

**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY**

**DATE:** March 21, 2011  
**TO:** Governing Board  
**FROM:** Conservancy Staff  
**SUBJECT:** Agreement Amendment with ConocoPhillips Pipeline Company

**RECOMMENDATION**

**AUTHORIZE staff to execute a Second 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. 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 was able to reduce the number of required repairs. Of the 20 sites that were included in the original project description, only five were subsequently determined to require a repair. At the December 15, 2010 meeting, the Board authorized staff to execute an Amendment to the Participating Special Entity Agreement, in order to modify the project description based on the reduction in the number of repair sites. On January 24, 2011, the Conservancy and ConocoPhillips executed a First Amendment to the Participating Special Entity Agreement.

In January 2011, the applicant informed the Conservancy that one of the original 15 repairs, which was removed from the project description via the First Amendment, had to be reinstated. The reinstated repair site was formerly referred to as dig site 5 in Exhibit 1, the Planning Survey Report (PSR), of the Participating Special Entity Agreement executed on October 7, 2010. The applicant is requesting an amendment to the Participating Special Entity Agreement for coverage of the repairs at dig site 5.

CONTINUED ON ATTACHMENT: Yes  
 ACTION OF BOARD ON: March 21, 2011 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

The modifications in the project description to include an additional repair site require a Second Amendment to the terms of the Participating Special Entity Agreement, as amended by the First Amendment, between the Conservancy and ConocoPhillips Pipeline Company. The Second Amendment reflects the change in the project description, the addition of Exhibit 1a which is a new PSR specifically for dig site 5, a modification to the development fees (from \$9,713.36 to \$10,779.58-an increase of \$1,066.22), and an increase in the cap on administrative fees (from \$8,000 to \$11,000). No change is proposed to the contribution to recovery which is \$21,116.

**Attachments:**

- **PSE Agreement Second Amendment, including:**
  - Main body of amendment
  - Exhibit 1a: 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)

## **SECOND 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 Special Entity**

### **RECITALS**

The Participating Special Entity Agreement between the East Contra Costa County Habitat Conservancy (“Conservancy”) and ConocoPhillips Pipeline Company (the “Participating Special Entity” or the “PSE”) was entered into October 7, 2010 and amended on January 24, 2011 by the First Amendment to the Participating Special Entity Agreement. The Participating Special Entity Agreement, as amended by the First Amendment, is referred to herein as 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 Second Amendment (the “Second Amendment”).

### **AMENDMENT**

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

1. Section 2.7 of the PSE 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~~ 6 sites along the ConocoPhillips Line 200 route which are categorized into two sub-areas: Vasco Sub-Area and Round Valley Sub-Area.

2. Section 2.8 of the PSE Agreement is amended as follows:

The Conservancy has concluded, based on the terms of this Agreement and the application submitted by PSE (the “Application”), that PSE has provided adequate assurances that it will comply with all applicable terms and conditions of the IA, the HCP/NCCP, and the Permits. The Application is attached hereto as Exhibit 1 [and Exhibit 1a](#) and is hereby incorporated into this Agreement by reference.

3. Section 3.2 of the PSE Agreement is amended as follows:

“**Application**” means the application submitted by the PSE in accordance with Chapter 8.4 of the HCP/NCCP, and which is attached hereto as Exhibit 1 [and Exhibit 1a](#). The Application contains a cover sheet, the results of required planning surveys and the avoidance, minimization and mitigation measures that will be a condition of the PSE using Conservancy’s Permits.

4. Section 3.24 of the PSE Agreement is amended as follows:

“**Proposed Activities**” means the activities described in Exhibit 1 [and Exhibit 1a](#) that will be covered by the extension of the Conservancy’s take authorization.

5. Section 5.4 is of the PSE Agreement is amended as follows:

As set forth in the Application, PSE agrees to pay the Conservancy ~~\$30,829.36~~ [\\$31,895.58](#) 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: ~~\$9,713.36~~ [\\$10,779.58](#)

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.

6. Section 7.6 of the PSE Agreement 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 ~~\$8,000~~ \$11,000. 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 Second Amendment may be executed in counterparts.
- C. All other terms and conditions of the PSE Agreement shall remain unchanged.
- 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 Second Amendment.
- E. This Second Amendment shall take effect on the date after both of the following have occurred:
  - 1. The Conservancy and PSE have executed the Second Amendment; and
  - 2. The Conservancy has delivered written notice to PSE that the Conservancy has received written concurrence from the Wildlife Agencies regarding the Second Amendment in accordance with Section 6.1 of the PSE Agreement.

**IN WITNESS WHEREOF**, the Conservancy and PSE hereto execute this Second 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

**Participating Special Entity  
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 Caves Regional Park  
Project APN(s) #: Unknown  
Number of Parcels/Units: N/A  
Size of Parcel(s): N/A

**Project Description/Purpose (Brief):** On October 7, 2010, the Conservancy and ConocoPhillips Pipeline Company entered into a Participating Special Entity Agreement Implementing the HCP/NCCP and Granting Take Authorization (PSE), to complete operational and safety repairs to twenty sites, labeled as dig sites 1-20, 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 the Conservancy that the number of repairs included in the proposed project had to be substantially reduced, from twenty to five sites. A revised PSE was prepared and executed to include only those five sites (dig sites 2, 3, 4, 10 and 12). In January 2011, one of the remaining 15 excluded sites, labeled as dig site 5, was reinstated as requiring a repair. This PSR is for a pipeline repair at dig site 5, in Vasco Caves Regional Park.

**Biologist Information:**

Biological/Environmental Firm: Monk & Associates, Inc. **Contact:** Isabelle de Geofroy  
Contact's Phone:(925) 947-4867x211 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

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## ***I. Project Overview***

**Project proponent:** Terry Elrod

**Project Name:** ConocoPhillips Line 200 Pipeline Repair Project

**Application Submittal Date:** March 1, 2011

**Jurisdiction:**  Contra Costa County  Participating Special Entity<sup>1</sup>  
 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](http://www.cocohcp.org).

**Total Parcel Acreage:** N/A

**Acreage of land to be permanently disturbed<sup>2</sup>:** None

**Acreage of land to be temporarily disturbed<sup>3</sup>:** 0.05 acres

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<sup>1</sup> *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.

<sup>2</sup> *Acreage of land permanently disturbed* is broadly defined in the HCP/NCCP to include all areas removed from an undeveloped or habitat-providing state and includes land in the same parcel or project that is not developed, graded, physically altered, or directly affected in any way but is isolated from natural areas by the covered activity. Unless such undeveloped land is dedicated to the Preserve System or is a deed-restricted creek setback, the development fee will apply. The development fees were calculated with the assumption that all undeveloped areas within a parcel (e.g., fragments of undisturbed open space within a residential development) would be charged a fee; the fee per acre would have been higher had this assumption not been made. See Chapter 9 of the HCP/NCCP for details.

<sup>3</sup> *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:**

Not applicable

### **Anticipated Construction Date:**

April 15, 2011 to August 20, 2011

### **Project Description**

ConocoPhillips Pipeline Company (the applicant, known as ConocoPhillips hereinafter) submitted a Planning Survey Report (PSR) to the East Contra Costa County Habitat Conservancy (Conservancy) 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 Conservancy and ConocoPhillips entered into a Participating Special Entity Agreement Implementing the HCP/NCCP and Granting Take Authorization to ConocoPhillips. On October 18, 2010, the Conservancy issued a Certificate of Inclusion for the project.

On October 5, 2010, the applicant informed the Conservancy 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 were determined to require a repair. A second PSR was submitted for the five sites, which was approved by the Board on December 15, 2010. On January 24, 2011, the Conservancy and ConocoPhillips executed a First Amendment to the Participating Special Entity Agreement dated October 7, 2010. On February 9, 2011, the Conservancy issued a new Certificate of Inclusion for the project to reflect the First Amendment.

In January 2011, the applicant informed the Conservancy that one of the remaining 15 repairs that had been cancelled had been reinstated. The repair is to be conducted at the site formerly referred to as dig site 5 in the September 23, 2010 PSR. This PSR is to request that the Conservancy extend coverage to ConocoPhillips for the dig site 5

repairs. A Second Amendment will need to be taken to the Board and executed in order to process this request.

The current dig site addressed in this PSR refers to dig site 5 (Repair ID # 195,970.33.24) in the September 23, 2010 PSR, and will be hereinafter referred to as the “dig site.” The dig site is located in the grassland hills southeast of the Los Vaqueros Reservoir and northwest of Vasco Road. It is depicted in a regional map in Figure 1A. Figure 1B provides the location of the dig site within the Byron Hot Springs USGS 7.5-minute quadrangle. Figure 2 provides an aerial photograph of the dig site location, its footprint of impact, the footprint of the associated access area for each dig site, and the land cover in the area of the dig site. Photographs of the dig site are also attached as Figure 3, and Figure 4 is the species habitat map.

The dig site is located on a 10-15% hillslope, running southeast to northwest, between two existing dirt roads (Figures 2, 3). The dig site will incur impacts to an area that is approximately 35 feet by 50 feet (1,750 square feet) (the “project footprint”). 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 474 square feet. The total impact footprint for this dig site is 2,224 sq. ft. and 0.05 acre.

All proposed work and all impacts are temporary. Work would be conducted with a backhoe and pick-up trucks with welding equipment and supplies/parts. The dig site will be accessed over grassland (see Figure 2). Details for the acreage of disturbance are summarized in the Project Disturbance Table 5, in Section V.

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 pick-up 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 repair. All construction equipment and work will be limited to the area within the fenceline. The overland access route and work area 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 site 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 repair, 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 repair is complete, the dig site will be re-contoured to its original condition as outlined in the temporary impact recovery plan in Section V.

## ***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 <sup>(a)</sup> 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 <sup>b</sup>	Acreage of Land to be "Temporarily Disturbed" by Project <sup>b</sup>	Acreage of Land Proposed for HCP/NCCP Dedication on the Parcel <sup>c</sup>	
			Stream Setback	Preserve System Dedication
<b>Grassland<sup>a</sup></b>				
<input checked="" type="checkbox"/> Annual grassland		<b>0.05</b>		
<input type="checkbox"/> Alkali grassland				
<input type="checkbox"/> Ruderal				
<input type="checkbox"/> <b>Chaparral and scrub</b>				
<input type="checkbox"/> <b>Oak savanna<sup>a</sup></b>				
<input type="checkbox"/> <b>Oak woodland</b>				
<b>Jurisdictional wetlands and waters</b>				
<input type="checkbox"/> Riparian woodland/scrub				
<input type="checkbox"/> Permanent wetland <sup>a</sup>				
<input type="checkbox"/> Seasonal wetland <sup>a</sup>				
<input type="checkbox"/> Alkali wetland <sup>a</sup>				
<input type="checkbox"/> Aquatic (Reservoir/Open Water) <sup>a</sup>				
<input type="checkbox"/> Slough/Channel <sup>a</sup>				
<input type="checkbox"/> Pond <sup>a</sup>				
<input type="checkbox"/> Stream (acres) <sup>a, d</sup>				
<input type="checkbox"/> Total stream length (feet) <sup>a, d</sup>				
Stream length by width category				
<input type="checkbox"/> ≤ 25 feet wide				
<input type="checkbox"/> > 25 feet wide				
Stream length by type and order <sup>e</sup>				
<input type="checkbox"/> Perennial				
<input type="checkbox"/> Intermittent				
<input type="checkbox"/> Ephemeral, 3 <sup>rd</sup> or higher order				
<input type="checkbox"/> Ephemeral, 1 <sup>st</sup> or 2 <sup>nd</sup> order				
<b>Irrigated agriculture<sup>a</sup></b>				
<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 <sup>b</sup>	Acreage of Land to be "Temporarily Disturbed" by Project <sup>b</sup>	Acreage of Land Proposed for HCP/NCCP Dedication on the Parcel <sup>c</sup>	
			Stream Setback	Preserve System Dedication
<b>Other</b>				
<input type="checkbox"/> Nonnative woodland				
<input type="checkbox"/> Wind turbines				
<b>Developed</b>				
<input type="checkbox"/> Urban				
<input type="checkbox"/> Aqueduct				
<input type="checkbox"/> Turf				
<input type="checkbox"/> Landfill				
<b>Uncommon Vegetation Types (subtypes of above land cover types)</b>				
<input type="checkbox"/> Purple needlegrass grassland				
<input type="checkbox"/> Wildrye grassland				
<input type="checkbox"/> Wildflower fields				
<input type="checkbox"/> Squirreltail grassland				
<input type="checkbox"/> One-sided bluegrass grassland				
<input type="checkbox"/> Serpentine grassland				
<input type="checkbox"/> Saltgrass grassland (= alkali grassland)				
<input type="checkbox"/> Alkali sacaton bunchgrass grassland				
<input type="checkbox"/> Other uncommon vegetation types (please describe)				
<b>Uncommon Landscape Features or Habitat Elements</b>				
<input type="checkbox"/> Rock outcrop				
<input type="checkbox"/> Cave <sup>a</sup>				
<input type="checkbox"/> Springs/seeps				
<input type="checkbox"/> Scalds				
<input type="checkbox"/> Sand deposits				
<input type="checkbox"/> Mines <sup>a</sup>				
<input type="checkbox"/> Buildings (bat roosts) <sup>a</sup>	—	—		—
<input type="checkbox"/> Potential nest sites (trees or cliffs) <sup>a</sup>	—	—		—
<b>Total (Temporarily Impacted Acres)</b>		<b>0.05</b>		

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

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

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

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

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

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

## 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).**

Figure 2 depicts the field-verified land cover maps for the dig site. Photographs of the 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 the 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	Possible over summer habitat in proposed project location.	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.

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

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

**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.

The dig site is located in the Vasco Caves Regional Park. Habitat consists of rolling hills vegetated by annual grassland, and associated stock ponds and ephemeral drainages. Windmill farms are common in this region.

The dig site is located between two dirt access roads (Figures 2A, 3) and a swale. The vegetation in the area of the dig site is dominated by ruderal grasses, such as slender wild oats (*Avena fatua*), ripgut brome (*Bromus diandrus*), red brome (*Bromus madritensis* ssp. *rubens*), Italian thistle (*Carduus pycnocephalus*) and dove weed (*Croton setigerus*). Several California ground squirrel (*Spermophilus beecheyi*) burrows are located in the area of 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 area within the fenceline.

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

See Figure 4, 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 <sup>a</sup>
<input type="checkbox"/> Oak savanna	Diablo Helianthella ( <i>Helianthella castanea</i> )	C	Elevation above 650 feet <sup>b</sup>	Mar–Jun
	Mount Diablo fairy-lantern ( <i>Calochortus pulchellus</i> )	C	Elevation between 650 and 2,600 feet <sup>b</sup>	Apr–Jun
<input type="checkbox"/> Oak woodland	Brewer's dwarf flax ( <i>Hesperolinon breweri</i> )	C		May–Jul
	Diablo Helianthella ( <i>Helianthella castanea</i> )	C	Elevation above 650 feet <sup>b</sup>	Mar–Jun
	Mount Diablo fairy-lantern ( <i>Calochortus pulchellus</i> )	C	Elevation between 650 and 2,600 feet <sup>b</sup>	Apr–Jun
	Showy madia ( <i>Madia radiata</i> )	C		Mar–May
<input type="checkbox"/> Chaparral and scrub	Brewer's dwarf flax ( <i>Hesperolinon breweri</i> )	C		May–Jul
	Diablo Helianthella ( <i>Helianthella castanea</i> )	C	Elevation above 650 feet <sup>b</sup>	Mar–Jun
	Mount Diablo buckwheat ( <i>Eriogonum truncatum</i> )	N		Apr–Sep; uncommonly Nov–Dec.
	Mount Diablo fairy-lantern ( <i>Calochortus pulchellus</i> )	C	Elevation between 650 and 2,600 feet <sup>b</sup>	Apr–Jun
	Mount Diablo Manzanita ( <i>Arctostaphylos auriculata</i> )	C	Elevation between 700 and 1,860 feet; restricted to the eastern and northern flanks of Mt. Diablo <sup>b</sup>	Jan–Mar

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 <sup>a</sup>
<input type="checkbox"/> Alkali grassland	Brittlescale ( <i>Atriplex depressa</i> )	C	Restricted to soils of the Pescadero or Solano soil series; generally found in southeastern region of plan area <sup>b</sup>	May–Oct
	Caper-fruited tropidocarpum ( <i>Tropidocarpum capparideum</i> )	N		Mar–Apr
	Contra Costa goldfields ( <i>Lasthenia conjugens</i> )	N	Generally found in vernal pools	Mar–Jun
	Recurved larkspur ( <i>Delphinium recurvatum</i> )	C		Mar–Jun
	San Joaquin spearscale ( <i>Atriplex joaquiniana</i> )	C		Apr–Oct
<input type="checkbox"/> Alkali wetland	Alkali milkvetch ( <i>Astragalus tener</i> ssp. <i>tener</i> )	N		Mar–Jun
	Brittlescale ( <i>Atriplex depressa</i> )	C	Restricted to soils of the Pescadero or Solano soil series; generally found in southeastern region of plan area <sup>b</sup>	May–Oct
	San Joaquin spearscale ( <i>Atriplex joaquiniana</i> )	C		Apr–Oct
<input checked="" type="checkbox"/> Annual grassland	Alkali milkvetch ( <i>Astragalus tener</i> ssp. <i>tener</i> )	N		Mar–Jun
	Big tarplant ( <i>Blepharizonia plumosa</i> )	C	Elevation below 1500 feet <sup>b</sup>	Jul–Oct
	Brewer's dwarf flax ( <i>Hesperolinon breweri</i> )	C	Restricted to grassland areas within a 500+ buffer from oak woodland and chaparral/scrub <sup>b</sup>	May–Jul
	Contra Costa goldfields ( <i>Lasthenia conjugens</i> )	N	Generally found in vernal pools	Mar–Jun
	Diamond-petaled poppy ( <i>Eschscholzia rhombipetala</i> )	N		Mar–Apr

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 <sup>a</sup>
	Large-flowered fiddleneck ( <i>Amsinckia grandiflora</i> )	N		Apr–May
	Mount Diablo buckwheat ( <i>Eriogonum truncatum</i> )	N		Apr–Sep; uncommonly Nov–Dec
	Mount Diablo fairy-lantern ( <i>Calochortus pulchellus</i> )	C	Elevation between 650 and 2,600 <sup>b</sup>	Apr–Jun
	Round-leaved filaree ( <i>California macrophylla</i> ) <sup>1</sup>	C		Mar–May
	Showy madia ( <i>Madia radiata</i> )	C		Mar–May
<input type="checkbox"/> Seasonal wetland	Adobe navarretia ( <i>Navarretia nigelliformis</i> ssp. <i>nigelliformis</i> )	C	Generally found in vernal pools <sup>b</sup>	Apr–Jun
	Alkali milkvetch ( <i>Astragalus tener</i> sp. <i>tener</i> )	N		Mar–Jun
	Contra Costa goldfields ( <i>Lasthenia conjugens</i> )	N	Generally found in vernal pools	Mar–Jun

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

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

## 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 10 covered and no-take species have the potential to occur in the grasslands in the project area. These species include big tarplant (*Blepharizonia plumosa*), 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 the dig site by M&A biologists Mr. Geoff Monk and Ms. Jessica Pouder on August 23, 2010. The entire project footprint and the access routes to the dig site were surveyed.

Of the 10 plant species that have the potential to occur in the project area, two 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 two species are big tarplant and Mt. Diablo buckwheat. No plants in the genus *Eriogonum* were detected in the survey areas and thus this species was dismissed as potentially occurring.

The rare plant survey was 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 site or its associated access road. The dig site is in visibly modified habitat owing to associated repairs that have occurred at this location in the last three years. Soils are compacted and the vegetation is highly disturbed. Evidence of previous disturbance is clearly visible in the aerial photograph (Figures 2A) and in photographs of the dig site (Figure 3).

As ConocoPhillips is on an urgent timeline to complete the federally mandated repair, they are proposing to conduct rare plant surveys at the dig site, during April and June of 2011, during or after the required repair is 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. Rare plant surveys shall be conducted within the project footprint and access area of the dig site, and within a 200 foot buffer around the 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 Spring 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 area 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 ¾" 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 Entity<sup>4</sup> 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.

<sup>4</sup> 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).

Species Assessed by Preconstruction Surveys	Monitoring Action Required if Species Detected
<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.
<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 drainage is located downslope of the dig site, approximately 200 feet to the north.

Best Management Practices (BMP's) will be implemented as part of the project to ensure that there are no impacts to the adjacent drainage. Hay wattles will be installed between the project footprint and the drainage to ensure that there is no de minimus fill in the drainage. 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 site 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 12-16 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 the dig site. However, rare plant surveys will be conducted in

accordance with HCP/NCCP guidelines in April and June of 2011, and the results will be 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 site. No suitable habitat for other fully protected wildlife species occurs on the project site.

The grasslands in the area of the dig site provides suitable nesting habitat for ground-nesting birds. Impacts to common ground-nesting birds and raptors such as northern harrier (*Circus cyaneus*) and western meadowlark (*Sturnella neglecta*) are not addressed in the HCP/NCCP; however, 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 adjacent grasslands; however, no specific surveys for ground nesting passerine birds or raptors have been conducted.

In order to avoid impacts to ground-nesting birds and raptors, a nesting survey shall be conducted 15 days prior to commencing with proposed repair work if this work would commence between March 15<sup>th</sup> and September 15<sup>th</sup>, the results of which shall be contained within the Construction Monitoring Plan. The nesting survey shall include examination of the area within 200 feet of the dig site and/or their associated access areas. If ground-nesting birds 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 start of pipeline repairs, 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.

The dig site project footprint is located approximately 200 feet from the first-order ephemeral drainage. As such, no impacts would occur within the 25 foot setback of this drainage. Construction fencing backed by silt fencing shall be installed between the project footprint and the drainage, to prevent equipment and any side-cast material from entering the drainage.

## **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.

No impacts will occur to waters of the U.S./State as a result of the proposed pipeline repair. See HCP/NCCP Conservation Measure 1.10 for a description of the BMP's that will be installed between the dig site and the adjacent first-order ephemeral drainage.

### **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](http://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 a repair 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 a repair 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 a repair 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. Project Disturbance Table**

<b>Project Footprint (sq. ft.)</b>	<b>Road Access (sq. ft.)</b>	<b>Total Impact (sq. ft.)</b>	<b>Total Impact (Acres)</b>	<b>Type of Impact on Access Route</b>
1,750	474	2,224	0.05	Overland

Table 5 above provides a summary of the area of impact for the dig site and the associated access route. Total project impacts will be 0.05 acre. Although all impacts are temporary, the applicant is planning to mitigate for the 0.05 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/bulbs. 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: ConocoPhillips Pipeline Company  
 Project Name: ConcoPhillips Line 200 Pipeline Repair Project  
 APN (s): \_\_\_\_\_  
 Date: March 16, 2011 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 3/15/12)	
Fee Zone 1	_____	x	\$10,662.15 =	_____ \$0.00
Fee Zone 2	_____ 0.05	x	\$21,324.30 =	_____ \$1,066.22
Fee Zone 3	_____	x	\$5,331.52 =	_____ \$0.00
Fee Zone 4	_____	x	\$15,993.23 =	_____ \$0.00
<b>Development Fee Total</b>				<b>\$1,066.22</b>

**\*\*WETLAND MITIGATION FEE**

	Acreage of wetland		Fee per Acre (subject to change on 3/15/12)	
Riparian woodland / scrub	_____	x	\$64,570.30 =	_____ \$0.00
Perennial Wetland	_____	x	\$88,359.36 =	_____ \$0.00
Seasonal Wetland	_____	x	\$191,445.28 =	_____ \$0.00
Alkali Wetland	_____	x	\$181,249.97 =	_____ \$0.00
Ponds	_____	x	\$96,289.05 =	_____ \$0.00
Aquatic (open water)	_____	x	\$48,710.93 =	_____ \$0.00
Slough / Channel	_____	x	\$109,882.80 =	_____ \$0.00

**Linear Feet**

<b>Streams</b>				
Streams 25 Feet wide or less (Fee is per Linear Foot)	_____	x	\$526.42 =	_____ \$0.00
Streams greater than 25 feet wide (Fee is per Linear Foot)	_____	x	\$792.97 =	_____ \$0.00
<b>Wetland Mitigation Fee Total</b>				<b>\$0.00</b>

**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	_____
<b>Reduction Total</b>	<b>\$0.00</b>

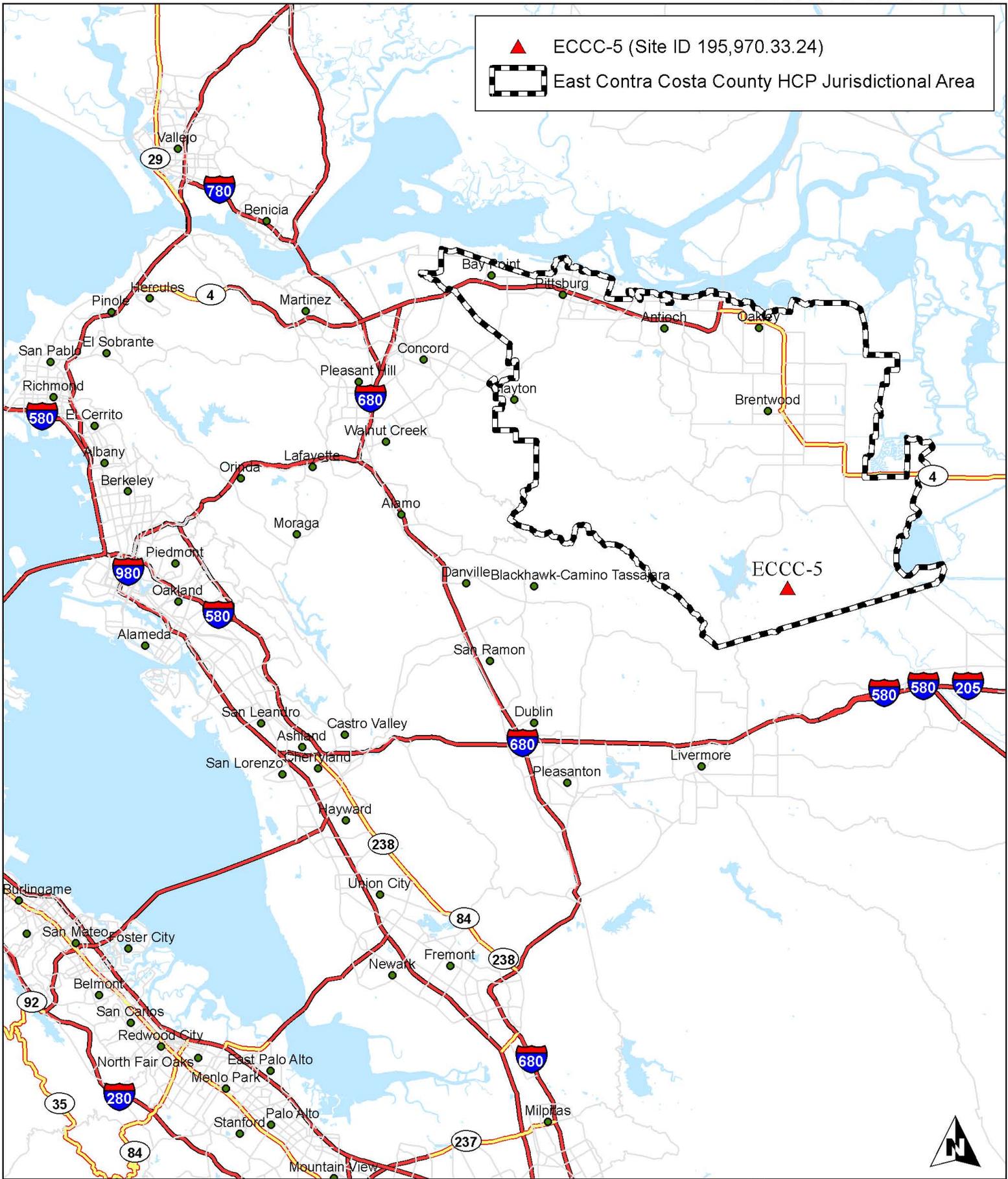
**CALCULATE FINAL FEE**

Development Fee Total	_____	\$1,066.22
Wetland Mitigation Fee Total +	_____	\$0.00
<b>Fee Subtotal</b>	<b>_____</b>	<b>\$1,066.22</b>
<b>Contribution to Recovery +</b>	<b>_____</b>	<b>_____</b>
<b>TOTAL AMOUNT TO BE PAID</b>	<b>_____</b>	<b>\$1,066.22</b>

\* 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.

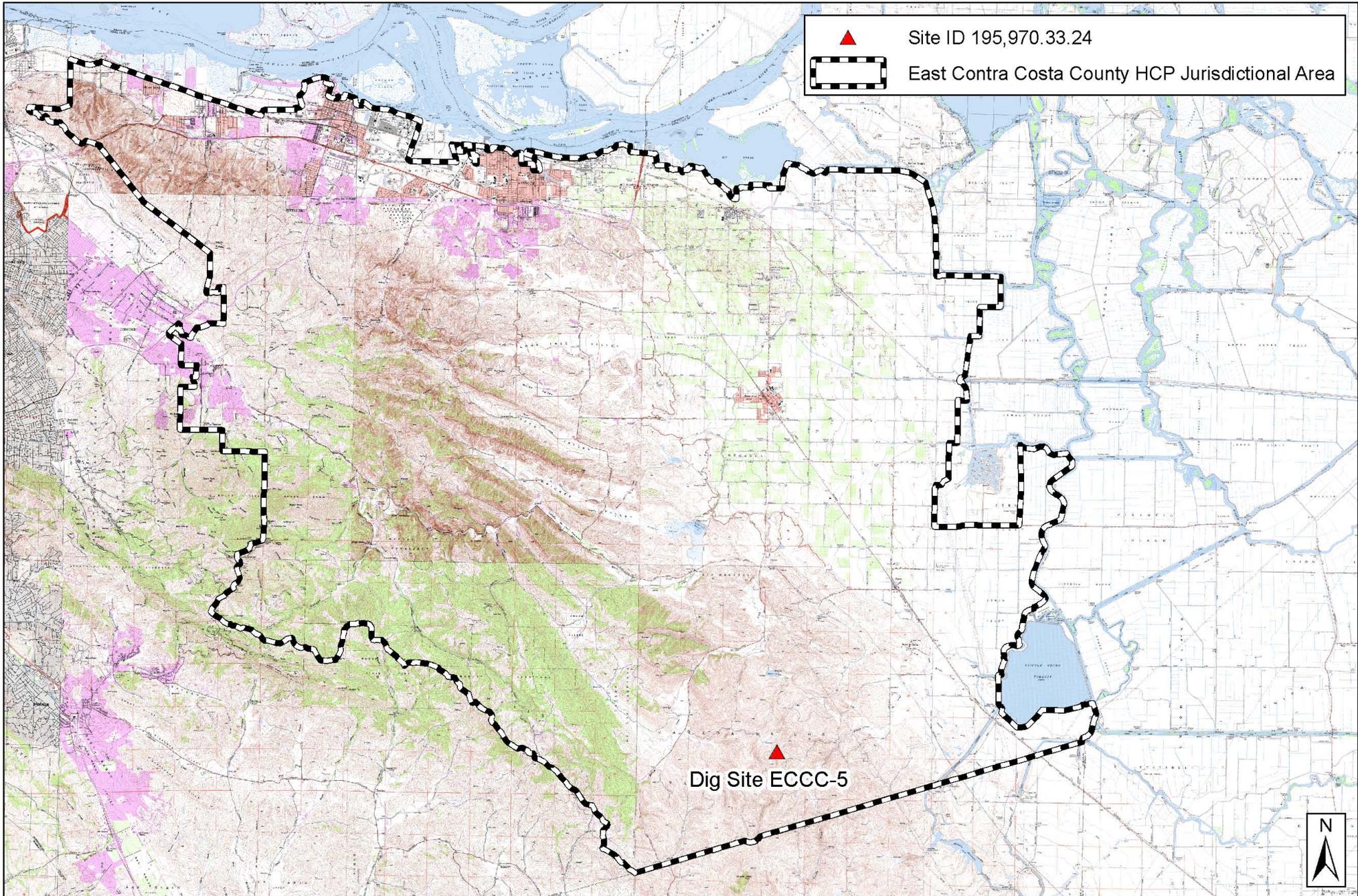
\*\* Please Note: The Conservancy is currently conducting the periodic fee audit required by the HCP/NCCP which could result in further adjustment to some or all fees in 2011.

**Template date: March 15, 2011**



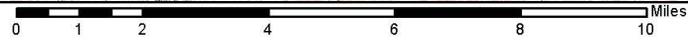
▲ ECCC-5 (Site ID 195,970.33.24)  
▬ East Contra Costa County HCP Jurisdictional Area

Figure 1A. Project Regional Map  
ConocoPhillips Line 200 Pipeline Dig Site ECCC-5  
East Contra Costa County, California



▲ Site ID 195,970.33.24  
┌───┐ East Contra Costa County HCP Jurisdictional Area

Dig Site ECCC-5



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

Figure 1B. Project Vicinity Map  
ConocoPhillips Line 200 Pipeline Dig Site ECCC-5  
East Contra Costa County, California

7.5-Minute Clayton, Antioch South,  
Tassajara & Bryon Hot Springs quadrangle  
Topography Source: <http://gis.ca.gov>  
Map Preparation Date: February 15, 2011

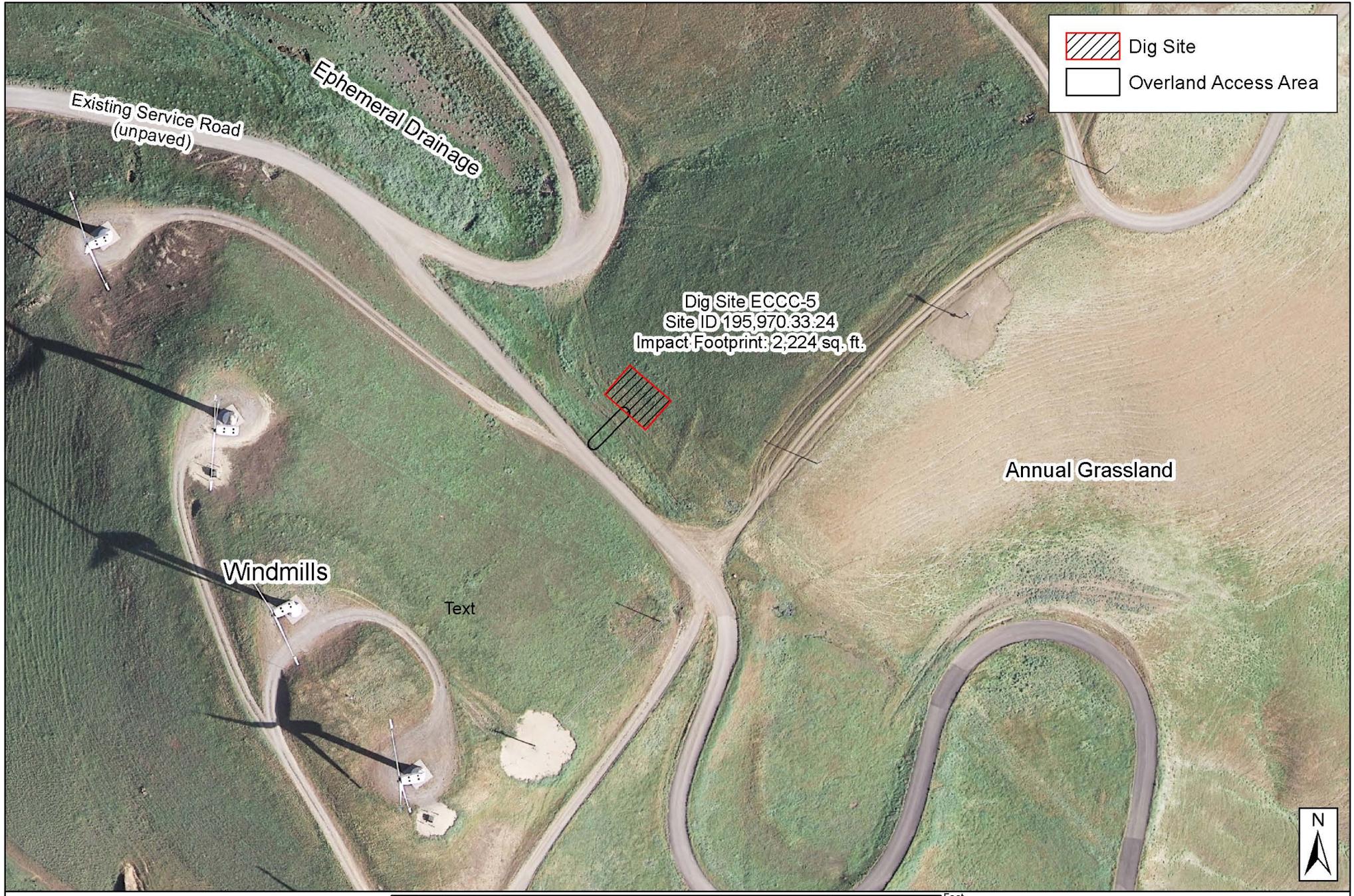


Figure 2. Impact Area and Landcover Map  
ConocoPhillips Line 200 Pipeline Dig Site ECCC-5  
East Contra Costa County, California

**Figure 3.**  
**ConocoPhillips Pipeline Repair**  
**Photographs of Dig Site ECCC-5 (SID 195,970.33.24)**



Photograph 1. Looking north.  
Yellow arrow indicates dig site location.



Photograph 2. Looking southeast.  
Yellow arrow indicates dig site location.

