



EAST CONTRA
COSTA COUNTY
HABITAT
CONSERVANCY

GOVERNING BOARD

REGULAR MEETING

Wednesday, December 15, 2010
12:00 p.m.

City of Clayton
City Hall, First Floor Conference Room
6000 Heritage Trail Clayton, CA 94517

City of Brentwood
City of Clayton
City of Oakley
City of Pittsburg
Contra Costa County

AGENDA

- 1) **Introductions.**
- 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) **PRESENT Bruce Connelley with a certificate honoring his many years of service and leadership related to the Conservancy and initiation of the East Contra Costa County HCP/NCCP.**
- 4) **Consider APPROVING the Meeting Record from the East Contra Costa County Habitat Conservancy (“Conservancy”) Governing Board Special Meeting of September 30, 2010.**
- 5) **Consider DETERMINING Governing Board meeting time and locations in 2011.**
- 6) **Consider DETERMINING representation on Public Advisory Committee (PAC) for 2011.**
- 7) **Consider APPROVING the 2011 Conservancy Work Plan.**
- 8) **Consider APPROVING Implementation Policy Regarding Use of Conservancy Restoration Sites for Mitigation of Projects Not Covered by the East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan (HCP/NCCP).**
- 9) **Consider AUTHORIZING the Executive Director to sign Amendment 1 to the East County Water Management Association (ECWMA) Agreement which would add the Conservancy to the Association.**

10) Consider AUTHORIZING staff to execute an Amendment to the Participating Special Entity Agreement with ConocoPhillips Pipeline Company for the ConocoPhillips Line 200 Pipeline Repair Project.

11) Consider the following actions related to legislative matters:

- a) ADOPT the 2011 Legislative Platform;
- b) ADOPT Resolution 2010-01 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 from approximately \$85 million to \$100 million in the Fiscal Year 2012 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; and
- d) AUTHORIZE payment of \$5,000 as membership dues for the California Habitat Conservation Planning Coalition in 2011.

12) Consider the following actions related to Conservancy finances:

- a) APPROVE the 2011 Conservancy Budget.
- b) ~~AUTHORIZE staff to execute an agreement with the East Bay Regional Park District for the provision of specific land acquisition services during 2011.~~ [Postponed to next Governing Board meeting to allow staff more time to update the agreement.]
- c) AUTHORIZE staff to execute contracts for on-going consulting services with:
 - ICF Jones and Stokes: execute contract for \$290,000 for the term from January 1, 2011 through December 31, 2011;
 - H.T. Harvey and Associates: execute contract for \$265,000 for the term from January 1, 2011 through December 31, 2011;
 - Nomad Ecology: execute contract for \$50,000 for the term from January 1, 2011 through December 31, 2011; and
 - Restoration Resources: \$50,000 for the term from January 1, 2011 through December 31, 2011.
- d) AUTHORIZE staff to execute a contract for legal services with Resources Law Group for \$70,000 for a term from January 1, 2011 through December 31, 2011.

13) Adjourn.

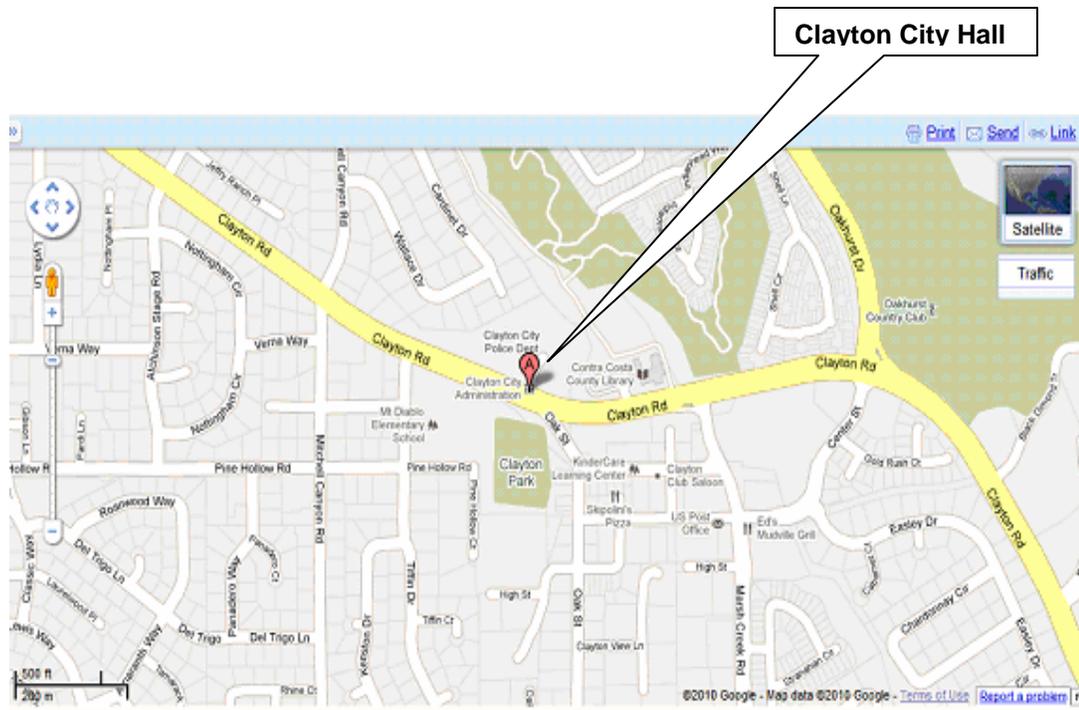
If you have questions about this agenda or desire additional meeting materials, you may contact John Kopchik of the Contra Costa County Department of Conservation and Development at 925-335-1227.

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.

City of Clayton, Clayton City Hall 6000 Heritage Trail Clayton, Ca 94517

From Martinez: Take I-680 S towards SAN JOSE. Take the WILLOW PASS ROAD exit, EXIT 51, toward TAYLOR BOULEVARD. Turn LEFT onto WILLOW PASS RD. Turn SLIGHT RIGHT onto GATEWAY BLVD. Turn SLIGHT LEFT onto CLAYTON RD. Turn SLIGHT RIGHT to stay on CLAYTON RD. Turn LEFT onto HERITAGE TRL. 6000 HERITAGE TRL is on the RIGHT.

From Brentwood/Oakley/Pittsburg via Kirker Pass: TAKE CA-4 W via the ramp on the LEFT toward CONCORD/OAKLAND. Take EXIT 23 toward HARBOR ST/RAILROAD AVE. Turn LEFT onto CALIFORNIA AVE. Take the 1st LEFT onto HARBOR ST. Turn RIGHT onto BUCHANAN BLVD. Turn LEFT onto RAILROAD AVE, RAILROAD AVE becomes KIRKER PASS RD. Turn LEFT onto CLAYTON RD. Turn LEFT onto HERITAGE TRL.



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**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: December 15, 2010
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Recognition for Mr. Bruce Connelley

RECOMMENDATION

PRESENT Bruce Connelley with a certificate honoring his many years of service and leadership related to the Conservancy and initiation of the East Contra Costa County HCP/NCCP.

DISCUSSION

Mr. Bruce Connelley served on the Conservancy Governing Board from its inception until December 2010. Prior to the formation of the Conservancy, Mr. Connelley served on the Governing Board of the Habitat Conservation Plan Association, the joint exercise of powers authority responsible for developing the East Contra Costa County HCP/NCCP. Mr. Connelley played a critical role in the efforts of the two bodies to first develop and then implement the Plan, providing a unique blend of attention to detail and focus on big picture goals. With the leadership and assistance of Mr. Connelley, the Plan was finalized and approved, more than 7,500 acres were secured for the Preserve System, four restoration projects were completed and approximately 20 projects received streamlined local permitting for impacts through the HCP, a legacy that will benefit the residents of east Contra Costa County for years to come.

CONTINUED ON ATTACHMENT: No
ACTION OF BOARD ON: December 15, 2010 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: December 15, 2010
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: **Governing Board Meeting Record for September 30, 2010**

RECOMMENDATION

APPROVE the Meeting Record from the East Contra Costa County Habitat Conservancy (“Conservancy”) Governing Board Meeting on September 30, 2010.

DISCUSSION

Please find the draft meeting record attached.

CONTINUED ON ATTACHMENT: Yes
ACTION OF BOARD ON: December 15, 2010 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
September 30, 2010
Oakley City Hall

1) Introductions and pledge of allegiance.

Governing Board members in attendance were:

Bruce Connelley	Councilman, City of Oakley (Chair)
Hank Stratford	Mayor, City of Clayton
Erick Stonebarger	Vice Mayor, City of Brentwood
Salvatore Evola	Mayor, City of Pittsburg

Other Attendees:

Randi Adair	Department of Fish and Game
Ron Brown	Save Mount Diablo
Geoff Monk	Monk and Associates
Terry Elrod	ConocoPhillips Pipeline Company
Frank Nichols	ConocoPhillips Pipeline Company
Timothy Krisch	Maze and Associates

Conservancy Staff members in attendance were:

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

2) Public Comment. No public comments.

3) Consider APPROVING the Meeting Record from the East Contra Costa County Habitat Conservancy (“Conservancy”) Governing Board Meeting on June 16, 2010. The Board approved the meeting record. (3-0: Connelley, Stratford, Evola with Stonebarger abstaining).

4) Consider ACCEPTING the audited financial statements and related documents for the Conservancy for Years Ended December 31, 2007, 2008 and 2009. Mr. Kopchik provided an introduction to the item and Mr. Timothy Kirsch with Maze and Associates provided an overview of the audit reports. The Board approved the item as recommended. (4-0: Connelley, Stratford, Evola, Stonebarger).

5) Consider ACCEPTING updates from staff on the following topics related to the Conservancy’s 2010 Work Plan:

- a) **Coordinating wetland permitting and the Habitat Conservation Plan / Natural Community Conservation Plan (“HCP/NCCP”).** Mr. Kopchik provided an overview of efforts to secure agreements and permits programs to better coordinate conservation and permitting of species under the HCP/NCCP with conservation and permitting of wetlands and waters conducted by the U.S. Army Corps of Engineers (Army Corps), the

State Water Resources Control Board and associated Regional Boards, the U.S. EPA and the wildlife agencies. Such coordination would make it easier on applicants and regulatory agencies to issue permits because wetland permit conditions would be coordinated with the HCP/NCCP and would also help ensure that wetland resource conservation is optimized and performed regionally. Such coordination between a local agency land use HCP and wetlands permits has not been achieved elsewhere to the best of staff's knowledge. The Sacramento District of the Army Corps is now taking the lead on developing a Regional General Permit that would facilitate this coordination and Corps staff has been invited to make a presentation to the Board once the public draft of the Regional General Permit has been released. The Board accepted the update. (4-0: Connelley, Stratford, Evola, Stonebarger).

- b) **Use of HCP/NCCP fee money to match Federal Section 6 Grants.** Mr. Kopchik provided an overview of the local fees as match issue including the progress that has been made to date regarding this effort. Mr. Kopchik reported that it appears approximately one-half of the Conservancy's fees may now be eligible to be used as match for such grants. The Board accepted the update. (4-0: Connelley, Stratford, Evola, Stonebarger).

6) Consider the following actions related to extending take coverage to ConocoPhillips Pipeline Company for the ConocoPhillips Line 200 Pipeline Repair Project:

- a) **AUTHORIZE staff to file a Notice of Exemption with the County Clerk for the project.**
- b) **AUTHORIZE staff to execute a Participating Special Entity Agreement with ConocoPhillips for take coverage of temporary impacts associated with the Line 200 Pipeline Repair Project.**

Mr. Kopchik provided an overview of the Project and the Participating Special Entity Agreement, including the development fees and the Contribution to Recovery of Endangered Species. Mr. Nichols representing ConocoPhillips, the project proponent, gave an overview of the project stating the urgency of the required repairs. Board approved Item 6 (a and b) as recommended. (4-0: Connelley, Stratford, Evola, Stonebarger).

7) Consider ACCEPTING update from staff regarding the East County Water Management Association ("ECWMA"), coordination of grant applications and grant awards pursuant to the Integrated Regional Water Management Plan ("IRWMP") for East Contra Costa County, and the possibility of the Conservancy joining ECWMA to facilitate receipt and management of grants through the IRWMP. Ms. Fateman provided an overview of the Item. The Board accepted the update. (4-0: Connelley, Stratford, Evola, Stonebarger).

8) Consider AUTHORIZING staff to sign Right of Entry Permits and execute related documents necessary to gain access to Contra Costa County's Byron Airport Habitat Management Lands for purpose of evaluating occurrences of covered fairy shrimp and possibly collecting fairy shrimp inoculum (eggs) for application at Conservancy restoration sites. Mr. Kopchik provided an overview of the item. He explained that one of the goals of the Souza II Wetland Restoration Project was to restore new habitat for fairy shrimp species and that fairy shrimp were not found in the new wetlands in the first wet season. The HCP puts a special emphasis on fairy shrimp occupying restored and created wetlands because habitat conditions alone are not adequate to insure the species needs are being addressed. Consequently, the HCP provides that, in order for applicants to impact fairy shrimp habitat the Conservancy must stay ahead of impacts by restoring and preserving occupied fairy shrimp habitat. Mr. Connelley

suggested a field trip to Souza II in the near future. Staff is making another attempt to bring fairy shrimp to the new wetlands and the Byron Airport site is one of two options for collecting cysts. The Board approved the Item as recommended. (4-0: Connelley, Stratford, Evola, Stonebarger).

9) Consider the following actions related to contracts:

- a) **AUTHORIZE staff to amend an existing contract for on-going biological and conservation planning services with Monk and Associates as follows: increase the payment limit by \$15,000 from \$31,500 to \$46,500 and extend the term through December 31, 2011.**
- b) **AUTHORIZE staff to execute up to two contracts or contract amendments for a combined payment limit, or combined payment limit increase, of \$100,000 in order to initiate design of one or more wetland restoration projects.**

Mr. Kopchik provided an overview of the Item 9 (a-b). The Board approved the Item as recommended. (4-0: Connelley, Stratford, Evola, Stonebarger).

Adjourn to Closed Session

10) Closed Session: Conference With Real Property Negotiators

Property APN's: 094-130-014; -015; 075-080-011 (Kirker Pass Road area)
Agency Negotiators: John Kopchik and Abby Fateman
Negotiating Parties Conservancy and East Bay Regional Park District
Under negotiation: Price and payment terms

11) Closed Session: Conference With Real Property Negotiators

Property APN's: 075-170-003; 075-180-004 (Clayton area)
Agency Negotiators: John Kopchik and Abby Fateman
Negotiating Parties Conservancy and East Bay Regional Park District
Under negotiation: Price and payment terms

Reconvene Open Session

12) Report on any actions taken in Closed Session. The Chair reported on the following closed session items:

- Item 10: The Board approved executing funding and grant agreements for the property, pending the Chair's concurrence with the final version of the funding agreement.
- Item 11: The Board approved executing a funding and grant agreements for the property, pending the Chair's concurrence with the final version of the funding agreement.

13) Adjourn. Next meeting is December 15, 2010 at the City of Clayton.

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: December 15, 2010
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: **Determine Governing Board meeting time and locations in 2011.**

RECOMMENDATION

DETERMINE Governing Board meeting time and locations in 2011.

DISCUSSION

According to the Joint Powers Agreement (JPA) the hour and place at which each such regular meeting shall be held shall be fixed by resolution of the Board. The Governing Board meetings have been regularly held on the third Wednesday of every third month during the lunch hour. The Board had also directed that the meeting location alter every other session between the City of Oakley and the City of Pittsburg. During the Governing Board meeting on September 30, 2010 a board member suggested that a meeting be held once a year at the City of Clayton. Based on the prior schedule and the recent suggestion, staff have developed the following proposed 2011 meeting schedule for discussion purposes:

Date:	Location:
March 16 th , 2011	(City of Pittsburg)
June 15 th , 2011	(City of Oakley)
September 21 st , 2011	(City of Clayton)
December 21 st , 2011	(City of Pittsburg)

Governing Board determination of a schedule for 2011 is requested.

CONTINUED ON ATTACHMENT: <u>No</u>	
ACTION OF BOARD ON: <u>December 15, 2010</u>	APPROVED AS RECOMMENDED: _____
OTHER _____	
<u>VOTE OF BOARD MEMBERS</u>	
<input type="checkbox"/> 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.
NOES: _____	
ABSENT: _____	
ABSTAIN: _____	
	ATTESTED _____
	<i>Catherine Kutsuris, SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY</i>
	BY: _____, DEPUTY

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**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: December 15, 2010
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: 2011 Public Advisory Committee.

RECOMMENDATION

DETERMINE representation on Public Advisory Committee (PAC) for 2011.

DISCUSSION

Pursuant to requirements in the HCP/NCCP, the Board initiated the PAC in February 2008 and established a quarterly meeting schedule. The PAC reports to the Board and provides input to the Board and staff on many aspects of Plan implementation. The PAC is responsible for reviewing and commenting on the general implementation processes of the HCP/NCCP including the expenditures of funds for conservation measures, the general process for issuing take coverage to covered activities, the operation of preserves and adaptive management and the adherence to plan commitments. The PAC is to operate by consensus, but when consensus cannot be reached, the various positions will be reported to the Board.

The Board action initiating the PAC requires the composition of the PAC to be reviewed annually. The annual review of PAC committee representation was discussed during the PAC meeting on November 10, 2010. The PAC members were in agreement that the current composition is satisfactory, recommended that the composition be unchanged in 2011 and recommended that there be additional outreach to encourage attendance of PAC meetings by non-members, thereby expanding general participation and building a reserve of potential future members. Staff concurs with the PAC recommendations. Consideration and determination by the Board is requested.

CONTINUED ON ATTACHMENT: YES
ACTION OF BOARD ON: December 15, 2010 APPROVED AS RECOMMENDED: _____
OTHER _____

VOTE OF BOARD MEMBERS

 UNANIMOUS
AYES: _____
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ABSTAIN: _____

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

BY: _____, DEPUTY

The current composition of the Public Advisory Committee is as follows:

Private permit seekers, (e.g., private developers or their representatives)

- Contra Costa Council
- Discovery Builders
- Home Builders Association of Northern California

Conservation advocates, (e.g., established organizations that represent members in the inventory area)

- California Native Plant Society
- Friends of Marsh Creek Watershed
- Save Mount Diablo

Private landowners and/or agriculturalists, or their representatives

- Agricultural/Natural Resources Trust of Contra Costa County
- Contra Costa County Citizens Land Alliance
- Contra Costa County Farm Bureau

People representing suburban and rural residents of the Plan area

- Dick Vrmeer (resident of Brentwood)
- Mary F. Dahlquist (Resident of Pittsburg)
- Sharon L. Osteen (Resident of Clayton)

Staff members from interested public agencies are also welcome to attend and participate in committee meetings. Despite formal membership, members of the public are welcome to participate in discussions and be part of committee recommendations.

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: December 15, 2010
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Conservancy Work Plan – 2010 Summary & 2011 Work Plan

RECOMMENDATION

APPROVE the 2011 Conservancy Work Plan.

DISCUSSION

The Conservancy Work Plan: 2010 Summary and 2011 Work Plan provides both a summary of tasks initiated and completed in 2010 and tasks planned for 2011 (attached).

Section 8.11.1 of the HCP/NCCP provides a schedule for implementation, forecasting tasks for the first year, five-year periods during the 30 year term of the Plan, and beyond year 30 of HCP/NCCP implementation. The HCP/NCCP also provides a list of the duties of the implementing entity (the Conservancy) in Section 8.3. Based on this information and general knowledge of the HCP/NCCP, staff has developed the 2011 Conservancy Work Plan.

As mentioned, the Work Plan also includes a summary of tasks that have been completed and progress achieved on the on-going tasks in 2010. In cases where a task appeared in the HCP/NCCP implementation schedule, the recommended timeline from the HCP/NCCP is juxtaposed with staff’s recommended timeline in the Work Plan for comparison purposes. The “Actions Taken in 2010” column describes the type of work that has been completed and the end result for actions taken in 2010. The “Actions Planned for 2011” column provides the goals and type of work planned in 2011.

CONTINUED ON ATTACHMENT: YES
ACTION OF BOARD ON: December 15, 2010 APPROVED AS RECOMMENDED: _____
OTHER: _____

VOTE OF BOARD MEMBERS

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

BY: _____, DEPUTY

During the initial years of implementation (2008-2009), tasks focused heavily on Plan administration. This was partly because there were a lot of start-up administrative tasks to accomplish. The many administrative tasks included creating documents, maps, and informational pamphlets, establishing a database tracking impacts and projects, training local agency staff on how to process planning survey report (PSR) applications, establishing the Conservancy as a brand new agency and taking whatever steps necessary to ensure the Plan had as smooth a start as possible. To date, most of the administrative tasks have been accomplished and therefore a brief update on on-going efforts is given for 2011. Because administrative tasks tend to be more discrete they are easier to itemize than the more complex programmatic tasks like land acquisition or restoration or creation. For the more complex tasks, the Work Plan attempts to provide a sense of the general approach recommended.

Some key changes from the 2010 Work Plan include the following:

Land acquisition: The first acquisitions closed in 2009 and the pace greatly accelerated in 2010 such that by years end more than 7,500 acres has been secured for the Preserve System. We are hoping and planning to continue the fast pace in 2011.

Restoration: Three restoration/creation projects are on the agenda for the summer of 2011 with initial restoration design planning getting underway.

Management: With preserve lands now in place and Preserve Management Plans to be completed soon, work on this task will increase substantially this year, moving beyond management of the four of the restoration/creation sites to management of almost 7,500 acres through direct Conservancy work and funding agreements with East Bay Regional Park District (EBRPD).

Monitoring: During 2011 and over the next several years, attention will be focused on the development of the Monitoring and Adaptive Management Program. Efforts have been underway on development and implementation of Restoration Management Plans for projects during 2008-2010. In 2011, Staff efforts will focus on the inventory phase of this process primarily by collection of baseline data for wetlands and rare plants across the Preserve System.

Volunteers: A new area focus in 2010 with increasing efforts in 2011 will be to complete development of a Conservancy volunteer program. This program is intended to provide opportunities to assist with riparian plantings, to perform monitoring activities, and data collection such as the California Native Plant Society rare plant assessment event held in 2010. Existing partnerships with other organizations will be expanded while a variety of other potential partnerships will be explored.

Outreach: We need to expand general public awareness of our efforts. In 2011, this may include the Conservancy being featured in a documentary film about Habitat Conservation Plans, which may air on PBS in 2012.

Lessons learned: During the first three years of implementation the Conservancy has had many valuable experiences which have lead to planned process improvements for 2011. One such example is to work more closely with and utilizing participating agency staff, such as our partnership with the East Bay Regional Park District, for their experience and expertise on land

acquisitions, restoration and creation projects. Another is to rely on a variety of outside consultants in order to continue to find out which firms are best suited for which tasks and to benefit from a broad array of experience and perspectives.

Questions, comments and guidance from the Board on the Draft Work Plan are welcomed.

Attachment:

- Conservancy Work Plan: 2010 Summary and 2011 Work Plan

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Conservancy Work Plan: 2010 Summary and 2011 Work Plan

	TASK	HCP/NCCP TIME FRAME	STATUS (completion date)	ACTIONS TAKEN IN 2010	ACTIONS PLANNED FOR 2011
<i>Program Administration (general)</i>					
1	Increase public awareness of the Plan and provide opportunities for involvement in the implementation of the Plan by the public, interested agencies, and others.	N/A	On-going	PAC meetings were held quarterly. The Conservancy continued to recruit additional PAC participation via the website and other means. Film documentarian producing a film on Habitat Conservation Plan's is featuring the Conservancy in the Film set to air on PBS in 2012. The Conservancy was featured in several news articles on land acquisitions in East Contra Costa County.	PAC meetings will continue to be held quarterly. Conservancy will actively recruit additional PAC participation using the website and other means. Staff will pursue greater media coverage of Plan activities to improve awareness of the public at large, including continued work with the documentarian featuring the Conservancy (this includes filming of public meetings and spotlighting Staff). Public events will be held to commemorate accomplishments.
2	Develop a Conservancy Volunteer Program and Implement Volunteer Activities	N/A	On-going	Continued work on development of a volunteer program including collaborating with the PAC to develop program goals and objectives. Worked with Save Mount Diablo volunteers to implement and monitor the Irish Canyon Restoration Project. Partnered with the Contra Costa Watershed Forum's Volunteer Creek Monitoring Program for volunteer activities in the Preserve System such as planting seeds at the Souza II Wetland Restoration Site. Worked with volunteers to conduct CNPS baseline rare plant assessments on Vaquero Farms North.	Finalize development of the program including creating a draft program plan. Conduct at least one large restoration volunteer event, at least 6 volunteer monitoring events, and a CNPS baseline rare plant assessment on a Preserve property. Continue to collaborate with Save Mount Diablo, the Volunteer Creek Monitoring Program, and other volunteer groups and organizations.
3	Develop and maintain annual budgets and work plans. Prepare and submit an annual report to CDFG and USFWS.	Annual Report required by March 15	On-going	Task completed for 2010. Conservancy completed the 2008-2009 Annual Report. Conservancy Staff have prepared the 2011 annual budget and the 2011 work plan for Board discussion in December 2010.	Conservancy Staff will prepare the 2012 annual budget and the 2012 work plan for Board discussion in December 2011. Conservancy will prepare and publish the 2010 Annual Report.
4	Calculate the amounts of automatic annual fee increases and distribute these calculations to Permittees by March 15 of each year, in accordance with Chapter 9 of the HCP/NCCP.	N/A	On-going	The calculations were performed in March 2010.	In-lieu of the Automatic Adjustment of Mitigation Fees the Conservancy will conduct its first Periodic Audit and Adjustment of Mitigation Fees by March 15, 2011 as required by the Plan. Based on the audit the mitigation fees will be adjusted to reflect refined cost estimates.

	TASK	HCP/NCCP TIME FRAME	STATUS (completion date)	ACTIONS TAKEN IN 2010	ACTIONS PLANNED FOR 2011
5	Pursue State and Federal Grants to assist in funding preserve acquisition and other implementation tasks.	N/A	On-going	New grants awarded in 2010 include \$2.25 from the Gordon and Betty Moore Foundation for land acquisition and avian studies, \$6M from the USFWS/CDFG Section 6 Program for land acquisition and \$1.4M for restoration and acquisition from the SWRCB grant to the East County Integrated Regional Water Management Plan. Staff also pursued allocations from the WCB Proposition 84 fund for NCCPs.	Conservancy Staff continue to research and apply for available grant money which will make up a significant portion of the funding for implementation of the HCP/NCCP during 2011. Staff will apply for Section 6 funds and for non-federal grant funds that can match the Section 6 funds.
6	Administer grants already awarded.	N/A	On-going	Approximately \$12 million in previously awarded grant funds were actually spent in 2010, requiring substantial numbers of agreements, invoices, forms and other grant management duties. Procedures for accessing Section 6 funds were greatly accelerated by WCB.	Staff will continue with these duties from 2010 and pursue additional streamlining of the Section 6 granting process.
7	Coordinate with other Regional HCPs and pursue a legislative program that will aid the Conservancy's implementation of the Plan.	N/A	On-going	As part of ongoing participation in the coalition of northern California HCPs (NCCPP), and Staff assisted in hosting its annual conference in vacaville in November, including organizing a panel discussion on coordinating wetlands regulations with HCPs. Continued partnership with the California Habitat Conservation Plan Coalition (CHCPC) working to unite northern and southern efforts to promote HCPs at the state and federal levels. Joined annual CHCPC legislative trip to Washington in March, intensively collaborated with CHCPC on campaigns to increase Section 6 funding and to enable local fees to be used as match. Participated in and facilitated a workshop at the CHCPC 2010 Conference in Coachella. Proposed 2011 Platform.	Continue to participate in the CHCPC to pursue common policy objectives and to learn from the experiences of other HCP's. Attend CHCPC and NCCPP Conferences in 2011. Implement 2011 Legislative Platform, including continued work on the local fees as match issue and Section 6 funding.
8	Provide accounting services for the Conservancy.	N/A	On-going	Day to day management of Conservancies financial affairs expanded in 2010 to include commissioning an independent audit of the 2007, 2008, 2009 Financial Statements, which the Board approved on the September 30 meeting.	As well as preparing the 2011 Budget and managing finances consistent with the approved budget, day to management of debits and deposits will continue. The Conservancy will conduct an audit of the 2010 Financial Statements. The auditors written statements will be presented to the Board.

	TASK	HCP/NCCP TIME FRAME	STATUS (completion date)	ACTIONS TAKEN IN 2010	ACTIONS PLANNED FOR 2011
9	Pursue regional permits and permitting programs for jurisdictional wetlands and waters with the appropriate state and federal agencies to help ensure coordination between implementation of the HCP/NCCP and the implementation of state and federal wetlands regulations.	N/A	On-going	Conservancy in coordination with the Sacramento District of the Army Corps of Engineers have developed a draft Regional General Permit linked to the HCP/NCCP set for public comment in early 2011. The Conservancy conducted substantial analysis of the value and benefits of the RGP at the request of the Sacramento District in order to support a dialog and a series of meetings with the San Francisco District of the Corps, the State Water Board and the two Regional Boards with jurisdiction in the HCP area. The Conservancy also worked on creating an in-lieu fee instrument for the RGP, developing a draft In Lieu Fee Program Prospectus which was presented to the Interagency Review Team in September.	Continue coordination and analysis efforts between implementation and state and federal wetland regulations in 2011 with a goal of completing regional permitting instruments in 2011 including a Regional General Permit, 401 Water Quality Certification of the RGP from the Water Boards, Section 7 Biological Opinion on the RGP from U.S. Fish and Wildlife Service, 1602 assurances from the Department of Fish and Game and execution of an In Lieu Fee Instrument (agreement) to link the Conservancy's fee collection and conservation activities to implementation of the various new permits.
Program Administration (HCP/NCCP permit issuance)					
10	Develop and update the template Planning Survey Report (PSR) Application	0-6 Months	On-going	A new version of the PSR Application was released in June of 2010 and provided to local jurisdictions and posted on the website.	Additional review and revision is on-going based on experiences with projects that have used the form as well as modifications based on new policies and requirements
11	Provide training to local jurisdictional staff on HCP/NCCP applications. Assist local jurisdictions to ensure that project proponents comply with the provisions of the Plan, including performance of required avoidance, minimization and mitigation measures.	0-6 Months	On-going	Provided assistance and technical support to local jurisdictional staff from the County and Cities of Brentwood, Oakley, Pittsburg, and Clayton while processing HCP/NCCP applications and/or projects subject to compliance including ensuring all requirements are met. Promote coordination amongst Permittees to ensure implementation consistency. Held regular coordination meetings with the Contra Costa County Public Works Department Environmental Unit Staff, the most frequent user of the HCP/NCCP to date, in order to assist with facilitation of HCP/NCCP compliance.	Staff will expand coordination with local jurisdiction staff to discuss updates and HCP/NCCP application processing and continue to provide assistance and technical support in 2011. Staff will hold regular meetings with the Contra Costa County Public Works Department, Environmental Unit Staff, in order to assist with facilitation of HCP/NCCP applicable CIP's. All other efforts will continue through 2011.

	TASK	HCP/NCCP TIME FRAME	STATUS (completion date)	ACTIONS TAKEN IN 2010	ACTIONS PLANNED FOR 2011
12	Implement Permitting Program: Process applications for coverage under the HCP/NCCP, tracking performance of required avoidance, minimization and mitigation measures.	0-6 Months	On-going	The Conservancy provides the lead role in processing HCP/NCCP applications for Participating Special Entities. Staff also reviews offers of land in lieu of fees, proposals to defer fee payment through ongoing assessments, monitoring conservation measure requirements and all AMM's. Held monthly coordination meetings with Wildlife Agency staff.	Efforts are on-going and will continue through 2011.
13	Prepare report documenting the expected benefits of the HCP/NCCP to non-covered special-status species to provide streamlining for future CEQA documents.	6 Months - 1 Year	In-process (complete by 2011)	An administrative draft was prepared during 2010 and staff is working on integrating comments into a public draft for circulation during 2011.	A public draft of this document will be complete and circulated in Spring 2011.
14	Establish GIS database to track land acquisitions and Permitting Program database to track projects, impacts, and take coverage.	6 Months - 1 Year	On-going	Staff worked on improving the permitting program database as well as routine updates to the GIS database including land cover mapping using pre and post acquisition survey data on all land acquisitions.	Staff will continue to work on improvements to both databases through 2011 with an emphasis on making the Permitting Program database more efficient.
Preserve Acquisition and Management					
15	Continue to acquire land to assemble Preserve System and Meet Stay Ahead requirements as described in Section 8.6.1	1-5 Years	On-going	<p>Conservancy staff will continue to meet with acquisition partners. The East Bay Regional Park District has been the primary partner and detailed coordination and cost-sharing will continue. the Conservancy will also continue to coordinate with other potential partners such as Save Mount Diablo, State Parks, Contra Costa Water District, Agricultural-Natural Resource Land Trust of Contra Costa County, Brentwood Agricultural Land Trust, the Natural Heritage Institute, cities such as the Cities of Oakley and Brentwood with potential preserves in their boundaries and private mitigation banks to learn of their current acquisition efforts and explore opportunities for partnering.</p> <p>Conservancy will continue the following general approach to land acquisition in early years: (a) seek partners such as EBRPD willing to be responsible for assisting with the fund-raising and willing to be the land owner and land manager or easement holder (or to find another entity to serve that role) so that the Conservancy can avoid actually owning and managing land or easements in perpetuity, (b) maintain an "Open Door Policy" and be willing to consider proposals from a range of partners, (c) once a prospective partner has found a willing landowner and established a price, the Conservancy should evaluate the cost effectiveness of the acquisition in achieving HCP goals, develop a proposed acquisition cost-share and strategy for ensuring management and monitoring, evaluate the pros and cons of the overall package and consider approving or disapproving Conservancy participation in the acquisition.</p>	

	TASK	HCP/NCCP TIME FRAME	STATUS (completion date)	ACTIONS TAKEN IN 2010	ACTIONS PLANNED FOR 2011
16	Develop a mutually agreeable programmatic strategy with East Bay Regional Park District (EBRPD) to collaborate on land acquisition and management in the HCP area.	N/A	On-going	EBRPD is implementing its Master Plan and is buying land in the inventory area for park and open space purposes. Voters approved EBRPD's Measure WW in 2008, providing significant new capital to support this work. Continuing to partner with EBRPD will help to ensure that the land acquisition and management goals of EBRPD's land program and the similar goals of the HCP/NCCP are implemented in a coordinated manner (this goal is set forth in Section 13.6 of the Implementing Agreement). Conservancy staff and EBRPD staff have been discussing partnership opportunities and believe, for the time-being, that partnership opportunities should be addressed case by case because the details are numerous and specific to the parcel in question. Coordination has been excellent so far and numerous agreements have been completed to address specific acquisition and restoration projects.	
17	Conducting pre-acquisition assessments and post-acquisition detailed biological assessments of potential acquisitions to determine their biological value for the HCP.	N/A	On-going	Conservancy Staff and consultants continue to develop protocols for a phased and more streamlined approach to this task that defers the most expensive field work until after an agreement has been reached to purchase a property.	In 2011, Staff will be initiating a new phase of assessments of preserve system lands, performing detailed and thorough surveys for wetlands and covered plants on all land acquisition properties. This work is essential to ensure HCP wetland and plant preservation requirements are being met. Continue working on a streamlined approach of pre and post acquisition surveys through 2011.
18	Create template Conservation Easement Deeds and Deed Restrictions and other protective covenants to speed-up addition of land to the Preserve System and to protect the interests of the Conservancy in land it acquires.	N/A	On-going (with goal to complete in 2011)	In 2010, Staff facilitated discussions among the wildlife agencies and East Bay Regional Park District regarding draft deed restriction template created by the Conservancy. Agency attorneys are reviewing the resulting latest drafts.	In 2011, Staff will work closely with the Agencies and the Park District to finalize the deed restriction and begin to record these on acquired properties. Staff would also like to have a finalized version of the Conservation Easement template in 2011.
19	Develop and begin to implement a strategy for funding the long term management of the Preserve system before 50% of the authorized take under the maximum urban development area is used or before the end of year 15 of implementation, whichever comes first. Provide progress reports on this matter in the Annual Report.	Year 15 or when half of the impacts have occurred, whichever comes first.	Planned	This a critically important long term task that must be confronted as early as possible during implementation. In 2010, a small but significant step was made toward addressing this issue when the Conservancy and District acquired properties with cumulative annual lease revenue of approximately \$400,000 and agreed that a portion of this lease revenue would set aside in a non-wasting endowment for long term management. Contributions to recovery collected from Participating Special Entities can also be applied in part to long term management.	Work on this effort will continue in 2011 including completion of the first preserve management plans which will help begin to frame a budget for long-term management. Progress on this effort will be reported in the 2010 Annual Report.

	TASK	HCP/NCCP TIME FRAME	STATUS (completion date)	ACTIONS TAKEN IN 2010	ACTIONS PLANNED FOR 2011
20	Develop management plans for the Preserve System and individual preserves.	1-5 Years	On-going	In 2010 staff continued efforts to complete a public draft of the Byron Hills Preserve Management Plan which will cover all the Preserve System lands along Vasco Road.	By spring of 2011 the first public draft on the Byron Hills Preserve Management Plan will be released with approval targeted by mid year. Also Staff will begin work on one or more Preserve Management Plans for Sand Creek and the Irish Canyon Watersheds, using the Byron Hills Plan as a template.
21	Implement management plans for the Preserve System and individual preserves.	N/A	On-going	Preserve management activities were initiated at the Souza II where a 50-acre patch of milk thistle was sprayed in the spring, mowed (plants and seed pods hauled off), reseeded and fenced with a newly purchased electric fence (using an electric fence for cattle is something of an experiment that may be repeated in other areas as electric fence is cheaper and more suitable for temporary used than barbed wire.	Preserve management will begin in earnest in 2011 on most of the 7,500 acres in recent years. This will require a combined effort by the Conservancy and EBRPD and completion of one or more Funding Agreements between the agencies to outline roles and responsibilities.
22	Prepare an Exotic Plant Control Plan to address exotic and invasive plants on Preserve System lands	1-5 Years	On-going		By mid-year a draft of the Exotic Plant Control Program will be developed. This plan will likely be based on and coordinated with existing policies and programs such as with the East Bay Regional Park District's Integrated Pest Management Plan. The program will be evaluated and revised at least every 5 years as needed.
23	Prepare a Recreation Plan to address recreational uses on Preserve System lands	1-5 Years	On-going	A Recreation Plan will be developed by the Implementing Entity and implemented for the Preserve System in accordance with Conservation Measure 1.5. The recreation plan will be prepared no more than 3 years after acquisition of the first parcel or when 25% of the Preserve System has been acquired, whichever comes first. If the preserve has pre-existing recreational use, the recreation plan must be approved within 1 year in order for the site to be considered part of the Preserve System. The recreation plan will be revised as needed as the Preserve System expands. Formal evaluations and revisions, if needed, must occur at least every 5 years.	A Draft Recreation Plan will be prepared in 2011. Conservancy Staff is currently proposing to include most of the details on recreation in the Preserve Management Plans. The Recreation Plan would be more of a framework.

	TASK	HCP/NCCP TIME FRAME	STATUS (completion date)	ACTIONS TAKEN IN 2010	ACTIONS PLANNED FOR 2011
Habitat Restoration/Creation					
24	Begin habitat restoration and creation design and additional environmental compliance for habitat restoration if needed.	1-5 Years	Ongoing	Like land acquisition, habitat restoration and creation will be a key program area for the Conservancy. If restoration and creation of jurisdictional wetlands and waters does not keep pace with impacts, the ability to mitigate such impacts by paying a fee will be suspended (the HCP provides that the Conservancy has until the second year to "get ahead"). Likewise progress on this task is an essential foundation to completion of efforts to coordinate wetlands permitting with the HCP. To reflect the importance of early restoration and creation, Conservancy staff worked with ICF Jones & Stokes to perform a reconnaissance-level survey of wetland restoration opportunities and completed four restoration/creation in the first three years of implementation.	
25	Implement habitat restoration and habitat creation projects.	1-5 Years	On-going	In 2010, through a partnership with Save Mount Diablo and the many efforts of their staff and volunteers, riparian restoration work was performed on the Irish Canyon-Chopra property which includes three areas of oak/buckeye riparian planting. Additional sites for small scale planting projects were explored in 2010.	In 2011, the Conservancy plans to do habitat restoration/creation on three Preserve properties as follows: 1) Land Waste Management property: restore and create seasonal wetlands, streams and ponds, increase riparian woodland and scrub habitats, also invasive plant management. 2)Ang property: restoration of riparian woodland and scrub habitat and streams. 3)Vaquero Farms South property: restoration and creation of vernal pool habitat.
Monitoring and Adaptive Management Program					
26	Design Monitoring and Adaptive Management Program	1-5 Years	Ongoing	In 2010 efforts focused on the monitoring design phase with attention to compiling information and data toward the development of a comprehensive monitoring strategy as well as determining monitoring priorities within each natural community type.	Work on this effort will continue through 2011. A first draft of a comprehensive monitoring strategy will be developed in 2011.
27	Monitoring and adaptive of restoration projects and new preserves.	1-5 Years	Ongoing	Monitoring and adaptive management efforts ramped up substantially in 2010 with the completion of the Souza 2 and Irish Canyon restoration projects, bringing the total number of projects requiring monitoring to four. Substantial adaptive management occurred at Souza 2, in particular, to protect planted plants, to repair storm damage and control weeds. At Souza 1, exotic plants were mowed and the site was re-seeded.	Work on this effort will continue and be expanded in 2011 to include 2011 restoration/creation sites. A \$250,000 portion of the \$2.25 million grant received from the Gordon and Betty Moore Foundation is to study the impacts of turbines on avian species and methods for reducing these impacts. Work on this study will commence in 2011.

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**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: December 15, 2010
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Use of Conservancy Restoration Sites for Mitigation of Non-Covered Projects

RECOMMENDATION

APPROVE Implementation Policy Regarding Use of Conservancy Restoration Sites for Mitigation of Projects Not Covered by the East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan (HCP/NCCP).

DISCUSSION

The Board referred this issue to the Public Advisory Committee (PAC) in 2009 and also directed staff to discuss the issue with wildlife agency partners. The PAC has discussed this topic at several meetings since the referral and at its most recent meeting in November 2010, the PAC considered a draft memo prepared by staff summarizing and synthesizing the recommendations and suggestions of the PAC, wildlife agencies and Conservancy staff. The PAC made several more suggestions, which staff have attempted to capture, and agreed to let staff reformat and transmit the attached "Draft Implementation Policy Regarding Use of Conservancy Restoration Sites for Mitigation of Projects Not Covered by the East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan" to the Governing Board as a PAC recommendation. Conservancy staff recommends approval.

(continued on next page)

CONTINUED ON ATTACHMENT: YES
ACTION OF BOARD ON: December 15, 2010
OTHER: _____

APPROVED AS RECOMMENDED: _____

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

Background: Conservancy staff has been approached on several occasions by proponents of non-covered activities to utilize existing preserve system restoration sites for mitigation purposes. Interested parties include those within the inventory area with non-covered projects (e.g. projects in Antioch and projects that restored habitat in the past to mitigate for impacts but the restorations failed or were destroyed), as well as those outside of the inventory area seeking mitigation alternatives in order to meet obligations under a variety of state and federal regulations. None of the inquiries received thus far appears likely to be pursued further by the project proponent because of issues such as timing, habitat type and location. However, staff anticipates that the issue will continue to come up.

The HCP/NCCP specifically allows such an arrangement, noting potential advantages to resources, project proponents and the Conservancy of maximizing use of the HCP/NCCP Conservation Strategy. The sections that discuss this topic even provide guidelines on how such arrangements are to be pursued.

The issue staff explored further with the PAC and other HCP/NCCP partner agencies is not if the Conservancy *can* pursue restoration credit arrangements, but if it *should* and under what circumstances. The types of issues that need to be addressed are listed below. The proposed Implementation Policy addresses many of these questions, but some issues, like determining a fair price for providing this service, will have to be addressed by the Conservancy on a case by case basis and will depend on the type and amount of wetland acreage sought by the applicant.

- How much if any of the valuable acreage the Conservancy and its partners have worked hard to restore should be available for use by non-covered activities? Acreage that is made available for non-covered projects cannot be used for covered projects.
- How should the Conservancy determine a fair price that compensates for the opportunity cost of allowing restored acreage to go to third parties while also reflecting policy goals memorialized in the HCP/NCCP regarding keeping mitigation local rather than driving it away?
- Will such arrangements help or hinder efforts to secure regional wetlands permits coordinated with the HCP/NCCP?
- How can tracking mechanisms be put in place to ensure that no double-dipping of restoration credit occurs?

Similar questions may arise in the case of land preservation arrangements, but staff suggests the primary focus be on restoration credit for the time-being because the issue is more complicated and timely.

Draft 12-15-10

Implementation Policy of the East Contra Costa County Habitat Conservancy (Conservancy) Regarding Use of Conservancy Restoration Sites for Mitigation of Projects Not Covered by the East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan (HCP/NCCP)

Purpose: The purpose of this Policy is to set forth guidelines on when and under what conditions the Conservancy would consider selling restoration credit to proponents of projects that are not covered by the HCP/NCCP. The HCP/NCCP *allows* for providing mitigation for non-covered projects under certain conditions (see excerpts from HCP/NCCP at the end of this Policy), but mainly addresses preservation credit rather than restoration credit and does not provide detailed guidance on the circumstances when the Conservancy *should* consider selling restoration credit. This Policy intends to provide that guidance.

Key Assumptions:

- The Policy only addresses the Conservancy’s policy on such arrangements. The regulatory agency or agencies requiring the mitigation have ultimate authority to approve or disapprove proposed mitigation.
- If portions of Conservancy restoration sites are used to mitigate for non-covered activities, these portions cannot be used to meet the Conservancy’s recovery or mitigation requirements under the HCP/NCCP.
- Use of mitigation funds from non-covered activities to assist with buying land is a separate topic and is not addressed by this Policy (i.e., this Policy covers restoration credit not preservation credit).
- Reflecting the requirements of the HC/NCCP, the Conservancy’s primary restoration activities relate to wetlands restoration and creation. However, in addition, the Conservancy specifically pursues and tracks restoration of oak savanna and occupied habitat for fairy shrimp species and for giant garter snake. This policy applies to all restoration/creation activities of the Conservancy.

Location of activity seeking mitigation: The location of the activity seeking mitigation on Conservancy restoration sites may influence the Conservancy’s willingness to provide restoration credit. Foreseeable areas that might seek mitigation at Conservancy restoration sites include:

- Antioch
- Non-covered activities within the HCP inventory area (e.g., rural residential development, wind development, mining)
- Delta region of Contra Costa County outside of inventory area
- Concord hills
- Livermore/Pleasanton

During development of the HCP/NCCP, a key principle guiding the planning effort was that mitigation for projects that occurred in Contra Costa County should be retained in the County. A mitigation coordination effort is underway in Eastern Alameda County and care should be taken not interfere with that effort.

Policy: When evaluating whether to allow a non-covered project to purchase restoration credit from the Conservancy, the Conservancy should look most favorably at projects within the inventory area followed by projects within the County and adjacent to the inventory area, followed by projects inside the County but not adjacent to the inventory area. Projects from outside the County should only be considered if suitable mitigation opportunities are not available in the county where the project is located, there is no danger of interference with a mitigation coordination program in that county, and the Conservancy is being asked to assist by a resource agency.

Type of activity seeking mitigation: This criterion refers to the nature and purpose of the project seeking mitigation, e.g., whether the project is private or public or whether or not it will serve the citizens of east Contra Costa County. Such considerations were discussed by the PAC but it was generally felt that there was not a need at this time for the Conservancy to attempt to judge the specific merits of a project seeking mitigation.

Policy: The type of project need not be a major consideration for the Conservancy at this time.

Type and amount of restoration credit sought: Four interrelated questions must be asked on this topic:

- a) What type of credit is being requested and how much? The Conservancy needs to know if the applicant is requesting seasonal wetland credit, fair shrimp credit, etc. and how many acres are needed.
- b) How much restoration of that type(s) requested has the Conservancy performed and how much of that has already been used to mitigate past impacts? The Conservancy cannot sell what it does not have and should not sell restoration credit when it is not meeting the Plan's Stay Ahead requirements (or its HCP/NCCP permits could be suspended or revoked). However, the Conservancy may look more favorably at a request if it is for a type of restoration credit that the Conservancy has in surplus and if the amount of requested credit is small.
- c) How much restoration of the type requested will the Conservancy need to mitigate the impacts of future covered activities in the pipeline? The Conservancy needs to forecast demand and ensure that selling credit to outside projects does not interfere with covering covered projects.
- d) How much restoration capacity is available in the Preserve System? Is it adequate to meet ultimate demand? This may not be a major consideration initially, but as more and restoration opportunities are utilized over the years, there may be a finite limit to how additional restoration can be accommodated.

Policy: The Conservancy's first responsibility should be to present and future covered activities. The Conservancy should only sell mitigation credit when it believes that it has

accomplished enough successful restoration of the type requested that even if the request is granted, that enough acres of that type of restoration will remain unused to satisfy the anticipated demand for that restoration by covered activities for three years¹. The Conservancy should conservatively estimate future demand by examining projects in the pipeline, by extrapolating from 30-year estimates in the HCP and by examining demand in years passed. A conservative amalgamation of these approaches should be used. The Conservancy should also make a finding that selling the restoration credit will not compromise the Conservancy's ability to meet its ultimate, long term restoration requirements for current and future covered activities.

Cost recovery: HCP/NCCP fees were based on projected costs and were calculated to pay for all costs during the 30-year permit term (funding for long term management beyond 30 years is a major future responsibility of the Conservancy). Selling restoration credits to non-covered project will have actual costs, including costs of managing restoration in perpetuity. Full cost recovery when selling credits would be an important minimum objective.

Policy: The Conservancy should only sell mitigation credit when its full costs will be recovered, including the actual costs of restoring, monitoring and adaptively managing the feature until success criteria are met in about five years, as well as the costs of management and monitoring in perpetuity.

Contribution to recovery: As an NCCP, the Plan requires the Conservancy to go above and beyond mitigation requirements by contributing to recovery of endangered species. The Conservancy intends to primarily use grants and other public funds to contribute to recovery, but also asks Participating Special Entities such as Caltrans and PGE to make a contribution to recovery as part of agreements to provide coverage.

Policy: The Conservancy should require a contribution to recovery when selling restoration credit to non-covered projects and should look more favorably at projects with a higher contribution to recovery. These funds would be used to acquire, maintain, restore and enhance habitat above and beyond what is required in the HCP/NCCP for mitigation and could also be used to address in a general way the costs of management after year 30.

Good government considerations: Local, state and federal agencies have invested considerable effort at largely public expense to set up the HCP and its associated system of converting funding into habitat. There may be some rationale for making as much public use out of this system as possible. The desire not to interfere with other mitigation is another consideration.

Policy: The Conservancy should consider the broader public benefits of offering its services (and any disadvantages) when asked to assist a non-covered activity.

¹ Three years is recommended because it will provide a comfortable amount of time to use the funds received to plan and construct a new restoration project. It is also approximately the amount of time in advance that we tend to hear about large projects needing large mitigation.

Provisions in the HCP/NCCP: The HCP/NCCP anticipated that non-covered activities might request to mitigate through the Conservancy's program. The prospect of such mitigation was generally viewed positively, presenting an opportunity, to leverage additional funding, take advantage of economies of scale, secure contributions to recovery and maximize the public benefit of the HCPs mitigation program. Consequently, the Plan contains two sets of provisions related to mitigation for non-covered projects. One relates to the contribution of land and the other relates to contribution of funds. Neither mechanism offers the project proponent take coverage under the HCP/NCCP and both focus more on preservation credit than on mitigation credit, though implications for restoration credit are relatively clear. Excerpts from the relevant sections of the HCP/NCCP are provided below.

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HCP/NCCP Chapter 8, Section 8.6.2

Mitigation for Activities Not Covered by the HCP/NCCP

By creating a framework for habitat conservation, the HCP/NCCP could attract additional mitigation to the HCP/NCCP inventory area by projects located in or around the inventory area but not covered by the HCP/NCCP. Land acquired, preserved in perpetuity, and managed for natural resource purposes to mitigate for the impacts of activities not covered by the HCP/NCCP may complement and augment the conservation achieved by the HCP/NCCP if the location and management of the land is consistent with the goals of the HCP/NCCP. For example, mitigation from non-covered activities may preserve areas that would not have been preserved under the HCP/NCCP. Alternatively, mitigation may accomplish conservation objectives of the HCP/NCCP, enabling conservation under the HCP/NCCP to be redirected to other areas or conservation purposes (as described in Chapter 5 Conservation Measure 1.1, in the section *Conservation in the Inventory Area beyond HCP/NCCP Requirements*).

Project proponents with projects in or near the inventory area that are not covered by the Plan but that affect covered species may be interested in using the HCP/NCCP as a vehicle to mitigate their projects. These projects may be required to conduct mitigation or conservation actions under a variety of state and federal regulations, including ESA, CESA, CWA, Porter-Cologne Water Quality Control Act, NEPA, or CEQA. If these actions are compatible with the HCP/NCCP, there are advantages to using the conservation strategy of the Plan East Contra Costa County Habitat Conservation Plan Association as a guide to mitigating non-covered

projects because of lower costs and greater conservation benefits. Some non-covered project proponents may be interested in contributing land to the HCP/NCCP as their mitigation. See also *Mitigation Funding from Activities Not Covered by the Plan* in Chapter 9, section 9.3.2, regarding the contribution of mitigation funds to the HCP/NCCP.

If mitigation by non-covered projects occurs in areas that are a priority for conservation in the HCP/NCCP, the Implementing Entity, CDFG, and USFWS will confer and determine how to redirect HCP/NCCP resources to other objectives. In such circumstances, HCP/NCCP resources may be redirected toward other areas such as the following.

- Additional land acquisition that will be prioritized as described in Chapter 5 Conservation Measure 1.1, in the section *Conservation in the Inventory Area beyond HCP/NCCP Requirements* (note that such additional land acquisition may not match the size and extent of such non-Plan mitigation acre for acre due to differences in land cover types, conservation value, cost, and other factors).
- Other measures necessary to achieve the objectives of the Plan. Mitigation for covered species by non-covered projects cannot be counted towards either the mitigation requirements or the Stay-Ahead provision of the HCP/NCCP and must result in a redirection of HCP/NCCP resources toward other conservation purposes as described above.

CDFG and USFWS will, to the extent consistent with their responsibility to ensure effective mitigation proximate to the location of impact, promote mitigation in the HCP/NCCP inventory area by non-covered projects to complement and augment the conservation to be achieved by the HCP/NCCP.

HCP/NCCP Chapter 9, Section 9.3.2

Mitigation Funding from Activities Not Covered by the Plan

There may be a number of benefits to addressing the mitigation needs of noncovered projects through the implementing structure of the HCP/NCCP. USFWS and CDFG may wish to use the conservation strategy and implementing structure of the Plan to maximize the conservation benefits to covered species and natural communities. Project proponents may wish to utilize the mitigation approach of the Plan to

facilitate their mitigation obligations under a variety of state and federal regulations. The HCP/NCCP Implementing Entity may benefit from the additional flexibility to implement the Plan afforded by access to revenue early in the permit term. See also *Mitigation Acquisitions by Activities Not Covered by the HCP/NCCP* in Section 8.6.2, *Land Acquired by Other Organizations or through Partnerships*.

Mitigation funds collected from non-covered activities must augment the mitigation and conservation obligations of the Plan (i.e., they may not offset these requirements). To achieve this, the Implementing Entity, the project proponent, USFWS, and CDFG will meet to discuss a mutually acceptable mitigation funding arrangement. Such an arrangement will rest on a description of conservation actions (e.g., land acquisition, restoration) over and above those required by the HCP/NCCP that must be performed to mitigate the non-covered activity. The subsection of Conservation Measure 1.1 entitled *Conservation in the Inventory Area beyond HCP/NCCP Requirements* in Chapter 5 entitled will help guide the identification of the expanded conservation requirements. The expanded conservation requirements must be approved by CDFG and USFWS. The Implementing Entity must be willing to perform the additional conservation with the funds offered, and the funding arrangement must be acceptable to the project proponent. It is likely that an agreement involving all four parties will be necessary to implement such mitigation funding arrangements.

To facilitate successful implementation of the HCP/NCCP and to ensure that mitigation from non-covered activities is coordinated with the HCP/NCCP, mitigation funding arrangements will include the provisions described below.

- Flexibility to use the additional revenue to meet existing HCP/NCCP requirements and to use future HCP/NCCP revenue to meet the expanded conservation requirements of the non-covered activity. This will enable the Implementing Entity to use the additional funds in an opportunistic fashion and to meet urgent Plan requirements, such as habitat connectivity requirements in Acquisition Analysis Zone 2, faster than it could otherwise do.
- Flexibility in adapting the Stay-Ahead provision to the expanded conservation requirements. In measuring compliance with the Stay-Ahead provision in annual reports, the Implementing Entity will be

able to choose either to (a) disregard the expanded the conservation requirements and the land purchased with additional revenue from the non-covered activities when measuring compliance, or (b) include both the expanded conservation requirements (i.e., the HCP/NCCP requirements plus the requirements of the non-covered activities and any continued land acquisition obligations) and the land purchased with additional revenue from non-covered activities when calculating compliance.

Mitigation funding arrangements will describe the specific application of these provisions in each instance. The additional revenue received from non-covered activities cannot be taken into account during the periodic audits used to recalibrate HCP/NCCP fees.

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**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: December 15, 2010
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Membership in the East County Water Management Association (ECWMA)

RECOMMENDATION

AUTHORIZE the Executive Director to sign Amendment 1 to the East County Water Management Association (ECWMA) Agreement which would add the Conservancy to the Association.

DISCUSSION

The Board was briefed on the possibility of joining the East County Water Management Association was provided at the September 30th meeting of the Conservancy Governing Board. Joining ECWMA will better enable the Conservancy to receive future allocations from grants to the East Contra Costa County Integrated Water Management Plan (IRWMP), grants that are applied for and managed by ECWMA. Participating in ECWMA and ECWMA's development of future grant applications will entail costs of about \$10,000 per application for consultant costs to write the application and possibly \$500 per year for ECWMA operations (though these have been infrequently collected). However, potential grant funding justified these costs. From the first IRWMP grant alone (an application prepared before the Conservancy existed and when representation of the HCP/NCCP was handled indirectly through the County) the Conservancy has received \$750,000 to reimburse Conservancy costs in acquiring and managing the Souza 2 property and has been approved for an additional \$1.4 million award. The Conservancy may need to appoint a Board member to the Association Board, but such appointment will be considered at a future meeting.

Additional Background: The East County Water Management Association (ECWMA) is a Joint Exercise of Powers Authority formed in 1997 by eleven member agencies: Cities of Brentwood, Antioch, and Pittsburg; Contra Costa County Water Agency (which is overseen by the County

CONTINUED ON ATTACHMENT: YES
ACTION OF BOARD ON: December 15, 2010 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

Board of Supervisors), Byron-Bethany Irrigation District, Delta Diablo Sanitation District, Contra Costa County Sanitation District 19, Diablo Water District, East Contra Costa Irrigation District, Ironhouse Sanitary District and Contra Costa Water District (CCWD). These agencies came together to form the ECWMA in order to facilitate communication, cooperation and education between member agencies regarding matters affecting the existing and potential water supplies of eastern Contra Costa County. The member agencies have typically met biannually to coordinate activities to provide long-term water supplies and treatment facilities in a cost effective, reliable, implementable, and cooperative manner while maintaining institutional independence and customer satisfaction.

In recent years the ECWMA has become the coordinating body for the development and implementation of the East Contra Costa County Integrated Regional Water Management Plan (IRWMP). An IRWMP is a required document for a region to apply for and receive State grants that are funded through Proposition 50 and Proposition 84. It is expected that future bond funding will require regions to have such plans. The IRWMP for East County is a 'functionally equivalent document' compiled from pre-existing plans for the region. The HCP/NCCP was one of the key components of the East County IRWMP. IRWMP-related grants are awarded on a plan basis and distributed to one central entity which coordinates subgrants to participants. CCWD is the fiscal agent for the grants, but ECWMA is the decision-making body that determines the content of grant applications, how to reallocate funds in the event of partial funding or the cancellation of an intended grant element, etc. For future funding rounds, ECWMA will need to draft a full IRWMP to replace the functional equivalent, but a planning grant to provide much of the funding for this was recently recommended for approval in a state grant process.

During the initial development of the IRWMP and the first round of grant funding, the Implementing Entity (now know as the Conservancy) for the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) did not exist. On behalf of the future Implementing Entity for the HCP/NCCP, the County (represented by the County Water Agency) applied for funds to be used for acquisition and restoration. The Conservancy has received funds from ECWMA's successful application through the County's participation in ECWMA and the grant application process. The East County IRWMP was awarded \$12.5 million in the first round of IRWMP implementation several years ago. Of this amount, the Conservancy was originally slated to receive \$750,000. These funds were used in the acquisition and restoration of the Souza II property. Subsequently, there has been a reallocation of funds as one of the IRWMP projects was unable move forward and the Conservancy will be receiving an additional \$1.4 million for land acquisition, wetland restoration/creation and adaptive management.

Looking ahead to future funding rounds from Proposition 84, it is appropriate for the Conservancy, now that it is an independent entity to participate separate from the County in ECWMA and future IRWMP applications. Such participation would streamline granting and would provide the Conservancy with its own seat at the table rather than relying on the County to represent the HCP/NCCP, which is just one of its interests. The Conservancy's potential membership in the ECWMA was discussed at the September ECWMA Manager's meeting. At the October 28th ECWMA Governing Board meeting, the Board voted to amend the existing Joint Powers Agreement to make the East Contra Costa County Habitat Conservancy a member.

There are costs associated with participating in the ECWMA as well as costs associated with the development of grant proposal and Integrated Regional Water Management Plan updates. Past annual membership dues have been \$500 (and have been collected on an irregular schedule). Contributions to pay consultant fees to develop grant proposals and implement IWMP Plan updates have generally not exceeded \$5,000 annually, though the next grant application may involve a subset of ECWMA and the cost will be closer to \$10,000.

Staff recommends that the Conservancy join the East County Water Management Association and authorize the Executive Director to sign the Amendment to the ECWMA Agreement.

Attached:

- **Attachment 1. East County Water Management Association JPA**
- **Attachment 2. Amendment 1 to the East County Water Management Association JPA**

East County Water Management Association Agreement

This Agreement is entered into this _____ day of _____, 19____, by and between the Cities of Brentwood, Antioch, and Pittsburg; Contra Costa County Water Agency, Byron-Bethany Irrigation District, Delta Diablo Sanitation District, Contra Costa County Sanitation District 19, Diablo Water District, East Contra Costa Irrigation District, Ironhouse Sanitary District, and Contra Costa Water District. These eleven agencies are collectively referred to as the "member agencies."

PURPOSE:

The purpose of this Agreement is to establish an East County Water Management Association (ECWMA) to facilitate continued communication, cooperation and education between member agencies regarding matters affecting the existing and potential water supplies of eastern Contra Costa County, and to consider and guide the implementation of the recommendations of the ECWMA's Phase II Study Report in order to provide long-term water supplies and treatment facilities in a cost effective, reliable, implementable, and cooperative manner while maintaining institutional independence and customer satisfaction.

RECITALS:

1. The Contra Costa Water District, at the request of the Board of Supervisors, completed Phase I of the East County Water Supply Management Study, which provided a preliminary analysis of future water demands and potential water supplies for East Contra Costa County.
2. On March 13, 1995, the member agencies signed an agreement forming the ECWMA. Said Agreement terminated on November 21, 1996, and the remaining monies were subsequently refunded to the member agencies in accordance with that Agreement.
3. On November 21, 1996, prior to termination of the Agreement, the Governing Board Representatives of the ECWMA accepted the Phase II Report consisting of a detailed analysis of selected water service alternatives, including new infrastructure requirements, cost estimates, implementation requirements, and institutional issues.
4. The member agencies wish to cooperate in the implementation of the recommendations contained in the Phase II Report.

5. This Agreement provides a process for funding and reestablishment of the ECWMA.

AGREEMENT:

NOW, THEREFORE, the member agencies which are parties hereto set forth the following terms and provisions of their agreement.

1. **Recitals.** The recitals contained herein are an integral part of this Agreement.
2. **ECWMA Formed.** Subject to and in accordance with the terms of the Agreement, the member agencies hereby form the ECWMA.
3. **Governing Board Representatives (GBR).** The ECWMA shall be governed and operated by the GBR which shall be comprised of one elected official representative from each member agency. The governing body of each member agency shall designate, and may replace, one of its members as its representative, on the GBR. No individual shall serve as the representative of more than two member agencies. Each member agency shall have one vote on the GBR. All actions of the GBR shall require the affirmative vote of a majority of its members.

The GBR shall provide policy guidance in the implementation of the purposes of the ECWMA and authorize disbursement of funds in accordance with this Agreement.

The GBR shall choose a regular meeting date and shall meet at least semi-annually.

The GBR shall appoint one of its members as the Chair and one as Vice-Chair. The Chair or any three members of the GBR may call a special meeting. A Secretary shall also be appointed by the GBR. The term of office for the Chair, Vice-chair and Secretary shall be for two years.

The meetings of the GBR shall be open to the public, noticed, and conducted in accordance with the Brown Act, Government Code Section 54950 et seq.

4. **Joint Managers Committee (JMC).** The managers of each of the member agencies shall be members of the JMC of the ECWMA which shall have primary administrative responsibility for the implementation of the purposes of this Agreement. The term "Manager" means City Manager, County Administrator, or General Manager of each of the member agencies and their respective alternates designated by the member agency, or their designees. The JMC shall appoint one of its members as the Chair and one as Vice-chair. The term of office for the Chair and Vice-chair shall be two years. The JMC may act directly or through a subcommittee established by a majority of its members. Each member agency shall have one vote on the Committee. Meetings of the JMC shall be as determined by the JMC.

5. **Administrative Procedures.** The GBR shall adopt bylaws, rules for conduct of the meetings, and administrative procedures. The administrative procedures of a member agency may be adopted for the ECWMA by the GBR.

6. **ECWMA Financing.** Unless otherwise changed by a majority vote of the GBR, each member agency shall deposit annually (March 1) \$500 with the Director of Financial Services for the City of Antioch who shall serve as Treasurer for the ECWMA.

The Treasurer shall be the depository of and have custody of all funds of the ECWMA from whatever source. The Treasurer shall also perform all duties required to be performed by an auditor. The Treasurer shall:

- a. Receive and receipt all money of the ECWMA and place it in the treasury of the City to the credit of the ECWMA;
- b. Be responsible for the safekeeping and disbursement of all ECWMA money;
- c. Pay, when due, from ECWMA funds and upon the signature of the Chair or Vice-chair of the JMC, all sums payable by the ECWMA; and
- d. Report in writing to the JMC quarterly and semi-annually to the GBR the amount of receipts since the last report and the amount paid out since the last report.
- e. Invest ECWMA funds according to the policies and procedures of the Treasurer's agency. Interest derived from deposited funds shall remain in the ECWMA's account.

7. **Special Assessments.** Any additional assessments to cover the appropriate costs of the ECWMA above the amounts specified in Section 6 shall be as approved by the GBR and shall be paid within 45 days of such action. If a member agency's Governing Board Representative votes against undertaking a specific project, except for execution of responsibilities set forth in Section 6, other member agencies desiring to proceed with such project may do so collectively as long as the dissenting member agency is not responsible for costs of such project. Publishing and distribution of resulting documents, opinions, findings, and recommendations (collectively "reports") shall, unless all member agencies consent, be only on behalf of the consenting member agencies. Any reports issued by the association shall state that the reports do not necessarily represent the views of the governing bodies of the individual member agencies.

8. **Liability.** Each member agency agrees to indemnify and hold every other member agency to this Agreement, and their officers, agents and employees, free and harmless from any cost or liability imposed upon any other member agency, officers, agents, or employees arising out of any acts or omissions of its own officers, agents, or employees.

9. **Cooperation.** All the member agencies agree that their respective monetary contributions are an expression of an intent to cooperate towards the purpose of the ECWMA.

10. **Dissolution.** Upon dissolution of the ECWMA by a majority vote of the GBR, any remaining association funds shall be refunded to the member agencies in proportion to the amount contributed by each over the life of the Joint Association.

11. **Termination.** If a member agency, through its governing board, votes to terminate its participation in the ECWMA, that agency will no longer participate on the GBR or JMC. Deposits made theretofore will remain with the ECWMA.

12. **Amendment.** This Agreement may be amended only by a written agreement approved by a unanimous vote of the member agencies.

13. **Effective Date.** This Agreement shall become effective upon approval by eight member agencies.

14. **Notices.** Notices authorized or required to be given pursuant to this Agreement shall be in writing and shall be deemed to have been given (1) when mailed, postage prepaid or faxed, or (2) delivered during working hours to the addresses and fax numbers set forth below for

each member agency. Each member agency that changes its address shall promptly provide notice of the changed address to the Chair of the JMC, which will be the current address of the member agency.

16. **Execution.** This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by all parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

IN WITNESS WHEREOF, the parties hereto, pursuant approval of their respective City Councils, Boards of Supervisors, Boards of Directors or governing boards, have caused their names to be affixed by the party and respective officers as of the day and year first above written.

City of Antioch

By _____

Title _____

Date _____

City of Brentwood

By _____

Title _____

Date _____

Byron-Bethany Irrigation District

By _____

Title _____

Date _____

Contra Costa County Water Agency

By _____

Title _____

Date _____

Contra Costa County Sanitation District 19

By _____

Title _____

Date _____

Contra Costa Water District

By _____

Title _____

Date _____

Delta Diablo Sanitation District

By _____

Title _____

Date _____

Diablo Water District

By V. Wallace Allen

Title PRESIDENT

Date MARCH 26, 1997

East Contra Costa Irrigation District

By _____

Title _____

Date _____

Ironhouse Sanitary District

By _____

Title _____

Date _____

City of Pittsburg

By _____

Title _____

Date _____

DMc-rlr - 8

AMENDMENT NO. 1 TO THE EAST COUNTY WATER MANAGEMENT ASSOCIATION AGREEMENT

This is Amendment No. 1 to the East County Water Management Association Agreement (“ECWMA Agreement”) dated March 20, 1997, by and among the Cities of Brentwood, Antioch, and Pittsburg; Contra Costa County, Byron-Bethany Irrigation District, Delta Diablo Sanitation District, Diablo Water District, East Contra Costa Irrigation District, Ironhouse Sanitation District, Town of Discovery Bay Community Services District and Contra Costa Water District. All of the parties to the ECWMA Agreement are also parties to this Amendment No. 1, and the East Contra Costa County Habitat Conservancy is also a party to this Amendment No. 1.

RECITALS

A. The purpose of this Amendment No. 1 is: 1) to add the East Contra Costa County Habitat Conservancy as a party to the ECWMA Agreement; 2) to change the name of existing party Contra Costa County Water Agency to Contra Costa County; 3) to change the name of existing party Contra Costa County Sanitation District 19 to Town of Discovery Bay Community Services District; 4) to expand the purpose of the ECWMA Agreement to include guidance of the East Contra Costa County Functionally Equivalent Integrated Regional Water Management (IRWM) Plan update; 5) and to authorize the Managers of the member agencies to approve the addition of projects in the Functionally Equivalent IRWM Plan.

AGREEMENT

1. Effective Date. The Effective Date of this Amendment No. 1 is October 28, 2010.
2. Parties as of Effective Date. As of the Effective Date of this Amendment No. 1, the parties to the ECWMA Agreement are the Cities of Brentwood, Antioch, and Pittsburg; Contra Costa County, Byron-Bethany Irrigation District, Delta Diablo Sanitation District, Town of Discovery Bay Community Services District, Diablo Water District, East Contra Costa Irrigation District, Ironhouse Sanitation District, East Contra Costa County Habitat Conservation District and Contra Costa Water District. These agencies are collectively referred to as the “member agencies.”
3. The Paragraph identified in the ECWMA Agreement as PURPOSE is deleted in its entirety and replaced with the following:

PURPOSE. The purpose of this Agreement is to establish an East County Water Management Association (ECWMA) to facilitate continued communication, cooperation and education between member agencies regarding matters affecting the existing and potential water supplies of eastern Contra Costa County, and to consider and guide the implementation of the recommendations of the ECWMA's, Phase II Study Report in order to provide long-term water supplies and treatment facilities in a cost effective, reliable, implementable, and cooperative

manner while maintaining institutional independence and customer satisfaction. The ECWMA will also guide the preparation of the update to the East Contra Costa County Functionally Equivalent Integrated Regional Water Management (IRWM) Plan.

4. The following additional RECITALS are added to the RECITALS Section of the ECWMA Agreement:

6. In 2005, a Functionally Equivalent IRWM Plan was developed for the ECWMA, in accordance with the Proposition 50, *Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002* grant application process.

7. In 2009, the East Contra Costa County was accepted as an IRWM Region through the California Department of Water Resources' Region Acceptance Process, allowing the region to be eligible for future IRWM funding opportunities.

8. In 2010, the California Department of Water Resources released grant program guidelines for funding through Proposition 84, *The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coast Protection Bond Act of 2006*, which included new plan standards which will require update to the Functionally Equivalent IRWM Plan.

5. Section 4 of the ECWMA Agreement, "Joint Managers Committee (JMC)" is deleted in its entirety and replaced with the following

4. **Joint Managers Committee (JMC).** The managers of each of the member agencies shall be members of the JMC of the ECWMA which shall have primary administrative responsibility for the implementation of the purposes of this Agreement. The term "Manager" means City Manager, County Administrator, or General Manager of each of the member agencies and their respective alternates designated by the member agency, or their designees. The JMC shall appoint one of its members as the Chair and one as Vice-chair. The term of office for the Chair and Vice-chair shall be two years. The JMC may act directly or through a subcommittee established by a majority of its members. Each member agency shall have one vote on the Committee. Meetings of JMC shall be as determined by the JMC. The JMC shall have authority to approve the addition of projects into the Functionally Equivalent IRWM Plan in accordance with the plan goals and objectives.

6. **Entire Agreement.** In the event of a conflict with the ECWMA Agreement, the terms of this Amendment No. 1 shall prevail over anything to the contrary in the ECWMA Agreement. In all other respects the ECWMA Agreement, and this Amendment No. 1 will be the entire agreement among the parties construed together as one and the same agreement.

EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY

By: _____

Name: _____

Title: _____

Date: _____

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: December 15, 2010
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Agreement Amendment with ConocoPhillips Pipeline Company

RECOMMENDATION

AUTHORIZE staff to execute an Amendment to the Participating Special Entity Agreement with ConocoPhillips Pipeline Company for the ConocoPhillips Line 200 Pipeline Repair Project.

DISCUSSION

At the September 30, 2010 meeting, the Board authorized staff to execute a Participating Special Entity (PSE) Agreement for take coverage of temporary impacts associated with the ConocoPhillips Line 200 Pipeline Repair Project. On October 7, 2010 the PSE Agreement was executed. ConocoPhillips paid all mitigation fees and the contribution to recovery required in the Agreement and was awaiting the final invoice from the Conservancy on administrative charges which would have satisfied its only remaining financial obligation. Shortly after the Agreement was executed, ConocoPhillips learned that the tool that had been used to detect anomalies in the pipeline’s surface had provided inaccurate data. It overestimated the number of anomalies. As a result, ConocoPhillips is able to reduce the number of required repairs. Of the 20 sites that were included in the original project description, only five have been determined to require a repair.

The modifications in the project description require an amendment to the terms of the original PSE agreement between the Conservancy and ConocoPhillips Pipeline Company dated October 7, 2010. The agreement amendment reflects the change in the project description, reduction of development fees (from \$42,232 to \$9,713.36), and an increase in the cap on administrative fees (from \$5,000 to \$8,000). ConocoPhillips has agreed to leave the contribution to recovery at \$21,116. A new Planning Survey Report Application was completed for the reduced project and is attached as Exhibit 1 to the Amendment.

<p>CONTINUED ON ATTACHMENT: <u>Yes</u> ACTION OF BOARD ON: <u>December 15, 2010</u> OTHER _____</p>	<p>APPROVED AS RECOMMENDED: _____</p>
<p><u>VOTE OF BOARD MEMBERS</u> ___ UNANIMOUS AYES: NOES: ABSENT: ABSTAIN:</p>	<p>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> BY: _____, DEPUTY</p>

Attachments:

- **PSE Agreement Amendment, including:**
 - Main body of amendment
 - Exhibit 1: Planning Survey Report
 - Main body of planning survey report
 - Project Vicinity Maps, Impact and Land Cover Maps, Species Habitat Maps
 - Fee Calculator (Exhibit 1 within planning survey report)

FIRST AMENDMENT

TO THE PARTICIPATING SPECIAL ENTITY AGREEMENT OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVATION PLAN/ NATURAL COMMUNITY CONSERVATION PLAN AND GRANTING TAKE AUTHORIZATION

Between

the EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY, the Implementing Entity, and CONOCOPHILLIPS PIPELINE COMPANY, a Participating Species Entity

RECITALS

The Participating Special Entity Agreement between the East Contra Costa County Habitat Conservancy (“Conservancy”) and ConocoPhillips Pipeline Company (“Participating Special Entity” or “PSE”) was entered into October 7, 2010 (the “PSE Agreement”).

The PSE Agreement provides, in Section 10.4, that it may be amended with the written consent of both parties.

The Conservancy and PSE wish to amend the terms of the PSE Agreement by way of this First Amendment (the “First Amendment”).

AMENDMENT

A. The Conservancy and the PSE agree to amend the PSE Agreement as follows:

1. Section 2.7 of the Agreement is amended as follows:

PSE is responsible for ConocoPhillips Line 200 Pipeline Repair Project and seeks extension of the Conservancy’s permit coverage for repairs to 5 sites along the ConocoPipeline Line 200 route which are categorized into two sub-areas: Vasco Sub-Area and Round Valley Sub-Area ~~at 20 sites along the ConocoPhillips Line 200 route which are categorized into three sub-areas: Vasco Sub Area, Round Valley Sub Area, Marsh Creek Sub Area.~~

2. Exhibit 1 shall be replaced with the attached Amended Exhibit 1.

3. Section 5.4 is amended as follows:

As set forth in the Application, PSE agrees to pay the Conservancy ~~\$63,348.00~~ \$30,829.36 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: ~~\$42,232.00~~ \$9,713.36
Contribution to recovery of endangered species: **\$21,116.00**

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 (2010), the amount of all fees and the contribution to recovery will be increased or decreased each following year, beginning in 2111, 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 2011. If PSE pays all fees and the contribution to recovery during the period from January 1 to March 14, 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.

4. Section 7.6 is amended as follows:

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 ~~\$5,000~~ \$8,000. 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.

- B. This First Amendment may be executed in counterparts.
- C. All other terms and conditions of the PSE Agreement shall remain as originally agreed.

D. The Conservancy shall issue a Certificate of Inclusion pursuant to Section 6.1 of the PSE Agreement that is revised to incorporate reference to this First Amendment.

E. This First Amendment shall take effect on the date after both of the following have occurred:

1. The Conservancy and PSE have executed the First Amendment; and

2. The Conservancy has delivered written notice to PSE that the Conservancy has received written concurrence from the Wildlife Agencies regarding the First Amendment in accordance with Section 6.1 of the PSE Agreement.

IN WITNESS WHEREOF, the Conservancy and PSE hereto execute this First Amendment.

**THE EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

Dated: _____

By: _____
John Kopchik, Executive Director

CONOCOPHILLIPS PIPELINE COMPANY

Dated: _____

By: _____
William A. Hallett, Attorney-In-Fact



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

**City/County of Contra Costa County
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: ConocoPhillips Line 200 Pipeline Repair Project
Project Applicant's Company/Organization: ConocoPhillips Pipeline Co.
Contact's Name: Terry Elrod
Contact's Phone: (559) 935-0388 Fax: (559) 935-8638
Contact's Email: terry.w.elrod@conocophillips.com
Mailing Address: 256 East Polk Street
Coalinga, CA 93210

Project Description:

Lead Planner: Krystal Hinojosa
Project Location: Vasco Sub-Area and Round Valley Sub-Area; Please see Figure 1.A and 1.B for the project location
Project APN(s) #: Various
Number of Parcels/Units: N/A
Size of Parcel(s): N/A
Project Description/Purpose (Brief): On October 7, 2010, the ECCC/HCP and ConocoPhillips Pipeline Company entered into a Participating Special Entity Agreement Implementing the HCP/NCCP and Granting Take Authorization, to complete operational and safety repairs to twenty sites along the existing Line 200 Mainline trunk pipeline. This line transports crude oil from the Bakersfield area to a ConocoPhillips refinery in Richmond.
On October 5, 2010, the applicant informed ECCC that the tool that had been used to detect anomalies in the pipeline's surface had provided inaccurate data and that the number of repairs included in the proposed project had to be substantially reduced. Of the twenty sites that were proposed in the September 23, 2010 PSR, only five now require a repair. This PSR revises the original PSR to include only the five sites that will be repaired.

Biologist Information:

Biological/Environmental Firm: Monk & Associates, Inc.
Lead Contact: Isabelle de Geofroy

Contact's Phone: (925) 947-4867 x211 Fax: (925) 947-1165

Contact's Email: Isabelle@monkassociates.com

Mailing Address: 1136 Saranap Ave.

Ste. Q

Walnut Creek, CA 94595

East Contra Costa County HCP/NCCP Planning Survey Report for ConocoPhillips Line 200 Pipeline Repair Participating Special Entity

I. Project Overview

Project proponent: Terry Elrod

Project Name: ConocoPhillips Line 200 Pipeline Repairs

Application Submittal Date: November 17, 2010

Jurisdiction: Contra Costa County Participating Special Entity¹
 City of Oakley
 City of Pittsburg
 City of Clayton
 City of Brentwood

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

See Figure 9-1 of the Final HCP/NCCP for a generalized development fee zone map. Detailed development fee zone maps by jurisdiction are available from the jurisdiction or at www.cocohcp.org.

Total Parcel Acreage: N/A

Acreage of land to be permanently disturbed²: None

Acreage of land to be temporarily disturbed³: 0.46 acres

¹ *Participating Special Entities* are organizations not subject to the authority of a local jurisdiction. Such organizations may include school districts, water districts, irrigation districts, transportation agencies, local park districts, geologic hazard abatement districts, or other utilities or special districts that own land or provide public services.

² *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.

³ *Acreage of land temporarily disturbed* is broadly defined in the HCP/NCCP as any impact on vegetation or habitat that does not result in permanent habitat removal (i.e. vegetation can eventually recover).

Project Description

Concisely and completely describe the project and location. Reference and attach a project vicinity map (Figure 1) and the project site plans (Figure 2) for the proposed project. Include all activities proposed for site, including those disturbing ground (roads, bridges, outfalls, runoff treatment facilities, parks, trails, etc.) to ensure the entire project is covered by the HCP/NCCP permit. Also include proposed construction dates. Reference a City/County application number for the project where additional project details can be found.

City/County Application Number:

Anticipated Construction Date:

November 16, 2010 to February 28, 2011

Project Description

ConocoPhillips Pipeline Company (the applicant) submitted a Planning Survey Report (PSR) to the East Contra Costa County Conservancy (ECCCC) on September 23, 2010, proposing to complete repairs to twenty sites along their Line 200 Mainline trunk pipeline located along the west side of the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) jurisdictional area. This pipeline currently transports crude oil from the Bakersfield area to a ConocoPhillips refinery in Richmond. The Planning Survey Report was approved by the Board on September 30, 2010, and on October 7, 2010, the ECCC/HCP and ConocoPhillips entered into a Participating Special Entity Agreement Implementing the HCP/NCCP and Granting Take Authorization. On October 18, 2010, the ECCCC issued a Certificate of Inclusion for the project.

On October 5, 2010, the applicant informed ECCCC that the tool that had been used to detect anomalies in the pipeline's surface had provided inaccurate data and that the number of repairs included in the proposed project had to be substantially reduced. Of the twenty sites that were in the September 23, 2010 PSR, only five have been determined to require a repair. As such, the applicant is submitting this revised PSR to include only the sites that will be repaired.

The repair project now consists of 5 pipeline repair dig sites (hereinafter referred to as "dig sites"), which are depicted in a regional map in Figure 1A. Figure 1B provides the location of the dig sites within the Tassajara & Byron Hot Springs USGS 7.5-minute quadrangles. Figures 2A-1 to 2A-3 provide aerial photographs of the dig site locations, the footprint of impact for each site, the footprint of the associated access area for each dig site where applicable, and the land cover in the area of the dig site.

The five dig sites are listed below. Dig site numbers used in the September 23, 2010 PSR have been retained for the sake of clarity.

Dig Site #	Repair ID #
2	193,910.00.80
3	194,720.24.56
4	194,720.30.27
10	204,210.33.98
12	204,400.08.97

The dig sites have been grouped into two sub-areas:

1. Vasco Sub-Area: Dig sites 2-4 are located in the grassland hills southeast of the Los Vaqueros Reservoir and northwest and southeast of Vasco Road.
2. Round Valley Sub-Area: Dig sites 10 & 12 are located in the Round Valley, northwest of the Los Vaqueros Reservoir.

Figure 1B provides an overview of the Line 200 pipeline repairs through the Vasco and Round Valley Sub-Areas, respectively. Photographs of each dig site are also attached as Figure 3, and Figure 4A-1 and 4A-2 are the species habitat maps.

All proposed work and all impacts are temporary. For the most part, work would be conducted with a backhoe and pick-up trucks with welding equipment and supplies/parts. Dig sites will be accessed overland, either over grassland or via an existing temporary road (see Figures 2A-1 to 2A-3). Thus, road improvement will not be necessary to complete repairs at those sites. Details for each site are provided in the project description below, and are summarized in the Project Disturbance Table 5, in Section V.

Each dig site will incur impacts to an area that is approximately 35 feet by 50 feet (the "project footprint"). Within the project footprint, the applicant will dig a hole of approximately 10 feet by 20 feet. A shoring box will be installed in the hole to prevent it from collapsing. The hole will be covered outside of work hours to prevent wildlife from falling into the hole. The portion of the footprint that has not been dug will be considered the work area. A backhoe and pickup truck would be the only equipment that would enter the work area.

The project footprint will be staked and fenced with silt fencing backed by a construction fence prior to the commencement of the repairs. All construction equipment and work will be limited to the area within the fenceline. All overland access routes and work areas would be covered in ¾-inch plywood to protect the soil from tire traction.

Best Management Practices (BMP's) will be implemented as part of the project to ensure that there are no impacts to wetlands. BMP's will include the installation of silt

fence along the project footprint boundary. Hay bale walls will be installed between the project footprint and in areas adjacent to wetlands or creeks/streams to ensure that there is no de minimus fill in associated adjacent wetlands. In addition, refueling areas will be contained with fuel blankets to prevent any fuel spills during fueling. The location of the BMP's will be mapped with a GPS unit and submitted to the Conservancy in a Construction Monitoring Plan to demonstrate compliance with conditions set forth in the HCP/NCCP.

A qualified biologist will be at the dig sites during all pipeline repair activities. The biological monitor will be responsible for ensuring that the project is in compliance with the terms and conditions of the HCP/NCCP. This includes directing the crew as to the appropriate location of the BMP's and ensuring that they are not compromised during the repair. The biological monitor will also ensure that special-status wildlife is not impacted by the repairs, and that all special-status plant avoidance measures are implemented.

Any installed erosion control materials will not include plastic netting, which could result in entanglement and death of California tiger salamanders and other reptiles or amphibians within the material. All trash items will be removed from the work/access areas to reduce the potential for attracting predators, such as crows and ravens.

Any contaminated soils and materials will be excavated and removed from the site and disposed of appropriately to prevent California tiger salamanders and other wildlife from becoming exposed or killed by the effects of petroleum products.

Once the pipeline repairs are complete, each dig site will be re-contoured to its original condition as outlined in the temporary impact recovery plan in Section V.

Further details for each dig site are provided below.

Vasco Sub-Area

Dig Site 2: 193,910.00.80

The dig site is located on a hillslope adjacent to an existing dirt road (Figures 2A-1, 3) approximately 200 feet from dig site 1. The project footprint would be approximately 35 x 50 ft. (1,750 square feet). Access to the dig site would be overland: equipment would drive from the dirt road directly to the dig site over existing grassland, resulting in temporary impacts of 646 square feet. The total impact footprint for this dig site is 2,396 sq. ft. and 0.06 acres.

Dig Sites 3 & 4: 194,720.24.56 & 194,720.30.27

Dig sites 3 and 4 are located within several feet of each other, on an existing dirt road along a 12% hillslope running southeast to northwest. Approximately 80% of the site is

located within the existing dirt road (Figures 2A-2, 3). The project footprint and total impact footprint for this dig site is 5,965 sq. ft. and 0.14 acre.

Round Valley Sub-Area

Note on sites 10 and 12:

Access to dig sites 10 and 12 will be via a temporary road that was originally graded by Shell Oil Company approximately two years ago. Shell Oil Company pipelines are located adjacent to ConocoPhillips pipelines in Round Valley. The temporary road remains visible in the attached photographs of the dig sites. This road currently allows access to dig sites 10 and 12 and will not have to be regraded.

Dig Site 10: 204,210.33.98

The dig site is located at the base of a hill and upslope from a first-order ephemeral creek (Figures 2A-3, 3). The project footprint would be approximately 35 x 50 ft. (1,750 square feet). Access to the dig site would be via an existing temporary road: equipment would drive from an existing service road, resulting in temporary impacts of 1,489 square feet. The total impact footprint for this dig site is 3,239 sq. ft. and 0.07 acre.

Dig Site 12: 204,400.08.97

The dig site is located at the base of a hill and approximately 90 feet upslope from a first-order ephemeral creek. The dig site is adjacent to and downslope of the temporary road (Figures 2A-3, 3). The project footprint would be approximately 35 x 50 ft. (1,750 square feet). Access to the dig site would be via the existing temporary road: equipment would drive from dig site 10, resulting in temporary impacts of 6,701 square feet. The total impact footprint for this dig site is 8,451 sq. ft. and 0.19 acre.

II. Existing Conditions and Impacts

Land Cover Types

In completing the checklist in Table 1, click in the appropriate fields and type the relevant information. Please calculate acres of terrestrial land cover types to nearest tenth of an acre. Calculate the areas of all jurisdictional wetlands and waters land cover types to the nearest hundredth of an acre. If the field is not applicable, please enter N/A. The sum of the acreages in the *Acreage of land to be "permanently disturbed" and "temporarily disturbed" by project* column should equal the total impact acreage listed above.

Land cover types and habitat elements identified with an ^(a) in Table 1 require identification and mapping of habitat elements for selected covered wildlife species. In Table 2a and 2b below, check the land cover types and habitat elements found in the project area and describe the results. Insert a map of all land cover types present on-site and other relevant features overlaid on an aerial photo below as Figure 3.

Table 1. Land Cover Types on the Project Site as Determined in the Field and Shown in Figure 3.

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

Land Cover Type (acres, except where noted)	Acreage of Land to be "Permanently Disturbed" by Project ^b	Acreage of Land to be "Temporarily Disturbed" by Project ^b	Acreage of Land Proposed for HCP/NCCP Dedication on the Parcel ^c	
			Stream Setback	Preserve System Dedication
Other				
<input type="checkbox"/> Nonnative woodland				
<input type="checkbox"/> Wind turbines				
Developed				
<input type="checkbox"/> Urban				
<input type="checkbox"/> Aqueduct				
<input type="checkbox"/> Turf				
<input type="checkbox"/> Landfill				
Uncommon Vegetation Types (subtypes of above land cover types)				
<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)				
Uncommon Landscape Features or Habitat Elements				
<input type="checkbox"/> Rock outcrop				
<input type="checkbox"/> Cave ^a				
<input type="checkbox"/> Springs/seeps				
<input type="checkbox"/> Scalds				
<input type="checkbox"/> Sand deposits				
<input type="checkbox"/> Mines ^a				
<input type="checkbox"/> Buildings (bat roosts) ^a	—	—		—
<input type="checkbox"/> Potential nest sites (trees or cliffs) ^a	—	—		—
Total (Temporarily Impacted Acres)		0.46		

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

^a 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.

^b See Section 9.3.1 of the HCP/NCCP for a definition of "permanently disturbed" and "temporarily disturbed." In nearly all cases, all land in the subject parcel is considered permanently disturbed.

^c 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.

^d 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.

^e See glossary (Appendix A) for definition of stream type and order.

Field-Verified Land Cover Map

Insert field-verified land cover map. The map should contain all land cover types present on-site. The map should be representative of an aerial photo. Identify all pages of the field-verified land cover map as **(Figure 3a)**. **Please attach representative photos of the project site (Figure 3b).**

Figures 2A-1 to 2A-3 depict the field-verified land cover maps for dig sites 2, 3, 4, 10 & 12. Photographs of each dig site are attached as Figure 3.

Jurisdictional Wetlands and Waters

Jurisdictional wetlands and waters are defined on pages 1-18 and 1-19 of the Final HCP/NCCP as the following land cover types: permanent wetland, seasonal wetland, alkali wetland, aquatic, pond, slough/channel, and stream. (It should be noted that definitions of these features differ for state and federal jurisdictions.) If you have identified any of these land cover types to be present on the project site in Table 1, complete the section below.

Indicate agency that certified the wetland delineation:

USACE, RWQCB, or the ECCC Habitat Conservancy.

Wetland delineation is attached (Jurisdictional Determination)

Provide any additional information on Impacts to Jurisdictional Wetland and Waters below.

Monk & Associates assessed each dig site using U.S. Army Corps of Engineer's parameters for delineation of other waters and wetlands. No Jurisdictional Wetlands or Waters will be impacted.

Species-Specific Planning Survey Requirements

Based on the land cover types found on-site and identified in Table 1, check the applicable boxes in Table 2a then provide the results of the planning surveys below. In Table 3 check

corresponding preconstruction survey or notification requirements that are triggered by the presence of particular landcover types or species habitat elements as identified in Table 2a. The species-specific planning survey requirements are described in more detail in Section 6.4.3 of the HCP/NCCP.

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

Land Cover Type in the project area?	Species	Habitat Element in the project area?	Planning Survey Requirement
<input checked="" type="checkbox"/> Grasslands, oak savanna, agriculture, ruderal	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.
	California tiger salamander		Identify potential breeding habitat
<input type="checkbox"/> Aquatic (ponds, wetlands, streams, slough, channels, & 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	Identify and map potential breeding habitat. Document habitat quality and features. Provide Implementing Entity with photo-documentation and report.
<input type="checkbox"/> Seasonal wetlands	Covered shrimp	<input type="checkbox"/> Vernal pools <input type="checkbox"/> Sandstone rock outcrops <input type="checkbox"/> Sandstone depressions	Identify and map potential breeding habitat.

Land Cover Type in the project area?	Species	Habitat Element in the project area?	Planning Survey Requirement
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 type="checkbox"/> Potential nest sites (trees within species' range usually below 200')	Inspect large trees for presence of nest sites.
	Golden eagle	<input type="checkbox"/> Potential nest sites (secluded cliffs with overhanging ledges; large trees)	Document and map potential nests.

^a 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

1. Describe the results of the planning survey conducted as required in Table 2a. Planning surveys will assess the location, quantity, and quality of suitable habitat for specified covered wildlife species on the project site. Covered species are assumed to occupy suitable habitat in impact areas and mitigation is based on assumption of take.

- Vasco Sub-Area: Dig sites 2, 3, and 4 are located in the grassland hills southeast of the Los Vaqueros Reservoir and northwest and southeast of Vasco Road.
- Round Valley Sub-Area: Dig sites 10 and 12 are located in the Round Valley, northwest of the Los Vaqueros Reservoir.

Vasco Sub-Area

The Vasco Sub-Area consists of rolling hills vegetated by annual grassland, and associated stock ponds and ephemeral drainages. Windmill farms are common in this region.

Dig Site 2: 193,910.00.80

The dig site is located in disturbed annual grassland (Figures 2A-1, 3) that has been subjected to vehicular access and grazing. Soils are compacted, with patches of bare ground. Vegetation consists of annual grasses, dominated by slender wild oats (*Avena barbata*), ripgut brome (*Bromus diandrus*) and black mustard (*Brassica nigra*). Several eucalyptus (*Eucalyptus* sp.) and oak (*Quercus* sp.) trees occur immediately to the north. A pond and a first-order ephemeral stream are located approximately 450 feet west of the dig sites. California ground squirrel (*Spermophilus beecheyi*) burrows were detected in this area. This site constitutes suitable habitat of the San Joaquin kit fox and western burrowing owl. It is also assumed that the California tiger salamander (*Ambystoma californiense*) could over-summer in this grassland habitat.

The project footprint will be staked and fenced prior to the commencement of the repair. The overland access route from the existing road to the project footprint will be pin flagged. All construction equipment and work will be limited to the area within the fence-line and flagged areas.

Dig Sites 3 & 4: 194,720.24.56 & 194,720.30.27

The dig sites are located on a dirt access road, on the road toe-slope and cut bank (Figures 2A-2, 3) and along the side of a hill vegetated by annual grasslands. Off road vegetation is dominated by slender wild oats and Italian thistle (*Carduus pycnocephalus*). Several California ground squirrel burrows are located around and within the dig site. This site constitutes suitable habitat for the San Joaquin kit fox and western burrowing owl. It is also assumed that the California tiger salamander could over-summer in this grassland habitat.

The project footprint will be staked and fenced prior to the commencement of the repair. All construction equipment and work will be limited to the road and the area within the fence-line.

Round Valley Sub-Area

The Round Sub-Area consists of a west-facing hillslope vegetated by annual grassland. A first-order ephemeral drainage occurs at the foot of the hillslope. Blue oak woodland occurs immediately west of the drainage on the opposite slope. While golden eagles are known to nest in large oak trees, this species nests on hilltops and in areas that afford a broad view of the surrounding area. The trees adjacent to the Round Valley dig sites are in a valley bottom and therefore do not provide suitable habitat for the golden eagle. Thus, M&A does not expect golden eagles to nest within the area of affect of the dig sites.

Dig Site 10: 204,210.33.98

The dig site is located along a temporary road that was graded by Shell Oil in recent years for pipeline repairs (Figures 2A-3, 3). Barren clay soils dominate the repair area (40%) due to vehicular traffic. Vegetation is dominated by black mustard, foxtail barley (*Hordeum murinum* ssp. *leporinum*), slender wild oats, and Italian thistle. Bird species identified in the area include acorn woodpecker (*Melanerpes formicivorus*), western flicker (*Colaptes auratus*), western bluebird (*Sialia mexicana*), Say's phoebe (*Sayornis saya*), bushtit (*Psaltriparus minimus*), oak titmouse (*Baeolophus inornatus*), and white-breasted nuthatch (*Sitta carolinensis*). This site constitutes suitable habitat for the San Joaquin kit fox and western burrowing owl. It is also assumed that the California tiger salamander could over-summer in this grassland habitat.

The project footprint will be staked and fenced prior to the commencement of the repair. All construction equipment and work will be limited to the road and the area within the fenceline.

Dig Site 12: 204,400.08.97

The dig site is located along a temporary road that was graded by Shell Oil Company in recent years for pipeline repairs (Figures 2A-3, 3). Vegetation is dominated by slender wild oats, milk thistle (*Silybum marianum*), black mustard and hayfield tarweed. An ephemeral creek occurs downhill and approximately 125 feet to the west of the dig site. Blue oak (*Quercus douglasii*) woodland occurs further to the west. No burrows are present. This site constitutes suitable habitat for the San Joaquin kit fox and western burrowing owl. It is also assumed that the California tiger salamander could over-summer in this grassland habitat.

The project footprint will be staked and fenced prior to the commencement of the repair. All construction equipment and work will be limited to the area within the fenceline.

2. Reference and attach the Planning Survey Species Habitat Maps as required in Table 2a (Figure 4).

See Figures 4A-1 to 4A-2, attached.

Covered and No-Take Plants

On suitable land cover types, surveys for covered and no-take plants must be conducted using approved CDFG/USFWS methods during the appropriate season to identify any covered or no-take plant species that may occur on the site (see page 6-9 of the Final HCP/NCCP). Based on the land cover types found in the project area and identified in Table 1, check the applicable boxes in Table 2b and provide a summary of survey results as required below. If any no-take plants are found in the project area, the provisions of Conservation Measure 1.11 must be followed (see *Avoidance and Minimization Measures* below).

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

Land Cover Type in the project area?	Plant Species	Covered (C) or No-Take (N)?	Typical Habitat or Physical Conditions, if Known	Typical Blooming Period ^a
<input type="checkbox"/> Oak savanna	Diablo Helianthella (<i>Helianthella castanea</i>)	C	Elevation above 650 feet ^b	Mar–Jun
	Mount Diablo fairy-lantern (<i>Calochortus pulchellus</i>)	C	Elevation between 650 and 2,600 feet ^b	Apr–Jun
<input checked="" 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 ^b	Mar–Jun

Land Cover Type in the project area?	Plant Species	Covered (C) or No-Take (N)?	Typical Habitat or Physical Conditions, if Known	Typical Blooming Period ^a
	Mount Diablo fairy-lantern (<i>Calochortus pulchellus</i>)	C	Elevation between 650 and 2,600 feet ^b	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 ^b	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 ^b	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 ^b	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 ^b	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
<input type="checkbox"/> Alkali wetland	Alkali milkvetch (<i>Astragalus tener</i> ssp. <i>tener</i>)	N		Mar–Jun

Land Cover Type in the project area?	Plant Species	Covered (C) or No-Take (N)?	Typical Habitat or Physical Conditions, if Known	Typical Blooming Period ^a
	Brittlescale (<i>Atriplex depressa</i>)	C	Restricted to soils of the Pescadero or Solano soil series; generally found in southeastern region of plan area ^b	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 ^b	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 ^b	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 ^b	Apr–Jun
	Round-leaved filaree (<i>California macrophylla</i>) ¹	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 ^b	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

Land Cover Type in the project area?	Plant Species	Covered (C) or No-Take (N)?	Typical Habitat or Physical Conditions, if Known	Typical Blooming Period ^a
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^a 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.

^b See Species Profiles in Appendix D of the Final HCP/NCCP.

Results of Covered and No-Take Plant Species Planning Surveys Required in Table 2b

Describe the results of the planning survey conducted as required in Table 2b. Describe the methods used to survey the site for all covered and no-take plants, including the dates and times of all survey's conducted (see Tables 3-8 and 6-5 of the HCP/NCCP for covered and no-take plants). In order to complete all the necessary covered and no-take plant surveys, both spring and fall surveys are required, check species survey requirements below.

If any covered or no-take plants were found, include the following information in the results summary:

- Description and number of occurrences and their rough population size.
- Description of the "health" of each occurrence, as defined on pages 5-49 and 5-50 of the HCP/NCCP.
- A map of all the occurrences.
- Justification of surveying time window, if outside of the plant's blooming period.
- The CNDDDB form(s) submitted to CDFG (if this is a new occurrence).
- A description of the anticipated impacts that the covered activity will have on the occurrence and/or how the project will avoid impacts to all covered and no-take plant species. All projects must demonstrate avoidance of all six no-take plants (see table 6-5 of the HCP/NCCP).

In accordance with the HCP/NCCP, a total of 11 covered and no-take species have the potential to occur in the grasslands and oak woodlands in the project area. These species include big tarplant (*Blepharizonia plumosa*), Diablo helianthella (*Helianthella castanea*), Contra Costa goldfields (*Lasthenia conjugens*), showy madia (*Madia radiata*), large-flowered fiddleneck (*Amsinckia grandiflora*), alkali milkvetch (*Astragalus tener* var. *tener*), round-leaved filaree (*California macrophylla*), Mt. Diablo fairy lantern (*Calochortus pulchellus*), Brewer's dwarf flax (*Hesperolinon breweri*), diamond-petaled California poppy (*Eschscholzia rhombipetala*), and Mt. Diablo buckwheat (*Eriogonum truncatum*). Special-status plant surveys were conducted on dig site 2 by M&A biologists Ms. Hope Kingma and Mr. Brian Spirou on August 27, 2010; and on dig sites 3, 4, 10 and

12 by Mr. Geoff Monk and Ms. Jessica Pouder on August 23, 2010. The entire project footprint for each site as well as the access routes to the dig sites were surveyed.

Of the 11 plant species that have the potential to occur in the project area, three species can be dismissed from occurring in the project area, since these species would have been detectable during M&A's August and September 2010 site visits. These three species are big tarplant, Diablo helianthella, and Mt. Diablo buckwheat. Although Diablo helianthella blooms between March and June, this is a perennial species and it would have been detectable during M&A's surveys. No plants in the genus *Eriogonum* were detected in the survey areas and thus this species was dismissed as potentially occurring.

The rare plant surveys were conducted outside the survey window for the remaining 8 species, which include Contra Costa goldfields, showy madia, large-flowered fiddleneck, alkali milkvetch, round-leaved filaree, Mt. Diablo fairy lantern, Brewer's dwarf flax, and diamond-petaled California poppy. These species have an exceptionally low probability of occurring within the footprint of the dig sites or their associated access roads. Without exception, each dig site is in visibly modified habitats owing to associated repairs that have occurred at these locations in the last three years. Not only have there been other repairs on the ConocoPhillips pipeline in the last three years, but it has also served as a work area and access route by the Shell Oil Pipeline Project.

Evidence of previous disturbance is clearly visible in the aerial photographs of the dig sites (Figures 2A-1 to 2A-3) and in photographs of the dig sites (Figure 3). Dig site 2 (Figure 2A-1) located between Los Vaqueros Reservoir and Vasco Road, has been subject to repairs in the last 3 years. Dig sites 3 and 4 (Figure 2A-2) occur in existing dirt roads and associated toe or cut slopes. Soils are compacted and the vegetation is highly disturbed. Dig sites 10 and 12 (Figure 2A-3), located in Round Valley, occur immediately adjacent to a recently replaced Shell Oil pipeline and an associated temporary road that was graded by Shell Oil in the last three years and was restored after repairs were completed.

As ConocoPhillips is on an urgent timeline to complete the federally mandated repairs, they are proposing to conduct rare plant surveys at all five dig sites after the required repairs are completed. Special-status plant surveys shall follow all HCP/NCCP guidelines and shall be conducted when the special-status plants under consideration are known to be flowering and readily identifiable, during April and June of 2011. Rare plant surveys shall be conducted within the project footprint and access area of each dig site, and within a 200 foot buffer around each dig site. Although rare plant surveys would be conducted after the project is completed, M&A believes that, in the unlikely event that a rare plant does occur within the project footprint, it would likely be part of a larger population that extends beyond the project footprint. This larger population would be detectable during the 2011 surveys. M&A believes that conducting these rare plant surveys will provide an accurate assessment of impacts to special-status plant species.

To further minimize impacts to rare plants, ConocoPhillips will salvage and stockpile the topsoil of the dig area, estimated to be approximately 10 feet by 20 feet. The topsoil would be replaced over the dig area after ground-disturbing activities are completed. Please refer to the avoidance measures below for additional details on soil stockpiling.

A rare plant survey report shall be submitted to the East Contra Costa County Conservancy by July 30, 2011. If special-status plant species are identified on or within 200 feet of the dig areas and access areas, the applicant will be required to meet and confer with Conservancy staff to develop and implement a suitable plan to address Conservation Measure 3.10 "Plant Salvage when Impacts are Unavoidable," Section 6.31. "Covered and No-Take Plants," and Table 5-20 "Protection Requirements for Covered Plants" in the HCP/NCCP as well as be required to comply with several additional measures to avoid and minimize impacts in order to ensure that this species is protected.

Avoidance Measures for Special-Status Plant Species

Out of an abundance of caution, to ensure that no repair-related impacts occur to special-status plants in the project area, the applicant will implement the following avoidance measures:

- All plants and their associated bulbs, seed and soil will be salvaged from the dig site footprint prior to construction by a qualified botanist. Any topsoil removed 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 over the disturbed areas after the ground-disturbing activities are completed. Finally, the area will be re-seeded/vegetated with any salvaged seeds/blubs.
- Plywood measuring a minimum of $\frac{3}{4}$ " in thickness will be placed along the access areas and within unimpacted areas of the project footprint. Plywood will prevent construction equipment from damaging the soil, and will help to distribute the weight of trucks and heavy machinery evenly across its surface, thus limiting disturbance to the seed bank below.

III. Species-Specific Monitoring and Avoidance Requirements

This section discusses subsequent actions that are necessary to ensure project compliance with Plan requirements. Survey requirements and Best Management Practices pertaining to selected covered wildlife species are detailed in Section 6.4.3, *Species-Level Measures*, beginning on page 6-36 of the Final HCP/NCCP.

Preconstruction Surveys for Selected Covered Wildlife

If habitat for selected covered wildlife species identified in Table 2a was found to be present in the project area. In Table 3, identify the species for which preconstruction surveys or notifications are required based on the results of the planning surveys. Identify whether a

condition of approval has been inserted into the development contract to address this requirement.

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 in the project area. 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 checked="" 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 in the project area.
<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 in the project area.
<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 type="checkbox"/> Swainson's hawk (p. 6-42)	Determine whether nests are occupied.
<input type="checkbox"/> Golden eagle (p. 6-39)	Determine whether nests are occupied.
Note: Page numbers refer to the HCP/NCCP.	

Preconstruction Surveys as Required for Selected Covered Wildlife in Table 3

Describe the preconstruction survey's or notification conditions applicable to any species checked in Table 3. All preconstruction surveys shall be conducted in accordance with the requirements set forth in Section 6.4.3, *Species-Level Measures*, and Table 6-1 of the HCP/NCCP.

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 parcel where the activity is proposed, the biologist will survey the proposed disturbance footprint and a 250-foot radius from the perimeter of the proposed footprint 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.

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 biologist will survey the proposed disturbance footprint and a 500-foot radius from the perimeter of the proposed footprint to identify burrows and owls. Adjacent parcels under different land ownership will not be surveyed. Surveys should 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 valid only for the season (breeding or nonbreeding) during which the survey is conducted.

California Tiger Salamander

[The Project will not impact California Tiger Salamander (CTS) breeding habitat, but rather only potential estivation habitat. The HCP/NCCP minimization measure for CTS only requires notification if breeding habitat will be impacted.]

Written notification to USFWS, CDFG, and the Implementing Entity, including photos and breeding habitat assessment, is required prior to disturbance of any suitable breeding habitat. The project proponent will also notify these parties of the approximate date of removal of the breeding habitat at least 30 days prior to this removal to allow USFWS or CDFG staff to translocate individuals, if requested. USFWS or CDFG must notify the project proponent of their intent to translocate California tiger salamanders within 14 days of receiving notice from the project proponent. The applicant must allow USFWS or CDFG access to the site prior to construction if they request it. There are no restrictions under this Plan on the nature of the disturbance or

the date of the disturbance unless CDFG or USFWS notify the project proponent of their intent to translocate individuals within the required time period. In this case, the project proponent must coordinate the timing of disturbance of the breeding habitat to allow USFWS or CDFG to translocate the individuals. USFWS and CDFG shall be allowed 45 days to translocate individuals from the date the first written notification was submitted by the project proponent (or a longer period agreed to by the project proponent, USFWS, and CDFG).

Construction Monitoring & Avoidance and Minimization Measures for Selected Covered Species

If preconstruction surveys for key covered wildlife species establish the presence of any such species, construction monitoring will be necessary. In Table 4, check the boxes for the species that will be assessed during the preconstruction surveys (see Table 3). A summary of the construction monitoring requirements for each species is provided in Table 4 and these measures must be implemented in the event that preconstruction surveys described in Table 3 detect the covered species. A summary of avoidance measures is also provided in Table 4 and these measures must be implemented if construction monitoring detects the species or its sign. These construction monitoring and avoidance requirements are described in detail in Section 6.4.3, Species-Level Measures, of the Final HCP/NCCP.

Construction Monitoring Plan Requirements in Section 6.3.3, Construction Monitoring, of the Final HCP/NCCP:

- Before implementing a covered activity, the applicant will develop and submit a construction-monitoring plan to the Implementing Entity⁴ for approval.**

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.
<input type="checkbox"/> Giant garter snake (p. 6-44)	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.
<input type="checkbox"/> Covered shrimp species (p. 6-47)	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.

⁴ The East Contra Costa County Habitat Conservancy and the local land use Jurisdiction must review and approve the plan **prior** to the commencement of all covered activities (i.e. construction).
ConocoPhillips Pipeline Repair Project attached to Agreement Amendment 1

Species Assessed by Preconstruction Surveys	Monitoring Action Required if Species Detected
<input type="checkbox"/> Swainson's hawk (p. 6-42)	Establish 1,000-ft buffer around active nest and monitor compliance.
<input type="checkbox"/> Golden eagle (p. 6-39)	Establish 0.5-mile buffer around active nest and monitor compliance.

Construction Monitoring & Avoidance and Minimization Measures as Required for Selected Covered Wildlife in Table 4

Describe the construction monitoring and avoidance and minimization measures applicable to any species checked in Table 4. A summary of avoidance measures is provided in Table 4, these measures must be implemented if construction monitoring detects the presence of the species. The construction monitoring & avoidance and minimization measures requirements are described in detail in Section 6.4.3, Species-Level Measures, of the HCP/NCCP.

San Joaquin Kit Fox

Construction Monitoring

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 should 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.

Avoidance and Minimization Measures

- 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 should 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 vacated 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 can 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 have to be excavated when, in the judgment of a biologist, it is temporarily vacant (i.e., during the animal's normal foraging activities).

Western Burrowing Owl

Avoidance and Minimization and Construction Monitoring

If burrowing owls are found during the breeding season (February 1–August 31), the project proponent 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), the project proponent should avoid the owls and the burrows they are using, if possible. Avoidance will include the establishment of a buffer zone (described below).

Mitigation for unavoidable impacts include:

If occupied burrows for burrowing owls are not avoided, passive relocation will be implemented. Owls should 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 should be in place for 48 hours prior to excavation. The project area should be monitored daily for 1 week to confirm that the owl has abandoned the burrow. Whenever possible, burrows should be excavated using hand tools and refilled to prevent reoccupation (California Department of Fish and Game 1995). Plastic tubing or a similar structure should be inserted in the tunnels during excavation to maintain an escape route for any owls inside the burrow.

California Tiger Salamander

Minimization

Written notification to USFWS, CDFG, and the Implementing Entity, including photos and breeding habitat assessment, is required prior to disturbance of any suitable breeding habitat. The project proponent will also notify these parties of the approximate date of removal of the breeding habitat at least 30 days prior to this removal to allow USFWS or CDFG staff to translocate individuals, if requested. USFWS or CDFG must notify the project proponent of their intent to translocate California tiger salamanders within 14 days of receiving notice from the project proponent. The applicant must allow USFWS or CDFG access to the site prior to construction if they request it. There are no restrictions under this Plan on the nature of the disturbance or the date of the disturbance unless CDFG or USFWS notify the project proponent of their

intent to translocate individuals within the required time period. In this case, the project proponent must coordinate the timing of disturbance of the breeding habitat to allow USFWS or CDFG to translocate the individuals. USFWS and CDFG shall be allowed 45 days to translocate individuals from the date the first written notification was submitted by the project proponent (or a longer period agreed to by the project proponent, USFWS, and CDFG).

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

Describe relevant avoidance and minimization measures required to address the conservation measures listed below. If a conservation measure is not relevant to the project, explain why.

For All Projects

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

Briefly describe how the project complies with this measure. See page 6-21 of the Final HCP/NCCP for details.

No waters of the U.S. and/or State (i.e., wetlands or other waters) will be impacted by the proposed project. However, a first-order ephemeral creek is located immediately to the west of dig site 12. In addition, several ponds occur adjacent to the dig sites. One is located approximately 450 feet uphill and west of dig site 2. A second pond is located approximately 400 feet uphill and west of dig site 12.

Best Management Practices (BMP's) will be implemented as part of the project to ensure that there are no impacts to the ephemeral creek. As both ponds are uphill from adjacent dig sites 2 and 12, BMP's will not be required to protect these features. Hay wattles will be installed between the project footprint and in areas adjacent to wetlands to ensure that there is no de minimus fill in associated adjacent wetlands. BMP's will include the installation of silt fencing along the project footprint boundary. In addition, refueling areas will be contained with fuel blankets to prevent any fuel spills during fueling. Finally, a California native seed hydroseed mix will be applied to all disturbed areas upon completion of the project. A qualified biologist will be at the dig sites during all pipeline repair activities. The biological monitor will be responsible for directing the crew as to the appropriate location of the BMP's and ensuring that they are not compromised during the repair. The location of the BMP's will be mapped with a GPS unit and submitted to the Conservancy in the Construction Monitoring Plan to demonstrate compliance with conditions set forth in the HCP/NCCP for maintaining hydrologic conditions and minimizing erosion.

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

Briefly describe how the project complies with this measure. See page 6-23 of the Final HCP/NCCP for details.

Complete details of the potential for rare plants and mitigation for potential impacts are provided on pages 14-19 of the PSR. Please refer to the "Results of Covered and No-Take Plant Species Planning Surveys Required in Table 2b." No suitable rare plant habitat is located on any of the dig sites. However, rare plant surveys will be conducted in accordance with HCP/NCCP guidelines in April and June of 2011, after the repairs are completed, and the results submitted to the Conservancy by July 30, 2011.

No suitable nesting habitat for fully protected birds (as defined under Sections 3511 and 4700 of the California Fish and Game Code) occurs in the proximity of the dig sites. No suitable habitat for other fully protected wildlife species occurs on the project site.

The oak woodland located west of the Round Valley dig sites 10 and 12 provides suitable nesting habitat for passerine birds. All of these birds are protected under the Migratory Bird Treaty Act (50 CFR 10.13) and their eggs and young are protected under California Fish and Game Codes Sections 3503, 3503.5. Potential impacts to these species from the proposed project include disturbance to nesting birds, and possibly death of adults and/or young. No active nests have been identified in the trees adjacent to the dig sites; however, no specific surveys for nesting passerine birds or raptors have been conducted.

In order to avoid impacts to nesting birds, a nesting survey shall be conducted 15 days prior to commencing with proposed repair work if this work would commence between March 15th and September 15th, the results of which shall be contained within the Construction Monitoring Plan. The nesting survey shall include examination of all trees within 200 feet of the dig sites and/or their associated access areas. If nesting passerines are identified during the surveys, a qualified biologist shall determine whether the repair work could negatively impact the nest. If the repair has the potential to negatively impact the nest, all repair work on the dig site shall be delayed until a qualified biologist determines that the young have fledged the nest or that it is otherwise no longer in use.

If more than 15 days elapse between the date of the nesting survey and the site grading and/or tree removal, the nesting survey shall be repeated until the site no longer supports potential nesting habitat.

For Projects on or adjacent to Streams or Wetlands

HCP/NCCP Conservation Measure 1.7. Establish Stream Setbacks

Briefly describe how the project complies with this measure. See page 6-15 and Table 6-2 of the Final HCP/NCCP for details. For questions on the stream setback requirements, please contact the Conservancy.

A stream setback shall be established 25 feet from the top of bank of the unnamed first-order ephemeral creeks in the areas adjacent to dig sites 2, 10 and 12. Construction fencing backed by silt fencing shall be installed along the project footprint boundary of the dig sites and access roads as identified in the project description to prevent equipment and any side-cast material from entering the creeks. On steep slopes, hay bale walls will be construction staked into hillsides to ensure that de minimus fill does not enter any water of the U.S. or State (i.e., into wetlands or other waters).

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

Briefly describe how the project complies with this measure. See page 6-33 of the Final HCP/NCCP for details.

Several ponds occur adjacent to the dig sites. One is located approximately 450 feet west of dig site 2. A second pond is located approximately 400 feet west of dig site 12. As both ponds are uphill from the adjacent dig sites and access roads, BMP's will not be necessary to protect these ponds.

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

Covered activities adjacent to permanently protected natural lands will require a variety of special considerations to address issues associated with characteristics of the urban-wildland interface. These considerations are intended to minimize the impacts of development on the integrity of habitat preserved and protected under the terms of the Plan. Permanently protected natural lands are defined as any of the following (see the latest Preserve System map on the Conservancy web site, www.cocohcp.org).

- Publicly owned open space with substantial natural land cover types including but not limited to state and regional parks and preserves and public watershed lands (local and urban neighborhood parks are excluded).
- Deed-restricted private conservation easements.
- HCP/NCCP Preserve System lands.
- Potential HCP/NCCP Preserve System lands (see Figure 5-3 in the HCP/NCCP).

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

Briefly describe how the project complies with this measure. See page 6-14 of the Final HCP/NCCP for details.

The proposed project consists of conducting repairs for an existing pipeline utility. All impacts will be temporary.

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

Briefly describe how the project complies with this measure. See page 6-18 of the Final HCP/NCCP for details.

The proposed project consists of conducting repairs for an existing pipeline utility. All impacts will be temporary.

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

Briefly describe how the project complies with this measure. See page 6-20 of the Final HCP/NCCP for details.

The proposed project consists of conducting repairs for an existing pipeline utility. All impacts will be temporary.

For Rural Infrastructure Projects

Rural infrastructure projects provide infrastructure that supports urban development within the urban development area. Such projects are divided into three categories: transportation projects, flood protection projects, and utility projects. Most rural road projects covered by the Plan will be led by Contra Costa County. All flood protection projects covered by the Plan will be led by the County Flood Control District. Utility projects will likely be led by the private companies that own the utility lines. A complete discussion of rural infrastructure projects is presented in Section 2.3.2 of the Final HCP/NCCP beginning on page 2-18.

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

Briefly describe how the project complies with this measure. See page 6-25 of the Final HCP/NCCP for details.

Not applicable

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

Briefly describe how the project complies with this measure. See page 6-26 of the Final HCP/NCCP for details.

Not applicable

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

Briefly describe how the project complies with this measure. See page 6-27 of the Final HCP/NCCP for details.

Not applicable

V. Mitigation Measures

Complete and Attach Exhibit 1 (Permanent Impact Fees) and/or Exhibit 2 (Temporary Impact Fees) Fee Calculator(s) for Permanent and Temporary Impacts.

- Briefly describe the amount of fees to be paid and when.
- See Section 9.3.1 of the HCP/NCCP for details. If land is to be dedicated in lieu of fees or if restoration or creation of jurisdictional wetlands or waters is to be performed in lieu of fees, summarize these actions here and attach written evidence that the Conservancy has approved these actions in lieu of fees.

Table 5 below provides a summary of the area of impact for each dig site and associated access route. Total project impacts will be 0.46 acre.

Table 5. Project Disturbance Table

Dig Site #	Site ID #	Project Footprint (sq. ft.)	Road Access (sq. ft.)	Total Impact (sq. ft.)	Total Impact (Acres)	Type of Impact on Access Route
2	193,910.00.80	1,750	646	2,396	0.06	Overland
3	194,720.24.56	5,965	-	5,965	0.14	None
4	194,720.30.27	Included in Dig site 3	-	Included in Dig site 3	Included in Dig site 3	None
10	204,210.33.98	1,750	1,489	3,239	0.07	Existing temporary road
12	204,400.08.97	1,750	6,701	8,451	0.19	Existing temporary road
Total		11,215	8,836	20,051	0.46	

Although all impacts are temporary, the applicant is planning to mitigate for the 0.46 acre of temporary impacts by paying the full development fee, which is provided as an option in the HCP/NCCP in lieu of calculating the area of indirect effects, in order to determine a project impact area subject to the temporary fee. Please refer to Exhibit 1: HCP/NCCP Fee Calculator Worksheet, attached.

Temporary Impact Recovery Plan

At completion of the pipeline repair project, all disturbed soils will be stabilized by compaction of soils and re-contouring to pre-existing grades. All salvaged topsoil will be

replaced over the disturbed areas after the ground-disturbing activities are completed, as described in "Results of Covered and No-Take Plant Species Planning Surveys Required in Table 2b." Finally, the area will be re-seeded/vegetated with any salvaged seeds/blubs. A California native seed hydroseed mix will be applied to disturbed areas upon completion of the project. Jute matting and/or straw shall be placed over hydroseed mix to prevent winter erosion. The straw shall be applied at a rate of 2 tons per acre.

Exhibit 1: HCP/NCCP FEE CALCULATOR WORKSHEET

PROJECT APPLICANT INFO:

Project Applicant: Conoco Phillips Pipeline Company
 Project Name: Conoco Phillips Line 200 Pipeline Repair
 APN (s): _____
 Date: 10-Dec-10 Jurisdiction: Participating Special Entity

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

Acreage of land to be permanently disturbed (from Table 1)*

	Full Development Fee		Fee per Acre (subject to change on 3/15/11)	
Fee Zone 1		x	\$10,558 =	\$0.00
Fee Zone 2	0.46	x	\$21,116 =	\$9,713.36
Fee Zone 3		x	\$5,279 =	\$0.00
Development Fee Total				\$9,713.36

WETLAND MITIGATION FEE

	Acreage of wetland		Fee per Acre (subject to change on 3/15/11)	
Riparian woodland / scrub	_____	x	\$63,601 =	\$0.00
Perennial Wetland	_____	x	\$87,032 =	\$0.00
Seasonal Wetland	_____	x	\$188,570 =	\$0.00
Alkali Wetland	_____	x	\$178,528 =	\$0.00
Ponds	_____	x	\$94,843 =	\$0.00
Aquatic (open water)	_____	x	\$47,979 =	\$0.00
Slough / Channel	_____	x	\$108,233 =	\$0.00

Linear Feet

<u>Streams</u>				
Streams 25 Feet wide or less (Fee is per Linear Foot)	_____	x	\$519 =	\$0.00
Streams greater than 25 feet wide (Fee is per Linear Foot)	_____	x	\$781 =	\$0.00

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 _____

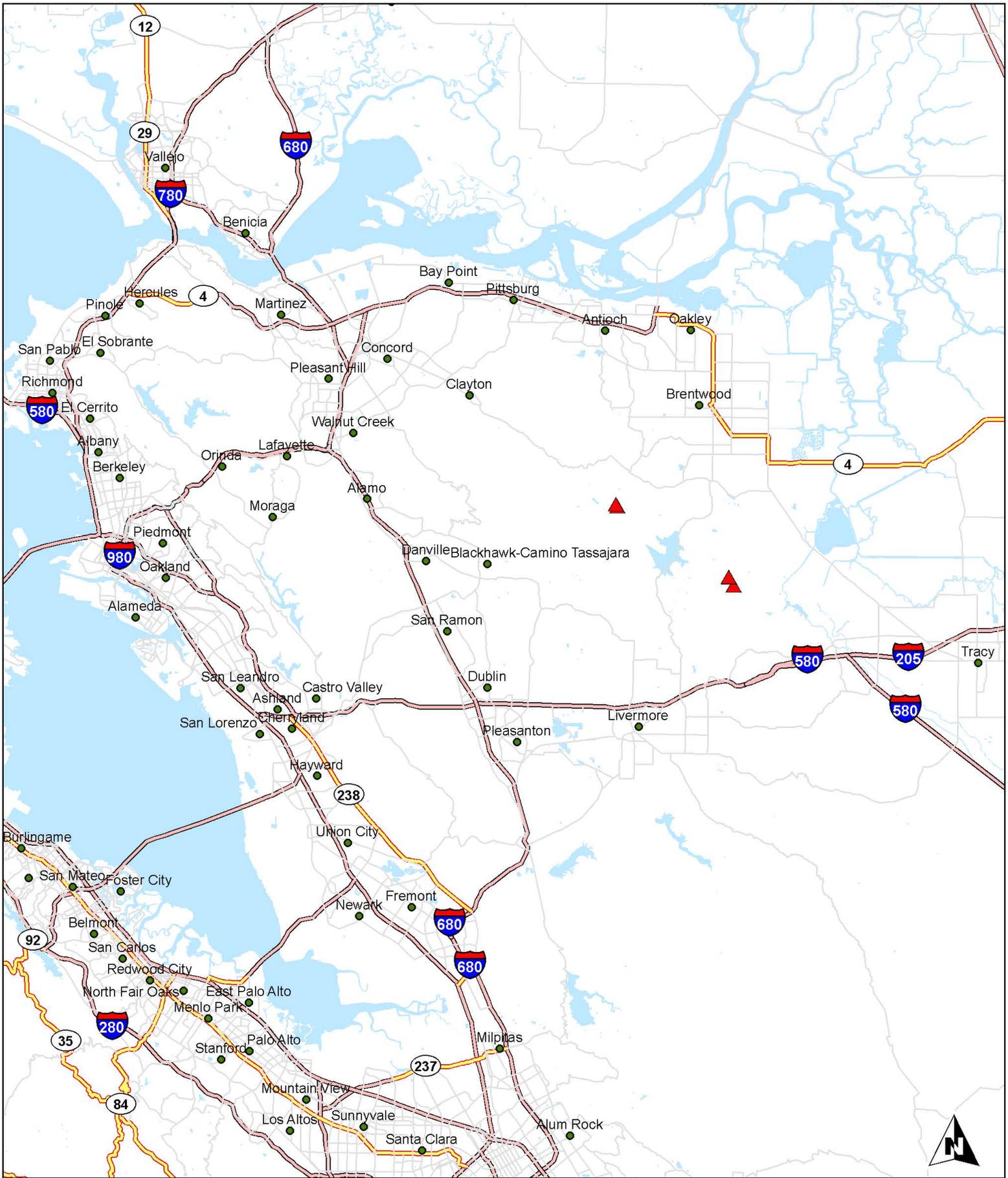
Reduction Total \$0.00

CALCULATE FINAL FEE

Development Fee Total	<u>\$9,713.36</u>
Wetland Mitigation Fee Total +	<u>\$0.00</u>
Fee Subtotal	<u>\$9,713.36</u>
Reduction Total -	<u>\$0.00</u>
TOTAL FEE TO BE PAID	<u>\$9,713.36</u>

* City/County Planning Staff will consult the land cover map in the Final HCP/NCCP and will reduce the acreage subject to the Development Fee by the acreage of the subject property that was identified in the Final HCP/NCCP as urban, turf, landfill or aqueduct land cover.

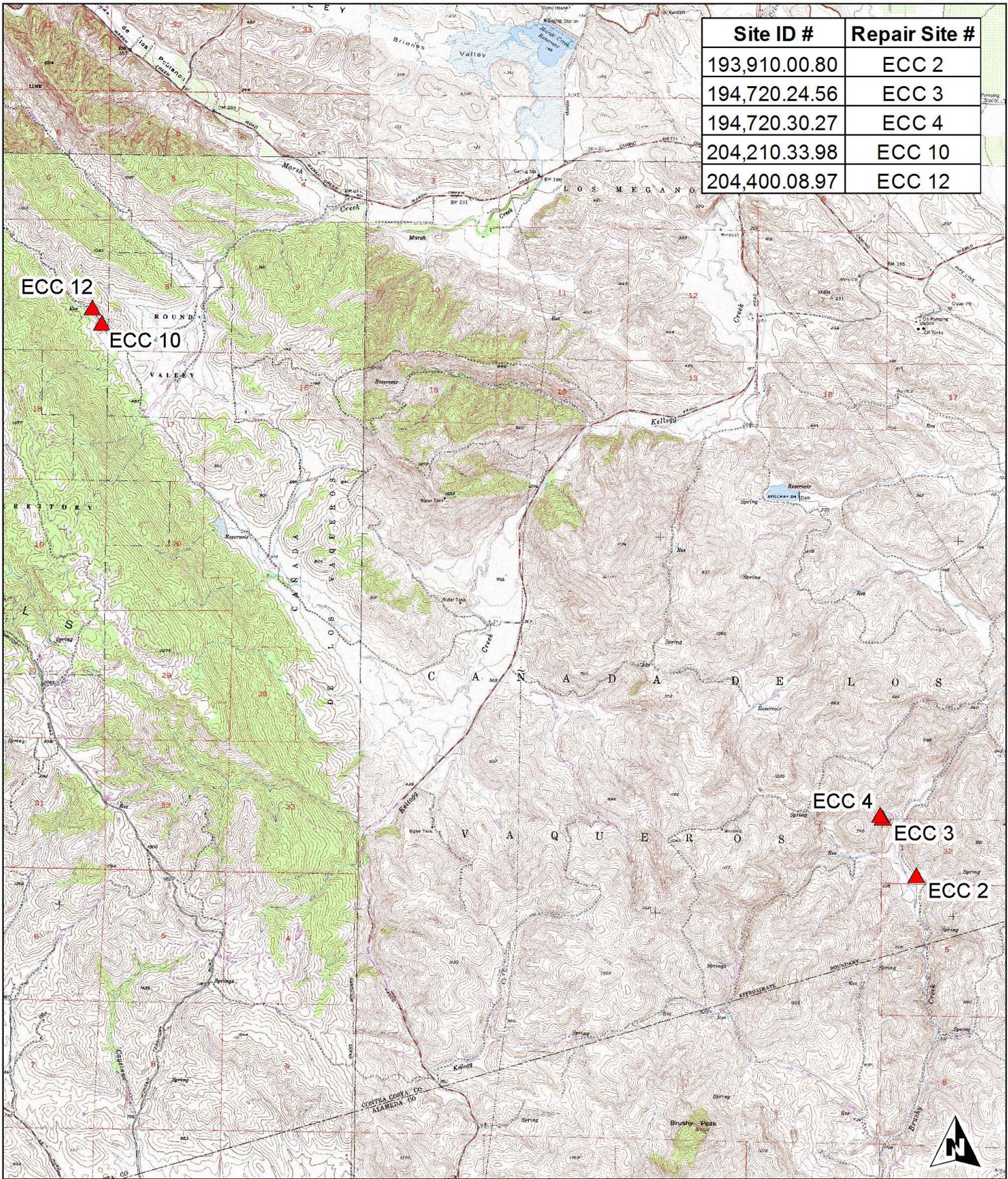
Template date: June 15, 2010



Monk & Associates
Environmental Consultants
1136 Saranap Avenue, Suite Q
Walnut Creek, California 94595
(925) 947-4867

Figure 1. A. ConocoPhillips Line 200 Pipeline Repair Sites
East Contra Costa County, California

▲ Repair Sites
Map Preparation Date: October 22, 2010



Site ID #	Repair Site #
193,910.00.80	ECC 2
194,720.24.56	ECC 3
194,720.30.27	ECC 4
204,210.33.98	ECC 10
204,400.08.97	ECC 12

Monk & Associates
 Environmental Consultants
 1136 Saranap Avenue, Suite Q
 Walnut Creek, California 94595
 (925) 947-4867

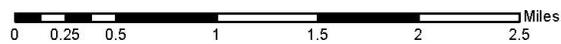


Figure 1.B. ConocoPhillips Line 200 Pipeline Repair Sites
 East Contra Costa County, California

▲ Repair Sites
 Map Preparation Date: October 22, 2010

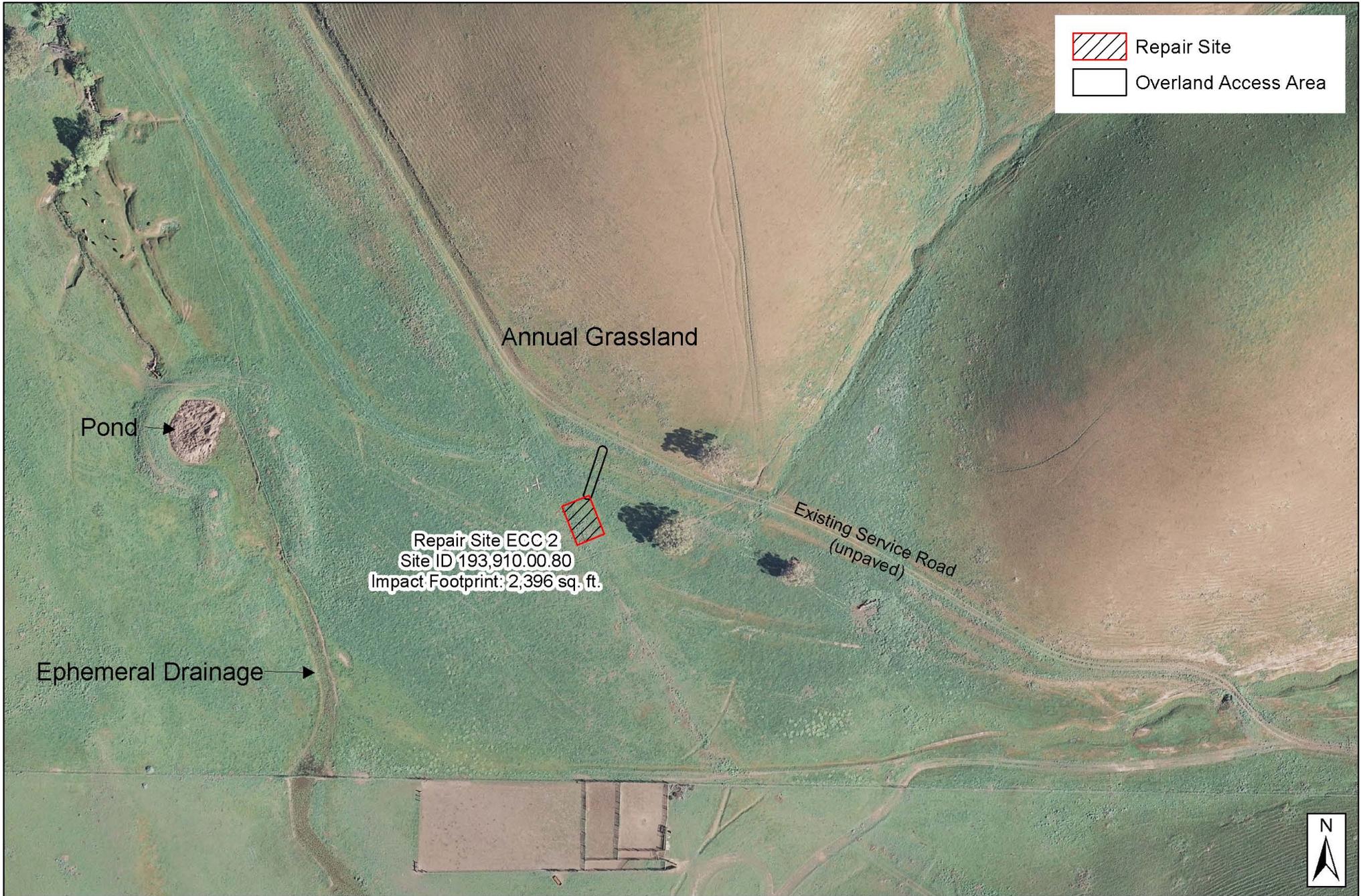


Figure 2A-1. ConocoPhillips Line 200 Pipeline
Repair Site ECC 2: Impact Area and Landcover Map
East Contra Costa County, California

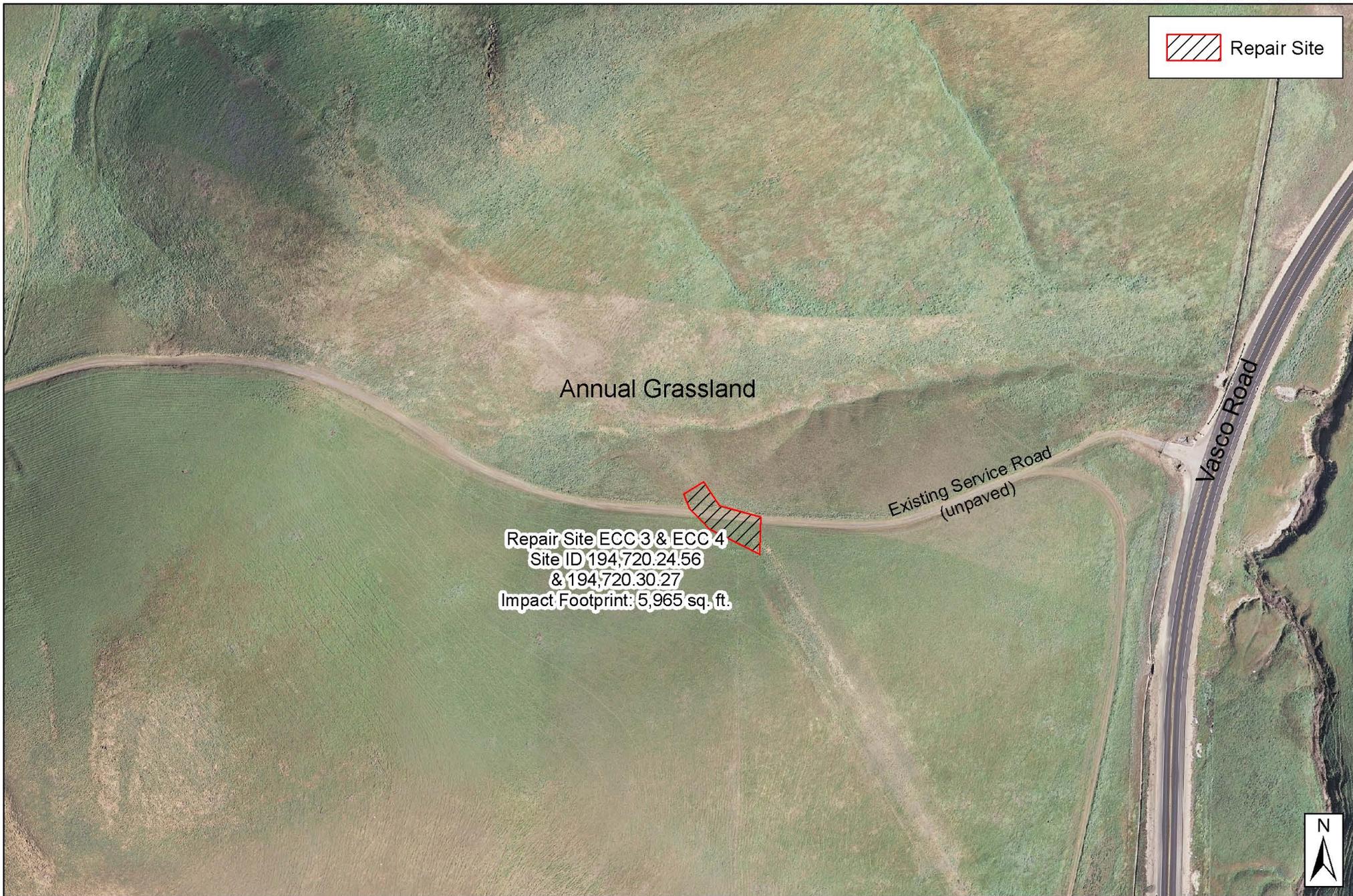
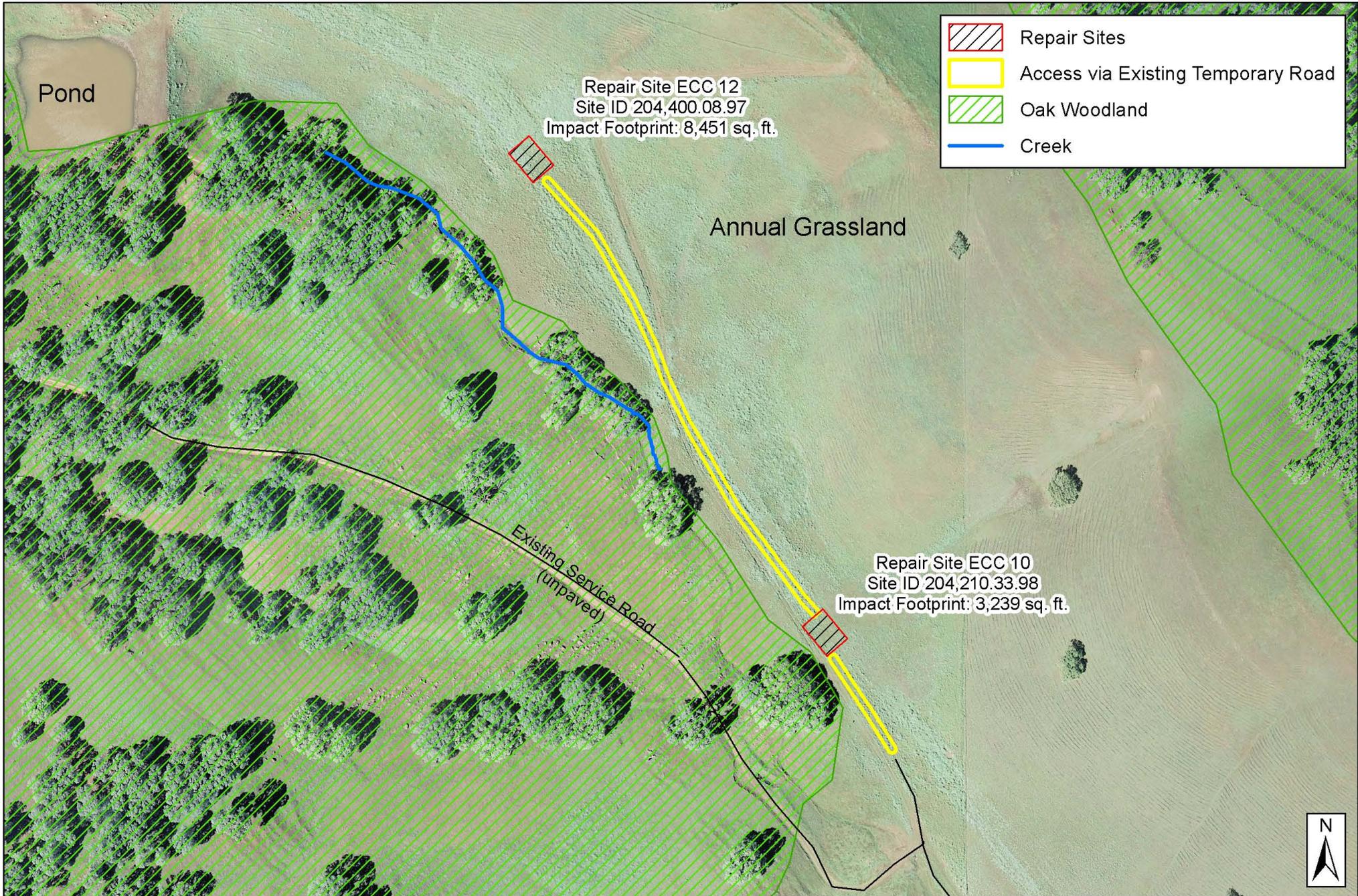


Figure 2A-2. ConocoPhillips Line 200 Pipeline
Repair Sites ECC 3 & ECC 4: Impact Area and Landcover Map
East Contra Costa County, California



**Figure 3. ConocoPhillips Pipeline Repair
Photographs of Dig Sites**



Dig site 2. (STD 193,910.00.80), looking northwest.

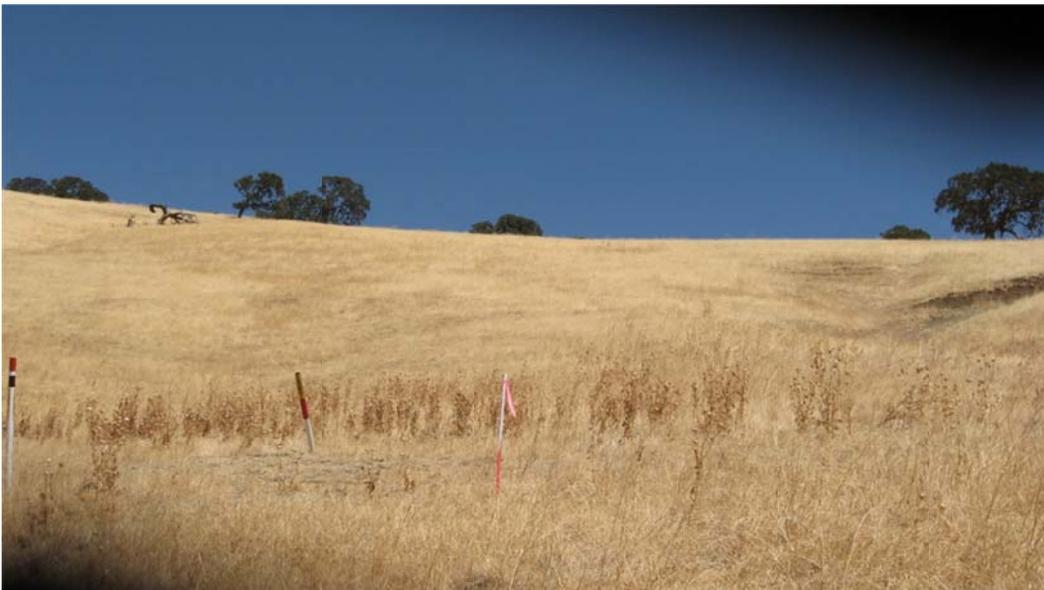


Dig sites 3 & 4. (STDs 194,720.24.56 & 194,720.30.27), looking east.
Sites located on existing access road.

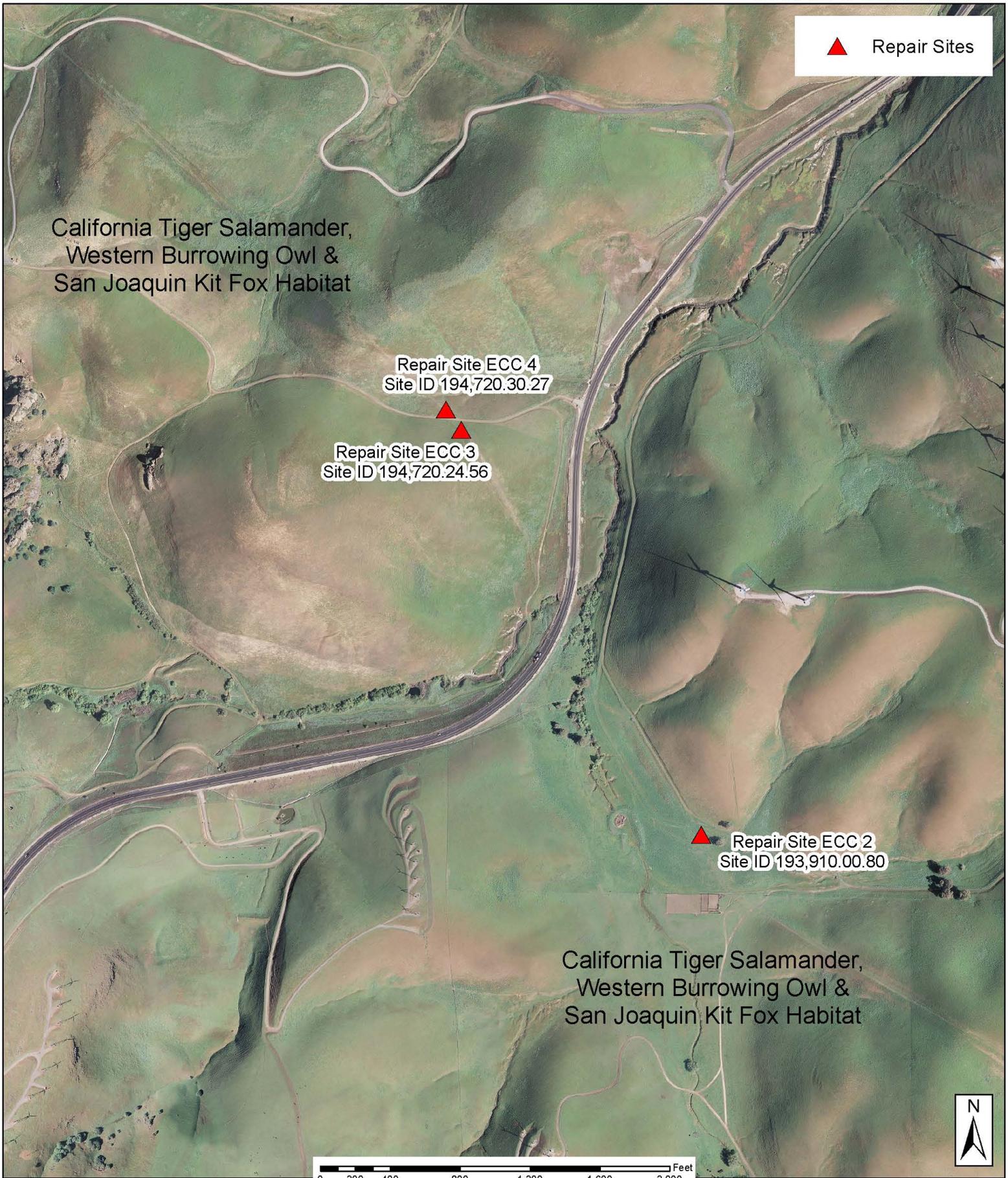
**Figure 3B. ConocoPhillips Pipeline Repair
Photographs of Dig Sites 1-20**



Dig site 10. (STD 204,210.33.98), looking northwest.



Dig site 12. (STD 204,400.08.97), looking east.



Monk & Associates
Environmental Consultants
1136 Saranap Avenue, Suite Q
Walnut Creek, California 94595
(925) 947-4867

Figure 4A-1. ConocoPhillips Line 200 Pipeline
Planning Survey Species Habitat Map
Repair Sites ECC 2, ECC 3, & ECC 4
East Contra Costa County, California

Map Preparation Date: October 27, 2010
Aerial Photograph Source: <http://www.atlas.ca.gov>



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**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: December 15, 2010
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Legislative Issues

RECOMMENDATION

- a) ADOPT the 2011 Legislative Platform;
- b) ADOPT Resolution 2010-01 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 from approximately \$85 million to \$100 million in the Fiscal Year 2012 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;
- d) AUTHORIZE payment of \$5,000 as membership dues for the California Habitat Conservation Planning Coalition in 2011.

DISCUSSION

Item (a): The Legislative Platform contains specific policy statements pertaining to seven issues affecting the ongoing progress of East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan and the utility of the ECCC HCP/NCCP for local agency planning needs. Conservancy staff have participated in several statewide meetings of representatives of and advocates for HCPs and NCCPs in northern and southern California, and as a result it is expected that nearly all items on the Platform will be jointly pursued by the newly formed statewide HCP coalition the California Habitat Conservation Planning Coalition (CHCP or Coalition). The Governing Board has previously approved supporting positions on Items 1-6 on the proposed Platform, though Item 3 has been revised to reflect progress made by the Coalition on this item. Item 7 is new for 2011. Conservancy staff recommends approval of the Platform to reaffirm those policy positions and provide clear documentation of them.

CONTINUED ON ATTACHMENT: YES
 ACTION OF BOARD ON: December 15, 2010 APPROVED AS RECOMMENDED: _____
 OTHER: _____

VOTE OF BOARD MEMBERS

__ UNANIMOUS
 AYES: _____
 NOES: _____
 ABSENT: _____
 ABSTAIN: _____

I HEREBY 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 KUTSUIRS, SECRETARY OF THE EAST CONTRA COSTA COUNTY
 HABITAT CONSERVANCY

BY: _____, DEPUTY

Item (b): Conservancy staff is also recommending approval of Resolution 2010-01. It is virtually identical to resolutions approved in the last two years and also is a more formal expression of Item 1 on the 2011 Legislative Platform.

Item (c): If the Governing Board approves the 2011 Platform and Resolution 2010-01, 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 of 2011 as part of continued California Habitat Conservation Planning Coalition (CHCPC) efforts to advocate for Platform issues, Items 1-3 and 5 and 7 and Conservancy staff would propose to attend as occurred during 2009 and 2010. The costs of such a trip would be covered within the proposed 2011 Conservancy Budget.

Item (d): Staff is recommending payment of CHCPC's \$5,000 membership dues again in 2011. Our continued participation with the California Habitat Conservation Planning Coalition is an effective and cost-effective means for pursuing the Conservancy's Legislative Platform as the work of the Coalition is very consistent with the Conservancy's Legislative Platform.

During 2010, the California Habitat Conservation Planning Coalition's second year, the Coalition pursued support for an increase in HCP land acquisition grant funding, engaged the U.S. Fish and Wildlife Service and the U.S. Department of the Interior on problems regarding local matches for these grants, and began work on resolving delays in spending land acquisition grants. This work included orchestrating a Washington D.C. advocacy trip, Coalition workshops in May and October, hosting numerous conference calls, and preparation of a wide variety of documents to pursue the Coalition's and Conservancy's legislative agendas. The Coalition's FY2011 briefing book on the request to increase funding for Federal Section 6 grants is attached. These activities were carried out through by the participation of many individuals in Work Groups and through considerable pro-bono staff time provided by The Nature Conservancy and the Institute for Ecological Health as well as by dues paid by members. A document explaining the 2011 CHCPC membership contributions is attached.

Attachments:

- Proposed 2011 Conservancy Legislative Platform
- Resolution 2010-01
- Document explaining CHCPC Voluntary 2011 Membership Contributions
- CHCPC's Briefing Book for the FY2011 Section 6 campaign



EAST CONTRA COSTA
COUNTY HABITAT
CONSERVANCY

City of Brentwood

City of Clayton

City of Oakley

City of Pittsburg

Contra Costa County

2011

Federal & State Legislative Platform

The Legislative Platform contains specific policy statements pertaining to five 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).

SUMMARY

In 2010, 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 \$85.0 million current level to \$125 million in FY2012.
- Item 2:** *Request* recognition of Habitat Conversation Plans as a reliable way of streamlining critical infrastructure and economic stimulus projects in a manner that is consistent with federal environmental regulations and in the process creating many “green” jobs.
- Item 3:** *Advocate* implementation of the revised grant guidelines for the U.S. Fish and Wildlife Service (USFWS) Section 6 Grant Program so that a significant portion of the Conservancy’s fee funds can be used 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 five approved Section 6 grants. State funding has already been earmarked in the voter-approved Proposition 84 for Natural Community Conservation Plans.
- Item 5:** *Advocate* for consideration of HCP/NCCP’s as a suitable device toward fulfilling the requirements of SB375.
- Item 6:** *Advocate* for HCP/NCCP’s to be viewed as a suitable place to spend fees collected pursuant to future state and federal climate change legislation as HCP/NCCP’s effectively mitigate impacts of climate change by providing for ecological adaptation.
- Item 7:** *Advocate* for HCP/NCCP’s to be viewed as critical partnerships and flagship programs that should receive increased support and elevated

stature at the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

2011 LEGISLATIVE PLATFORM DETAILS

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

LEGISLATIVE POSITION:

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 \$85.0 million current level to \$100 million in FY2012. This will help to restore the Fund closer to the level 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. The Conservancy has been approved for five Section 6 Land Acquisition grants totaling \$28 million so far. 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 \$85.0 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.

For FY2010, the CHCPC successfully persuaded Congress to increase Section 6 funding from the \$80 million in the President's Budget to \$85 million (CHCPC was the only entity lobbying). For FY2011, the President proposed continuing the FY2010 funding level approved by Congress (\$85 million). No FY2011 has yet been approved and House and senate Committee hearings have not led to any public information on the status of our FY2011 request. If the straight-forward continuing resolution is passed for FY2011, the funding level would remain at \$85 million.

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

LEGISLATIVE POSITION:

Request recognition of Habitat Conversation Plans (HCPs) as a reliable way of streamlining critical infrastructure and economic stimulus 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:

There has been a dramatic increase in infrastructure projects associated with state and federal infrastructure initiatives and economic stimulus legislation. Regional HCPs are an excellent tool 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 current presidential administration.

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

LEGISLATIVE POSITION:

Advocate implementation of the revised grant guidelines for the U.S. Fish and Wildlife Service (USFWS) Section 6 Grant Program so that a significant portion of the Conservancy's fee funds can be used as match.

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 2008 policy had 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.

In 2010, the California Habitat Conservation Planning Coalition made a substantial effort to engage the U.S. Fish and Wildlife Service and resolve the fees as match issue. The Coalition met with Gary Frazer (Deputy Secretary of the U.S. Fish and Wildlife Service and other senior administration officials in Washington in March and Mr. Frazer came to California for a meeting with the Coalition on this matter in September. The Coalition also sent numerous communications on the matter, commissioned legal analysis and enlisted the support of Senators Boxer and Feinstein. The publication of the FY2011 Request for Proposals for Section 6 funding released in November 2010 documents a change in policy on this issue. Beginning in the FY2011 grant process, fees collected for non-federal mitigation can be used as match for this grant program. USFWS Field office staff will be invested with the authority to implement this policy. Based on initial conversations, staff estimates that in East Contra Costa County approximately half of fees collected will be eligible to be used as match (equivalent to the portion of the HCP that is not mitigation-based). While this would not allow all fees to be used as match as had been hoped, this would free up a significant amount of matching funds over future years. Together with a significant allocation of state bond funds, the immediate crisis over matching funds would be addressed. However, the Conservancy needs to continue to work with USFWS to make sure that anticipated changes in the eligibility of match funds actually occurs.

Item 4: Appropriation of State Funds to Match the Conservancy's Four 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 five approved Section 6 grants. State funding has already been earmarked in the voter-approved Proposition 84 for Natural Community Conservation Plans.

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 five approved Section 6 grants have a combined value of \$28,031,054. The required non-federal match is \$34,260,221. Given the past 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. 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.

A recent development on this topic relates to the Delta Legislation package approved in late 2009. That legislation allocated \$24 million of the \$90 million NCCP line-item in Proposition 84 to NCCP projects of Delta Counties. The east Contra Costa County NCCP is the only approved in NCCP in the Delta, so this allocation could aid the Conservancy's long-standing request for \$20 million from Proposition 84. During the FY2011 budget process, an attempt was made to significantly reduce or redirect this allocation. Conservancy staff worked closely with the County's lobbyist to try to protect the allocation. Whether or not due to these efforts, the allocation was protected. Future effort to reduce the allocation are anticipated. The Conservancy will continue to seek to protect the allocation.

Item 5: Habitat Conservation Plans and Natural Community Conservation Plans as a suitable device to fulfill the requirements of SB375.

LEGISLATIVE POSITION:

Advocate for consideration of the HCP/NCCP's as a suitable device toward fulfilling the requirements of SB375.

BACKGROUND:

SB 375 (Steinberg), also known as California's Sustainable Communities Strategy and Climate Protection Act is a new state law which became effective January 1, 2009. SB 375 calls for the integration of transportation, land use, and housing planning, and also establishes the reduction of

greenhouse gas (GHG) emissions as one of the main goals for regional planning. SB 375 requires the sustainable communities strategy to “gather and consider the best practically available scientific information regarding resource areas and farmland in the region.” SB 375 requires regional planning agencies to use this information to prepare Sustainable Communities Strategies and to award regional transportation funds based on these Strategies. Certain projects consistent with the Strategies will be exempt from CEQA or qualify for CEQA streamlining. As the Sustainable Conservation Strategy for this region is assembled, the East Contra Costa County HCP/NCCP should be viewed as a source of data and a valuable piece of the Strategy puzzle.

Item 6: Habitat Conservation Plans and Natural Community Conservation Plans as a suitable place to spend fees from future climate change legislation.

LEGISLATIVE POSITION:

Advocate for HCP/NCCP’s to be viewed as a suitable place to spend fees collected pursuant to future state and federal climate change legislation as HCP/NCCP’s effectively mitigate impacts of climate change by providing for ecological adaptation.

BACKGROUND:

One predicted impact of climate change is disruption of ecological systems that have evolved to current climate systems. Wildlife corridors and large regional conservation efforts will help ameliorate the ecological impacts by conserving a range of environmental gradients and enabling natural systems to adapt to these changes.

The Global Warming Solutions Act of 2006 (AB 32) required the Air Resources Board to prepare a Scoping Plan to achieve reductions in greenhouse gas (GHG) emissions in California. The Scoping Plan, approved by the ARB Board December 2008, provides the outline for actions to reduce California’s greenhouse gas (GHG) emissions and discusses the options for possible uses of allowances and revenues to be generated under the program. One such option is to provide funds toward programs that help the State adapt to climate change.

At the federal level, climate change legislation involving “cap and trade” programs are under discussion. These programs would collect substantial fees and invest the revenue towards programs to reduce emissions or address the impacts. The National Wildlife Federation is leading a coalition urging that 5% of revenues collected pursuant to such a cap and trade program be invested in natural resource conservation efforts that will enable ecosystems to adapt to climate change. If this were to occur, such revenues could be orders of magnitude larger than the Section 6 program

Should funds become available to mitigate the impacts of climate change, HCP/NCCPs should be considered as a sound investment since they contain all the vital ingredients necessary to enable ecosystems to adapt to climate change.

Item 7: Habitat Conservation Plans and Natural Community Conservation Plans are critical conservation tools

LEGISLATIVE POSITION:

Advocate for HCP/NCCP's to be viewed as critical partnerships and flagship programs that should receive increased support and elevated stature at the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

BACKGROUND:

Both USFWS and CDFG have been helpful partners in implementing the East Contra Costa County HCP/NCCP, especially at the regional and field office level. However, this support could be improved in HCP/NCCPs were as a high a priority in these organizations as they were in the early 1990s when the regional conservation planning effort got underway.

Recent state legislation presents a unique opportunity to advocate for more support for HCP/NCCPs. In September 2010 the California Legislature passed and the Governor signed AB2376. This bill seeks to strengthen the capacity and effectiveness of the Department of Fish and Game (DFG) in fulfilling its public trust mission and protecting California's wildlife resources for all the people of the state. AB 2376 calls on the State Natural Resources Agency to convene a committee to develop and submit to the Governor and the Legislature by January 1, 2012, a "Strategic Vision" for DFG and the Fish and Game Commission (FGC). The bill authorizes the Governor to appoint a "blue ribbon" or citizen commission to assist in carrying out this task. The Conservancy should provide comments during the development of the "Strategic Vision" to seek continued and enhanced support of NCCPs as a key in DFG fulfilling its mission to protect wildlife resources.

The USFWS is also editing its HCP handbook and soliciting general input on how it can improve its mission. A representative from USFWS in Washington came to the CHCPC's meeting in Coachella in October and specifically requested input from the Coalition on USFWS can improve. The Conservancy should provide comments to U.S. Fish and Wildlife service on the need to identify the HCP program as a flagship program that deserves greater attention and support.

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Resolution No: 2010-01

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 \$15 million, from the \$85.0 million current level to \$100 million, in the Fiscal Year 2012 Interior and Related Agencies Appropriations bill.

Approved by the following vote on: December 15, 2010.

Ayes:

Noes:

Abstain:

Attest: _____
John Kopchik, Executive Director

California Habitat Conservation Planning Coalition

U.S. Fish and Wildlife Service

Cooperative Endangered Species Conservation Fund: Fiscal Year 2011 Funding Request



March 2010

REQUEST

The California Habitat Conservation Planning Coalition requests that funding for the U.S. Fish and Wildlife Service's Cooperative Endangered Species Conservation Fund (the "Fund") increase from the \$85 million Fiscal Year 2010 level to \$100 million in Fiscal Year 2011. This increase would bring the program closer to the FY2001 funding level of \$125M, corrected for inflation, and help satisfy the urgent need for funding for endangered species conservation efforts, particularly conservation associated with regional Habitat Conservation Plans. The California Habitat Planning Coalition consists of local agencies, conservation organizations and business organizations supporting regional Habitat Conservation Plans.

SUPPORTED BY

Local Agencies:

California State Association of Counties
Coachella Valley Association of Governments
Coachella Valley Conservation Commission
Contra Costa County
Delta Counties Coalition
East Contra Costa County Habitat Conservancy
Placer County
Riverside County
Sacramento County
San Diego County
San Joaquin Council of Governments
Santa Clara County
Solano County Water Agency
Western Riverside County Regional Conservation Authority
Yolo County

Conservation Organizations:

California Land Conservancy
California Native Plant Society
Endangered Habitats League
Friends of the Desert Mountains
Institute for Ecological Health
The Nature Conservancy

Business/Infrastructure:

Building Industry Association of San Diego County
Building Industry Association of Southern California
Home Builders Association of Northern California
Pacific Gas and Electric Company
The Sauls Company

CALIFORNIA HCPs

Key Regional HCPs:

Yuba- Sutter HCP/NCCP
Yolo Natural Heritage Program
Western Riverside County MSHCP/NCCP
South Sacramento HCP
Solano HCP
Santa Clara Valley HCP/NCCP
San Joaquin County Multi-Species Conservation and Open Space Plan
San Diego North County Multiple Species Conservation Program NCCP
San Diego Multiple Habitat Conservation Program NCCP
San Diego County Multiple Habitat Conservation Open Space Plan NCCP
San Diego County Multiple Species Conservation Program NCCP
Placer County Conservation Plan
Natomas / Metro Air Park HCPs
East Contra Costa County HCP/NCCP
Coachella Valley MSHCP/NCCP
Butte Regional Conservation Plan (HCP/NCCP)



THE VALUE OF HCPs AND THE COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

HCPs Benefit Business and the Environment:

Regional Habitat Conservation Plans (HCPs) establish a coordinated process for permitting and mitigating the incidental take of endangered species. This process creates an alternative to the project-by-project approach. Rather than individually surveying, negotiating, and securing mitigation and permit coverage, proponents of public and private projects are covered by an umbrella regional permit. Habitat preservation, restoration and stewardship are conducted in a coordinated way by a local conservancy. Some benefits of regional HCPs are:

- Purchase, restore, and permanently protect large, interconnected and biologically rich blocks of habitat.
- Redirect money away from the process of permitting and toward the protection of resources.
- Improve regulatory certainty and permitting efficiency for local jurisdictions and the development community.
- Provide fair compensation to willing landowners for permanent protection of their land.

Federal Funds Spur Substantial State and Local Investments:

The Cooperative Endangered Species Conservation Fund (Fund) provides grants to states for land acquisition consistent with approved HCPs, for assistance with preparation of HCPs and for other projects that help endangered species to recover. Funds for HCP land acquisition are by far the largest component. In California, the funds are subsequently granted to local agencies.

Major advantages of the Fund are that it leverages federal dollars and promotes regional HCPs. Grants from the Fund typically require a substantial non-federal match. The potential for grants from the Fund provides a key incentive for state and local agencies to develop and implement HCPs for the benefit of federally protected species.



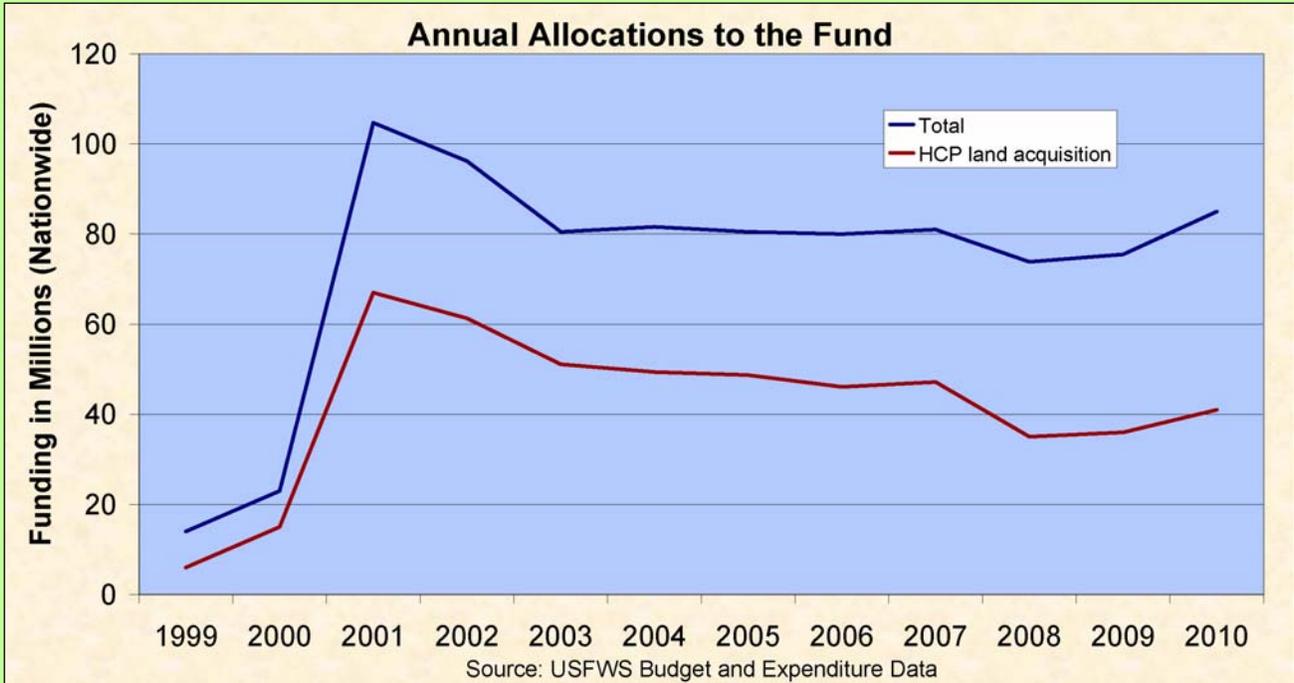
Scott Hein



WHY THE FUND ALLOCATION NEEDS TO INCREASE

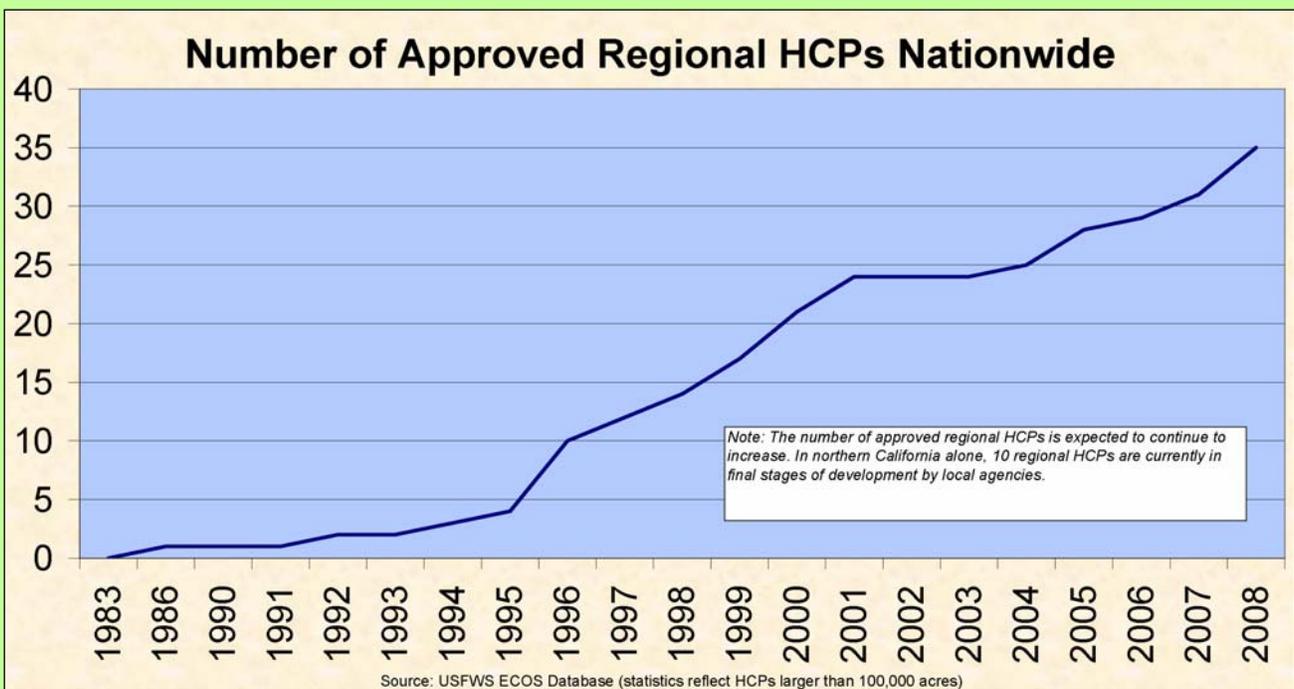
A) Funding Levels Have Declined and Stagnated

Allocations to the Cooperative Endangered Species Conservation Fund have declined & stagnated over the last decade. The Fund is currently down 20% from the FY2001 high of \$104.7 million.



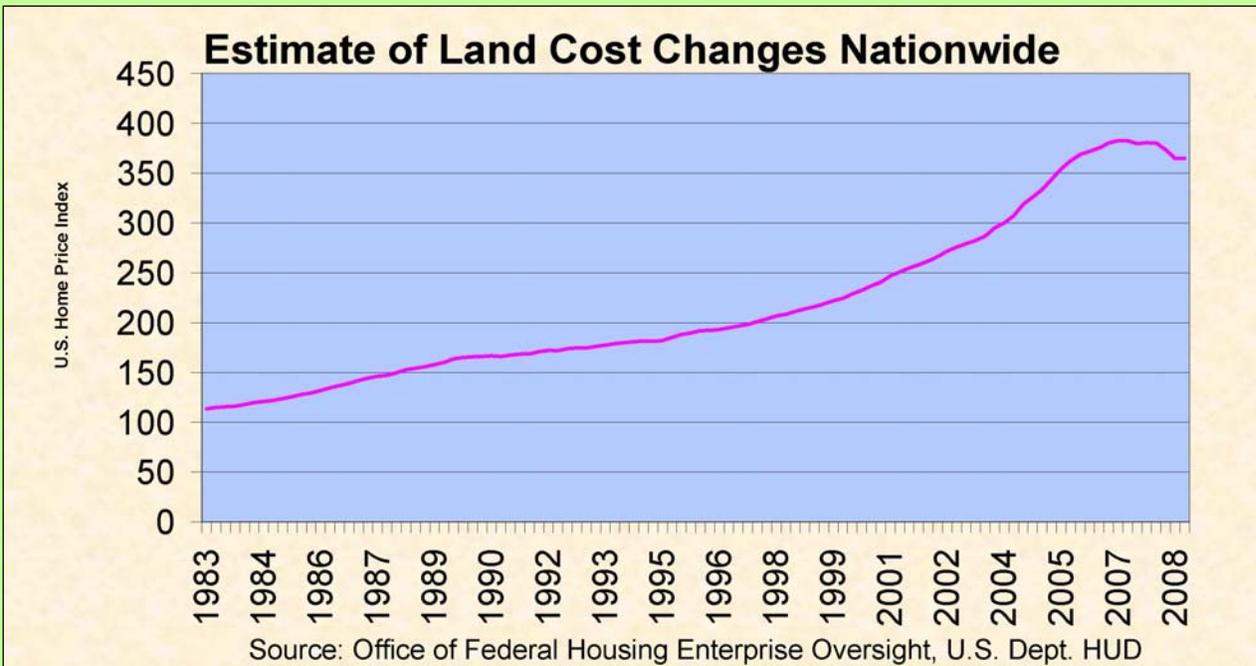
B) The number of Approved HCPs Continues to Grow

While funding has declined, the number of approved HCPs that need such funds has increased dramatically. The number of approved, large-scale HCPs in the country has grown from one in 1983 to 35 in 2008.



C) Land Conservation Costs Have Grown

While funding has declined, the costs of preparing and implementing HCPs have steadily increased. For example, land acquisition costs for many HCPs have almost doubled in the last decade.



INCREASING THE FUND TO \$100 MILLION IN FY 2011

The California Habitat Conservation Planning Coalition proposes increasing the Fund to \$100 million in FY2011 in order to bring it closer to the FY2001 funding level of \$125 million, corrected for inflation. To attempt to keep pace with the actual funding needs and the prolific growth in the number of regional HCPs, the Fund needs to increase more substantially in future years when Federal funds are less constrained. In FY 2008, grant applications from California alone eclipsed the total value of the Fund. Demand will multiply rapidly in the near future. Approximately ten regional HCPs are in the final stages of preparation in California alone.



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CONSERVATION BENEFITS OF CALIFORNIA HCPs

Regional HCPs in California are a primary mechanism for the conservation of land and species in some of the fastest growing areas of the state. Collectively, regional HCPs in California will conserve more than 1.4 million acres of land. Conserved land will be restored, enhanced and managed for the benefit of the widest array of species found in the United States. Conserved land will also provide valuable open space to residents and visitors, protecting the natural beauty of these regions and providing numerous recreational opportunities.

Plan Name	Covered Species	Acres To Be Conserved*
Butte Regional Conservation Plan	41	n/a
Coachella Valley MSHCP/NCCP	27	240,000
East Contra Costa County HCP/NCCP	28	30,000
Natomas / Metro Air Park HCPs	22	9,000
Placer County Conservation Plan	33	60,000
San Diego County Multiple Habitat Conservation Open Space Plan NCCP	263	158,000
San Diego MSCP - County Sub Area Plan	85	98,000
San Diego North County MSCP / NCCP	63	107,000
San Joaquin County Multi-species Conservation and Open Space Plan	97	101,000
Santa Clara Valley HCP/NCCP	30	45,000
Solano HCP	36	30,000
South Sacramento HCP	40	58,000
Western Riverside County MSHCP/NCCP	146	500,000
Yolo Natural Heritage Program	64	n/a
TOTAL		1,436,000

ECONOMIC BENEFITS OF CALIFORNIA HCPs

Regional HCPs in California provide coordinated, regional permits for public infrastructure and private development projects. These regional umbrella permits last 30 to 75 years, transfer authority to local government, and improve certainty of the permit process for project proponents. Regional HCPs in California are expected to permit projects with a cumulative value of \$1.6 trillion.



Plan Name	Regional Permits* Thru...	Est. Value of Covered Activities**
Butte Regional Conservation Plan	2041	n/a
Coachella Valley MSHCP/NCCP	2083	\$300 billion
East Contra Costa County HCP/NCCP	2037	\$12 billion
Natomas / Metro Air Park HCPs	2053	\$18 billion
Placer County Conservation Plan	2061	\$115 billion
San Diego County Multiple Habitat Conservation Open Space Plan NCCP	2061	\$228 billion
San Diego MSCP - County Sub Area Plan	2047	\$118 billion
San Diego North County MSCP / NCCP	2060	\$104 billion
San Joaquin County Multi-species Conservation and Open Space Plan	2051	\$109 billion
Santa Clara Valley	2060	\$25 billion
Solano HCP	2040	\$12 billion
South Sacramento HCP	2061	\$45 billion
Western Riverside County MSHCP/NCCP	2079	\$500 billion
Yolo Natural Heritage Program	2041	n/a
TOTAL		\$1.6 trillion

* The term of regional permits is estimated for those HCPs in preparation.

** Assumes a value of \$1 million per acre for every acre of development that may be covered under the HCP.

EXAMPLES OF CONSERVATION ACCOMPLISHMENTS

Preserving the Sand Dune Ecosystem, the Coachella Valley Multiple Species HCP/NCCP: In two separate purchases, \$5,542,000 from the Fund were matched with \$5,558,680 in state and local funds to acquire 1,560 acres adjacent to existing preserves for the Coachella Valley Fringe Toed Lizard, helping to conserve the remaining active desert dunes in the Coachella Valley. In total, more than 65,000 acres has been acquired since 1996 when the Plan was initiated. Local, state, other federal and non-profit sources contributed the vast majority of the necessary funds.



Benton 36, Western Riverside County MSHCP: Acquired 36 acres in the middle of a rapidly developing area in the southern portion of the county using \$1.3M from the Fund leveraged with \$700,000 from local sources. This key acquisition expanded the Core 2 reserve in the vicinity of the Cities of Murrieta and Temecula. The purchase provides excellent coastal sage scrub habitat while protecting populations of California Gnatcatcher and Quino Checkerspot Butterfly.



Ramona Grasslands, San Diego MSCP: Acquired 2,780 acres at the County of San Diego Ramona Grasslands Preserve utilizing \$19.9M from the Fund, leveraged with \$7M of State funding and \$3.4M County General Funds. The Ramona grasslands, west of the town of Ramona, feature habitat that has all but disappeared in the county. Its vernal pools, alkali playas, and native grasses make this an exceptional part of the natural heritage of San Diego.



Fox Ridge, East Contra Costa County HCP/NCCP : Acquired 222 acres at risk for rural residential development for \$1.76M. The Fund covered one third (\$555K) of the purchase price. Funds from a private foundation and from two local agencies covered the remainder. The acquisition protects the lower reaches of Briones Valley, a key wildlife corridor for San Joaquin kit fox. The acquisition also protects more than two miles of Briones Creek, suitable habitat for California red-legged frog.



Scott Hein



California Habitat Conservation Planning Coalition

*A coalition of local agencies, conservation organizations and business organizations supporting regional
Habitat Conservation Plans.*

Contact:

John Hopkins, CHCPC Director
Institute for Ecological Health
409 Jardin Place
Davis, California 95616
Phone: 530-756-6455
Email: ieh@cal.net

California Habitat Conservation Planning Coalition

Voluntary 2011 Membership Contributions

Background

This new statewide Coalition of local governments, wildlife agencies, NGOs and business organizations focuses on improving Habitat Conservation Plans (HCPs) and Natural Community Conservation Plans (NCCPs) in California. The Coalition has four goals.

- ◆ Securing adequate federal, state and local funding to assist preparation and implementation of NCCPs and HCPs.
- ◆ Coordinating NCCPs and HCPs with other federal, state and regional natural resource protection and permitting programs, including programs for adaptation to climate change.
- ◆ Facilitating the development and improving the effectiveness of NCCPs and HCPs.
- ◆ Strengthening understanding of and support for NCCPs and HCPs among decision makers, stakeholders and the public.

The Coalition's 2010 Activity

2010 saw success for our lobbying efforts to increase funding for the federal Endangered Species Act Section 6 grant program (the Cooperative Endangered Species Conservation Fund) and specifically HCP land acquisition grants. The FY 2010 Department of the Interior Appropriations bill included an increase the overall Section 6 grant program from \$75.5 million to \$85 million, with HCP land acquisition grants increased from \$36 million to \$41 million. This is the first significant increase in a program whose funding had been declining since 2002. The Administration retained these increases in their FY 2011 budget request and Section 6 was virtually the only USFWS budget item that was not cut.

During 2010 we continued lobbying for an increase in Section 6 funds for FY 2011. The results are unknown, as Congress has not acted on the Department of the Interior Appropriations bill. We also provided the White House Office of Management and Budget (OMB) with a document outlining how long term monitoring shows the effect of an HCP on the various covered species (document produced in response to an earlier request that we show how the HCPs benefit species).

The Coalition made an extensive effort this year to work with the US Fish and Wildlife Service (USFWS) and resolve the issue of using development mitigation fees as the non-federal match for Section 6 HCP land acquisition grants. In a September meeting with the USFWS Assistant Director for Endangered Species we saw the results of our efforts -

new language that does allow a portion of the mitigation fees to be used as the non-federal match.

The Coalition has worked extensively on producing ideas for the USFWS and the Department of the Interior on how to shorten the time taken to prepare regional HCPs and is now working on ideas for improving the effectiveness of HCP implementation. We are providing this information for USFWS projects that will revise the HCP Handbook and develop additional guidance, policy and maybe regulation changes.

In addition, the Coalition was successful in changing the rules for the state's Strategic Growth Council's Sustainable Community Planning Grants so that NCCPs are eligible for these grants

Finally the Coalition held a day long Business meeting in May to discuss the various projects and next steps. In October it held a day-long meeting in Riverside County, followed by a field trip to preserves of the Coachella Valley HCP/NCCP. This latter meeting involved over ten people from USFWS, including two Field Office supervisors - a great help in increasing the USFWS participation in the Coalition. A major focus of this meeting was developing ideas for improving HCP effectiveness.

Voluntary 2011 Membership Contributions

In order to sustain and build the coalition's work in 2011 we need a source of funding. This provide for some staff time and expenses, as well as other costs. We obtain base funding for the Coalition through a system on voluntary membership contributions. This income will also improve the Coalition's ability to obtain grant funding.

There is a tiered schedule of voluntary membership contributions for 2011 to reflect the varying funding capacities of Coalition members:

Approved regional NCCP	\$ 5,000
Approved HCPs	\$ 1,000
HCP/NCCPs in preparation:	\$ 1,000
Businesses:	\$ 5,000
International NGOs :	\$ 5,000
Smaller NGOs	\$ 1,000

In addition, individuals will continue to play a major role through participation in Work Groups and the Steering Committee.

The Institute for Ecological Health (IEH) is the fiscal agent for the coalition. IEH is a 501(c)(3) non-profit corporation, so contributions from taxable entities will be tax deductible as provided by law. There is no overhead, so 100 percent of contributions will fund the Coalition's program.

2010 Membership Contributions

This was the first of the Voluntary Membership Contribution system. The Coalition received \$25,250.00 from the East Contra Costa County Habitat Conservancy, the County of San Diego, the Endangered Habitats League, ICF-International, The Nature Conservancy and PG&E. In addition, the Institute for Ecological Health provided substantial pro-bono staff time.

The 2011 Program and use of Membership Contributions

Contributions will pay for staff time provided by IEH, as well as other expenses. Staff will provide major support for our calendar 2011 campaign to increase funding for Section 6 of the federal Endangered Species Act, with a particular focus on increasing funding for HCP land acquisition grants. Staff will also assist other Work Groups and the Steering Committee, organize Coalition business meetings and an annual meeting. Other 2011 projects will include developing champions in the state Legislature and the new state Administration, and developing a wide-ranging white paper on increasing HCP effectiveness that outlines helpful changes that various sectors (USFWS, Fish and Game, local jurisdictions and stakeholders) could make. An additional work group will develop new ideas for funding the implementation of HCP/NCCPs to order to help implementation of individual plans. We will also seek opportunities for funding through implementation of the state's Climate Change law (AB32) and the Sustainable Communities work of the Strategic Growth Council.

IEH's rate is \$45 an hour. In addition, IEH will continue to provide some pro bono time.

Management and Reporting

The Coalition's Steering Committee will oversee spending of the Coalition's funds. There will be quarterly reports and annual reports. Contributors will receive the annual report and, if they wish, the quarterly reports.

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**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: December 15, 2010
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: 2011 Budget and Finances

RECOMMENDATION

Consider the following items related to Conservancy finances:

- a) APPROVE the 2011 Conservancy Budget.
- b) ~~AUTHORIZE staff to execute an agreement with the East Bay Regional Park District for the provision of specific land acquisition services during 2011.~~ [Postponed to next Governing Board meeting to allow staff more time to update the agreement.]
- c) AUTHORIZE staff to execute contracts for on-going consulting services with:
 - ICF Jones and Stokes: execute contract for \$290,000 for the term from January 1, 2011 through December 31, 2011;
 - H.T. Harvey and Associates: execute contract for \$265,000 for the term from January 1, 2011 through December 31, 2011;
 - Nomad Ecology: execute contract for \$50,000 for the term from January 1, 2011 through December 31, 2011;
 - Restoration Resources: \$50,000 for the term from January 1, 2011 through December 31, 2011;
- d) AUTHORIZE staff to execute a contract for legal services with Resources Law Group for \$70,000 for a term from January 1, 2011 through December 31, 2011.

DISCUSSION

Item (a): Please find attached a proposed 2011 Conservancy Budget (Table I-1) and supporting tables prepared by staff for discussion by the Board.

Table I-1: The 2011 Conservancy Budget, Table I-1, includes summary cost estimate information from the HCP as well as recommended expenditures from the various funding sources controlled by the Conservancy or related to the HCP, including the Development Fee

CONTINUED ON ATTACHMENT: <u>YES</u> ACTION OF BOARD ON: <u>December 15, 2010</u> APPROVED AS RECOMMENDED: _____ OTHER: _____
--

VOTE OF BOARD MEMBERS

UNANIMOUS
 AYES: _____
 NOES: _____
 ABSENT: _____
 ABSTAIN: _____

I HEREBY 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

Account, the Wetland Mitigation Fee Account, the California Wildlife Foundation Account (which contains pre-plan mitigation payments collected by the wildlife agencies as well as mitigation payments from activities not covered by the HCP; the wildlife agencies control disbursements from this account), and the various grant funds awarded to support implementation tasks associated with the HCP.

Tables I-2 through I-10: Tables I-2 through I-10 present detailed cost estimates by program area (e.g., Administration, Land Acquisition, etc.). Detailed estimates are excerpted from the HCP as a point of comparison with the detailed estimates provided for the proposed 2011 Budget. The 2011 estimates that form the basis for the 2011 Budget are shaded light blue. The 2008, 2009 and 2010 Budget Amounts are also provided for comparison purposes. Table I-2 summarizes staff costs, which are distributed among the various program areas. Tables I-3 through I-10 provide the basis for the budget in Table I-1 for each program area. The purpose of including these tables is to provide more information on what these program areas encompass and how the estimates were derived.

Background on HCP cost estimates presented for comparison: As was the case in developing previous Budgets, staff felt the cost estimate information presented in Table 9.2 of the HCP/CCP, *Summary of East Contra Costa County HCP/NCCP Implementation Costs (Rounded to the Nearest \$10,000) for Maximum Urban Development Area*, would provide a useful basis of comparison for the 2010 Budget. Staff reviewed this table and the supporting tables in Appendix G of the HCP/NCCP and extracted cost estimate information for the first five years of implementation. Staff then calculated the estimated average annual costs during this five year period. This estimated average annual cost is a useful point of comparison in crafting the 2011 Budget, but should be used for general comparison purposes rather than as a detailed yardstick. Since the costs of some tasks may change significantly during the five year period (e.g. land management), the annual average of the five-year cost estimate may over or under-estimate needs in early years.

Tables II and III: Table II presents updated information on approved grants. Table III is an update of the Budget Status Table presented in June. It compares the approved 2010 Budget with actual expenditures to date and also takes into account expenditures projected to occur before the end of the year but not yet reflected in the Conservancy's accounting. Table III indicates that Conservancy expenses for 2010 will be less than the approved Budget, but for the category of Program Administration, the Budget may be exceeded by approximately 4% (a little under \$19,000). This small overage is covered by the contingency reserve.

Considerations in developing the 2011 Budget: The proposed 2011 Budget has been adapted from the 2010 Budget approved last year. Key changes include the following:

- Projected expenditures have been revised to reflect both a better understanding of actual costs (for example, the comparison of projected and actual costs presented in Table IV) and knowledge about program opportunities available to the Conservancy in 2011. Noteworthy allocations:
 - Recommended expenditures for Land Acquisition remain high. This category is very heavily funded by grants, the vast majority of which have deadlines for

expending funds that should not be missed. Further, market conditions are favorable for land acquisition. As a result of all these factors, the recommendation for this category is aggressive. However, it should be noted that, like last year, the recommended expenditures may exceed what we are capable of spending this year and will depend on willing sellers, the timing of acquisitions, the ability to procure match and the pace of grant procurement. Nonetheless, staff felt it prudent to recommend an ambitious figure.

- Excluding land acquisition, Budget allocations have increased 5% since last year. Due to uncertainty over the economy and the pace of fees, the non-land acquisition budget was cut by 28% in 2010 as compared to 2009. An increase is needed this year primarily because three restoration projects are being planned for construction this summer. Restoration work in 2010 was more limited.
- The restoration budget is up 154% (after being cut 66% the year before). As stated above, three projects are proposed for construction this summer. Most of this expense will be covered by grants that expire in early 2012.
- The billing rate system for County staff is proposed to significantly change this year. For the two County staff that devote most of their time to the Conservancy, the County's billing rates are proposed to be cut significantly. The billing rate for the principal planner will be reduced from \$193 per hour to \$152 per hour. The billing rate for the senior planner will be similarly reduced from \$161 per hour to \$123 per hour. The former billing rates included not only the full costs of salary, benefits, building expenses, secretarial support, computers and IT support, management support, etc., but also included the work of a GIS planner to produce all maps and maintain the Conservancy's extensive GIS database as well as the work of an accountant to manage the Conservancy's finances. For 2011, the principal planner and senior planner billing rates have been reduced to exclude GIS and accounting support in the rate so that work by these staff may be directly billed. The reason for the change is to provide a more detailed and accurate accounting of staff costs. Overall, personnel costs are expected to increase slightly this year, from an estimated annual personnel cost of \$528,999 in 2010 to \$535,991 in 2011. The 2011 estimate includes the new billing rate structure, but also includes an increase in the portion of staff time to be dedicated to the Conservancy by the principal and senior planners (but were projected at 0.7 FTE in 2010; for 2011 both are projected at 0.8 FTE).
- Monitoring, research and adaptive management is up significantly from the 2010 Budget primarily because the \$2.25 million grant from the Moore Foundation in 2010 included \$250,000 for a study of avian impacts and work to implement this grant will get underway in 2011.
- The preserve management budget is actually down from 2010. Management expenses were largely in 2010 but the Conservancy can expect to spend significant management funds this year on direct management and agreements with EBRPD as Preserve Management Plans are completed in 2011 and management begins to occur on the 7,500 acres secured for the Preserve System so far.

Recommendation on 2011 Budget: Staff recommends that the Governing Board discuss the Proposed Budget, determine any modifications or clarifications, and approve the Budget with any modifications. Consistent with the expenditure policies approved in October 2007, the total amounts for each program area in the Budget would be figures that could not be exceeded without amendment of the Budget. The detailed estimates provided in Tables I-2 through I-10 provide the basis for the program area totals but the subcategories presented are estimates not binding totals. However, one exception is that the total estimated cost of County staff support, \$53591 should also be designated by the Board as an expenditure limit that may not be exceeded without further approval of a revised amount. This recommendation is offered to be consistent with the Joint Exercise of Powers Agreement forming the Conservancy which provides that the Governing Board shall set an annual limit on the amount of County staff costs that may be recovered from the Conservancy.

Item (b): [Postponed to next Governing Board meeting to allow staff more time to update the agreement.]

Item (c): Staff recommends the actions set forth below with respect to four firms providing on-going consulting services to the Conservancy. All contracts are consistent with the recommended 2011 Budget. At the September 30th Conservancy Governing Board Meeting the Board approved staff executing up to two contracts totaling up to \$100,000 for interim activities on wetland restoration design before the December Governing Board meeting. Staff did not execute any contracts for this work as yet, relying instead upon the existing contract with H.T. Harvey and Associates for initial conceptual analysis. A new contract is recommended at this time to complete the planning and design.

ICF Jones and Stokes Contract:

- Contract amount: \$290,000
- Primary tasks: full-time contract planner to manage HCP/NCCP permitting program, preparation of preserve management plans, monitoring program plan, recreation plan, exotic pest control plan, support to effort to coordinate wetlands permitting with the HCP/NCCP
- Funding sources: Conservancy funds, project proponent administrative fees

The recommendation is to execute a contract for \$290,000 for a one year term from January 1, 2011 through December 31, 2011. ICF Jones and Stokes has provided a range of services to the Conservancy since 2007 and a continuation of that support is vital in 2011. Staff worked with Jones and Stokes to develop cost projections for key tasks that will continue in 2011 and used this information as background in crafting the Proposed 2011 Conservancy Budget. As a result of the slow pace of fee revenues and the Conservancy's relatively shortage of cash, the pace of expenditure has been intentionally slowed from the pace envisioned in the 2009 and 2010 budgets which were between \$300,000 and \$400,000. Key tasks for ICF Jones and Stokes in 2011 include:

- Preparation of preserve management plans and system-wide management plans required by the HCP; a first draft of the Byron Hills Preserve Management Plan will be finalized

in 2011 and a final plan approved later in 2011. Drafts of the system-wide recreation Plan and Exotic Plant Control Program Plan will also be prepared in 2011.

- Preparation of the Monitoring Program plan, as required by the HCP/NCCP
- Provision of a consulting planner to assist the Conservancy 5 days a week for 12 months with review of permit applications, development and upkeep of comprehensive tracking databases, and general program support (in lieu of the Conservancy hiring a full-time planner for considerably more expense);
- Assistance with completing the regional wetlands permitting programs initiated during development of the HCP;
- Assistance with preparation of the 2010 Annual Report and additional design on databases required to track the Conservancy's compliance with the Plan;
- Provision of biological expertise to assist with answering questions and assist with day to day operation of the Plan;

The proposed contract is consistent with the Proposed 2011 Conservancy Budget.

H.T. Harvey & Associates:

The recommendation is to execute a time and materials contract for \$265,000 for the term January 1, 2011 through December 31, 2011.

- Contract Amount: \$265,000
- Primary tasks: Planning, design and permitting for one large and one small restoration project; finalization of report on CEQA species.
- Funding sources: Dept of Fish and Game Grant , State Water Quality Control Board, Conservancy Funds

H.T. Harvey and Associates provided a range of services to the Conservancy in 2010 and an augmentation of that support is vital in 2011. Staff worked with H.T. Harvey and Associates to develop cost projections for key tasks that will continue in 2011 and used this information as background in crafting the Proposed 2011 Conservancy Budget. The 2011 contract is significantly larger than previous contracts as the Conservancy is looking to expand the services provided by H.T. Harvey & Associates to include the design of two wetland restoration projects for construction this summer. The Conservancy has two grants for wetland restoration that must be spent by early 2012 (\$800,000 from the reprogrammed Integrated Regional Water Management Plan and \$150,000 from the department of Fish and Game Local Assistance Grant). The short term availability of these funds as well as the promising restoration opportunities on the Land Waste Management and Ang properties are driving the need for this contract. Grant Key tasks for H.T. Harvey and Associates include:

- Planning and design for one large wetland restoration/creation project on the Land Waste Management property and a smaller riparian restoration project on the Ang property
- Wetland delineation
- Other pre-design studies including hydrology and species
- Design of the restored/created wetlands and riparian habitat
- Monitoring and management plan for the restored wetlands
- Construction documents (detailed plans and specifications)

- Project permitting
- Preparation of final comprehensive report analyzing all special status species with a potential to occur in the area (a list many times larger than the 28 covered species) with respect to the conservation measures of the HCP. The report is intended as a document the Conservancy and other customers of the Plan can use to streamline their CEQA measures. With this report and the HCP EIR, project proponents would have effective base upon which biological impact sections could tiered.
- On-call biological services

The proposed contract is consistent with the Conservancy's proposed 2011 budget.

Nomad Ecology: The recommendation is to execute a contract with Nomad ecology for \$50,000.

- Contract amount: \$50,000
- Primary tasks: Monitoring of Souza 2 and Lentzner; comprehensive wetland and rare plant survey.
- Funding sources: State Water Resource Control Board, Conservancy Funds

Nomad Ecology has performed the past year of monitoring on two of the Conservancy's wetland restoration projects: Lentzner Spring and Souza II. The 2011 contract would continue these tasks and add two preserve-wide wetland inventory tasks as well as review of monitoring and management plans. Key tasks for Noman Ecology include:

- Monitoring hydrology and vegetation on Souza II wetland project
- Monitoring hydrology and vegetation on Lentzner Spring restoration project
- Preserve-wide wetland inventory (necessary to document the location and extent of wetland preservation that has occurred on acquired properties; this information will also help with future wetland restoration planning)
- Peer-review management plans
- Botanical Surveys, including documentation of convered and no-take plant populations on acquired lands
- On-call biological services

The proposed contract is consistent with the Conservancy's proposed 2011 budget.

Restoration Resources, Inc.: The recommendation is to authorize staff to execute a contract with Restoration Resources, Inc. for on-call maintenance tasks for \$50,000 through December 31, 2011.

- Contract amount: \$50,000
- Primary tasks: Management work on Souza 2 and future wetland restoration projects
- Funding sources: State Water Quality Control Board, Conservancy Funds

The Conservancy has now completed construction on for wetland restoration/creation projects: Lentzner Springs Wetland (2008), Vasco Caves - Souza I Pond (2008), Souza II Wetlands

(2009), and Irish Canyon (2010). These projects need varying degrees of maintenance over the coming years. Anticipated maintenance activities include weeding, replacing plants, repairing silt fences and other Best Management Practices that prevent silt from entering waterways and fencing on new properties.

Restoration Resources Inc. is the contractor that built and provided the first year of maintenance on the Souza II Wetland Restoration Project. The staff of Restoration Resources is intimately familiar with the site, the wetland features, and plants that have been installed. They offer a competitive fee schedule and we know that they can provide the maintenance needed on Souza II and other properties on as needed. Tasks included in this contract include:

- Plant maintenance: weeding and replacement and seeding as needed
- Invasive plant control
- Installation and maintenance of erosion control measures
- Fence installation and maintenance
- On-call biological maintenance tasks

Because of the magnitude of the Souza II project, staff recommends a large on-call contract with the firm we expect will do most of the work to maintain this property. There is the possibility that Restoration Resources will also be used on other properties that have been acquired. This is the same contract level as 2010. As in 2010, two other firms will also be used to provide management of restoration projects, but work for these firms is expected to be less than \$25,000 in 2011.

Item (d): The recommendation is to authorize staff to execute a one-year contract for legal services with Resources Law Group for \$70,000.

- Contract amount: \$70,000
- Primary tasks: General legal support including agreements, assistance with expenditure of WCB funding, support to Legislative Program, support to land acquisition program, support to effort to coordinate wetlands permitting with HCP, including drafting in Lieu Fee Instrument.
- Funding Source: Conservancy Funds

Resources Law Group assisted with developing all of the agreements related to the HCP/NCCP and have also assisted with a large number of initial implementation tasks since approval of the HCP. Many tasks are nearing completion, such as development of a template deed restriction, development of a template Participating Special Entity Agreement and development of model agreements with EBRPD for land acquisition and restoration. However, substantial future and on-going work remains, such as peer reviewing application of agreement templates, development of an agreement with the wetlands regulatory agencies to coordinate wetlands permitting with the HCP (In Lieu fee Instrument), development of agreements with EBRPD for management funding, due diligence on land acquisition prospects, assistance with interacting with granting agencies and general legal support services to implementation of the Plan and operation of the Conservancy. The 2010 Conservancy Budget allotted \$85,000 for legal services. The recommended contract amount of \$70,000 is a step down in magnitude as many of the

foundational documents associated with the Conservancy have been completed. This recommended contract amount is consistent with the recommended 2011 Conservancy Budget.

Attachments:

- Proposed 2011 Conservancy Budget and supporting tables
- Draft Cost Sharing Agreement with EBRPD

Proposed 2011 Conservancy Budget: Recommended Expenditures and Comparison to Budgets From Previous Years

Table I-1

Cost Category	Proposed 2011 Expenditures							Approved 2010 Conservancy Budget		Approved 2009 Conservancy Budget		Approved 2008 Conservancy Budget	
	Development Fee Account	Wetland Mitigation Fee Account ¹	CDFG's California Wildlife Foundation Account ²	Grant Funding ³	TOTAL (2011)	% of Total	% Change from 2010	TOTAL (2010)	% of Total	TOTAL (2009)	% of Total	TOTAL (2008)	% of Total
Program Administration and Permitting Program	\$303,491	\$0	\$303,491	\$0	\$606,981	4%	18%	\$514,189	3%	\$493,665	3%	\$494,575	4%
Land Acquisition	\$0	\$0	\$100,000	\$13,925,099	\$14,025,099	84%	0%	\$14,046,303	89%	\$14,046,495	85%	\$9,900,667	84%
Management, Restoration & Recreation Planning & Design	\$103,259	\$0	\$0	\$200,000	\$303,259	2%	31%	\$232,139	1%	\$328,170	2%	\$338,322	3%
Habitat Restoration/Creation	\$0	\$21,630	\$21,630	\$800,000	\$843,259	5%	154%	\$331,920	2%	\$980,239	6%	\$407,326	3%
Environmental Compliance	\$95,770	\$10,000	\$10,000	\$50,000	\$165,770	1%	10%	\$151,303	1%	\$166,495	1%	\$109,000	1%
HCP/NCCP Preserve Management and Maintenance	\$88,086	\$0	\$176,171	\$0	\$264,257	2%	-11%	\$298,151	2%	\$293,247	2%	\$404,100	3%
Monitoring, Research, and Adaptive Management	\$20,000	\$20,000	\$73,817	\$150,000	\$263,817	2%	56%	\$169,565	1%	\$94,345	1%	\$66,500	1%
Remedial Measures	\$6,000	\$0	\$0	\$0	\$6,000	0%	0%	\$6,000	0%	\$6,000	0%	\$6,000	0%
Contingency Fund (5% of non-land acquisition costs)	\$122,367	\$0	\$0	\$0	\$122,367	1%	44%	\$84,863	1%	\$117,808	1%	\$90,141	1%
TOTAL 2011 EXPENDITURES	\$738,972	\$51,630	\$685,108	\$15,125,099	\$16,600,808	100%	5%	\$15,834,433	100%	\$16,526,464	100%	\$11,816,631	100%
CURRENT BALANCE (JANUARY 1, 2011, projected)	\$1,860,530	\$204,217	\$3,051,000	\$16,962,595	\$22,078,342								

Notes:

(1) Projected Wetland Mitigation Fee balance on 1-1-11 reflects projected expenditures for remainder of 2010, funds in the contribution to recovery account as well as pending \$549K transfer from CWF Account.

(2) This account was set up specifically for the HCP. Wildlife agencies must approve disbursements. Projected balance reflects pending \$549k transfer to Wetland account.

(3) Grant funding total reflects funding that remains unspent from approved grants. Does not include \$5M grant that has been offered by WCB staff. See Table II for grant funding details.

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Personnel Summary: Comparison of HCP Cost Projections With Conservancy's Approach to Staffing¹

Table I-2

Personnel Cost Estimates from the HCP

	Total cost per FTE per Year (from HCP)	Estimated FTEs From HCP Years 1-5	One-Fifth of Five-Year HCP Estimate	How These Functions Are/Will Be Performed in the Conservancy
Administrative Personnel				
Executive Director ("E.D.")	\$134,640	1	\$134,640	County principal planner (80% FTE)
IT- Database / GIS Manager	\$87,516	0.5	\$43,758	County GIS staff, County IT staff & contract planner
Budget Analyst	\$74,052	1	\$74,052	Principal planner (10% FTE); County accountants
Acquisition Specialist	\$100,980	1	\$100,980	County prin. plnr.(10% FTE); outsourced to EBRPD/others
Grant Specialist / Conservation Planner	\$94,248	1	\$94,248	County Senior Planner (20% FTE) & contract planner
Admin - Secretary	\$60,588	0.5	\$30,294	County secretaries
Total administrative personnel		5	\$477,972	
Restoration Planning, Design, & Implementation and Monitoring Personnel²				
Senior Specialist	\$107,712	1	\$107,712	Outsourced to consultants
Project Manager	\$99,054	1	\$99,054	County senior planner (40% FTE) and consultants
Technical Support	\$64,320	1	\$64,320	County associate planner (10% FTE) & consultants
Total restoration personnel		3	\$271,086	
Preserve Management and Maintenance Personnel				
Preserve Manager	\$100,980	1	\$100,980	Outsourced to Conservancy land partners
Laborer	\$53,856	2	\$107,712	Outsourced to Conservancy land partners
Admin - Secretary	\$60,588	0.5	\$30,294	Outsourced to Conservancy land partners
Total Management and Maintenance Personnel		3.5	\$238,986	
TOTAL PERSONNEL (FROM HCP)		11.5	\$988,044	

Conservancy Staff Cost Estimates for the 2011 Conservancy Budget¹

	Projected average billing rate			Estimated FTE			Estimated Annual Cost		
	2011	2010	2009	2011	2010	2009	2011	2010	2009
Principal Planner	\$152	\$193	\$194	0.80	0.70	0.70	\$228,104	\$254,120	\$255,462
Senior Planner	\$123	\$161	\$158	0.80	0.70	0.70	\$185,511	\$211,534	\$207,783
Associate Planner	\$131	\$135	\$135	0.10	0.25	0.25	\$24,628	\$63,345	\$63,345
IT staff	N/A ⁴	N/A ⁴	N/A ⁴	N/A ⁴	N/A ⁴	N/A ⁴	\$0	\$0	\$0
GIS staff	\$121	N/A ⁴	N/A ⁴	0.25	N/A ⁴	N/A ⁴	\$56,964	\$0	\$0
Accounting staff	\$87	N/A ⁴	N/A ⁴	0.25	N/A ⁴	N/A ⁴	\$40,784	\$0	\$0
Secretarial staff	N/A ⁴	N/A ⁴	N/A ⁴	N/A ⁴	N/A ⁴	N/A ⁴	\$0	\$0	\$0
Senior management staff	N/A ⁴	N/A ⁴	N/A ⁴	N/A ⁴	N/A ⁴	N/A ⁴	\$0	\$0	\$0
TOTAL CONSERVANCY PERSONNEL							\$535,991	\$528,999	\$526,590

Notes:

- (1) Costs detailed in this Table are not reflected in summary Budget because personnel costs are split among program areas.
- (2) Costs for these staff are equally split between three program areas: Planning & Design, Restoration, and
- (3) Reflects expected step increases and projected 0% cost of living adjustment in October 2010
- (4) Costs for these staff services are not billed directly. They are included in the rates for the staff that are billed directly.

Program Administration and Permit Program¹

Table I-3

	<i>Estimated Costs From HCP Years 1-5</i>	<i>One-Fifth of Five-Year HCP Estimate</i>	<i>Cost Estimate Used for 2011 Conservancy Budget</i>	<i>Cost Estimate Used for 2010 Conservancy Budget</i>	<i>Cost Estimate Used for 2009 Conservancy Budget</i>	<i>Cost Estimate Used for 2008 Conservancy Budget</i>	Notes
Office Space	\$28,500	\$5,700	\$0	\$0	\$0	\$0	costs included in planner rates
Office Equipment by Employee	\$21,750	\$4,350	\$0	\$0	\$0	\$0	costs included in planner rates
General Office Equipment	\$38,600	\$7,720	\$0	\$0	\$0	\$0	costs included in planner rates
GIS/Database Equipment	\$17,500	\$3,500	\$0	\$0	\$0	\$0	costs included in planner rates
Maintenance of General Office Equipment	\$2,275	\$455	\$0	\$0	\$0	\$455	costs included in planner rates
Maintenance of GIS Database equipment	\$3,250	\$650	\$0	\$0	\$0	\$650	costs included in planner rates
Employees							
Executive Director	\$673,200	\$134,640	\$0	\$0	\$0	\$0	Principal planner performs these functions
IT- Database / GIS Manager	\$218,790	\$43,758	\$0	\$0	\$0	\$0	Contract planner/GIS planner (below) share database responsibilities; IT staff costs included in planner rates
Budget Analyst	\$370,260	\$74,052	\$0	\$0	\$0	\$0	County accountants ensure proper procedures and perform day to day duties Principal planner provides program direction
Acquisition Specialist	\$504,900	\$100,980	\$0	\$0	\$0	\$0	Outsourced to EBRPD; principal planner provides some of this function
Grant Specialist / Conservation Planner	\$471,240	\$94,248	\$0	\$0	\$0	\$0	Senior planner perform these functions
Admin - Secretary	\$151,470	\$30,294	\$0	\$0	\$0	\$0	Secretary costs included in planner rates
Principal Planner	n/a	n/a	\$114,052	\$145,211	\$145,978	\$102,666	Principal planner 40% FTE (position also has budget increments in other categories)
Senior planner	n/a	n/a	\$69,567	\$90,658	\$59,367	\$24,448	Senior planner 30% FTE (position also has budget increments in other categories)
Senior GIS Planner	n/a	n/a	\$34,178	previously covered in other planner rates			Senior GIS planner 15% FTE (position also has budget increment in other category)
Accountant	n/a	n/a	\$40,784	previously covered in other planner rates			Accountant 25% FTE
Senior Planner (new)	n/a	n/a	\$0	\$0	\$0	\$184,356	Propose not hiring 2nd senior planner for cost-efficiency and flexibility purposes
Employees Subtotal	\$2,389,860	\$477,972	\$258,581	\$235,869	\$205,345	\$311,470	
Travel	\$33,250	\$6,650	\$3,000	\$3,000	\$3,000	\$6,000	
Vehicle / Mileage Allowance	\$5,063	\$1,013	\$5,000	\$3,000	\$3,000	\$1,000	
Insurance	\$187,000	\$37,400	\$20,000	\$20,000	\$25,000	\$35,000	
Legal Assistance	\$150,000	\$30,000	\$50,000	\$45,000	\$50,000	\$50,000	additional legal in land acquisition
Financial Analysis Assistance	\$15,500	\$3,100	\$40,000	\$20,000	\$10,000	\$3,000	Annual outside audit plus periodic fee audit
JPA Member Meeting Stipend	\$30,000	\$6,000	\$0	\$0	\$0	\$0	
In-Lieu funding for Law Enforcement and Firefight	\$17,938	\$3,588	\$0	\$0	\$0	\$2,000	
Contractor assistance with program admin.	\$0	\$0	\$60,000	\$60,000	\$60,000	\$60,000	Tech review of permit apps; agency coord & training; general tech support
Contract planner	\$0	\$0	\$150,400	\$112,320	\$112,320	\$0	Manages take auth. process; manages databases; general coordination role (estimate assumes 80% FTE at \$100 per
Membership in CHCPC	\$0	\$0	\$5,000	\$0	\$0	\$0	Primary method for implementing Legislative Program
East County Water Management Association	\$0	\$0	\$10,000	\$0	\$0	\$0	Conservancy's projected share of IRWMP grant writing costs
Public Relations and Outreach	\$125,000	\$25,000	\$5,000	\$15,000	\$25,000	\$25,000	includes web design and maintenance publications, document reproduction
TOTAL	\$3,065,486	\$613,097	\$606,981	\$514,189	\$493,665	\$494,575	

Notes:

(1) Tasks include administration of take authorization program, public outreach and involvement, financial management, grant management, legal assistance and general costs associated with Conservancy operations.

Land Acquisition

Table I-4

	<i>Estimated Costs From HCP Years 1-5</i>	<i>One-Fifth of Five-Year HCP Estimate</i>	<i>Cost Estimate Used for 2011 Conservancy Budget</i>	<i>Cost Estimate Used for 2010 Conservancy Budget</i>	<i>Cost Estimate Used for 2009 Conservancy Budget</i>	<i>Cost Estimate Used for 2008 Conservancy Budget</i>
Land Costs	\$33,396,556	\$6,679,311	\$13,750,000	\$13,750,000	\$13,750,000	\$9,350,000
Due Diligence	\$1,868,113	\$373,623	\$225,099	\$226,303	\$226,495	\$215,667
Planning Surveys	\$1,109,415	\$221,883	\$50,000	\$70,000	\$70,000	\$170,000
Site Improvements	\$963,900	\$192,783	\$165,000	\$165,000	\$165,000	\$165,000
TOTAL	\$37,337,984	\$7,274,817	\$14,025,099	\$14,046,303	\$14,046,495	\$9,900,667

Land Cost Estimates and Assumptions

	<i>Estimated Costs From HCP Years 1-5</i>	<i>One-Fifth of Five-Year HCP Estimate</i>	<i>Estimates Used for 2011 Conservancy Budget</i>	<i>Estimates Used for 2010 Conservancy Budget</i>	<i>Estimates Used for 2009 Conservancy Budget</i>	<i>Estimates Used for 2008 Conservancy Budget</i>
Number of parcels	42	8	12	12	12	10
Number of properties	n/a	n/a	6	6	6	5
Overall acreage acquired	5,060	1,012	2,500	2,500	2,500	1,700
Average cost per acre	n/a	n/a	\$5,500	\$5,500	\$5,500	\$5,500
TOTAL	\$33,396,556	\$6,679,311	\$13,750,000	\$13,750,000	\$13,750,000	\$9,350,000

Due Diligence

	<i>Estimated Costs From HCP Years 1-5</i>	<i>One-Fifth of Five-Year HCP Estimate</i>	<i>Estimates Used for 2011 Conservancy Budget</i>	<i>Estimates Used for 2010 Conservancy Budget</i>	<i>Estimates Used for 2009 Conservancy Budget</i>	<i>Estimates Used for 2008 Conservancy Budget</i>
Number of Parcels to be Purchased	42	8.4	12	12	12	10
Number of Parcels Investigated	53	10.6	14	14	14	12
Appraisals	\$216,240	\$43,248	n/a	n/a	n/a	n/a
Preliminary Title Report	\$27,030	\$5,406	n/a	n/a	n/a	n/a
Phase I Site Assessment	\$324,360	\$64,872	n/a	n/a	n/a	n/a
Boundary Survey	\$331,197	\$66,239	n/a	n/a	n/a	n/a
Legal Description	\$216,240	\$43,248	n/a	n/a	n/a	n/a
Monumentation	\$248,146	\$49,629	n/a	n/a	n/a	n/a
Land acquisition specialist	\$504,900	\$100,980	n/a	n/a	n/a	n/a
Principal planner (0.1 FTE)	n/a	n/a	\$28,513	\$36,303	\$36,495	\$30,667
Senior GIS Planner (0.1 FTE)	n/a	n/a	\$22,786	n/a	n/a	n/a
Contract planner (0.1 FTE)	n/a	n/a	\$18,800	n/a	n/a	n/a
Proposed Agreement with EBRPD	n/a	n/a	\$100,000	\$100,000	\$100,000	\$90,000
Legal support to land acquisition	n/a	n/a	\$5,000	\$40,000	\$40,000	\$0
Due diligence contingency	n/a	n/a	\$25,000	\$25,000	\$25,000	\$50,000
Due diligence costs with other partners	n/a	n/a	\$25,000	\$25,000	\$25,000	\$45,000
TOTAL	\$1,868,113	\$373,623	\$225,099	\$226,303	\$226,495	\$215,667

Table I-4 (continued)

Planning Surveys

	<i>Estimated Costs From HCP Years 1-5</i>	<i>One-Fifth of Five- Year HCP Estimate</i>	<i>Estimates Used for 2011 Conservancy Budget</i>	<i>Estimates Used for 2010 Conservancy Budget</i>	<i>Estimates Used for 2009 Conservancy Budget</i>	<i>Estimates Used for 2008 Conservancy Budget</i>
Land cover type surveys	\$166,412.00	\$33,282	\$10,000	\$10,000	\$15,000	\$30,000
Covered Species	\$83,206.00	\$16,641	\$10,000	\$10,000	\$10,000	\$10,000
Covered Plant Surveys	\$665,649.00	\$133,130	\$10,000	\$20,000	\$20,000	\$100,000
Covered Wildlife Surveys	\$194,148.00	\$38,830	\$10,000	\$20,000	\$10,000	\$30,000
Assess & document conservation value	\$0.00	\$0	\$10,000	\$10,000	\$15,000	\$0
Planning Survey Subtotal	\$1,109,415.00	\$221,883	\$50,000	\$70,000	\$70,000	\$170,000

Site Improvements

	<i>Estimated Costs From HCP Years 1-5</i>	<i>One-Fifth of Five- Year HCP Estimate</i>	<i>Estimates Used for 2011 Conservancy Budget</i>	<i>Estimates Used for 2010 Conservancy Budget</i>	<i>Estimates Used for 2009 Conservancy Budget</i>	<i>Estimates Used for 2008 Conservancy Budget</i>
Number of Parcels Purchased	42	8	12	12	12	10
Demolition of Old Facilities	\$212,500	\$42,500	\$30,000	\$30,000	\$30,000	\$30,000
Repair of Boundary Fence	\$390,166	\$78,033	\$60,000	\$60,000	\$60,000	\$60,000
Repair and Replacement of Gates	\$170,000	\$34,000	\$30,000	\$30,000	\$30,000	\$30,000
Signs (Boundary, Landmark, ect.)	\$106,250	\$21,250	\$20,000	\$20,000	\$20,000	\$20,000
Other Security (e.g., Boarding up barns)	\$85,000	\$17,000	\$25,000	\$25,000	\$25,000	\$25,000
TOTAL	\$963,915	\$192,783	\$165,000	\$165,000	\$165,000	\$165,000

Management, Restoration, and Recreation Planning and Design

Table I-5

	<i>Estimated Costs From HCP Years 1-5</i>	<i>One-Fifth of Five- Year HCP Estimate</i>	<i>Cost Estimate Used for 2011 Conservancy Budget</i>	<i>Cost Estimate Used for 2010 Conservancy Budget</i>	<i>Cost Estimate Used for 2009 Conservancy Budget</i>	<i>Cost Estimate Used for 2008 Conservancy Budget</i>	Notes
Office Equipment	\$11,350	\$2,270	\$0	\$0	\$0	\$0	included in staff costs
Vehicle Purchase	\$73,333	\$14,667	\$0	\$0	\$0	\$0	factored into contractor rates
Staff	\$456,810	\$91,362	\$60,634	\$69,514	\$125,545	\$85,697	see detail below
Travel	\$13,125	\$2,625	\$2,625	\$2,625	\$2,625	\$2,625	
Vehicle Fuel and Maintenance	\$9,500	\$1,900	\$0	\$0	\$0	\$0	factored into contractor rates
Contractors	\$1,297,013	\$259,403	\$240,000	\$160,000	\$200,000	\$250,000	see detail below
TOTAL	\$1,861,131	\$372,226	\$303,259	\$232,139	\$328,170	\$338,322	

Staff

<i>Position</i>	<i>Estimate from HCP</i>	<i>Cost Estimate Used for 2011 Conservancy Budget</i>	<i>Cost Estimate Used for 2010 Conservancy Budget</i>	<i>Cost Estimate Used for 2009 Conservancy Budget</i>	<i>Cost Estimate Used for 2008 Conservancy Budget</i>	Notes
Senior Scientist (HCP estimate)	\$35,904	\$0	\$0	\$0	\$0	HCP assumed 33% FTE
Project Manager (HCP estimate)	\$33,018	\$0	\$0	\$0	\$0	HCP assumed 33% FTE
Technical Support (HCP estimate)	\$22,440	\$0	\$0	\$0	\$0	HCP assumed 33% FTE
Senior planner	\$0	\$46,378	\$60,438	\$89,050	\$48,897	20% FTE
Principal planner	\$0	\$14,257	\$9,076	\$36,495	\$36,800	5% FTE
TOTAL FOR CONSERVANCY 2010	\$91,362	\$60,634	\$69,514	\$125,545	\$85,697	

Contractors

	<i>Estimated Costs From HCP Years 1-5</i>	<i>One-Fifth of Five- Year HCP Estimate</i>	<i>Cost Estimate Used for 2011 Conservancy Budget</i>	<i>Cost Estimate Used for 2010 Conservancy Budget</i>	<i>Cost Estimate Used for 20089 Conservancy Budget</i>	<i>Cost Estimate Used for 2008 Conservancy Budget</i>	Notes
Management and Recreation planning	\$750,000	\$150,000	\$80,000	\$80,000	\$60,000	\$100,000	2 preserve mngmnt plans, 2 systemwide plans
Restoration Planning	\$500,000	\$100,000	\$160,000	\$80,000	\$140,000	\$75,000	plan 3 projects for 2011
Restoration Design	\$47,013	\$9,403	\$0	\$0	\$0	\$75,000	lumped with planning
TOTAL	\$1,297,013	\$259,403	\$240,000	\$160,000	\$200,000	\$250,000	

Habitat Restoration/Creation

Table 1-6

	<i>Estimated Costs From HCP Years 1-5</i>	<i>One-Fifth of Five-Year HCP Estimate</i>	<i>Cost Estimate Used for 2011 Conservancy Budget</i>	<i>Cost Estimate Used for 2010 Conservancy Budget</i>	<i>Cost Estimate Used for 2009 Conservancy Budget</i>	<i>Cost Estimate Used for 2008 Conservancy Budget</i>	<i>Notes</i>
Creation/Restoration Construction	\$2,291,709	\$458,342	\$580,000	\$150,000	\$650,000	\$200,804	see detail below
Office Equipment	\$11,350	\$2,270	\$0	\$0	\$0	\$0	included in staff costs
Vehicle Purchase	\$73,333	\$14,667	\$0	\$0	\$0	\$0	factored into contractor rates
Staff	\$456,810	\$91,362	\$60,634	\$39,295	\$77,614	\$53,897	senior planner (20% FTE) & principal planner (5% FTE)
Travel	\$13,125	\$2,625	\$2,625	\$2,625	\$2,625	\$2,625	
Vehicle Fuel and Maintenance	\$9,500	\$1,900	\$0	\$0	\$0	\$0	factored into contractor rates
Contractors	\$769,830	\$153,966	\$200,000	\$140,000	\$250,000	\$150,000	see detail below
TOTAL	\$3,625,657	\$725,131	\$843,259	\$331,920	\$980,239	\$407,326	

Cost of Restoration/Creation Construction

	<i>Approximate Acres Restored</i>	<i>Assumed cost per acre</i>	<i>Cost Estimate Used for 2011 Conservancy Budget</i>	<i>Cost Estimate Used for 2010 Conservancy Budget</i>	<i>Cost Estimate Used for 2009 Conservancy Budget</i>	<i>Cost Estimate Used for 2008 Conservancy Budget</i>	<i>Notes/Location</i>
Project Type							
Large project (stream, vernal pool, pond, wetland)	5	\$90,000	\$500,000	\$0	\$450,000	n/a	large project at Land Waste Management
Small project (riparian / vernal pool)	1 or 2	\$100,000	\$80,000	\$150,000	\$200,000	n/a	riparian at Ang; vernal pool at Vaq.
TOTAL			\$580,000	\$150,000	\$650,000	\$200,804	

Contractors

	<i>Estimated Costs From HCP Years 1-5</i>	<i>One-Fifth of Five-Year HCP Estimate</i>	<i>Cost Estimate Used for 2011 Conservancy Budget</i>	<i>Cost Estimate Used for 2010 Conservancy Budget</i>	<i>Cost Estimate Used for 2009 Conservancy Budget</i>	<i>Cost Estimate Used for 2008 Conservancy Budget</i>	<i>Notes</i>
Plans, Specifications, and engineering	\$176,297	\$35,259	\$50,000	\$20,000	\$50,000	\$35,000	
Development of bid package	\$23,503	\$4,701	\$30,000	\$10,000	\$50,000	\$5,000	Plng/design oversight)
Construction Oversight	\$99,902	\$19,980	\$20,000	\$10,000	\$60,000	\$20,000	Includes inspectors and const. mngr
Post-construction Maintenance	\$470,125	\$94,025	\$100,000	\$100,000	\$90,000	\$90,000	mntnce of past projects
TOTAL		\$153,965	\$200,000	\$140,000	\$250,000	\$150,000	

Environmental Compliance

Table I-7

	<i>Estimated Costs From HCP Years 1-5</i>	<i>One-Fifth of Five- Year HCP Estimate</i>	<i>Cost Estimate Used for 2011 Conservancy Budget</i>	<i>Cost Estimate Used for 2010 Conservancy Budget</i>	<i>Cost Estimate Used for 2009 Conservancy Budget</i>	<i>Cost Estimate Used for 2008 Conservancy Budget</i>	<i>Notes</i>
NEPA/CEQA	\$380,000	\$76,000	\$3,000	\$3,000	\$3,000	\$10,000	existing EIS and categorical exemptions keep costs down
CWA 404/401	\$0	\$0	\$15,000	\$10,000	\$20,000	\$10,000	Army Corps permitting
NHPA	\$41,000	\$8,200	\$20,000	\$12,000	\$12,000	\$10,000	cultural resource analysis
CDFG 1600-1607	\$8,000	\$1,600	\$10,000	\$10,000	\$20,000	\$1,000	streambed alteration agreements
Report on non-covered species	\$0	\$0	\$20,000	\$25,000	\$40,000	\$50,000	streamlines CEQA for HCP users
Staff support to project permits	n/a	n/a	\$0	\$0	\$18,247	\$5,000	Principal Planner (0% FTE)
Develop regional wetlands permits	n/a	n/a	\$40,000	\$55,000	\$35,000	\$0	Contractor technical support
Develop regional wetlands permits	n/a	n/a	\$42,770	\$36,303	\$18,247	\$0	Principal Planner (15% FTE)
Develop regional wetlands permits	n/a	n/a	\$15,000	\$0	\$0	\$0	Legal support
Mid year budget correction	n/a	n/a	\$0	\$0	\$0	\$23,000	
TOTAL	\$429,000	\$85,800	\$165,770	\$151,303	\$166,495	\$109,000	

HCP/NCCP Preserve Management and Maintenance

Table I-8

	<i>Estimated Costs From HCP Years 1-5</i>	<i>One-Fifth of Five-Year HCP Estimate</i>	<i>Cost Estimate Used for 2011 Conservancy Budget</i>	<i>Cost Estimate Used for 2010 Conservancy Budget</i>	<i>Cost Estimate Used for 2009 Conservancy Budget</i>	<i>Cost Estimate Used for 2008 Conservancy Budget</i>	<i>Notes</i>
Office Equipment	\$31,050	\$6,210	\$0	\$0	\$0	\$1,000	too early in the program
Vehicle Purchase	\$221,000	\$44,200	\$0	\$0	\$0	\$8,000	too early in the program
Equipment - capital	\$75,000	\$15,000	\$0	\$0	\$0	\$3,000	too early in the program
Field Facilities	\$750,000	\$150,000	\$0	\$0	\$0	\$70,000	too early in the program
Contractors - Capital	\$225,000	\$45,000	\$50,000	\$40,000	\$45,000	\$45,000	construction, fencing, etc.
Recreation Facilities	\$0	\$0	\$0	\$0	\$0	\$0	partners
Preserve Staff	\$1,194,930	\$238,986	\$200,000	\$200,000	\$180,000	\$180,000	cost share with partners
Conservancy staff coordination/oversight	\$0	\$0	\$14,257	\$18,151	\$0	\$0	principal planner (5% FTE)
Maintenance of Office Equipment	\$0	\$0	\$0	\$0	\$0	\$0	too early in the program
Travel	\$875	\$175	\$0	\$0	\$0	\$100	too early in the program
Vehicle Fuel and Maintenance	\$62,750	\$12,550	\$0	\$0	\$0	\$10,000	too early in the program
Equipment - Operational	\$162,500	\$32,500	\$0	\$0	\$0	\$25,000	too early in the program
Facilities Maintenance and utilities	\$57,500	\$11,500	\$0	\$0	\$0	\$10,000	too early in the program
Water Pumping	\$9,375	\$1,875	\$0	\$0	\$0	\$2,000	too early in the program
Contractors- operational	\$402,000	\$80,400	\$0	\$40,000	\$50,000	\$50,000	road, pond maintenance, etc.
Recreation - operational	\$0	\$0	\$0	\$0	\$0	\$0	partners
TOTAL	\$3,191,980	\$638,396	\$264,257	\$298,151	\$275,000	\$404,100	

Monitoring, Research and Adaptive Management

Table I-9

	<i>Estimated Costs From HCP (Years 1-5)</i>	<i>One-Fifth of Five-Year HCP Estimate</i>	<i>Cost Estimate Used for 2011 Conservancy Budget</i>	<i>Cost Estimate Used for 2010 Conservancy Budget</i>	<i>Cost Estimate Used for 2009 Conservancy Budget</i>	<i>Cost Estimate Used for 2008 Conservancy Budget</i>	<i>Notes</i>
Office Equipment	\$11,350	\$2,270	\$0	\$0	\$0	\$0	Factored in contractor rates
Vehicle Purchase	\$73,333	\$14,667	\$0	\$0	\$0	\$0	Factored in contractor rates
Monitoring staff	\$456,810	\$91,362	\$47,817	\$93,565	\$63,345	\$5,000	Associate planner (25% FTE) and senior planner (10% FTE)
Vehicle Fuel and Maintenance	\$9,500	\$1,900	\$0	\$0	\$0	\$0	Factored in contractor rates
Travel	\$13,125	\$2,625	\$1,000	\$1,000	\$1,000	\$500	
Field Data Collection (Contractors)	\$1,070,700	\$214,140	\$50,000	\$60,000	\$30,000	\$50,000	Specialized monitoring
Directed Research	\$375,000	\$75,000	\$150,000	\$0	\$0	\$1,000	Grant-funded avian study
Adaptive Management	\$150,000	\$30,000	\$15,000	\$15,000	\$0	\$10,000	Based on monitoring results
TOTAL	\$2,159,818	\$431,964	\$263,817	\$169,565	\$94,345	\$66,500	

Remedial Measures

Table I-10

	<i>Estimated Costs From HCP Years 1-5</i>	<i>One-Fifth of Five- Year HCP Estimate</i>	<i>Cost Estimate Used for 2011 Conservancy Budget</i>	<i>Cost Estimate Used for 2010 Conservancy Budget</i>	<i>Cost Estimate Used for 2009 Conservancy Budget</i>	<i>Cost Estimate Used for 2008 Conservancy Budget</i>
Remedial measures	\$30,000	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000
TOTAL		\$6,000	\$6,000	\$6,000	\$6,000	\$6,000

Contingency Fund

	<i>Estimated Costs From HCP Years 1-5</i>	<i>One-Fifth of Five- Year HCP Estimate</i>	<i>Cost Estimate Used for 2011 Conservancy Budget</i>	<i>Cost Estimate Used for 2010 Conservancy Budget</i>	<i>Cost Estimate Used for 2009 Conservancy Budget</i>	<i>Cost Estimate Used for 2008 Conservancy Budget</i>
Total cost of program excluding land acquisition	\$14,393,072	\$2,878,614	\$2,447,343	\$1,697,267	\$2,356,160	\$1,802,823
Contingency Fund	\$719,654	\$143,931	\$122,367	\$84,863	\$117,808	\$90,141
TOTAL		\$143,931	\$122,367	\$84,863	\$117,808	\$90,141

Assumptions: 5% Percent of total program funding (other than land acquisition funding) needed for contingency fund.

Grants Awarded for ECC HCP/NCCP Implementation

Table II

<i>Funding Source</i>	<i>Agency</i>	<i>Purpose</i>	<i>Amount</i>	<i>Required Match</i>	<i>Amount Expended (12/31/10)</i>	<i>Remain (12/31/10)</i>	<i>Match non-federal?</i>	<i>Need to be used by...</i>	<i>Complete?</i>
Section 6 (2006)	USFW	Acquisition	\$6,531,054	\$7,982,399	\$6,531,054	\$0	yes	June 30 2010	√
Section 6 (2007)	USFW	Acquisition	\$7,000,000	\$8,555,600	\$4,975,905	\$2,024,095	yes	June 30, 2011	
Section 6 (2008)	USFW	Acquisition	\$6,000,000	\$7,333,333	\$1,372,500	\$4,627,500	yes	May 14, 2011	
Section 6 (2009)	USFW	Acquisition	\$2,500,000	\$3,055,556	\$0	\$2,500,000	yes	August 1, 2012	
Section 6 (2010)	USFW	Acquisition	\$6,000,000	\$7,333,333	\$0	\$6,000,000	yes	July 31, 2013	
CVPIA - HRP	USBR	Acquisition	\$1,241,631	\$500,000	\$1,241,631	\$0	yes	September 2010	√
IRWMP - Prop 50	DWR	Acquisition or restoration	\$750,000	\$500,000	\$750,000	\$0	no	June 2012	√
IRWMP - Prop 50 (reprogrammed)	DWR	Acquisition or restoration	\$1,400,000	\$500,000	\$0	\$1,400,000	no	March 2012	
NCCP Local Assistance Funds (2006)	CDFG	Start-up staffing	\$40,000	'=====	\$40,000	\$0	no	June 2008	√
NCCP Local Assistance Funds (2007)	CDFG	Start-up wetlands restoration	\$60,000	\$120,000	\$60,000	\$0	no	Dec 2008	√
NCCP Local Assistance Funds (2008)	CDFG	Wetlands restoration at Souza 2	\$150,000	=====	\$139,000	\$11,000	no	April 2011	
NCCP Local Assistance Funds (2009)	CDFG	Riparian restoraion	\$150,000	\$111,000	\$0	\$150,000	no	March 2012	
Moore Foundation		Acquisition Fox Ridge	\$880,000	50% match desired	\$880,000	\$0	no	12/31/09	√
Moore Foundation		Acquisition and research Souza 3	\$2,250,000	50% match desired	\$2,000,000	\$250,000	no	Sep 2012	
Prop 84 NCCP account ¹	WCB	Acquisition	\$5,000,000	=====	\$0	\$5,000,000	no	=====	
TOTAL			\$39,952,685	\$35,991,221	\$17,990,090	\$21,962,595			

Note 1: The Prop 84 item related to WCB must go to the WCB Board and is just an understanding with staff. We have proposed a \$5M initial investment from WC as part of an overall \$20M investment of fund from the Prop 84 NCCP account.

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Table III: End of Year Budget Status: Conservancy's 2010 Budget

(expenditures and revenues include Conservancy's own funds as well as grant funds disbursed on behalf of the Conservancy)

	<i>Expenditures</i>					
	<i>A</i>	<i>B</i>	<i>C</i>	<i>D= B + C</i>	<i>E= A minus D</i>	<i>F= E/A*100</i>
	<i>Approved 2010 Conservancy Budget¹</i>	<i>Actual Expenditures as of 12/2/10²</i>	<i>Projected Additional Expenditures by 12/31/10</i>	<i>All Expenditures thru 12/31/10 (Actual plus Projected)</i>	<i>Budget Amount Remaining</i>	<i>Percent Remaining</i>
Program Administration	\$514,189	\$489,628	\$43,000	\$532,628	-\$18,439	-4%
Land Acquisition	\$14,046,303	\$10,867,740	\$1,492,500	\$12,360,240	\$1,686,062	12%
Management, Restoration and Recreation Planning and Design	\$232,139	\$21,089	\$60,000	\$81,089	\$151,050	65%
Habitat Restoration/Creation	\$331,920	\$51,329	\$5,000	\$56,329	\$275,591	83%
Environmental Compliance	\$151,303	\$83,708	\$20,000	\$103,708	\$47,595	31%
HCP/NCCP Preserve Management and Maintenance	\$298,151	\$1,392	\$0	\$1,392	\$296,760	100%
Monitoring, Research, and Adaptive Management	\$169,565	\$135,308	\$22,900	\$158,208	\$11,357	7%
Remedial Measures	\$6,000	\$0	\$0	\$0	\$6,000	100%
Contingency Fund (5% of non-land acquisition costs)	\$84,863	\$0	\$0	\$0	\$84,863	100%
TOTAL EXPENDITURES	\$15,834,433	\$11,650,194	\$1,643,400	\$13,293,594	\$2,540,839	16%
FEE REVENUES YEAR TO DATE (YTD) (through 12/2/10)³				\$790,828		
GRANT REVENUE YTD (through 12/2/10)				\$11,726,928		
PROJECTED GRANT REVENUES (12/2/10 through 12/31/10)				\$1,372,500		
TOTAL PROJECTED REVENUES YTD (projected through 12/31/10)				\$13,890,256		
DIFFERENCE BETWEEN YTD REVENUES & EXPENDITURES (projected)				\$596,662	(surplus)	
ESTIMATED FUNDS IN CONSERVANCY ACCOUNT, DECEMBER 31, 2010⁴				\$1,770,000		

Notes:

(1) Budget amounts do not reflect augmentation formulas. The approved Budget allowed the expenditure limits for certain categories to increase in proportion to revenues. These augmentations are not included here in order to keep the comparison of expenditures to budget simple and conservative.

(2) Cost for work performed but not yet billed is not included. Staff costs through the end of October are included. Projections in Column C include these amounts.

(3) Reflects \$100,588 refund due State Route 4 Bypass Authority for overpayment of 2009 fees as well proposed ConoccoPhillips refund of approximately \$30,000.

(4) Does not include more than \$15M in grant revenue that has been approved but will be received after 12-31-2010. Nor does the fund balance include the California Wildlife Foundation account which is held in trust for the Conservancy but is controlled by the wildlife agencies. That account has a current balance of more than \$3.6M.