacts rather than attempt to define, in consultation with the wildlife agencies, an area of direct and indirect impacts and pay a temporary impact fee on that acreage
- As set forth in the Agreement (page 6), PG&E will pay the Conservancy \$540,446.19, which amount includes all HCP/NCCP mitigation fees necessary for the Project as well as a contribution to recovery of endangered species. The overall payment amount includes the following components:
  - Temporary impact fees: \$491,314.72
  - Contribution to recovery of endangered species: \$49,131.47
- Fees must be paid before work commences. PG&E anticipates starting work on March 16, 2009. HCP/NCCP fee amounts are likely to go down on March 15, 2009, but PG&E has agreed not to request a fee adjustment in 2009.
- The agreement provides that the Bypass Authority will reimburse the Conservancy for staff and consultant costs associated with processing the Bypass Authority's request for take coverage, up to a maximum reimbursement of \$20,000.
- The Agreement requires a number of detailed measures to avoid impacts to covered plants, including use of mats under vehicle wheels in certain circumstances to distribute weight more evenly.

**Next steps:** If the Conservancy Board authorizes staff to sign the PSE Agreement, key next steps in granting take coverage would be as follows:

- Wildlife agencies review the agreement and are asked to concur with the Conservancy's determination that the agreement imposes all applicable conditions

of the HCP/NCCP onto the project. Note: Participating Special Entity agreements, unlike the granting of take authorization by a Joint Powers Authority Permittee, requires wildlife agency concurrence.

- PG&E pays all required fees.
- The Conservancy issues PG&E a Certificate of Inclusion and take coverage is in effect, subject to the terms of the PSE Agreement.
- PG&E conducts pre-construction surveys to determine which species specific avoidance and minimization measures and avoidance measures and constructs the project.

**Attachments:**

- Public Notice on Negative Declaration
- Negative Declaration (large document in separate attachment)
- Department Comment letter
- PSE Agreement, including:
  - Main body of agreement
  - Exhibit 1: Planning Survey
    - Main body of planning survey
    - Attachment D: Fee Calculator
    - Note: Attachments A to C include more than 60 color maps and are available on CD-ROM



EAST CONTRA  
COSTA COUNTY  
HABITAT  
CONSERVANCY

*City of Brentwood*

*City of Clayton*

*City of Oakley*

*City of Pittsburg*

*Contra Costa County*

(925) 335-1290

December 23, 2008

## NOTICE OF PUBLIC REVIEW AND INTENT TO ADOPT A PROPOSED MITIGATED NEGATIVE DECLARATION

Pursuant to the State of California Public Resources Code and the "Guidelines for Implementation of the California Environmental Quality Act," as amended to date, this is to advise you that the East Contra Costa County Habitat Conservancy has prepared an Initial Study and Mitigated Negative Declaration on the following Project:

### **PG&E Contra Costa-Las Positas 230 kV Transmission Line Reconductoring Project**

**Summary:** Pacific Gas and Electric Company (PG&E) has applied to the East Contra Costa County Habitat Conservancy for incidental take coverage for potential impacts to protected species pursuant to East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan. PG&E is proposing to replace electrical transmission wires on (e.g. reconductor) the Contra Costa-Las Positas 230 Kilovolt (kV) Line and the Contra Costa-Lone Tree 230 kV Line (Project). The Contra Costa-Las Positas 230 kV Line and the Contra Costa-Lone Tree 230 kV Line both originate at the Contra Costa Power Plant located in northern Contra Costa County just north of City of Antioch and extend south approximately 5.6 miles to the Lone Tree Substation, also located in Contra Costa County. The Contra Costa-Las Positas 230 kV Line then continues south for approximately 18.4 miles to the Las Positas Substation in Alameda County. The project includes work at approximately 131 existing towers along the line and at approximately ten temporary pull and tension sites (pull sites) interspersed along the length of the corridor. The Project requires a discretionary action (a Participating Special Entity Agreement) on the part of the East Contra Costa County Habitat Conservancy (Lead Agency) to provide incidental take coverage pursuant to East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan.

The Initial Study and Mitigated Negative Declaration conducted for this Project identifies that the potential environmental effects of the Project are less than significant. This is largely due to the variety of control measures built into the project.

**Document Review:** A copy of the negative declaration and related project documents are on file and may be reviewed in the offices of the East Contra Costa County Habitat Conservancy which are located within the offices of the Contra Costa County Department Conservation and Development, 651 Pine Street, North Wing, Fourth Floor, Martinez, during regular office hours (M-F, 8 am to 5 pm; closed on holidays). The document is also available for review online at:  
[www.cocohcp.org](http://www.cocohcp.org)

Notice of Intent

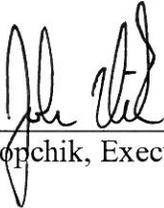
PG&E Contra Costa-Las Positas 230 kV Transmission Line Reconductoring Project

Page 2 of 2

**Public Comment Period:** The period for accepting comments on the adequacy of the environmental documents begins on December 23, 2008 and ends on January 23, 2009. Any comments should be in writing and received at the following address by 5:00 pm on January 23, 2009:

John Kopchik  
East Contra Costa County Habitat Conservancy  
c/o Contra Costa County Department of conservation and Development  
651 Pine Street, North Wing, 4th Floor  
Martinez, CA 94553

**Public Hearing:** It is anticipated that the proposed Initial Study and Mitigated Negative Declaration will be considered for possible adoption by the Governing Board of the East Contra Costa County Habitat Conservancy on January 28, 2009. Please contact John Kopchik of the East Contra Costa County Habitat Conservancy at (925) 335-1227 if you wish to receive a notice of this public hearing.



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John Kopchik, Executive Director

cc: Contra Costa County Clerk's Office

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, Governor

**DEPARTMENT OF TRANSPORTATION**

111 GRAND AVENUE  
P. O. BOX 23660  
OAKLAND, CA 94623-0660  
PHONE (510) 622-5491  
FAX (510) 286-5559  
TTY 711



*Flex your power!  
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January 22, 2009

BAG0031  
SCH#2008122095  
ALA-580-10.29  
CC-4-R29.47

Mr. John Kopchik  
East Contra Costa County Habitat Conservancy  
651 Pine Street, 4<sup>th</sup> Floor NW  
Martinez, CA 94553

Dear Mr. Kopchik:

**PG & E Contra Costa-Las Positas 230 kV Transmission Line Reconductoring Project -  
Mitigated Negative Declaration (MND)**

Thank you for including the California Department of Transportation (Department) in the environmental review process for the PG & E Contra Costa-Las Positas 230 kV Transmission Line Reconductoring Project. The following comments are based on the MND.

Any required roadway improvements should be completed prior to issuance of project occupancy permits. An encroachment permit is required when the project involves work in the State's right of way (ROW). Therefore, we strongly recommend that the East Contra Costa County Habitat Conservancy, as the lead agency ensure resolution of the Department's concerns prior to submittal of the encroachment permit application; see the end of this letter for more information regarding the encroachment permit process.

***Traffic Safety***

Before closures of freeway and state routes are implemented, detours are needed to handle through traffic.

***Cultural Resources***

The Department is in agreement with the findings and recommendations in the Cultural Resources Section of the MND. However, should ground disturbing activities take place within State ROW as part of this project and there is an inadvertent archaeological or burial discovery, the Department Office of Cultural Resource Studies in District 4 shall immediately be contacted at (510) 286-5618. A staff archaeologist will evaluate the finds within one

Mr. John Kopchik/East Contra Costa County Habitat Conservancy  
January 22, 2009  
Page 2

business day of being contacted.

**Permits**

Encroachment permits - Any work or traffic control within the State's ROW will require an encroachment permit that is issued by the Department. Traffic-related mitigation measures will be incorporated into the construction plans during the encroachment permit process. See the following website link for more information:

<http://www.dot.ca.gov/hq/traffops/developserv/permits/>

To apply for an encroachment permit, submit a completed encroachment permit application, environmental documentation, and five (5) sets of plans which clearly indicate State ROW to the address at the top of this letterhead, marked ATTN: Michael Condie, Mail Stop #5E.

Should you have any questions regarding this letter, please contact Lisa Courington of my staff via email at [lisa.ann.courington@dot.ca.gov](mailto:lisa.ann.courington@dot.ca.gov) or by phone at (510) 286-5505.

Sincerely,



LISA CARBONI  
District Branch Chief  
Local Development - Intergovernmental Review

c: State Clearinghouse

**AGREEMENT IMPLEMENTING THE EAST CONTRA COSTA COUNTY  
HABITAT CONSERVATION PLAN/NATURAL COMMUNITY  
CONSERVATION PLAN AND GRANTING TAKE AUTHORIZATION**

**BETWEEN**

**EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY, Implementing  
Entity, and PACIFIC GAS & ELECTRIC COMPANY, a Participating Special  
Entity**

**1.0 PARTIES**

This Agreement is made and entered into by the East Contra Costa County Habitat Conservancy (“Conservancy”) and Pacific Gas & Electric Company, (“Participating Special Entity” or “PSE”) as of the Effective Date.

**2.0 RECITALS**

The Parties have entered into this Agreement in consideration of the following facts:

- 2.1** The East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (“HCP/NCCP,” or “Plan”) is intended to provide a comprehensive framework to protect natural resources in eastern Contra Costa County, while improving and streamlining the environmental permitting process for certain projects that would cause impacts on endangered and threatened species. The primary policy priority of the Plan is to provide comprehensive species, wetlands, and ecosystem conservation and contribute to recovery of endangered and threatened species within East Contra Costa County while balancing open space, habitat, agriculture, and urban development. To that end, the Plan describes how to avoid, minimize, and mitigate, to the maximum extent practicable, impacts on Covered Species and their habitats while allowing for certain development and other activities in selected regions of the County and the Cities of Pittsburg, Clayton, Oakley, and Brentwood.
- 2.2** The Conservancy is a joint powers authority formed by its members, the County of Contra Costa (“County”), the City of Pittsburg (“Pittsburg”), the City of Clayton (“Clayton”), the City of Oakley (“Oakley”) and the City of Brentwood (“Brentwood”), to implement the HCP/NCCP.
- 2.3** The HCP/NCCP covers approximately one-third of the County, or 174,082 acres, all in East Contra Costa County, in which impacts from certain development and other activities are evaluated, and in which conservation will occur.
- 2.4** The area covered by the HCP/NCCP has been determined to provide, or potentially provide, habitat for twenty-eight (28) species that are listed as endangered or threatened, that could in the future be listed as endangered

or threatened, or that have some other special status under federal or state laws.

- 2.5 The Conservancy has received authorization from the United States Fish and Wildlife Service (“USFWS”) under incidental take permit TE 160958-0, and the California Department of Fish and Game (“CDFG”), under incidental take permit 2835-2007-01-03, for the Take of the twenty-eight (28) special-status species and certain other species, as take is defined respectively under federal and state law, while carrying out certain development and other activities.
- 2.6 The Conservancy may enter into agreements with participating special entities that allow certain activities of theirs to be covered by the Federal Permit and the State Permit, subject to the conditions in the Implementing Agreement (“IA”), the HCP/NCCP and the Permits.
- 2.7 PSE is responsible for the Contra Costa-Las Positas 230 kV Transmission Line Reconductoring Project in order to replace transmission lines on 24 miles of the Contra Costa-Las Positas 230 kV Line and 5.6 miles of the Contra Costa-Lone Tree 230 kV Line.
- 2.8 The Conservancy has concluded, based on the terms of this Agreement and the application submitted by PSE (the “Application”), that PSE has provided adequate assurances that it will comply with all applicable terms and conditions of the IA, the HCP/NCCP, and the Permits. The Application is attached hereto as Exhibit 1 and is hereby incorporated into this Agreement by reference

### **3.0 DEFINITIONS**

The following terms as used in this Agreement will have the meanings set forth below. Terms specifically defined in FESA, CESA or NCCPA or the regulations adopted by USFWS and DFG under those statutes shall have the same meaning when used in this Agreement. Definitions used in this Agreement may elaborate on, but are not intended to conflict with, such statutory or regulatory definitions.

- 3.1 **“Agreement”** means this Agreement, which incorporates the IA, the HCP/NCCP, the Permits, and the Application by reference.
- 3.2 **“Application”** means the application submitted by the PSE in accordance with Chapter 8.4 of the HCP/NCCP, and which is attached hereto as Exhibit 1. The Application contains a cover sheet, the results of required planning surveys and the avoidance, minimization and mitigation measures that will be a condition of the PSE using Conservancy’s Permits.
- 3.3 **“Authorized Take”** means the extent of incidental Take of Covered Species authorized by the USFWS in the Federal Permit issued to the Conservancy pursuant to Section 10(a)(1)(B) of FESA, and the extent of Take of Covered Species authorized by CDFG in the State Permit issued to the Conservancy pursuant to California Fish and Game Code section 2835.

- 3.4 “**CDFG**” means the California Department of Fish and Game, a department of the California Resources Agency.
- 3.5 “**CESA**” means the California Endangered Species Act (Fish & G. Code, § 2050 et seq.) and all rules, regulations and guidelines promulgated pursuant to that Act.
- 3.6 “**Changed Circumstances**” means changes in circumstances affecting a Covered Species or the geographic area covered by the HCP/NCCP that can reasonably be anticipated by the Parties and that can reasonably be planned for in the HCP/NCCP. Changed Circumstances and planned responses to Changed Circumstances are more particularly defined in Section 12.2 of the IA and Chapter 10.2.1 of the HCP/NCCP. Changed Circumstances do not include Unforeseen Circumstances.
- 3.7 “**Covered Activities**” means those land uses and conservation and other activities described in Chapter 2.3 of the HCP/NCCP to be carried out by the Conservancy or its agents that may result in Authorized Take of Covered Species during the term of the HCP/NCCP, and that are otherwise lawful.
- 3.8 “**Covered Species**” means the species, listed and non-listed, whose conservation and management are provided for by the HCP/NCCP and for which limited Take is authorized by the Wildlife Agencies pursuant to the Permits. The Take of Fully Protected Species is not allowed. The Take of extremely rare plants that are Covered Species is allowed only as described in Section 6.3 and the IA.
- 3.9 “**Effective Date**” means the date when this Agreement is fully executed.
- 3.10 “**Federal Listed Species**” means the Covered Species which are listed as threatened or endangered species under FESA as of the Effective Date, and the Covered Species which are listed as threatened or endangered pursuant to FESA during the term of the HCP/NCCP as of the date of such listing.
- 3.11 “**Federal Permit**” means the federal incidental Take permit issued by USFWS to the Conservancy and other local agencies pursuant to Section 10(a)(1)(B) of FESA (permit number TE 160958-0), as it may be amended from time to time.
- 3.12 “**FESA**” means the Federal Endangered Species Act of 1973, as amended (16 U.S.C § 1531 et seq.) and all rules, regulations and guidelines promulgated pursuant to that Act.
- 3.13 “**Fully Protected Species**” means any species identified in California Fish and Game Code sections 3511, 4700, 4800, 5050 or 5515 that occur within the Plan Area.
- 3.14 “**HCP/NCCP**” or “**Plan**” means the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan.
- 3.15 “**Implementing Agreement**” or “**IA**” means that document attached as Appendix B to the HCP/PCCP.
- 3.16 “**Jurisdictional Wetlands and Waters**” means State and federally regulated wetlands and other water bodies that cannot be filled or altered without permits from either the U.S. Army Corps of Engineers under

section 404 of the Clean Water Act or, from the State Water Resources Control Boards under either section 401 of the Clean Water Act or the Porter-Cologne Water Quality Act, or CDFG under section 1602 of the Fish and Game Code, as further explained in Chapter 1.3.5 of the HCP/NCCP.

- 3.17 **“Listed Species”** means a species (including a subspecies, or a distinct population segment of a vertebrate species) that is listed as endangered or threatened under FESA or CESA.
- 3.18 **“Non-listed Species”** means a species (including a subspecies, or a distinct population segment of a vertebrate species) that is not listed as endangered or threatened under FESA or CESA.
- 3.19 **“Party”** or **“Parties”** means any or all of the signatories to this Agreement.
- 3.20 **“Permit Area”** means the area within the Plan Area where the Conservancy has received authorization from the Wildlife Agencies for the Authorized Take of Covered Species while carrying out Covered Activities.
- 3.21 **“Permits”** means the Federal Permit and the State Permit.
- 3.22 **“Plan Area”** means the geographic area analyzed in the HCP/NCCP, located in the eastern portion of Contra Costa County, as depicted in Figure 1-1 of the HCP/NCCP. The Plan Area is further described in detail in Chapter 1.2.1 of the HCP/NCCP. The Plan Area is also referred to as the “Inventory Area” in the HCP/NCCP.
- 3.23 **“Preserve System”** means the land acquired and dedicated in perpetuity through either a fee interest or conservation easement intended to meet the preservation, conservation, enhancement and restoration objectives of the HCP/NCCP.
- 3.24 **“Proposed Activities”** means the activities described in Exhibit 1 that will be covered by the extension of the Conservancy’s take authorization.
- 3.25 **“State Permit”** means the state Take permit issued to the Conservancy and other local agencies pursuant to Section 2835 of the California Fish and Game Code (permit number 2835-2007-01-03), as it may be amended from time to time.
- 3.26 **“Take”** has the same meaning provided by FESA and its implementing regulations with regard to activities subject to FESA, and also has the same meaning provided in the California Fish and Game Code with regard to activities subject to CESA and NCCPA.
- 3.27 **“Unforeseen Circumstances”** under the Federal Permit means changes in circumstances affecting a Covered Species or geographic area covered by the HCP/NCCP that could not reasonably have been anticipated by the Plan developers and USFWS at the time of the Plan’s negotiation and development, and that result in a substantial and adverse change in the status of a Covered Species. **“Unforeseen Circumstances”** under the State Permit means changes affecting one or more species, habitat, natural community, or the geographic area covered by the Plan that could not reasonably have been anticipated at the time of Plan development, and that

result in a substantial adverse change in the status of one or more Covered Species.

**3.28** “USFWS” means the United States Fish and Wildlife Service, an agency of the United States Department of Interior.

**3.29** “Wildlife Agencies” means USFWS and CDFG.

#### **4.0** **PURPOSES**

This Agreement defines the Parties’ roles and responsibilities and provides a common understanding of actions that will be undertaken to avoid, minimize and mitigate the effects on the Covered Species caused by the Proposed Activities, and to provide for the conservation of the Covered Species within the Plan Area. The purposes of this Agreement are to ensure implementation of each of the terms and conditions of this Agreement, and the relevant terms of the IA, the HCP/NCCP, and the Permits, and to describe remedies and recourse should either Party fail to perform its obligations as set forth in this Agreement.

#### **5.0** **AVOIDANCE, MINIMIZATION AND MITIGATION OF IMPACTS**

##### **5.1** **General Framework**

As required by FESA and NCCPA, the HCP/NCCP includes measures to avoid and minimize take of Covered Species and to conserve natural communities and Covered Species at the landscape-, habitat- and species-level. Chapter 6 of the HCP/NCCP provides further instructions to determine which avoidance and minimization measures are applicable to particular Covered Activities. PSE shall implement all applicable avoidance and minimization measures as required by the HCP/NCCP, including but not limited to those identified in Chapter 6, as described in the Application and this Agreement.

##### **5.2** **Surveys and Avoidance Measures**

Planning surveys are required prior to carrying out any Covered Activity for which a fee is collected or land in lieu of a fee is provided. PSE has submitted a planning survey report for approval by the Conservancy in accordance with Chapter 6.2.1 of the HCP/NCCP. This planning survey report is contained within the Application, which describes the results of the planning survey and describes in detail the pre-construction surveys, construction monitoring, avoidance measures and mitigation measures that apply to the Proposed Activities and shall be performed by PSE. Based on the Application, the Conservancy has determined that PSE will implement and comply with all applicable preconstruction surveys and construction monitoring requirements described in Chapters 6.2.2 and 6.2.3 of the HCP/NCCP.

### **5.3 No Take of Extremely Rare Plants or Fully Protected Species**

Nothing in this Agreement, the HCP/NCCP or the Permits shall be construed to allow the Take of extremely rare plant species listed in Table 6-5 of the HCP/NCCP (“No-Take Plant Population”) or any Fully Protected Species under California Fish and Game Code sections 3511, 4700, 4800, 5050 or 5515. PSE shall avoid Take of these species.

#### **5.3.1 Golden Eagle**

The Permits do not authorize Take of the golden eagle and PSE shall avoid Take of any golden eagle. The avoidance measures set forth in the HCP/PCCP, including but not limited to Conservation Measure 1.11, should be adequate to prevent Take of golden eagles, but the Conservancy shall notify PSE in writing of any additional or different conservation measures that are designed to avoid Take of these species and that apply to PSE. PSE shall implement all such avoidance measures to avoid Take of golden eagles.

### **5.4 Fees and Dedications**

As set forth in the Application, PSE agrees to pay the Conservancy \$540,446.19, which amount includes all HCP/NCCP mitigation fees necessary for the Proposed Activities as well as a contribution to recovery of endangered species. The overall payment amount is based on a summation of individual HCP/NCCP mitigation fees and a contribution to recovery as follows:

Development fees: \$0

Wetland mitigation fees: \$0

Temporary impact fees: \$491,314.72

Contribution to recovery of endangered species: \$49,131.47

All fees and the contribution to recovery must be paid in full before any ground-disturbance associated with the Proposed Activities occurs. If any fee or the contribution toward recovery is not paid in full during the current calendar year (2009), the amount of all fees and the contribution to recovery will be increased or decreased each following year, beginning in 2010, until such time as all fees and the contribution to recovery are paid in full. All fees and the contribution to recovery will be increased or decreased according to the fee adjustment provisions of Chapter 9.3.1 of the HCP/NCCP. The contribution to recovery will be adjusted according to the formula set forth in Chapter 9.3.1 for the wetland mitigation fee. Fee and contribution to recovery amounts will be adjusted annually on March 15, beginning in 2010. If PSE pays all fees and the contribution to recovery during the period from January 1 to March 14 in year 2010 or later, all fee and contribution to recovery amounts will be subject to the March 15 fee adjustments unless construction of the Proposed Activities has commenced by March 14. If payment is made during this period and construction does not commence before March 15, PSE will be required to submit an additional payment for any increases to fees or the contribution to recovery and will be entitled to a refund without interest for any decreases to fees or the contribution to recovery.

## **6.0 TAKE AUTHORIZATION**

### **6.1 Extension of Take Authorization to PSE**

As provided in Chapter 8.4 of the HCP/NCCP, after execution of this Agreement, payment of fees or dedication of land as set forth in Section 5.6, and receipt of the Wildlife Agencies' written concurrence that the Proposed Activity complies with the HCP/NCCP, the Permits and the IA, the Conservancy shall issue a Certificate of Inclusion to PSE that specifically describes the Authorized Take and required conservation measures and extends Take authorization under the Permits to PSE. PSE is ultimately responsible for compliance with all applicable terms and conditions of this Agreement, the IA, the HCP/NCCP and the Permits.

### **6.2 Duration of Take Authorization**

Once the Take authorization has been extended to the Proposed Activities, it shall remain in effect for a period of 15 years, unless and until the Permits are revoked by USFWS or CDFG, in which case the Take authorization may also be suspended or terminated.

## **7.0 RIGHTS AND OBLIGATIONS OF PSE**

### **7.1 Rights**

Upon the Conservancy's issuance of a Certificate of Inclusion to PSE, PSE may Take the Covered Species while carrying out the Proposed Activities in the Permit Area, as further authorized by and subject to the conditions of this Agreement, the IA, the HCP/NCCP, and the Permits. The authority issued to PSE applies to all of the elected officials, officers, directors, employees, agents, subsidiaries, contractors, and subcontractors, and their officers, directors, employees and agents who engage in any Proposed Activity. PSE shall periodically conduct an educational program to fully inform all such persons and entities of the terms and conditions of the Permits, and PSE shall be responsible for supervising their compliance with those terms and conditions. All contracts between PSE and such persons and entities shall require their compliance with the Permits.

### **7.2 General Obligations**

The PSE will fully and faithfully perform all obligations assigned to it under this Agreement, the IA, the HCP/NCCP, the Permits, including but not limited to the obligations assigned in the following chapters of the HCP/NCCP: Chapter 6.0 (Conditions on Covered Activities), Chapter 8.4 (Participating Special Entities), and Chapter 9.0 (Funding). PSE shall ensure that all mitigation, conservation, monitoring, reporting and adaptive management measures required of it are adequately funded throughout the term of this Agreement, and that monitoring, reporting and adaptive management measures are adequately funded in perpetuity as further described in the

Application. PSE will promptly notify the Conservancy of any material change in its financial ability to fulfill its obligations under this Agreement.

### **7.3 Obligations In The Event of Suspension or Revocation**

In the event that USFWS and/or CDFG suspend or revoke the Permits pursuant to Sections 19.0 and 21.0 of the IA, PSE will remain obligated to fulfill its mitigation, enforcement, management, and monitoring obligations, and its other HCP/NCCP obligations, in accordance with this Agreement and applicable statutory and regulatory requirements for all Proposed Activities implemented prior to the suspension or revocation.

### **7.4 Interim Obligations upon a Finding of Unforeseen Circumstances**

If the Wildlife Agencies make a finding of Unforeseen Circumstances with regard to a Federal Listed Covered Species, during the period necessary to determine the nature and location of additional or modified mitigation, PSE will avoid contributing to an appreciable reduction in the likelihood of the survival and recovery of the affected species. As described below at Section 15.2.2 and Section 15.3.2, the Wildlife Agencies shall be responsible for implementing such additional measures or modifications, unless PSE consents to do so.

### **7.5 Obligations In The Event Of Changed Circumstances**

Changed Circumstances, as described in 50 Code of Federal Regulations section 17.22(b)(5)(i), are adequately addressed in Chapter 7 and Chapter 10 of the HCP/NCCP, and PSE shall implement any measures for such circumstances as called for in the HCP/NCCP, as described in Section 12.2 of this Agreement.

### **7.6 Obligation to Compensate Conservancy for Expenses Incurred**

PSE shall compensate the Conservancy for its direct costs associated with this Agreement, including but not limited to, staff, consultant and legal costs incurred as a result of the review of the Application, drafting and negotiating this Agreement, monitoring and enforcement of this Agreement, and meetings and communications with PSE (collectively, Conservancy's "Administrative Costs"). Conservancy's Administrative Costs shall not exceed \$20,000. Conservancy shall provide PSE with invoices detailing its Administrative Costs monthly or quarterly, at Conservancy's discretion. PSE shall remit payment of each invoice within thirty (30) days of receiving it.

## **8.0 REMEDIES AND ENFORCEMENT**

If PSE fails to comply with the terms of this Agreement, the IA, the HCP/NCCP, or the Permits, the Conservancy may withdraw the Certificate of Inclusion and terminate any

Take authorization extended to PSE. The Conservancy shall also have all of the remedies available in equity (including specific performance and injunctive relief) and at law to enforce the terms of this Agreement, the IA, the HCP/NCCP and the Permits, and to seek redress and compensation for any breach or violation thereof. PSE shall defend, indemnify, protect, and hold harmless the Conservancy from and against any claim, loss, damage, cost, expense, or liability directly or indirectly arising out of or resulting from (i) PSE's breach of this Agreement or the inaccuracy of any representation or warranty made by PSE in this Agreement, or (ii) PSE's, performance or failure to perform a mandatory or discretionary obligation imposed by this Agreement, including without limitation claims caused by or arising out of the negligence, recklessness, or intentional misconduct of any representative, employee, or agent of PSE. The Parties acknowledge that the Covered Species are unique and that their loss as species would be irreparable and that therefore injunctive and temporary relief may be appropriate in certain instances involving a breach of this Agreement.

## **9.0 FORCE MAJEURE**

In the event that a Party is wholly or partially prevented from performing obligations under this Agreement because of unforeseeable causes beyond the reasonable control of and without the fault or negligence of Party ("Force Majeure"), including, but not limited to, acts of God, labor disputes, sudden actions of the elements not identified as Changed Circumstances, or actions of non-participating federal or state agencies or local jurisdictions, the Party shall be excused from whatever performance is affected by such unforeseeable cause to the extent so affected, and such failure to perform shall not be considered a material violation or breach, provided that nothing in this section shall be deemed to authorize either Party to violate FESA, CESA or NCCPA, and provided further that:

- The suspension of performance is of no greater scope and no longer duration than is required by the Force Majeure;
- Within seven (7) days after the occurrence of the Force Majeure, the Party invoking this section shall give the Conservancy written notice describing the particulars of the occurrence;
- The Party shall use best efforts to remedy its inability to perform (however, this paragraph shall not require the settlement of any strike, walk-out, lock-out or other labor dispute on terms which in the sole judgment of the Party is contrary to its interest); and
- When the Party is able to resume performance of their obligations, it shall give the other Party written notice to that effect.

## **10.0 MISCELLANEOUS PROVISIONS**

### **10.1 Calendar Days**

Throughout this Agreement and the HCP/NCCP, the use of the term "day" or "days" means calendar days, unless otherwise specified.

## **10.2 Notices**

Any notice permitted or required by this Agreement shall be in writing, and delivered personally, by overnight mail, or by United States mail, certified and postage prepaid, return receipt requested. Notices may be delivered by facsimile or electronic mail, provided they are also delivered by one of the means listed above. Delivery shall be to the name and address of the individual responsible for each of the Parties, as follows:

John Kopchik  
East Contra Costa County Habitat Conservancy  
c/o Contra Costa County Department of Conservation and Development  
651 Pine Street, North Wing, 4<sup>th</sup> Floor  
Martinez, CA 94553  
Email: jkopc@cd.cccounty.us  
Phone: 925-335-1227

Daniela Caroselli  
Pacific Gas & Electric Company  
P.O. Box 770000  
Mail Code N10A  
San Francisco, CA 94177  
Email: DAC6@PGE.com  
Phone: (415) 973-5699

Notices shall be transmitted so that they are received within the specified deadlines. Notices delivered personally shall be deemed received on the date they are delivered. Notices delivered via overnight delivery shall be deemed received on the next business day after deposit with the overnight mail delivery service. Notice delivered via certified mail, return receipt requested, shall be deemed received as of the date on the return receipt or five (5) days after deposit in the United States mail, whichever is sooner. Notices delivered by facsimile or other electronic means shall be deemed received on the date they are received.

## **10.3 Entire Agreement**

This Agreement, together with the IA, the HCP/NCCP and the Permits, constitutes the entire agreement among the Parties. This Agreement supersedes any and all other agreements, either oral or in writing, between the Parties with respect to the subject matter hereof and contains all of the covenants and agreements among them with respect to said matters, and each Party acknowledges that no representation, inducement, promise of agreement, oral or otherwise, has been made by any other Party or anyone acting on behalf of any other Party that is not embodied herein.

## **10.4 Amendment**

This Agreement may only be amended with the written consent of both Parties.

### **10.5 Attorneys' Fees**

If any action at law or equity, including any action for declaratory relief is brought to enforce or interpret the provisions of this Agreement, the Conservancy shall be able to recover its attorneys' fees and costs if it prevails.

### **10.6 Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the United States and the State of California, as applicable.

### **10.7 Duplicate Originals**

This Agreement may be executed in any number of duplicate originals. A complete original of this Agreement shall be maintained in the official records of each of the Parties hereto.

### **10.8 Relationship to the FESA, CESA, NCCPA and Other Authorities**

The terms of this Agreement are consistent with and shall be governed by and construed in accordance with FESA, CESA, NCCPA and other applicable state and federal law.

### **10.9 No Third Party Beneficiaries**

Without limiting the applicability of rights granted to the public pursuant to FESA, CESA, NCCPA or other applicable law, this Agreement shall not create any right or interest in the public, or any member thereof, as a third party beneficiary thereof, nor shall it authorize anyone not a Party to this Agreement to maintain a suit for personal injuries or property damages under the provisions of this Agreement. The duties, obligations, and responsibilities of the Parties to this Agreement with respect to third party beneficiaries shall remain as imposed under existing state and federal law.

### **10.10 References to Regulations**

Any reference in this Agreement, the IA, the HCP/NCCP, or the Permits to any regulation or rule of the Wildlife Agencies shall be deemed to be a reference to such regulation or rule in existence at the time an action is taken.

### **10.11 Applicable Laws**

All activities undertaken pursuant to this Agreement, the IA, the HCP/NCCP, or the Permits must be in compliance with all applicable local, state and federal laws and regulations.

**10.12 Severability**

In the event one or more of the provisions contained in this Agreement is held invalid, illegal or unenforceable by any court of competent jurisdiction, such portion shall be deemed severed from this Agreement and the remaining parts of this Agreement shall remain in full force and effect as though such invalid, illegal, or unenforceable portion had never been a part of this Agreement.

**10.13 Due Authorization**

Each Party represents and warrants that (1) the execution and delivery of this Agreement has been duly authorized and approved by all requisite action, (2) no other authorization or approval, whether of governmental bodies or otherwise, will be necessary in order to enable it to enter into and comply with the terms of this Agreement, and (3) the person executing this Agreement on behalf of each Party has the authority to bind that Party.

**10.14 No Assignment**

The Parties shall not assign their rights or obligations under this Agreement, the Permits, or the HCP/NCCP to any other individual or entity.

**10.15 Headings**

Headings are using in this Agreement for convenience only and do not affect or define the Agreement's terms and conditions.

**IN WITNESS WHEREOF, THE PARTIES HERETO** have executed this Implementing Agreement to be in effect as of the date last signed below.

EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY

By: \_\_\_\_\_ Date: \_\_\_\_\_  
John Kopchik, Executive Director

PACIFIC GAS & ELECTRIC COMPANY

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Daniela Caroseli, Pacific Gas and Electric Company



East Contra Costa County  
Habitat Conservation Plan  
Natural Community  
Conservation Plan

City of Brentwood  
City of Clayton  
City of Oakley  
City of Pittsburg  
Contra Costa County  
ECCC Habitat Conservancy

Template prepared by the  
ECCC Habitat Conservancy

651 Pine Street, North Wing, 4th Floor  
Martinez, CA 94533-0095  
Phone: 925/335-1290  
Fax: 925/335-1299  
www.cocohcp.org

## EXHIBIT 1

# Application Form and Planning Survey Report to Comply with and Receive Permit Coverage under the East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan

### Project Applicant Information:

Project Name: Contra Costa-Las Positas 230 Kilovolt (kV) Transmission Line Reconductoring Project

Project Applicant's Company/Organization: Pacific Gas and Electric Company (PG&E)

Contact's Name: Daniela Caroselli

Contact's Phone: (415) 973-5699 Fax: (415) 973-9250

Contact's Email: DPC6@pge.com

Mailing Address: Pacific Gas and Electric Company  
P.O. Box 770000  
Mailcode N10A  
San Francisco, CA 94177

### Project Description:

Lead Reviewer: John Kopchik (East Contra Costa County Habitat Conservancy ("Conservancy"))

Project Location: Contra Costa and Alameda Counties

Project APN(s) #: Various

Size of Parcel(s): Various

Brief Project Description: As part of the Contra Costa-Las Positas 230 kV Transmission Line Reconductoring Project, PG&E proposes to reductor two existing 230 kV electric transmission lines—the Contra Costa-Las Positas 230 kV Line, which is 24 miles long, and the Contra Costa-Lone Tree 230 kV Line, which is 5.6 miles long—in Alameda and Contra Costa counties. These transmission lines consist of two circuits located on the same towers. These lines comprise a large proportion of the critical electric transmission supply lines for the Tri-Valley area, which includes the cities of Pleasanton, Dublin, San Ramon, and Livermore. In addition, the Contra Costa-Lone Tree 230 kV Line also serves the cities of Antioch, Brentwood, Oakley, and portions of eastern Contra Costa County. The Contra Costa-Las Positas 230 kV Transmission Line Reconductoring Project will consist of two major components:

- Reconductoring 24 miles of the Contra Costa-Las Positas 230 kV Line and 5.6 miles of the Contra Costa-Lone Tree 230 kV Line with 954 aluminum conductor steel-supported 54/7, which has an emergency rating of 1,714 amperes.
- Installing cage-top extensions and/or converting existing towers to dead-end structures on approximately 12 towers. Doing so requires the addition of a structure to the tower that will increase the tower height a maximum of 15 feet to maintain the necessary ground clearance for the new conductor as per the California Public Utilities Commission General Order 95.

In addition, to accommodate the new capacity of the reconducted lines, upgrades at the associated substation terminal facilities may be necessary. However, any such upgrades would not affect any undeveloped lands and would require no additional avoidance, minimization and mitigation measures apart from those described in the application and planning survey report. A more detailed project description has been included in Attachment A—Project Description.

## **Biologist Information:**

Company: PG&E

Lead Contact: Debie Montana

Contact's Phone: (925) 415-6365 Fax: (925) 415-6848

Contact's Email: DAKD@pge.com

Mailing Address: 3401 Crow Canyon Road  
San Ramon, CA 94598

Biological/Environmental Firm: Insignia Environmental

Lead Contact: Michele Barlow

Contact's Phone: (650) 321-6787 Ext. 227 Fax: (650) 321-3787

Contact's Email: MBarlow@insigniaenv.com

Mailing Address: Insignia Environmental  
540 Bryant Street, Suite 200  
Palo Alto, CA 94301

# East Contra Costa County HCP/NCCP Planning Survey Report for Contra Costa-Las Positas 230 kV Transmission Line Reconductoring Project

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## I. Project Overview

**Project proponent:** PG&E

**Project Name:** Contra Costa-Las Positas 230 kV Transmission Line Reconductoring Project

**Check appropriate Development Fee Zone(s):**  Zone I  
 Zone II  
 Zone III

**Acreage of land to be permanently disturbed:**<sup>1</sup> None. All impacts are temporary. PG&E is planning to mitigate for these temporary impacts using the permanent impact fees for the footprint of the temporary impacts, consistent with Chapter 9.3.1. This project involves approximately 66.93 acres of temporary impacts in the East Contra Costa County Habitat Conservation Plan Area (HCP Area).

As part of the Contra Costa-Las Positas 230 kV Transmission Line Reconductoring Project, PG&E proposes to reductor two existing 230 kV electric transmission lines—the Contra Costa-Las Positas 230 kV Line, which is 24 miles long, and the Contra Costa-Lone Tree 230 kV Line, which is 5.6 miles long—in Alameda and Contra Costa counties. Both transmission lines originate at the Contra Costa Power Plant and cross through the City of Antioch in Contra Costa County. The Contra Costa-Las Positas 230 kV Line then continues south, passing through the City of Brentwood, the John Marsh/Cowell Ranch Property of the California Department of Parks and Recreation, the Los Vaqueros Watershed, and into the City of Livermore. A more detailed project description has been included in Attachment A—Project Description. An overview of the project area is depicted in Attachment B—Figure 1:

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<sup>1</sup> *Acreage of land permanently disturbed* is broadly defined in the HCP/NCCP to include all areas removed from an undeveloped or habitat-providing state and includes land in the same parcel or project that is not developed, graded, physically altered, or directly affected in any way but is isolated from natural areas by the covered activity. Unless such undeveloped land is dedicated to the Preserve System or is a deed-restricted creek setback, the development fee will apply. The development fees were calculated with the assumption that all undeveloped areas within a parcel (e.g., fragments of undisturbed open space within a residential development) would be charged a fee; the fee per acre would have been higher had this assumption not been made. See Chapter 9 of the HCP/NCCP for details.

Project Vicinity Map, and a detailed view of the project area is shown in Attachment B—  
Figure 2: Detailed Project Map.

## II. Existing Conditions and Impacts

### Methodology

#### Literature Review

A literature and database review was conducted to research special-status plant and wildlife species that could potentially be found in the project area. A 5-mile radius search for special-status plants and animals was performed using the California Natural Diversity Database (CNDDDB) maintained by the California Department of Fish and Game (CDFG). Further information on rare plants was obtained from the East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan (ECCCHCP), the Contra Costa-Las Positas 230 kV Transmission Line Reconductor Project Biological Resources Assessment prepared by Garcia and Associates (2008), the Special Status Plant Survey Reports for the Ginnochio-Nunn Project Site prepared by Monk and Associates (2005 and 2006), and the California Native Plant Society (CNPS) Inventory of Rare and Endangered Vascular Plants of California. The most recent versions of the Special Plants and Special Animals lists (also maintained by the CDFG) were reviewed. Geographic Information System information depicting critical habitat, provided by the United States (U.S.) Fish and Wildlife Service (USFWS), was reviewed to determine whether any critical habitat occurs within the study area. U.S. Geological Survey (USGS) topographic maps were reviewed to identify blue-line water features, swales, washes, and other water bodies near the work areas. The results of these literature and database searches were utilized during the field surveys to assist in the identification of sensitive plant and animal species and associated habitats at each site.

#### Survey Methodology

Following the literature search, target lists of special-status plants and animals with the potential to occur within the project area were prepared for use in the field. Insignia Environmental (Insignia) biologists conducted surveys of the project sites and their surrounding areas. Insignia biologists Roy Buck and Kristina Bischel performed rare plant surveys from September 22 to September 26, 2008. Insignia biologists Kristina Bischel, Kevin Kilpatrick, and Kim Vincent conducted land cover surveys and planning surveys for wildlife between September 29 and October 3, 2008.

Surveys were conducted at all work areas. For the purposes of this application, work areas are defined as pre-designated pull sites, helicopter landing zones, crane work areas, and crossing structure locations. Windshield-level surveys were performed for all access roads. During the rare plant surveys, a buffer area of approximately 100 feet around each pull site location and 25 feet around each crossing structure location was evaluated. Insignia biologists recorded all identifiable plant species. This plant list is located in Attachment C—Plant List. All rare plant species were photographed, and a Global Positioning System (GPS) point was recorded at each of their locations.

The survey area for land cover and wildlife surveys included the same buffer zones as those used during the rare plant surveys, as well as a visual evaluation of an approximately 500-foot buffer area around all work areas. During land cover and wildlife surveys, the biologists documented land cover classes (as pre-defined by the ECCCHCP), any observed nests,

trees with raptor nesting potential, burrows, waterbodies, and other potentially sensitive areas. GPS waypoints were recorded to identify the locations of significant habitat features.

## Land Cover Types

Table 1. Land Cover Types on the Project Site as Determined in the Field and Shown in Attachment B—Figure 3: Land Cover Map.<sup>2</sup>

Land Cover Type (acres, except where noted)	Acreage of Land to be "Temporarily Disturbed" by Project <sup>b</sup>	Acreage of Land Proposed for HCP/NCCP Dedication on the Parcel <sup>c</sup>	
		Stream Setback	Preserve System Dedication
<b>Grassland<sup>a</sup></b>			
<input checked="" type="checkbox"/> Annual grassland	15.09	N/A	N/A
<input type="checkbox"/> Alkali grassland			
<input checked="" type="checkbox"/> Ruderal	5.23	N/A	N/A
<hr/>			
<input type="checkbox"/> <b>Chaparral and scrub</b>			
<hr/>			
<input checked="" type="checkbox"/> <b>Oak savanna<sup>a</sup></b>	0.64	N/A	N/A
<hr/>			
<input type="checkbox"/> <b>Oak woodland</b>			
<hr/>			
<b>Jurisdictional wetlands and waters</b>			
<input type="checkbox"/> Riparian woodland/scrub			
<input type="checkbox"/> Permanent wetland <sup>a</sup>			
<input type="checkbox"/> Seasonal wetland <sup>a</sup>			
<input type="checkbox"/> Alkali wetland <sup>a</sup>			
<input type="checkbox"/> Aquatic <sup>a</sup>			
<input type="checkbox"/> Pond <sup>a</sup>			
<input type="checkbox"/> Stream (acres) <sup>a, d</sup>			
<input type="checkbox"/> Total stream length (feet) <sup>a, d</sup>			
Stream length by width category			
<input type="checkbox"/> ≤ 25 feet wide			
<input type="checkbox"/> > 25 feet wide			
Stream length by type and order <sup>e</sup>			
<input type="checkbox"/> Perennial			
<input type="checkbox"/> Intermittent			
<input type="checkbox"/> Ephemeral, 3 <sup>rd</sup> or higher order			
<input type="checkbox"/> Ephemeral, 1 <sup>st</sup> or 2 <sup>nd</sup> order			
<hr/>			
<b>Irrigated agriculture<sup>a</sup></b>			
<input checked="" type="checkbox"/> Cropland	0.46	N/A	N/A
<input type="checkbox"/> Pasture			
<input type="checkbox"/> Orchard			

<sup>2</sup> Information on impacts to each land cover type, by type of work area, is located in Table 5: Project Disturbance by Land Cover Type in Section V: Mitigation Measures.

Land Cover Type (acres, except where noted)	Acreage of Land to be "Temporarily Disturbed" by Project <sup>b</sup>	Acreage of Land Proposed for HCP/NCCP Dedication on the Parcel <sup>c</sup>	
		Stream Setback	Preserve System Dedication
<input checked="" type="checkbox"/> Vineyard	0.36	N/A	N/A
<b>Other</b>			
<input checked="" type="checkbox"/> Nonnative woodland	0.58	N/A	N/A
<input checked="" type="checkbox"/> Wind turbines	0.57	N/A	N/A
<b>Developed</b>			
<input checked="" type="checkbox"/> Urban	43.96	N/A	N/A
<input type="checkbox"/> Aqueduct			
<input checked="" type="checkbox"/> Turf	0.04	N/A	N/A
<input type="checkbox"/> Landfill			
<b>Uncommon Vegetation Types (subtypes of above land cover types)</b>			
<input type="checkbox"/> Purple needlegrass grassland			
<input type="checkbox"/> Wildrye grassland			
<input type="checkbox"/> Wildflower fields			
<input type="checkbox"/> Squirreltail grassland			
<input type="checkbox"/> One-sided bluegrass grassland			
<input type="checkbox"/> Serpentine grassland			
<input type="checkbox"/> Saltgrass grassland (= alkali grassland)			
<input type="checkbox"/> Alkali sacaton bunchgrass grassland			
<input type="checkbox"/> Other uncommon vegetation types (please describe)			
<b>Uncommon Landscape Features or Habitat Elements</b>			
<input type="checkbox"/> Rock outcrop			
<input type="checkbox"/> Cave <sup>a</sup>			
<input type="checkbox"/> Springs/seeps			
<input type="checkbox"/> Scalds			
<input type="checkbox"/> Sand deposits			
<input type="checkbox"/> Mines <sup>a</sup>	—	—	—
<input type="checkbox"/> Buildings (bat roosts) <sup>a</sup>	—	—	—
<input type="checkbox"/> Potential nest sites (trees or cliffs) <sup>a</sup>	—	—	—
<b>Total</b>	66.93	N/A	N/A

Land Cover Type (acres, except where noted)	Acreage of Land to be "Temporarily Disturbed" by Project <sup>b</sup>	Acreage of Land Proposed for HCP/NCCP Dedication on the Parcel <sup>c</sup>	
		Stream Setback	Preserve System Dedication

<sup>a</sup> Designates habitat elements that may trigger specific survey requirements and/or best management practices for key covered wildlife species. See Chapter 6 in the HCP/NCCP for details.

<sup>b</sup> See Section 9.3.1 of the HCP/NCCP for a discussion of temporary impacts.

<sup>c</sup> Dedication of land in lieu of fees must be approved by the local agency and the Implementing Entity before they can be credited toward HCP/NCCP fees. See Section 8.6.7 on page 8-32 of the Plan for details on this provision. Stream setback requirements are described in Conservation Measure 1.7 in Section 6.4.1 and in Table 6-2.

<sup>d</sup> Specific requirements on streams are discussed in detail in the HCP/NCCP. Stream setback requirements pertaining to stream type and order can be found in Table 6-2. Impact fees and boundary determination methods pertaining to stream width can be found in Table 9-5. Restoration/creation requirements in lieu of fees depend on stream type and can be found in Tables 5-16 and 5-17.

<sup>e</sup> See glossary (Appendix A) for definition of stream type and order.

## Land Cover Survey Results

Land cover types that will be impacted by the project, as determined during planning surveys, include the following: annual grassland, ruderal, oak savannah, cropland, vineyard, nonnative woodland, wind turbines, and urban. Additional land cover types not impacted by the project but included in the 500-foot buffer around work areas include chaparral and scrub, riparian woodland/scrub, permanent wetland, seasonal wetland, alkali wetland, pond, stream, turf, and rock outcrop. Land cover survey results are shown in Attachment B—Figure 3: Land Cover Map.

## Jurisdictional Wetlands and Waters

This project was planned to avoid all jurisdictional wetlands and waters. There will be no temporary or permanent impacts to jurisdictional wetlands or waters as a result of this project. No wetland delineation was performed because all wetlands and waters will be avoided.

## Species-Specific Planning Survey Requirements

Table 2a. Species-Specific Planning Survey Requirements Triggered by Land Cover Types and Habitat Elements on Site based on Chapter 6 of the Final HCP/NCCP.

Land Cover Type on Site?	Species	Habitat Element on Site?	Planning Survey Requirement
<input checked="" type="checkbox"/> Grasslands, oak savanna, or agriculture	San Joaquin kit fox	Assumed if within modeled range of species	Identify and map potential breeding and denning habitat and potential dens if within modeled range of species (see Appendix D of HCP/NCCP).
	Western burrowing owl	Assumed	Identify and map potential breeding habitat.

Land Cover Type on Site?	Species	Habitat Element on Site?	Planning Survey Requirement
<input type="checkbox"/> Aquatic (ponds, wetlands, streams and marshes)	Giant garter snake	<input type="checkbox"/> Aquatic habitat accessible from San Joaquin River	Identify and map potential habitat.
	California tiger salamander	<input type="checkbox"/> Ponds and wetlands in grassland, oak savanna, oak woodland <input type="checkbox"/> Vernal pools <input type="checkbox"/> Reservoirs <input type="checkbox"/> Small lakes	Identify and map potential breeding habitat. Document habitat quality and features. Provide Implementing Entity with photo-documentation and report.
	California red-legged frog	<input type="checkbox"/> Slow-moving streams, ponds, and wetlands	Same as above
<input type="checkbox"/> Seasonal wetlands	Covered shrimpa	<input type="checkbox"/> Vernal pools <input type="checkbox"/> Sandstone rock outcrops <input type="checkbox"/> Sandstone depressions	Identify and map potential breeding habitat.
Any	Townsend's big-eared bat	<input type="checkbox"/> Rock formations with caves <input type="checkbox"/> Mines <input type="checkbox"/> Abandoned buildings outside urban areas	Map and document potential breeding or roosting habitat.
	Swainson's hawk	<input checked="" type="checkbox"/> Potential nest sites (trees within species' range usually below 200')	Inspect large trees for presence of nest sites.
	Golden eagle	<input checked="" type="checkbox"/> Potential nest sites (secluded cliffs with overhanging ledges; large trees)	Document and map potential nests.

<sup>a</sup> Vernal pool fairy shrimp, vernal pool tadpole shrimp, longhorn fairy shrimp, and midvalley fairy shrimp.

## Results of Species-Specific Planning Surveys Required in Table 2a

Thirteen potential San Joaquin kit fox dens and numerous potential western burrowing owl burrows were found and mapped within the work areas and the 500-foot buffer zone. Although a 500-foot buffer was mapped around all work areas, no work is anticipated to occur in the buffer zone.

Potential nesting sites for Swainson's hawk and other raptors were identified within the 500-foot buffer but not within the work areas. Although aquatic resources will not be impacted as a result of the project, California tiger salamander and California red-legged frog breeding habitat was identified and mapped within the 500-foot buffer zone. Small burrows and cracks were also identified as potential for California tiger salamander refuge. Wildlife planning survey results are depicted in Attachment B—Figure 4: Biological Survey Results Map.

## Covered and No-Take Plants

PG&E performed rare plant surveys from September 22 to September 26 for plants that bloom through September and/or October in all work areas. The ECCCHCP covered species Big tarplant (*Blepharizonia plumose*) and the ECCCHCP no-take species Mount Diablo buckwheat (*Eriogonum truncatum*) were surveyed for, but neither species was found. No ECCCHCP listed rare plant species were found during the September rare plant surveys.

An ECCCHCP covered species, round-leaved filaree (*Erodium macrophylla*), was observed in 2005 within Pull Site 4/5, as documented in the Monk and Associates Special-Status Plant Survey Report (2005). However, this site was surveyed again in 2006, and round-leaved filaree was not observed at this time (as confirmed by personal communication with Isabelle de Geofroy of Monk and Associates). The section entitled "Avoidance Measures for Spring-Blooming Rare Plants" lists measures to be taken regarding ECCCHCP covered and no-take species that could not be evaluated in fall surveys. These measures will negate any negative impacts to round-leaved filaree and all other ECCCHCP covered and no-take plant species.

## Avoidance Measures for Spring-Blooming Rare Plants

Rare plant surveys will not be feasible for the spring-blooming species prior to application submission and possibly not before the commencement of construction activities. The ECCCHCP covered species that bloom in spring and have the potential to occur in oak savanna and annual grassland land cover types are the following:

- Brewer's dwarf flax
- Diablo helianthella
- Mount Diablo fairy lantern
- Round-leaved filaree
- Showy madia

There are four no-take rare plant species that bloom in the spring and that have the potential to occur in oak savanna and annual grassland land cover types. These species are not expected to occur in the project area because, as documented in the ECCCHCP, they have not been observed in the region for many years. As noted in the ECCCHCP, the following information provides these species' last known occurrences:

- Alkali milkvetch: This species is thought to be extirpated from Contra Costa County.
- Contra Costa goldfields: All known populations in the HCP area have been extirpated.
- Diamond-petaled poppy: This species is only known from two populations in the world and is thought to be extirpated in Contra Costa County.
- Large-flowered fiddleneck: No natural populations are known to occur within the HCP area.

In order to avoid all impacts to all ECCCHCP covered and no-take species, PG&E will implement the following avoidance measures to ensure that these species are protected, despite the lack of spring blooming period surveys:

- PG&E will conduct rare plant surveys immediately prior to the commencement of work activities at all work areas and overland access routes in oak savanna and annual grassland natural land covers (the earliest blooming period for any of the rare plant species begins in March). Should a rare plant be discovered within the work area, PG&E will fence off the location of the rare plant, thus avoiding all impacts.
- For all rare plants that may be discovered near work areas or overland access routes, PG&E will collect data, including, but not limited to, the number and size of rosettes, leaf damage and condition, photographs, GPS location, number of flowering axes, and condition before and after construction activities.

- PG&E will place temporary construction areas, such as pull sites, within previously disturbed, non-sensitive areas whenever possible. Where feasible, the project has been designed to locate all work areas in locations that have no suitable habitat for rare plants.
- A Biological Monitor will be on site at all times during construction activities to ensure compliance with these avoidance measures, the ECCCHCP measures, and any other pertinent plans and permits.
- PG&E will utilize mats within the work areas and overland access routes in oak savanna and annual grassland natural land covers in areas where spring rare plant surveys have not been completed. However, mats will not be utilized in those areas that are surrounded on all sides by urban development. Mats will help to distribute the weight of trucks and heavy machinery evenly across its surface, thus avoiding disturbance to the seed bank below.
- For any ground-disturbing activities, such as the installation of crossing structures, PG&E will stockpile the topsoil to preserve the existing seed bank. This topsoil will be stored separately from the subsoil and placed on matting to ensure that it remains separated from adjacent topsoil. The salvaged topsoil will be replaced after the ground-disturbing activities are completed.
- PG&E, in conjunction with the ECCCHCP, will restore all work areas that were disturbed by project activities to near their original state. Detailed information on planned restoration methods is located in the following section: Planned Restoration Activities.

With the implementation of these avoidance measures, impacts to rare plants species should be avoided.

## Planned Restoration Activities

The first stage of restoration efforts will take place following project completion, which is expected to occur approximately June 15, 2009. However, because the dry season begins in June and the majority of the project area is grazed, this first stage of restoration may have limited success. A second stage of restoration efforts will be implemented when the fall rains begin (no later than November 15, 2009).

Soil de-compaction will occur in work areas and overland access routes. PG&E will scarify or mechanically aerate impact areas located within grassland habitats that show signs of soil compaction to break up soil clods and to relieve compacted soil.

Re-seeding of denuded areas will take place immediately after construction is completed and once again in the fall (no later than November 15, 2009) in order to take advantage of the fall rainy season. Every effort will be made to collect seeds from native plants in the spring of 2009 (during construction) within the project area and local watersheds to ensure local native species populations are utilized. At work sites that support free-ranging cattle or other livestock, PG&E will install or maintain existing livestock exclusion devices to protect seeded species until vegetation is sufficiently established to withstand grazing.

All restored habitat areas will be monitored and protected and will receive remedial treatment if the success criteria of 1:1 replacement of target species is not achieved after one year. A qualified restoration specialist, botanist, or biologist will oversee all restoration, remedial, and monitoring activities.

Table 2b. Covered and No-Take Plant Species, Typical Habitat Conditions, and Typical Blooming Periods

Land Cover Type on Site?	Plant Species	Covered (C) or No-Take (N)?	Typical Habitat or Physical Conditions, if Known	Typical Blooming Period <sup>a</sup>
<input checked="" type="checkbox"/> Oak savanna	Diablo Helianthella ( <i>Helianthella castanea</i> )	C	Elevation above 650 feet <sup>b</sup>	Mar–Jun
	Mount Diablo fairy-lantern ( <i>Calochortus pulchellus</i> )	C	Elevation between 650 and 2,600 feet <sup>b</sup>	Apr–Jun
<input type="checkbox"/> Oak woodland	Brewer's dwarf flax ( <i>Hesperolinon breweri</i> )	C		May–Jul
	Diablo Helianthella ( <i>Helianthella castanea</i> )	C	Elevation above 650 feet <sup>b</sup>	Mar–Jun
	Mount Diablo fairy-lantern ( <i>Calochortus pulchellus</i> )	C	Elevation between 650 and 2,600 feet <sup>b</sup>	Apr–Jun
	Showy madia ( <i>Madia radiata</i> )	C		Mar–May
<input type="checkbox"/> Chaparral and scrub	Brewer's dwarf flax ( <i>Hesperolinon breweri</i> )	C		May–Jul
	Diablo Helianthella ( <i>Helianthella castanea</i> )	C	Elevation above 650 feet <sup>b</sup>	Mar–Jun
	Mount Diablo buckwheat ( <i>Eriogonum truncatum</i> )	N		Apr–Sep; uncommonly Nov–Dec.
	Mount Diablo fairy-lantern ( <i>Calochortus pulchellus</i> )	C	Elevation between 650 and 2,600 feet <sup>b</sup>	Apr–Jun
	Mount Diablo Manzanita ( <i>Arctostaphylos auriculata</i> )	C	Elevation between 700 and 1,860 feet; restricted to the eastern and northern flanks of Mt. Diablo <sup>b</sup>	Jan–Mar
<input type="checkbox"/> Alkali grassland	Brittlescale ( <i>Atriplex depressa</i> )	C	Restricted to soils of the Pescadero or Solano soil series; generally found in southeastern region of plan area <sup>b</sup>	May–Oct
	Caper-fruited tropidocarpum ( <i>Tropidocarpum capparideum</i> )	N		Mar–Apr
	Contra Costa goldfields ( <i>Lasthenia conjugens</i> )	N	Generally found in vernal pools	Mar–Jun
	Recurved larkspur ( <i>Delphinium recurvatum</i> )	C		Mar–Jun
	San Joaquin spearscale ( <i>Atriplex joaquiniana</i> )	C		Apr–Oct

Land Cover Type on Site?	Plant Species	Covered (C) or No-Take (N)?	Typical Habitat or Physical Conditions, if Known	Typical Blooming Period <sup>a</sup>
<input type="checkbox"/> Alkali wetland	Alkali milkvetch ( <i>Astragalus tener</i> ssp. <i>tener</i> )	N		Mar–Jun
	Brittlescale ( <i>Atriplex depressa</i> )	C	Restricted to soils of the Pescadero or Solano soil series; generally found in southeastern region of plan area <sup>b</sup>	May–Oct
	San Joaquin spearscale ( <i>Atriplex joaquiniana</i> )	C		Apr–Oct
<input checked="" type="checkbox"/> Annual grassland	Alkali milkvetch ( <i>Astragalus tener</i> ssp. <i>tener</i> )	N		Mar–Jun
	Big tarplant ( <i>Blepharizonia plumosa</i> )	C	Elevation below 1500 feet <sup>b</sup>	Jul–Oct
	Brewer's dwarf flax ( <i>Hesperolinon breweri</i> )	C	Restricted to grassland areas within a 500+ buffer from oak woodland and chaparral/scrub <sup>b</sup>	May–Jul
	Contra Costa goldfields ( <i>Lasthenia conjugens</i> )	N	Generally found in vernal pools	Mar–Jun
	Diamond-petaled poppy ( <i>Eschscholzia rhombipetala</i> )	N		Mar–Apr
	Large-flowered fiddleneck ( <i>Amsinckia grandiflora</i> )	N		Apr–May
	Mount Diablo buckwheat ( <i>Eriogonum truncatum</i> )	N		Apr–Sep; uncommonly Nov–Dec
	Mount Diablo fairy-lantern ( <i>Calochortus pulchellus</i> )	C	Elevation between 650 and 2,600 <sup>b</sup>	Apr–Jun
	Round-leaved filaree ( <i>California macrophylla</i> ) <sup>1</sup>	C		Mar–May
Showy madia ( <i>Madia radiata</i> )	C		Mar–May	
<input type="checkbox"/> Seasonal wetland	Adobe navarretia ( <i>Navarretia nigelliformis</i> ssp. <i>nigelliformis</i> )	C	Generally found in vernal pools <sup>b</sup>	Apr–Jun
	Alkali milkvetch ( <i>Astragalus tener</i> sp. <i>tener</i> )	N		Mar–Jun
	Contra Costa goldfields ( <i>Lasthenia conjugens</i> )	N	Generally found in vernal pools	Mar–Jun

<sup>a</sup> From California Native Plant Society. 2007. *Inventory of Rare and Endangered Plants* (online edition, v7-07d). Sacramento, CA. Species may be identifiable outside of the typical blooming period; a professional botanist shall determine if a covered or no take plant occurs on the project site.

<sup>b</sup> See Species Profiles in Appendix D of the Final HCP/NCCP.

# III. Species-Specific Monitoring and Avoidance Requirements

## Preconstruction Surveys for Selected Covered Wildlife

Table 3. Applicable Preconstruction Survey and Notification Requirements based on Land Cover Types and Habitat Elements Identified in Table 2a.

Species	Preconstruction Survey and Notification Requirements
<input type="checkbox"/> None	
<input checked="" type="checkbox"/> San Joaquin kit fox (p. 6-38)	Map all dens (>5 in. diameter) and determine status. Determine if breeding or denning foxes are on site. Provide written preconstruction survey results to FWS within 5 working days after surveying.
<input checked="" type="checkbox"/> Western burrowing owl (p. 6-40)	Map all burrows and determine status. Document use of habitat (e.g. breeding, foraging) in/near disturbance area (within 500 ft.)
<input type="checkbox"/> Giant garter snake (p. 6-44)	Delineate aquatic habitat up to 200 ft. from water's edge. Document any sightings of garter snake.
<input type="checkbox"/> California tiger salamander (p. 6-46) (notification only)	Provide written notification to USFWS and CDFG regarding timing of construction and likelihood of occurrence on site.
<input type="checkbox"/> California red-legged frog (p. 6-47) (notification only)	Provide written notification to USFWS and CDFG regarding timing of construction and likelihood of occurrence on site.
<input type="checkbox"/> Covered shrimp species (p. 6-47)	Document and evaluate use of all habitat features (e.g., vernal pools, rock outcrops). Document occurrences of covered shrimp.
<input type="checkbox"/> Townsend's big-eared bat (p. 6-37)	Determine if site is occupied or shows signs of recent occupation (guano).
<input checked="" type="checkbox"/> Swainson's hawk (p. 6-42)	Determine whether nests are occupied.
<input checked="" type="checkbox"/> Golden eagle (p. 6-39)	Determine whether nests are occupied.

Note: Page numbers refer to the Final HCP/NCCP.

Required preconstruction surveys include surveys for San Joaquin kit fox, western burrowing owl, Swainson's hawk, and golden eagle. The survey protocols for each of these species are the following:

### San Joaquin Kit Fox

Prior to any ground disturbance related to covered activities, a USFWS/CDFG approved biologist will conduct a preconstruction survey in areas identified in the planning surveys as supporting suitable breeding or denning habitat for San Joaquin kit fox. The surveys will establish the presence or absence of San Joaquin kit foxes and/or suitable dens and evaluate use by kit foxes in accordance with USFWS survey guidelines (U.S. Fish and Wildlife Service 1999). Preconstruction surveys will be conducted within 30 days of ground disturbance. On the parcels where the activity is proposed, the proposed disturbance footprint and a 250-foot radius from the perimeter of the proposed footprint will be surveyed by a qualified biologist to identify San Joaquin kit foxes and/or suitable dens. Adjacent parcels under different land ownership will not be surveyed. The status of all dens will be determined and mapped. Written results of preconstruction surveys will be submitted to USFWS within 5 working days after survey completion and before the start of ground disturbance. Concurrence is not required prior to initiation of covered activities. If San Joaquin kit foxes and/or suitable dens are identified in

the survey area, the San Joaquin kit fox avoidance and minimization measures as well as the construction monitoring measures will be implemented.

**Western Burrowing Owl**

Prior to any ground disturbance related to covered activities, a USFWS/CDFG-approved biologist will conduct a preconstruction survey in areas identified in the planning surveys as having potential burrowing owl habitat. The surveys will establish the presence or absence of western burrowing owl and/or habitat features and evaluate use by owls in accordance with CDFG survey guidelines (California Department of Fish and Game 1993). On the parcel where the activity is proposed, the proposed disturbance footprint and a 500-foot radius from the perimeter of the proposed footprint will be surveyed to identify burrows and owls. Adjacent parcels under different land ownership will not be surveyed. Surveys will take place near sunrise or sunset in accordance with CDFG guidelines. All burrows or burrowing owls will be identified and mapped. Surveys will take place no more than 30 days prior to construction. During the breeding season (February 1– August 31), surveys will document whether burrowing owls are nesting in or directly adjacent to disturbance areas. During the nonbreeding season (September 1–January 31), surveys will document whether burrowing owls are using habitat in or directly adjacent to any disturbance area. Survey results will be specific to (and valid for)the season (breeding or nonbreeding) during which the survey is conducted.

**Swainson’s Hawk**

Prior to any ground disturbance related to covered activities that occurs during the nesting season (March 15–September 15), a qualified biologist will conduct a preconstruction survey within 30 days prior to construction to establish whether Swainson’s hawk nests within 1,000 feet of the project site are occupied. If potentially occupied nests within 1,000 feet of the project site exist, their occupancy will be determined by observation from public roads or by observations of Swainson’s hawk activity (e.g., foraging) near the project site. If nests are occupied, minimization measures and construction monitoring will be required.

**Golden Eagle**

Prior to implementation of covered activities, a qualified biologist will conduct a preconstruction survey to establish whether nests of golden eagles are occupied (see Section 6.3.1, Planning Surveys). If nests are occupied, minimization requirements and construction monitoring will be required.

## Construction Monitoring and Avoidance for Selected Covered Species

Table 4. Applicable Construction Monitoring Requirements

Species Assessed by Preconstruction Surveys	Monitoring Action Required if Species Detected
<input type="checkbox"/> None	N/A
<input checked="" type="checkbox"/> San Joaquin kit fox (p. 6-38)	Establish exclusion zones (>50 ft) for potential dens. Establish exclusion zones (>100 ft) for known dens. Notify USFWS of occupied natal dens.
<input checked="" type="checkbox"/> Western burrowing owl (p. 6-40)	Establish buffer zones (250 ft) around nests. Establish buffer zones (160 ft) around burrows.

Species Assessed by Preconstruction Surveys	Monitoring Action Required if Species Detected
<input type="checkbox"/> Giant garter snake (p. 6-44)	<p>Delineate 200-ft buffer around potential habitat. Provide field report on monitoring efforts. Stop construction activities if snake is encountered; allow snake to passively relocate. Remove temporary fill or debris from construction site. Mandatory training for construction personnel.</p>
<input type="checkbox"/> Covered shrimp species (p. 6-47)	<p>Establish buffer around outer edge of all hydric vegetation associated with habitat (50 feet of limit of immediate watershed supporting the wetland, whichever is larger). Mandatory training for construction personnel.</p>
<input checked="" type="checkbox"/> Swainson's hawk (p. 6-42)	Establish 1,000-ft buffer around active nest and monitor compliance.
<input checked="" type="checkbox"/> Golden eagle (p. 6-39)	Establish 0.5-mile buffer around active nest and monitor compliance.

The following avoidance, minimization, and monitoring measures will be implemented for San Joaquin kit fox, western burrowing owl, Swainson's hawk and golden eagle, as required by the results of the preconstruction surveys.

#### San Joaquin Kit Fox

- If a San Joaquin kit fox den is discovered in the proposed development footprint, the den will be monitored for 3 days by a USFWS/CDFG-approved biologist using a tracking medium or an infrared beam camera to determine if the den is currently being used.
- Unoccupied dens will be destroyed immediately to prevent subsequent use.
- If a natal or pupping den is found, USFWS and CDFG will be notified immediately. The den will not be destroyed until the pups and adults have evacuated and then only after further consultation with USFWS and CDFG.
- If kit fox activity is observed at the den during the initial monitoring period, the den will be monitored for an additional 5 consecutive days from the time of the first observation to allow any resident animals to move to another den while den use is actively discouraged. For dens other than natal or pupping dens, use of the den will be discouraged by partially plugging the entrance with soil such that any resident animal can easily escape. Once the den is determined to be unoccupied it may be excavated under the direction of the biologist. Alternatively, if the animal is still present after 5 or more consecutive days of plugging and monitoring, the den may be excavated when, in the judgment of a biologist, it is temporarily vacant (i.e., during the animal's normal foraging activities).

If dens are identified in the survey area outside the proposed disturbance footprint, exclusion zones around each den entrance or cluster of entrances will be demarcated. The configuration of exclusion zones will be circular, with a radius measured outward from the den entrance(s). No covered activities will occur within the exclusion zones. Exclusion zone radii for potential dens will be at least 50 feet and will be demarcated with four to five flagged stakes. Exclusion zone radii for known dens will be at least 100 feet and will be demarcated with staking and flagging that encircles each den or cluster of dens but does not prevent access to the den by kit fox.

#### Western Burrowing Owl

If burrowing owls are found during the breeding season (February 1–August 31), PG&E will avoid all nest sites that could be disturbed by project construction during the remainder of the breeding season or while the nest is occupied by adults or young. Avoidance will include establishment of a nondisturbance buffer zone (described below). Construction may occur during the breeding season if a qualified biologist monitors the nest and determines that the birds have not begun egg-laying and

incubation or that the juveniles from the occupied burrows have fledged. During the nonbreeding season (September 1– January 31), PG&E will avoid the owls and the burrows they are using, if possible. Avoidance will include the establishment of a buffer zone (described below). If occupied burrows for burrowing owls are not avoided, passive relocation will be implemented. Owls will be excluded from burrows in the immediate impact zone and within a 160-foot buffer zone by installing one-way doors in burrow entrances. These doors will be in place for 48 hours prior to excavation. The project area will be monitored daily for 1 week to confirm that the owl has abandoned the burrow. Whenever possible, burrows will be excavated using hand tools and refilled to prevent reoccupation (California Department of Fish and Game 1995). Plastic tubing or a similar structure will be inserted in the tunnels during excavation to maintain an escape route for any owls inside the burrow.

#### Swainson's Hawk

During the nesting season (March 15–September 15), covered activities within 1,000 feet of occupied nests or nests under construction will be prohibited to prevent nest abandonment. If site-specific conditions or the nature of the covered activity (e.g., steep topography, dense vegetation, limited activities) indicate that a smaller buffer could be used, the Implementing Entity will coordinate with CDFG/USFWS to determine the appropriate buffer size. If young fledge prior to September 15, covered activities can proceed normally. If the active nest site is shielded from view and noise from the project site by other development, topography, or other features, the project applicant can apply to the Implementing Entity for a waiver of this avoidance measure. Any waiver must also be approved by USFWS and CDFG. While the nest is occupied, activities outside the buffer can take place. All active nest trees will be preserved on site, if feasible. Nest trees, including non-native trees, lost to covered activities will be mitigated by the project proponent according to the requirements in the HCP/NCCP for “mitigation for loss of Nest Trees.”

#### Golden Eagle

Covered activities will be prohibited within 0.5 mile of active nests. Nests can be built and active at almost any time of the year, although mating and egg incubation occurs late January through August, with peak activity in March through July. If site-specific conditions or the nature of the covered activity (e.g., steep topography, dense vegetation, limited activities) indicate that a smaller buffer could be appropriate or that a larger buffer should be implemented, the biologist will coordinate with CDFG/USFWS to determine the appropriate buffer size.

Construction monitoring will focus on ensuring that no covered activities occur within the buffer zone established around an active nest. Although no known golden eagle nest sites occur within or near the urban limit line, covered activities inside and outside of the Preserve System have the potential to disturb golden eagle nest sites. Construction monitoring will ensure that direct effects to golden eagles are minimized.

## IV. Landscape and Natural Community-Level Avoidance and Minimization Measures

### For All Projects

#### HCP/NCCP Conservation Measure 1.10. Maintain Hydrologic Conditions and Minimize Erosion

In order to maintain hydrologic conditions and minimize erosion, PG&E is developing a Storm Water Pollution Prevention Plan (SWPPP) that will identify best management practices (BMP's) to be implemented to minimize the introduction of foreign material into waterbodies, control stormwater

runoff, minimize erosion and sedimentation, and limit the amount of surface disturbance to the area. All measures outlined in the SWPPP will be implemented in order to ensure that no sediment or other debris is allowed to enter stream beds or banks. PG&E will also adhere to Conservation Measure 2.12 in the HCP/NCCP for erosion control measures.

Additionally, the SWPPP is being designed to minimize impacts to the local groundwater supplies by introducing measures to control hazardous liquids. All BMP's implemented during the project will be monitored by the on-site Biological Monitor. PG&E will also implement a monitoring program to ensure that appropriate storm water and erosion control devices are installed properly and maintained throughout the project. Any degradation of the BMP's will be attended to without delay in order to eliminate the potential for impacts to occur. The project will not create any impermeable surfaces or divert water in a way that would affect local hydrology or groundwater resources.

All dirt roads leading to pull sites will be lined with filter fabric and covered with a layer of gravel in order to facilitate movement of heavy equipment. These roads are limited to project usage and will not cause a large increase in vehicular traffic outside of the minimum amount needed to complete the project. No additional roads will be created as a result of this project. Upon the completion of the project, the rock and fabric will be removed, restoring the roads to their original state.

## **HCP/NCCP Conservation Measure 1.11. Avoid Direct Impacts on Extremely Rare Plants, Fully Protected Wildlife Species, or Covered Migratory Birds**

Planning phase biological surveys were conducted to determine the presence or potential for presence of protected plant and wildlife species. Potentially sensitive locations and habitats were documented. No direct or indirect impacts on any extremely rare plants or fully protected wildlife species are anticipated.

Survey methods and avoidance and minimization measures for no-take plants are discussed above in the section entitled "Covered and No-Take Plants".

Preconstruction bird surveys will be conducted between January 1 and August 15 within one week prior to the start of construction at all active work areas to identify active nests and/or birds exhibiting breeding behavior. Nest searches will extend to a radius of 100 feet around all active work areas for most species, 200 feet for special-status species other than raptors, and 0.25 mile for raptors, unless access is prohibited by landowners. A Biological Monitor will establish an appropriate nest-exclusion zone around any active nests that may be found, which will be appropriate for the activity and species and may be modified by the Biological Monitor. In order to minimize the introduction of noxious weeds to the area, all mowing and other vegetation removal equipment will be thoroughly cleaned prior to entry onto the site.

Work will be limited to daylight hours (from 0.5 hour before dawn to 0.5 hour after dusk). Biological Monitors will be on site during work activities to advise construction crews to prevent impacts to special-status species. If a listed wildlife species is found within the work area during active construction, activities will be halted in the immediate area and the animal will be allowed to escape. In addition, all work crews will receive an environmental training conducted by the Biological Monitor prior to working on the project. This environmental training will include a number of measures, including a description of the life history and avoidance measures pertaining to specific special-status species.

# For Projects on or adjacent to Streams or Wetlands

## HCP/NCCP Conservation Measure 1.7. Establish Stream Setbacks

Ground disturbance of all waterbodies and wetlands will be avoided. In addition, stream setbacks have been applied to all perennial, intermittent, and ephemeral streams as determined by Table 6-2 of the Final ECCCHCP at all water crossings with two exceptions.

The first exception refers to Pull Site 6A/6B and a crossing structure located at Deer Creek (see Attachment B—Figure 3: Land Cover Map 9). In this location, a 75-foot setback buffer is not feasible due to limitations imposed by existing development, such as housing developments and existing paved roads and lots. A 20-foot buffer can be implemented, and additional erosion measures, such as silt fencing, will be installed. The stretch of creek near the immediate work area is dominated by non-native vegetation, and the adjoining area is characterized by very disturbed annual grassland surrounded by housing developments. The land cover type to the south of the creek is characterized as urban.

The second exception refers to the roadside intermittent stream near Landing Zone 2 (see Attachment B—Figure 3: Land Cover Map 15). It runs along the edge of a pre-existing gravel road. A 75-foot buffer cannot be installed at this location, but erosion prevention measures such as silt fencing will be implemented. The area immediately north of this stream is a gravel road and a disturbed area currently used for materials storage. The area south of the stream is annual grassland. There is no riparian woodland/scrub vegetation at either location that could serve as nesting habitat for Swainson's hawk or other bird species. In both cases, there will be no permanent impacts within the stream setback.

For the purpose of determining required stream setbacks, streams located in close proximity to the project's work areas were assigned to one of five categories as described in the Final ECCCHCP:

- Concrete channel
- 1<sup>st</sup> and 2<sup>nd</sup> order ephemeral reaches in urban and agricultural areas
- 1<sup>st</sup> and 2<sup>nd</sup> order ephemeral reaches in natural areas
- Perennial, intermittent, or 3<sup>rd</sup> + reaches in urban areas except Marsh Creek mainstem
- Perennial, intermittent, or 3<sup>rd</sup> + reaches in agricultural or natural areas and Marsh Creek mainstem

Setbacks were established from the top of the stream bank in an aerial perspective and extended to the outer drip line of native woody riparian vegetation when present. Roads or trails outside of the setbacks will be used when available. When roads outside of the setbacks are not available, those farthest from the stream channel with permeable or semi-permeable surfaces will be used.

## HCP/NCCP Conservation Measure 2.12. Wetland, Pond, and Stream Avoidance and Minimization

Ground disturbance of all waterbodies and wetlands will be avoided. Helicopters will be utilized to access jurisdictional areas that would otherwise be disturbed by ground access. PG&E is developing a SWPPP to ensure that the guidelines described in Conservation Measure 1.10 are followed. All wetlands, ponds, streams, and riparian woodland/scrub to be avoided will be temporarily staked in the field by a Biological Monitor. Stream setbacks will also be marked by a Biological Monitor to comply with Conservation Measure 1.7. Temporary fencing will be erected between the outer edge of the

buffer zone and the project area. In addition, all work crews will receive an environmental training conducted by the Biological Monitor prior to working on the project. This environmental training will include a number of measures, including a description of the life history and avoidance measures pertaining to specific special-status species. Trash will be promptly and properly removed from the site. No vehicles will be refueled within 200 feet of wetlands, ponds, streams, or riparian woodland/scrub unless a bermed and lined refueling area is constructed and hazardous material absorbent pads are available.

Erosion control measures as described in Chapter 6 Section 2.12 of the ECCCHCP will be implemented to minimize sedimentation and erosion surrounding the work area. As detailed in the SWPPP, in the event that materials/soils need to be stored temporarily on site, stockpiles will be covered with plastic sheeting to protect them from wind and water erosion and will be surrounded with perimeter protection (such as ERTEC Perimeter Guard or sand/gravel bags). Stockpiles will be located away from drainages. Temporary perimeter protection, such as fiber rolls, silt fences, and berms, will be used to prevent erosion. If fiber rolls are to be used, they will be certified as free of noxious weed seed. Neither erosion control blankets nor monofilament netting will be used on the project to avoid entrapment of sensitive wildlife. Herbicides will not be applied on the work site.

## **For Projects adjacent to Protected Natural Lands (existing and projected)**

### **HCP/NCCP Conservation Measure 1.6. Minimize Development Footprint Adjacent to Open Space**

The project will occur adjacent to or within two different areas of protected natural lands: John Marsh/Cowell Ranch Property of the California Department of Parks and Recreation and the Los Vaqueros Watershed. Towers 8/49 through 11/64 are located within the John Marsh/Cowell Ranch Property, and Towers 10/63 through 19/103 are located within the Los Vaqueros Watershed. The work footprint associated with the towers in John Marsh/Cowell Ranch Property and the Los Vaqueros Watershed will be limited to the minimum amount possible in order to minimize impacts within these protected lands. PG&E will avoid the use of overland access roads in these areas where feasible. Because this project involves the reconductoring of an existing transmission line, no further development footprint will result from the construction of the project.

### **HCP/NCCP Conservation Measure 1.8. Establish Fuel Management Buffer to Protect Preserves and Property**

Because the project involves reconductoring an existing transmission line, fuel management considerations listed in the HCP applying to urban development are not applicable to this project.

### **HCP/NCCP Conservation Measure 1.9. Incorporate Urban-Wildland Interface Design Elements**

Because the project involves reconductoring an existing transmission line, design and development considerations listed in the HCP applying to urban development are not applicable to this project.

## For Rural Infrastructure Projects

### HCP/NCCP Conservation Measure 1.12. Implement Best Management Practices for Rural Road Maintenance

Conservation measure 1.12 does not apply to this project.

### HCP/NCCP Conservation Measure 1.13. Implement Best Management Practices for Flood Control Facility Maintenance

No work associated with this project will involve flood control facilities. Because of this, measures outlined in this section are not applicable to the project.

### HCP/NCCP Conservation Measure 1.14. Design Requirements for Covered Roads outside the Urban Development Area

Conservation measure 1.14 does not apply to this project.

## V. Mitigation Measures

The project will result in approximately 78.24 acres of new temporary disturbance resulting from the temporary use of pull sites, landing zones, crane work areas, overland access roads, dirt roads, and crossing structures in the two-County project area and 66.93 in Contra Costa County in the HCP Area. All non-exempt impacts (e.g. impacts to land cover types other than urban, turf and wind turbine)—approximately 22.36 acres—are located within the HCP Area. Approximately 44 acres of temporary impacts to urban, turf or wind turbine land covers are located in the HCP area, and approximately 11.89 acres of temporary impacts to disturbed areas are located in Alameda County. All project impacts will be temporary in nature. These impacts have been broken down by temporary construction areas in Table 5: Project Disturbance by Land Cover Type and Table 6: Project Disturbance by Fee Zone.

Although all project impacts are temporary, PG&E is planning to mitigate for these temporary impacts by paying the full HCP Development Fee for the area of temporary impacts. This project involves 78.24 acres of temporary impacts, 22.36 of which are non-fee-exempt and are located in the HCP Area. Impacts in areas designated as urban, turf or wind turbine land cover types are exempt from fees and were therefore not included in fee calculations. Areas within the City of Antioch, which are not designated as any fee zone in the ECCCHCP, were calculated as Fee Zone 2 in the Sand Creek and Lone Tree areas, and as Fee Zone 4 (the average of Fee Zone 1 and Fee Zone 2) in areas that were in the middle of the City of Antioch but not classified as urban or turf land cover. PG&E will be compensating for approximately 22.35 acres of temporary impacts by paying temporary impact fees of \$491,314.72. PG&E will also pay a contribution to recovery of \$49,131.47, which is 10% of the temporary impact fees. The total required payment of fees and the contribution to recovery will be \$540,446.19..

The mitigation calculations have been included in Attachment D: HCP Fee Calculator.

**Table 5: Project Disturbance by Land Cover Type<sup>3</sup>**

Land Cover Type <sup>4</sup>	HCP Inventory Area									Alameda County								
	AnG	Rud	OS	Crop	Vine	NW	WT	Urb	Turf	AnG	Rud	OS	Crop	Vine	NW	WT	Urb	Turf
Pull Sites/ Landing Zones	9.97	3.60	0	0	0.32	0.58	0.57	4.75	0	0.69	0	0	0	0	0	0	1.38	0
Crossing Structures	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Overland Access	5.12	0.30	0.64	0.46	0.04	0	0	0.12	0.04	0	0.08	0	0	0	0.02	0	0.05	0
Impacted Dirt Roads <sup>5</sup>	0	1.27	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Other Dirt Roads	0	0	0	0	0	0	0	19.18	0	0	0	0	0	0	0	0	1.83	0

<sup>3</sup> All area measurements are in acres.

<sup>4</sup> Land cover type abbreviations:

- AnG: Annual Grassland
- Rud: Ruderal
- OS: Oak Savanna
- Crop: Cropland
- Vine: Vineyard
- NW: Nonnative Woodland
- WT: Wind Turbine
- Urb: Urban
- Turf: Turf

<sup>5</sup> Impacted dirt roads include dirt roads that require rocking and portions of dirt roads from which crossing structures will be installed.

Land Cover Type <sup>4</sup>	HCP Inventory Area									Alameda County								
	AnG	Rud	OS	Crop	Vine	NW	WT	Urb	Turf	AnG	Rud	OS	Crop	Vine	NW	WT	Urb	Turf
Gravel and Paved Roads	0	0	0	0	0	0	0	19.91	0	0	0	0	0	0	0	0	7.58	0
Crane Work Areas	0	0.06	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.17	0
<b>Totals</b>	<b>15.09</b>	<b>5.23</b>	<b>0.64</b>	<b>0.46</b>	<b>0.36</b>	<b>0.58</b>	<b>0.57</b>	<b>43.96</b>	<b>0.04</b>	<b>0.69</b>	<b>0.08</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0.02</b>	<b>0</b>	<b>11.02</b>	<b>0</b>

**Table 6: Project Disturbance by Fee Zone**

Construction Activities	Impact Acreage				
	HCP Area				Alameda County
	Fee Zone 1	Fee Zone 2	Fee Zone 4	HCP-Exempt Areas <sup>6</sup>	Disturbed Areas <sup>7</sup>
Pull Sites/Landing Zones	0.87	8.96	4.63	4.75	2.06
Crossing Structures	0	0	0	0	0
Overland Access Routes	0.16	5.46	0.94	0.16	0.15
Impacted Dirt Roads	0.04	0.92	0.31	0	0
Other Dirt Roads	0	0	0	19.18	1.83
Gravel and Paved Access Roads	0	0	0	19.91	7.58
Crane Work Areas	0	0	0.06	0	0.17
<b>Total</b>	<b>1.07</b>	<b>15.35</b>	<b>5.94</b>	<b>44.00</b>	<b>11.80</b>

<sup>6</sup> HCP-exempt areas include urban, turf, landfill, and aqueduct land cover types.

<sup>7</sup> Disturbed areas include areas that were surveyed and found to be disturbed and to have low potential for sensitive-status species.

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# Attachment D: HCP/NCCP FEE CALCULATOR WORKSHEET

## PROJECT APPLICANT INFO:

Project Applicant: PG&E

Project Name: Contra Costa-Las Positas 230 kV Reconductoring Project

APN (s): \_\_\_\_\_

Date: 23-Jan-09 Jurisdiction: East Contra Costa County Habitat Conservancy

### DEVELOPMENT FEE (see appropriate ordinance or HCP/NCCP Figure 9-1 to determine Fee Zone)

	Acreage of land to be temporarily disturbed (from Table 1)		Fee per Acre	
Fee Zone 1	<u>1.07</u>	x	\$12,078	= <u>\$12,923.46</u>
Fee Zone 2	<u>15.35</u>	x	\$24,155	= <u>\$370,779.25</u>
Fee Zone 3	<u>0.00</u>	x	\$6,039	= <u>\$0.00</u>
Fee Zone 4*	<u>5.94</u>	x	\$18,117	= <u>\$107,612.01</u>
<b>Development Fee Total</b>				<b><u>\$491,314.72</u></b>

### WETLAND MITIGATION FEE

	Acreage of wetland		Fee per Acre	
Riparian woodland / scrub	<u>0.00</u>	x	\$61,969	= <u>\$0.00</u>
Perennial Wetland	<u>0.00</u>	x	\$84,799	= <u>\$0.00</u>
Seasonal Wetland	<u>0.00</u>	x	\$183,731	= <u>\$0.00</u>
Alkali Wetland	<u>0.00</u>	x	\$173,947	= <u>\$0.00</u>
Ponds	<u>0.00</u>	x	\$92,409	= <u>\$0.00</u>
Aquatic (open water)	<u>0.00</u>	x	\$46,748	= <u>\$0.00</u>
Slough / Channel	<u>0.00</u>	x	\$105,455	= <u>\$0.00</u>

#### Linear Feet

<b>Streams</b>				
Streams 25 Feet wide or less (Fee is per Linear Foot)	<u>0.00</u>	x	\$505	= <u>\$0.00</u>
Streams greater than 25 feet wide (Fee is per Linear Foot)	<u>0.00</u>	x	\$761	= <u>\$0.00</u>

Wetland Mitigation Fee Total **\$0.00**

### FEE REDUCTION

Development Fee reduction (authorized by Implementing Entity) for land in lieu of fee \_\_\_\_\_  
 Development Fee reduction (up to 33%, but must be approved by Conservancy) for permanent assessments \_\_\_\_\_  
 Wetland Mitigation Fee reduction (authorized by Implementing Entity) for wetland restoration/creation performed by applicant \_\_\_\_\_

**Reduction Total** **\$0.00**

### CALCULATE FINAL FEE

Development Fee Total	<u>\$491,314.72</u>
Wetland Mitigation Fee Total +	<u>\$0.00</u>
<b>Fee Subtotal</b>	<b><u>\$491,314.72</u></b>
Reduction Total -	<b><u>\$0.00</u></b>

**TOTAL FEE TO BE PAID** **\$491,314.72**

**CONTRIBUTION TO RECOVERY (10%)** **\$49,131.47**

**TOTAL OF FEES AND CONTRIBUION TO RECOVERY** **\$540,446.19**

\* Note: Fee Zone 4 was calculated by averaging Fee Zones 1 and 2. Areas located in Antioch and within the urbanized area, but whose specific land cover was not urban, turf, landfill, or aqueduct, were assigned to Fee Zone 4. Locations near the Sand Creek/Lone Tree Substation region of Antioch were assigned to Fee Zone 2.

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**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY**

**DATE:** January 28, 2009  
**TO:** Governing Board  
**FROM:** Conservancy Staff  
**SUBJECT:** Legislative Issues and Resolution 2009-01 Supporting increased federal funding for HCPs

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**RECOMMENDATION**

- A) ADOPT the 2009 Legislative Platform;
- B) ADOPT Resolution 2009-01 to support working together with agencies from across California to request that the United States Congress increase overall funding of the U.S. Fish and Wildlife Service Cooperative Endangered Species Fund by approximately \$50 million in the Fiscal Year 2010 Interior and Related Agencies Appropriations bill.
- C) AUTHORIZE the Chair or staff, as appropriate, to communicate items on the Platform to relevant members and staff of the U.S Congress and the California Legislature, relevant federal and state agencies, potential advocacy partners and others.

**DISCUSSION**

The Legislative Platform contains specific policy statements pertaining to four major issues affecting the ongoing progress of East Contra Costa County Habitat Conservation Plan / natural Community Conservation Plan and to Habitat Conservation Plans (HCPs) and Natural Community Conservation Plans (NCCPs). Conservancy staff participated in a statewide meeting of representatives of and advocates for HCPs and NCCPs in northern and southern California, and we expect the first three items on the Platform will be jointly pursued by a newly formed statewide HCP coalition. The Governing Board has previously approved supporting positions on each of the four items on the proposed Platform. Conservancy staff recommends approval of the Platform to reaffirm those policy positions and provide clear documentation of them.

CONTINUED ON ATTACHMENT: \_\_\_\_\_  
ACTION OF BOARD ON: \_\_\_\_\_ APPROVED AS RECOMMENDED: \_\_\_\_\_  
OTHER

**VOTE OF BOARD MEMBERS**

\_\_ UNANIMOUS  
AYES: \_\_\_\_\_  
NOES: \_\_\_\_\_  
ABSENT: \_\_\_\_\_  
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 \_\_\_\_\_  
*DENNIS M. BARRY, SECRETARY OF THE EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY*

BY: \_\_\_\_\_, DEPUTY

Conservancy staff is also recommending approval of Resolution 2009-01. It is virtually identical to resolution 2008-01 approved last year and also is a more formal expression of item 1 on the 2009 Legislative Platform. The statewide HCP coalition is planning a coordinated effort to advocate for an increase in Section 6 funding and resolutions have been requested from each jurisdiction to make clear their support for funding increase.

If the Governing Board approves the Platform and Resolution 2009-01, staff is also recommending that the Board authorize these positions to be communicated to appropriate parties through written communication and attendance of meetings. A Conservancy representative has been invited to attend a short trip to Washington D.C. in March as part of a coalition effort to advocate for the Platform issues one to three and if the item is approved Conservancy staff would propose to attend as occurred in 2008. The costs of such a trip would be covered within the proposed 2009 Conservancy Budget.

**Attachment:**

- Proposed 2009 Conservancy Legislative Platform
- Resolution 2009-01



EAST CONTRA COSTA  
COUNTY HABITAT  
CONSERVANCY

City of Brentwood

City of Clayton

City of Oakley

City of Pittsburg

Contra Costa County

# 2009

## Federal & State Legislative Platform

The Legislative Platform contains specific policy statements pertaining to four major issues affecting the ongoing progress of the East Contra Costa County Habitat Conservancy to implement the East Contra Costa County Habitat Conservation Plan (HCP) / Natural Community Conservation Plan (NCCP).

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### SUMMARY

In 2009, the East Contra Costa Habitat Conservancy will support and advocate for the following legislative or policy actions in the state and federal governments:

- Item 1:** *Advocate* increasing funding for the Cooperative Endangered Species Conservation Fund from the \$73.8 million current-year level to \$125 million in FY2010.
- Item 2:** *Request* recognition of Habitat Conversation Plans as the most reliable way of streamlining critical infrastructure, economic stimulus, and alternative energy project permitting in a manner that is consistent with federal environmental regulations and in the process creating many “green” jobs.
- Item 3:** *Advocate* amendment of the grant guidelines for the U.S. Fish and Wildlife Service (USFWS) Section 6 Grant Program to once again allow the use of local fee funds as match.
- Item 4:** *Request* the State to provide a substantial contribution of approximately \$20 million toward the required non-federal match for the Conservancy’s three approved Section 6 grants.

### PLATFORM ITEMS

#### **Item 1: Regional Habitat Planning and Conservation - U.S. Fish and Wildlife Service’s Cooperative Endangered Species Fund.**

##### LEGISLATIVE POSTION:

In partnership with approximately a dozen counties in northern and southern California, we request that funding for the U.S. Fish and Wildlife Service’s

Cooperative Endangered Species Conservation Fund (the “Fund”) increase from the \$73.8 million current-year level to \$125 million in FY2010. This will restore the Fund to approximately that of the fiscal 2001 level, adjusted for inflation, and provide much needed support to regional Habitat Conservation Plans (HCP’s) in California and nationally. Given the prolific growth in the number of regional HCP’s, the Fund needs to be increased even more substantially in subsequent years. We urge the California State Association of Counties (CSAC) to include this Fund increase request as a priority on CSAC’s current and future federal platforms.

**BACKGROUND:**

The Fund provides funding for grants toward approved HCPs in order to meet land acquisition goals, planning grants for HCPs in preparation, and land acquisition grants for species that have Recovery Plans. These grants, also called Section 6 grants, are the main source of federal funding to aid the preparation and implementation of HCPs. In the years ahead, the land acquisition grants will be an essential component for meeting the biological conservation and permit streamlining benefits of HCPs. However, the program is currently funded at a substantially lower level than in Fiscal 2001, in terms of actual dollars. Fiscal 2001 appropriations were \$104.7 million. The current funding level is only \$73.8 million. The decrease is far more severe when inflation of land prices and the increase in approved HCPs are taken into account. To meet the growing need, the Fund will have to increase significantly over the next several years in order to ensure that HCPs continue to be initiated and implemented successfully.

In California alone, the number of regional HCPs has doubled while the Fund has failed to keep pace with inflation. Despite the recent economic downturn, costs to fully implement and manage regional HCP reserve systems remain high. Demand is particularly high for planning and land acquisition funding, given the large number of completed HCPs and Recovery Plans. For example, fiscal year 2008 requests from California for HCP Land Acquisition grants from the Fund totaled \$74.5 million, but total nationwide funding of the Land Acquisition component of the Fund was only \$35 million.

A 2008 study of the Western Riverside MSHCP (the “Riverside Plan”) by the RAND Corporation (the “RAND Report”) concluded that \$3.8-\$5 billion in land acquisitions are needed to simply finish the reserve system of the Riverside Plan and up to an additional \$690 million will be needed to operate and manage the reserve system through the plan’s permit term. Given these costs and the significant additional financial needs of other regional HCP plans, a large increase of the Fund over the next several years is justifiable and necessary.

**Item 2: Streamlining Permitting for Critical Infrastructure, Economic Stimulus, and Alternative Energy Projects –“Green” Job Creation.**

**LEGISLATIVE POSITION:**

Request recognition of Habitat Conservation Plans (HCPs) as the most reliable way of streamlining critical infrastructure, economic stimulus, and alternative energy project permitting in a manner that is consistent with federal environmental regulations. HCPs not only facilitate such projects through permit streamlining, but the planning, implementation, management, and monitoring needs associated with regional HCPs plans also create many quality “green” jobs.

**BACKGROUND:**

It is highly likely, if not certain, that there will be a dramatic increase in infrastructure and alternative energy projects associated with impending state and federal alternative energy, infrastructure, and economic stimulus plans. Regional HCPs are the best tool currently available for streamlining the necessary project permitting and environmental mitigation associated with these investments in a manner that will be consistent with federal environmental regulations. Not only do HCPs facilitate and streamline job creating investments, but also as discussed above, the planning, implementation, monitoring, and management needs related to these plans create “green” jobs. Creation of these types of jobs has been noted as a top priority of the new presidential administration.

**Item 3: The Use of Local Fee Money to Match Federal Section 6 Grants**

**LEGISLATIVE POSITION:**

Advocate amendment of the grant guidelines for the U.S. Fish and Wildlife Service (USFWS) Section 6 Grant Program to once again allow the use of local fee funds as match when such funds are the collected as part of a local government-led regional HCP/NCCP.

**BACKGROUND:**

In 2008, USFWS staff made clear to the Conservancy staff and others that USFWS interpreted its grant guidelines to prohibit use of mitigation funds as match for Section 6 Grants.

The rationale expressed for this policy is that mitigation funds are compulsory and don’t leverage additional funds. The Conservancy and other concerned parties have argued that this policy was not evident in the grant guidelines and does not seem logical for a grant program designed for HCPs. Section 6 grants do leverage huge amounts of conservation whether or not local fee funds are used as match. The very existence of the Section 6 program has been an incentive to develop regional HCPs, which are far better for conservation than the pre HCP project-by-project land-use permitting process. Without local governments such as those in East Contra Costa County voluntarily agreeing to approve and implement HCPs and require mitigation through their land use authority, the amount and quality of mitigation from these areas would be substantially reduced. The new policy has the potential to derail conservation planning efforts in many parts of California and severely hamper the efforts of existing plans to spend current and future Section 6 grants. The policy also could have a chilling effect on access by HCPs to other federal, state and private grant programs if the USFWS is seen to shy away from consideration of local fee funds as credible source of matching funds for its own HCP grant program.

**Item 4: Appropriation of State Funds to Match the Conservancy's Three Approved Federal Section 6 Grants**

LEGISLATIVE POSITION:

Request the State to provide a substantial contribution of approximately \$20 million toward the required non-federal match for the Conservancy's three approved Section 6 grants, which is just under \$24 million.

BACKGROUND:

Section 6 HCP Land Acquisition funds are typically granted to States. The States administer the expenditure of the funds for specific land acquisition projects associated with the HCP named in the grant award. The Wildlife Conservation Board (WCB) is the state agency in California responsible for administering the Section 6 Land Acquisition grants. The Section 6 grants for the ECCC HCP/NCCP require a 55% non-federal match (e.g., 45% of the cost may be covered by federal funds, but 55% must be covered with non-federal funds). The Conservancy's three approved Section 6 grants have a combined value of \$19,531,054. The required non-federal match is \$23,871,332. Given the USFWS policy of not allowing local fee funds to count as match, the Conservancy has no funds of its own that can count as match and must rely on partners and other non-federal grants. The HCP includes state and federal funding contributions and a substantial state contribution at this time would help resolve the non-federal match requirement problem with the current Section 6 grants.

WCB administers various funding State programs to benefit wildlife, including a funding program specifically for NCCPs. Proposition 84, approved by voters in 2006, included a \$90 million line-item for NCCPs. Of this amount, approximately \$20 million has been appropriated to WCB so far. WCB staff has proposed granting the Conservancy \$5 million as a first contribution. Conservancy staff plans to work with WCB staff to see if this amount can be increased and matched in future appropriation cycles such that the bulk of the non-federal match requirements of the Section 6 grants can be covered with Proposition 84 funds. Other potential state sources of funds that would be pursued include funds administered by the Coastal Conservancy and the Department of Water Resources.

Resolution No: 2009-01

RESOLUTION OF THE

**East Contra Costa County Habitat Conservancy Governing Board**

TO SUPPORT A REQUEST TO CONGRESS TO INCREASE FUNDING FOR THE  
U.S. FISH AND WILDLIFE SERVICE COOPERATIVE ENDANGERED SPECIES  
CONSERVATION FUND

WHEREAS, jurisdictions in Contra Costa, Placer, Riverside, Sacramento, San Diego, Santa Clara, Solano, Yolo, and other Counties are preparing or implementing Habitat Conservation Plans (HCPs) or Natural Community Conservation Plans (NCCPs) to conserve species and their habitats and aid our economies through efficient permitting; and,

WHEREAS, the East Contra Costa County Habitat Conservancy is a joint exercise of powers authority formed by the Cities of Brentwood, Clayton, Oakley and Pittsburg and Contra Costa County to implement the East Contra Costa County HCP/NCCP; and

WHEREAS, multi-county applications have multiple benefits including better likelihood of success, improved coordination and better integration of planning efforts; and,

WHEREAS, these HCP/NCCP planning efforts will provide regulatory relief by streamlining the permitting process, identifying the costs earlier in the process, and providing time for complying with state and federal environmental regulations; and,

WHEREAS, these planning efforts will offer opportunities for landowners to voluntarily participate in the selling of conservation easements, transfer of development rights or sale of land; and,

WHEREAS, these planning efforts will aid in the recovery of endangered and threatened wildlife species and enhance their habitats; and,

WHEREAS, regional, landscape level conservation planning efforts will protect a broad diversity of species and habitats; and,

WHEREAS, more than \$1.8 million from various local, state and federal sources was spent to prepare and finalize the East Contra Costa County HCP/NCCP and an additional \$350 million is planned to be spent over the next 30 years to implement that plan; and,

WHEREAS, HCPs provide regulatory efficiency that can jump-start economic growth, provides jobs and a prosperous economy; and,

WHEREAS, appropriations for the U.S. Fish and Wildlife Service to make grants for Habitat Conservation Plan land acquisition and planning have fallen, land costs have

increased, the number of HCPs has increased and the program does not have adequate funding to meet the nation-wide need.

NOW, THEREFORE, BE IT RESOLVED that the East Contra Costa County Habitat Conservancy Governing Board does hereby support working together with local jurisdictions in the Counties of Placer, Riverside, Sacramento, San Diego, Santa Clara, Solano, and Yolo, Nature Conservancy, Institute for Ecological Health, Defenders of Wildlife and other organizations that may join the California Habitat Conservation Planning Coalition to request that the United States Congress increase overall funding of the U.S. Fish and Wildlife Service Cooperative Endangered Species Conservation Fund by approximately \$50 million, from the \$73.8 million current-year level to \$125 million, in the Fiscal Year 2010 Interior and Related Agencies Appropriations bill.

Approved by the following vote on \_\_\_\_\_.

Ayes:

Noes:

Abstain:

Attest: \_\_\_\_\_  
John Kopchik, Executive Director