



EAST CONTRA
COSTA COUNTY
HABITAT
CONSERVANCY

GOVERNING BOARD

REGULAR MEETING

Thursday, September 29, 2011
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) **Consider APPROVING the Meeting Record from the East Contra Costa County Habitat Conservancy (“Conservancy”) Governing Board Special Meeting of July 22, 2011.**
- 4) **Consider AUTHORIZING staff to execute an Amendment to the Participating Special Entity Agreement with Contra Costa Generating Station, LLC for the Oakley Generating Station Project.**
- 5) **Consider AUTHORIZING staff to execute an Amendment to the Participating Special Entity Agreement with Equilon Enterprises dba Shell Oil Products for the Coalinga-Avon Pipeline Repair Project.**
- 6) **Consider AUTHORIZING staff to execute a Participating Special Entity Agreement with ConocoPhillips Pipeline Company for the ConocoPhillips Line 200 Pipeline Repair Project.**
- 7) **Consider AUTHORIZING staff to execute contract with East Bay Regional Park District to use grant funds awarded to Conservancy by the Moore Foundation to track golden eagles, analyze this and other location data on eagles and other birds, and develop collision hazard maps that may reduce impacts of wind energy projects on these species.**
- 8) **Consider ACCEPTING an update on the Upper Hess Creek Watershed Habitat Restoration Project.**

Adjourn to Closed Session

9) Closed Session: Conference With Real Property Negotiators

Properties: APN 005-130-005 (Vasco Road area); APN 007-020-033 (Deer Valley Road area); APN 080-070-011 (Morgan Territory Road); APN 080-100-007 (Morgan Territory Road); APNs 075-080-028, 075-080-027, 075-080-026, 075-080-025, 075-080-024, 075-080-019 (Kirker Pass Road area)

Agency Negotiators: John Kopchik and Abigail Fateman

Negotiating Parties: Conservancy and East Bay Regional Park District

Under negotiation: Price and payment terms

Reconvene Open Session

10) Report on any actions taken in Closed Session.

11) Adjourn (next regular meeting on December 21, 2011 at the City of Brentwood).

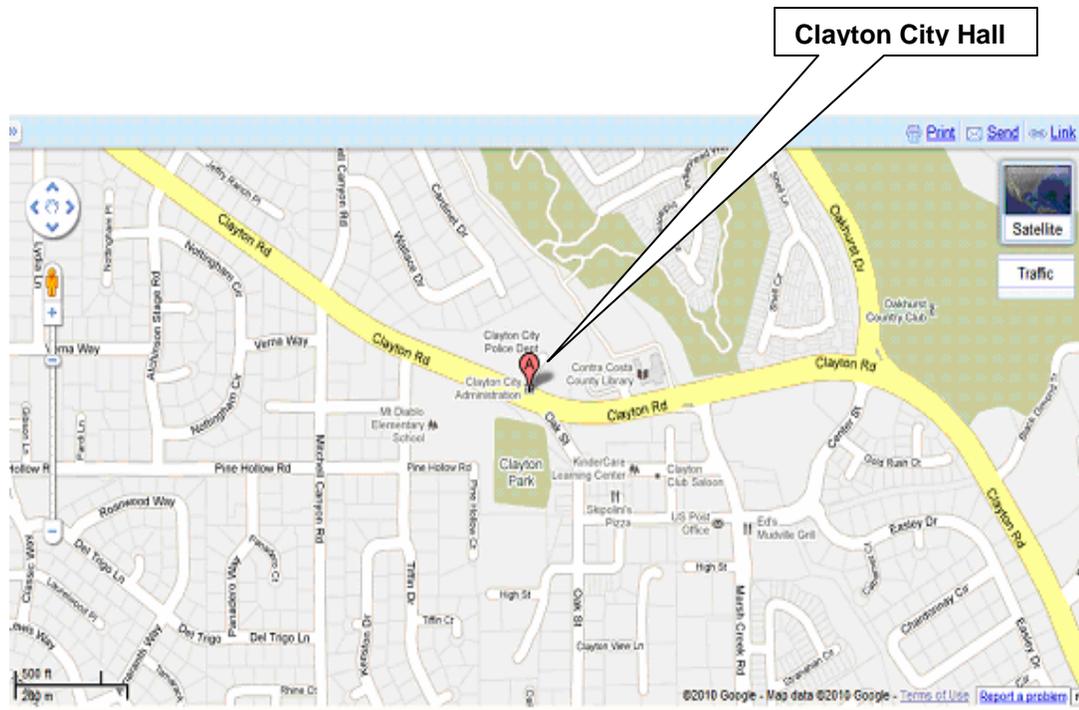
If you have questions about this agenda or desire additional meeting materials, you may contact John Kopchik of the Contra Costa County Department of Conservation and Development at 925-335-1227.

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.



**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: September 29, 2011
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: **Governing Board Meeting Record for July 22, 2011**

RECOMMENDATION

APPROVE the Meeting Record from the East Contra Costa County Habitat Conservancy (“Conservancy”) Governing Board Special Meeting of July 22, 2011.

DISCUSSION

Please find the draft meeting records attached.

CONTINUED ON ATTACHMENT: Yes
ACTION OF BOARD ON: September 29, 2011 APPROVED AS RECOMMENDED: Yes
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
July 22, 2011
City of Clayton

1) Introductions.

Governing Board members in attendance were:

Federal Glover	Supervisor, Contra Costa County
Randy Pope	City of Oakley
Hank Stratford	Major, City of Clayton
Pete Longmire	City of Pittsburg (Alternate)

Other Attendees:

Timothy Krisch	Maze & Associates
Nadia Costa	Miller Starr Regalia/ Contra Costa Council
Stephaine Jentsch	United States Fish and Wildlife Service
Teifion Rice-Evans	Economic and Planning Systems, Inc

Conservancy Staff members in attendance were:

John Kopchik	Conservancy Staff
Abby Fateman	Conservancy Staff
Krystal Hinojosa	Conservancy Staff
Chris Beale	Conservancy Legal Council

2) Public Comment. None

3) Consider APPROVING the Meeting Record from the East Contra Costa County Habitat Conservancy (“Conservancy”) Governing Board Meeting on March 21, 2011 and Special Meeting on May 12, 2011. The meeting record was approved. (3-0 Glover, Stratford, Pope; Longmire abstaining)

4) Consider ACCEPTING the audited financial statements and related documents for the Year Ending December 31, 2010. 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 with a comment to add a comparative statement to future audit reports. (4-0 Glover, Stratford, Pope, Longmire)

- 5) Consider the following actions related to Conservancy finances:
- a) **ACCEPT** a mid-year status report on the 2011 Conservancy Budget.
 - b) **AUTHORIZE** staff to execute contracts amendments for on-going consulting services with:
 - i. **HT Harvey and Associates: Increase the payment limit by \$70,000 from \$315,000 to \$385,000; and**
 - ii. **Resources Law Group: Increase the payment limit by \$40,000 from \$70,000 to \$110,000.**

Mr. Kopchik provided an overview of Item 5 (a-b). He noted that Item 5a, regarding the mid-year budget that Program Administration was at 43% budget remaining due to three front-loaded annual tasks that will not be repeated in the second half of the year. These tasks were the Audit, 2010 Annual Report, and the fee audit. Item 5 (a-b) was approved as recommended. (4-0 Glover, Stratford, Pope, Longmire)

- 6) Consider the following actions to implement the Upper Hess Creek Watershed Restoration Project (“Project”):
- a. **CONSIDER and APPROVE “CEQA Addendum, Upper Hess Creek Watershed Restoration Project, Greenhouse Gas Emissions” (Addendum), prepared pursuant to CEQA guidelines for Greenhouse Gas Emissions adopted in March 2010, subsequent to adoption of the EIR/EIS for the HCP/NCCP. FIND that impacts of Project are fully disclosed and analyzed in the EIR/EIS for the HCP/NCCP and the Addendum. AUTHORIZE Conservancy staff to execute an agreement with the East Bay Regional Park District (“District”) for construction of the Project.**
 - b. **AUTHORIZE the payment of \$591,225 to the District for construction of the Project.**
 - c. **DIRECT Conservancy staff to file a Notice of Determination with the County Clerk disclosing Board approval of the Project.**
 - d. **DIRECT Conservancy staff to monitor construction of the Project and inspect final improvements to confirm completion of the Project in accordance with the plans and specifications.**

Mr. Kopchik provided an overview of Item 6 (a-d). Mr. Longmire requested Staff install a public sign indicating the Project is a restoration project so the public can be aware of the work occurring at the site. The Board requested a field trip to the site while under construction. Item 6 (a-d) was approved as recommended. (4-0 Glover, Stratford, Pope, Longmire)

- 7) Consider **ACCEPTING** update from Staff on the U.S. Army Corps of Engineer’s proposed **Regional General Permit related to the HCP/NCCP**. Mr. Kopchik gave an update of Item 7. The Board accepted the update. (4-0 Glover, Stratford, Pope, Longmire)

- 8) Consider APPROVING the East Contra Costa County Mitigation Fee Update Report (“Report”), consistent with requirements in the HCP/NCCP for periodic review of HCP/NCCP development fees; PROVIDING the Report to participating cities and the County and recommend that they consider revising wetland mitigation fees as recommended in the Report; and DIRECTING staff to apply the revised wetland mitigation fees in future agreements between the Conservancy and Participating Special Entities. [ITEM CONTINUED FROM MARCH 21, 2011]** Mr. Kopchik provided an overview of Item 8. Mr. Teifion Rice-Evans of Economic and Planning Systems, Inc gave a presentation on the memorandum dated July 15, 2011. Mr. Pope asked whether Staff could be more selective of wetland restoration projects in the future and by doing so reduce costs associated with restoration over time. Mr. Kopchik responded yes and no. Staff and consultants will continue to improve their ability to identify cost-effective, ecologically-sound projects and as the Preserve System grows, so will the pool of available sites. On the other hand, the biological and hydrological goals of HCP/NCCP require restoration to occur throughout the HCP Plan Area, and to support maintenance of hydrological processes it will be important to attempt restoration projects in watersheds where covered activities have or will occur. The Board approved the item. (4-0 Glover, Stratford, Pope, Longmire)
- 9) Consider AUTHORIZING the Conservancy to Sponsor the 4th Quadrennial Contra Costa County Creek and Watershed Symposium. Consider AUTHORIZING the Chair or the Executive Director to sign on to a letter inviting organizations to Sponsor or Co-Sponsor the 2011 Symposium.** Mr. Kopchik provided an overview of Item 9. He noted that the in order to keep the event free sponsorships are necessary. The Board approved the item, authorizing the Conservancy to contribute \$1,000 in order to be identified as a sponsor. (4-0 Glover, Stratford, Pope, Longmire)
- 10) Adjourn (next regular meeting on September 21, 2011 at the City of Clayton).**

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: September 29, 2011
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Agreement Amendment with Contra Costa Generating Station, LLC

RECOMMENDATION

AUTHORIZE staff to execute an Amendment to the Participating Special Entity Agreement with Contra Costa Generating Station, LLC for the Oakley Generating Station Project.

DISCUSSION

At the March 21, 2011 meeting, the Board authorized staff to execute a Participating Special Entity (“PSE”) Agreement for take coverage of the ground-disturbing activities associated with the development, construction, and operation of the Oakley Generating Station and associated transmission line facilities. On May 24, 2011 the PSE Agreement was executed. Contra Costa Generating Station, LLC paid all mitigation fees, administrative costs, the contribution to recovery, and contribution to complementary conservation planning as required in the PSE Agreement. The Certificate of Inclusion authorizing activities to commence was issued on May 31, 2011.

Shortly after earthwork began, a concern arose regarding possible impacts to the existing PG&E gas pipelines underneath the main site access road as a result of on-going construction traffic over these pipelines. In order to mediate any potential impacts to underground PG&E gas pipelines the applicant is proposing a new parking/laydown area and alternate temporary access roads onto the site. The alternate access roads will alleviate construction traffic flow because construction worker traffic would no longer be required to pass through the project site in order to access the parking area. The modifications in the project footprint are intended to improve on-site safety conditions and reduce costs through more efficient access to the construction site.

CONTINUED ON ATTACHMENT: <u>Yes</u> ACTION OF BOARD ON: <u>September 29, 2011</u> OTHER _____	APPROVED AS RECOMMENDED: _____
<p><u>VOTE OF BOARD MEMBERS</u></p> <p>___ UNANIMOUS</p> <p>___ AYES:</p> <p>___ NOES:</p> <p>___ ABSENT:</p> <p>___ ABSTAIN:</p>	
<p style="font-size: small;">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.</p> <p>ATTESTED _____ <i>Catherine Kutsuris, SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY</i></p> <p>BY: _____, DEPUTY</p>	

The applicant is also requesting a modification to the impact footprint to allow for the removal of four eucalyptus trees on the eastern edge of the site to accommodate construction of the new permanent access road into Oakley Generating Station. Furthermore, trimming of several eucalyptus trees will occur on the project site to allow room to grade and install bioswales and trimming/removal of dead trees will occur within the construction laydown area for worker safety purposes.

The modifications in the project description require an amendment to the terms of the original PSE agreement between the Conservancy and Contra Costa Generating Station, LLC dated May 24, 2011. The agreement amendment reflects the change in the project description including an increase in development fees (from \$230,441.06 to \$232,161.22), an increase in the contribution to recovery (from \$200,000.00 to \$201,720.16), and an increase in the cap on administrative fees (from \$35,000 to \$47,000). An Addendum reflecting the modifications to the original Planning Survey Report Application as a result of the First Amendment was prepared and is attached. The Addendum 1.0 will be added to and incorporated within the PSE Agreement.

Attachments:

- **PSE Agreement First Amendment, including:**
 - Main body of amendment
 - Addendum 1.0
 - Main body of Addendum
 - Updated Project Vicinity Maps, Impact and Land Cover Maps and Tables
 - Updated Fee Calculators

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 CONTRA COSTA GENERATING STATION LLC, a Participating Species
Entity**

RECITALS

The Participating Special Entity Agreement between the East Contra Costa County Habitat Conservancy (“Conservancy”) and Contra Costa Generating Station LLC (“Participating Special Entity” or “PSE”) was entered into May 24, 2011 (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. The attached OGS Addendum 1.0 is added to and incorporated within Exhibit 1.
2. Section 2.7 of the Agreement is amended as follows:

PSE proposes to implement the Oakley Generating Station Project (“OGS Project”) and seeks extension of the Conservancy’s permit coverage for the OGS Project, which consists of ground-disturbing activities associated with the development, construction and operation of the Oakley Generating Station and associated transmission line facilities, as further described in Exhibit 1 [and Addendum 1.0](#). The OGS Project will be purchased

and operated by Pacific Gas & Electric Company (“PG&E”), and this Agreement anticipates that PSE will assign its rights under this Agreement to PG&E.

3. 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 Addendum 1.0](#) and is hereby incorporated into this Agreement by reference.

4. Section 3.1 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 Addendum 1.0](#). 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.

5. Section 5.4 is amended as follows:

As set forth in the Application, PSE agrees to pay the Conservancy a one-time payment of ~~\$533,881.38~~ ~~\$530,441.06~~ which amount includes all HCP/NCCP mitigation fees necessary for the OGS Project. The payment also includes an amount sufficient to implement additional actions that will contribute to the recovery of endangered and threatened species (“Contribution to Recovery”) and an amount that will be used to fund additional conservation planning in or near the HCP/NCCP area that will complement the HCP/NCCP and benefit species covered by the HCP/NCCP (“Complementary Conservation Planning”). The overall payment amount is a summation of the following mitigation fees and dedications:

HCP/NCCP mitigation fees:

Development Fee:	\$178,271.15	\$178,057.91
Temporary Impact Fee:	\$53,890.07	\$52,383.15
Contribution to Recovery:	\$201,720.16	\$200,000.00
Contribution to Complementary Conservation Planning:		\$100,000.00

The payment must be paid in full ~~before any ground disturbance associated with the OGS Project occurs~~ [before the activities covered by Addendum 1.0 are implemented](#). Notwithstanding the above, the Parties acknowledge that the Conservancy adjusts its fee schedule annually on March 15 of each year in accordance with the fee adjustment provisions of Chapter 9.3.1 of the HCP/NCCP. If PSE pays before March 15, 2012 and

construction of the OGS Project commences before March 15, 2012, the amount due will be as stated above. If PSE pays on or after March 15, 2012 or construction of the OGS Project does not commence before March 15, 2012, the amount due will be subject to the annual fee adjustments for the Development Fee and the Temporary Impact Fee, and subject to annual adjustments of the Contribution to Recovery and the Contribution to Complementary Conservation Planning based on the formula set forth in Chapter 9.3.1 for the HCP/NCCP wetland mitigation fee. Based on these adjustments, if PSE pays before March 15 of any year, but construction does not commence before March 15 of that year, PSE will either be required to submit an additional payment for any increases or be entitled to a refund without interest for any decreases.

6. 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 \$47,000 ~~\$35,000~~ in the aggregate. Conservancy acknowledges and agrees that PSE has paid \$10,000 toward the Conservancy's Administrative Costs as of the Effective Date. 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.

This provision is not intended to, and shall not be construed to, limit PSE's duty to indemnify the Conservancy as provided in Section 7.7 of this Agreement.

- 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 the Conservancy and PSE have executed this First Amendment.

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

**CONTRA COSTA GENERATING STATION
LLC (CCGS)**

Dated: _____

By: _____
BRYAN BERTACCHI, President

**Participating Special Entity - Planning
Survey Report to Comply with and
Receive Permit Coverage under the East
Contra Costa County Habitat
Conservation Plan and Natural
Community Conservation Plan -
Addendum 1.0**

for the
Oakley Generating Station
(09-AFC-4C)

Submitted to:
East Contra Costa County Habitat Conservancy

September 20, 2011

Submitted by:



With Technical Assistance by:

CH2MHILL
2485 Natomas Park Drive
Suite 600
Sacramento, CA 95833

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Tables

ES-1	Summary of East Contra Costa County HCP/NCCP Fees for the Oakley Generating Station
I.1, Rev 01	Summary of Acreages Involved in the Proposed Project by Project Element
I.2a, Rev 01	Permanent Project Impacts by Habitat Cover Category
I.2.b, Rev 01	Temporary Project Area Impacts by Habitat Cover Category
I.3, Rev 01	Temporary Construction Laydown Area Impacts by Habitat Cover Category
I.4b, Rev 01	Temporary Access Road Impacts by Habitat Cover Category (Access Roads on DuPont Property)
1, Rev 01	Revised Land Cover Type Acreages

Figures

ES-1	Revised OGS Project Area
1b, Rev 01	Project Location
3a, Rev 01	Land Cover Habitat Survey
4, Rev 01	Transmission Tower Locations
5, Rev 01	Special-Status Species within the OGS Surey Area
7, Rev 01	Project Site and Laydown Area BMP Map

Attachment

Permanent and Temporary Fee Calculation Exhibits

Executive Summary

The purpose of this filing is to request the East Contra Costa County Habitat Conservancy's (Conservancy) approval to amend the Planning Survey Report (PSR) to address the following proposed changes to the Oakley Generating Station (OGS) project description:

- Include an additional 4.64-acre temporary construction laydown/parking area adjacent to the OGS power block site.
- Include an additional 0.56-acre area between 5th Street and Stockpile 1 for construction vehicle staging. This area was previously used as a truck wash station for the DuPont facility.
- Remove four additional eucalyptus trees on the eastern edge of the power block site to allow construction of the permanent access road planned for that area.
- Trim the eucalyptus grove within the project boundary to allow room to grade and install the bioswales along the eucalyptus grove.
- Trim additional trees and possibly remove dead trees along the existing grove within the construction laydown area for worker safety.

Figure ES-1 presents the additional temporary construction laydown/parking, staging and access road areas, as well as the tree trimming and tree removal areas. Figure ES-1 also presents the reduced urban habitat acreage resulting from the proposed changes. Tables revised as part of the proposed changes have been included in this addendum and a revision number has been added to identify that changes have been made. For example, Table I.1, Rev 01 presents a revised summary of acreages by project element.

TABLE I.1, REV 01

Summary of Acreages Involved in the Proposed Project by Project Element (Temporary, Permanent, Urban Habitat, and Exempt Acres)

Project Element	Permanent Disturbance (Acres)	Temporary Disturbance (Acres)	Paved/Urban Surfaces (Acres)	Exempt Acreage (Acres)	Total
Project Site	16.72	0.82	2.82	1.60	21.95
Construction Laydown Area	0.0	13.93	11.45	0.13	25.51
Soil Stockpile Area	0.0	5.00	2.22	0.0	7.22
Access Roads (DuPont Property)	0.0	0.21	2.01	0.0	2.22
T-Line ROW	0.0	18.15	4.20	0.18	22.53
T-Line Pull Sites Outside T-Line ROW	0.0	1.21	0.17	0.0	1.38
T-Line Access Roads Outside T-Line ROW	0.0	0.56	0.48	0.0	1.04
Force Main Sewer Line ROW	0.0	0.0	1.52	0.0	1.52
Total	16.72	39.88	24.87	1.91	83.38

Overall, the proposed modifications only affect the acreage totals for the project site, construction laydown area, and access roads. The permanent disturbance mitigation acreage only increases 0.02 acre to allow for the removal of trees within the existing groves in the project and construction laydown areas, and the temporary mitigation acreage for the project site, construction laydown area, and access roads would increase from 18.64 acres to 19.96 acres. The resulting mitigation requirement would increase the cost by \$1,720.16, from \$230,441.06 to \$232,161.22. Per discussions with Conservancy staff, the Contribution to Recovery fee was also increased by \$1,720.16 from \$200,000 to \$201,720.16, though the Complimentary Conservation Planning fee did not change. Table ES-1 provides a summary of the original PSR fees and the additional fees associated with Addendum 1.0.

TABLE ES-1

Summary of East Contra Costa County HCP/NCCP Fees for the Oakley Generating Station

Project Element	Development Fee	Contribution to Recovery	Complimentary Conservation Planning	Temporary Impact Fee	Total
Original PSR	\$178,057.91	\$200,000.00	\$100,000.00	\$52,383.15	\$530,441.06
Addendum 1.0	\$213.24	\$1,720.16	\$0.00	\$1,506.92	\$3,440.32
Total	\$178,271.15	\$201,720.16	\$100,000.00	53,890.07	\$533,881.38

Proposed Modifications (PSR Section I)

1.1 Background

On May 18, 2011, the California Energy Commission (CEC) approved and licensed the Oakley Generating Station (OGS), owned by Contra Costa Generating Station LLC (CCGS LLC). As part of the CEC Conditions of Certification, CCGS LLC also received permit coverage as a Participating Special Entity (PSE) under the East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan (HCP/NCCP) on May 24, 2011, and was issued a Certificate of Inclusion on May 31, 2011.

As previously described in the original Planning Survey Report (PSR), the OGS will be a natural-gas-fired, combined-cycle electrical generating facility rated at a gross nominal generating capacity of 624 megawatts. The facility is located at 5950 Bridgehead Road in Oakley, on a 21.95-acre parcel that was formerly part of a larger 210-acre parcel owned by E. I. du Pont de Nemours and Company (DuPont). The project site is located at the western city limits of Oakley, adjacent to the eastern city limits of Antioch in Contra Costa County.

The project site is bounded on the west by the Pacific Gas and Electric Company (PG&E) Antioch Terminal, a large natural gas transmission hub; on the north by formerly industrial property belonging to DuPont that has been abandoned; on the east by DuPont's former titanium dioxide production area; and to the south by a vineyard and the Burlington Northern Santa Fe railroad. A small wetland area is located at the northwestern corner of the site.

The facility will tie into the regional electrical grid at the PG&E Contra Costa Substation in Antioch. Power will be transmitted to the grid through a 230-kilovolt (kV) connection to the substation, located 2.4 miles to the southwest of the OGS. The project will replace the existing 60-kV line, located within an existing 80-foot-wide PG&E easement, with a 230-kV line. Construction of the project is underway, and commercial operation is expected to commence in the summer of 2014.

The purpose of this filing is to request the East Contra Costa County Habitat Conservancy's (Conservancy) approval to amend the PSR to address the proposed changes to the OGS project description. The need for the proposed changes was not known to CCGS LLC at the time of the issuance of the PSE and Certificate of Inclusion for OGS. For instance, continued concern about the effect of construction traffic on the existing PG&E major gas pipelines underneath the main site access road revealed the need to establish a new parking/laydown area and a new temporary access road as an alternate route into the site. Onsite construction traffic flow would also be improved because construction worker traffic would no longer be required to pass through the project site on the way to the parking area. This would improve safety and reduce costs by allowing for a more efficient construction site.

A complete description of the proposed changes and the resulting impacts on the original PSE and Certificate of Inclusion are described in the following sections.

1.2 Overview of Modifications

CCGS LLC proposes to amend the Conservancy PSR to address the following proposed changes to the OGS project description:

- Include an additional 4.64-acre temporary construction laydown/parking area adjacent to the OGS power block site.
- Include an additional 0.56-acre area between 5th Street and Stockpile 1, previously used as a truck wash station for the DuPont facility, for construction vehicle staging along the proposed access road.
- Remove four additional eucalyptus trees on the eastern edge of the power block site to allow construction of the permanent access road planned for that area.
- Trim the eucalyptus grove within the project boundary to allow room to grade and install the bioswales along the eucalyptus grove.
- Trim additional trees and possibly remove dead trees along the existing grove within the construction laydown area for worker safety.

Figures revised as part of the proposed changes are included in this addendum, and a revision number is added to identify that changes have been made. Figures 1b, Rev 01; Figure 3a, Rev 01; Figure 4, Rev 01, Figure 5, Rev 01, and Figure 7, Rev 01 were updated to reflect the revised construction laydown and staging areas.

As shown in Figure 1b, Rev 01, the additional laydown area consists of a paved lot to the northeast of the OGS power block site, with the existing OGS laydown area adjacent to the south, and an access road designated as "5th Street" by the site's previous owner. It is approximately 4.6 acres in area, and will be used primarily for construction contractor employee parking. Much of the 5th Street access road is already included in the project's temporary impacts footprint as part of the haul route from the power block site to the stockpile areas. Another area proposed as part of this addendum is located between the proposed access route along 5th Street and Stockpile 1. This area was formerly used by DuPont as a truck wash station. The truck wash facilities have been removed, leaving only pavement and hard-packed gravel and dirt. This area is approximately 0.6 acres and would be used for staging vehicle movement along the proposed access route. The construction laydown and parking areas approved in the CEC Final Decision totaled 20.3 acres. The additional 5.2-acre area proposed for staging and parking increases the total construction laydown and parking area to 25.5 acres.

The four eucalyptus trees to be removed are near the northeast corner of the power block site. These trees were added to the list of trees identified in the OGS Application for Certification to allow construction of a permanent access road to the eastern portion of the power block site. The additional tree trimming would occur within an area that was previously excluded from the original PSR mitigation total, and the proposed changes would require the environmentally sensitive area (ESA) fencing be moved inside the dripline of the eucalyptus grove. However, the current plan is to only trim the side of the trees facing the bioswales from ground level to approximately 20 feet above grade.

The proposed modifications do not affect the soil stockpile, transmission line, transmission line pull tensioning sites, transmission line access roads, or the force main sewer line areas.

1.3 Proposed Project Description Modifications

1.3.1 Project Site

The proposed project site description and impact areas would be the same as the approved PSR with the exception of the areas associated with the proposed tree removal and tree-trimming activities. As previously discussed, removal of four additional eucalyptus trees is required to accommodate the original general arrangement, and trimming of the eucalyptus grove is required to allow room to grade and install the bioswales along the grove.

As identified in the approved PSR, areas protected by ESA fencing and silt fencing are typically exempted from mitigation fees. However, based on conversations with Conservancy staff, the tree removal activities have been categorized as permanent impacts and the tree-trimming activities have been categorized as temporary impacts.

The permanent mitigation acreage for the additional tree removal is assumed to be a 50-foot-wide clearance for the driveway identified in the general arrangement drawing. The estimated difference between the original PSR permanent non-native woodland mitigation total and the revised PSR total is approximately 0.01 acre. However, the permanent mitigation acreage for non-native woodland was increased from 0.08 to 0.10 acre to mitigate the removal of the four eucalyptus trees, as well as the potential removal of dead or dying trees within the existing construction laydown grove that may otherwise pose a safety risk to construction workers.

The non-native woodland acreage (i.e., 0.52 acre) within the ESA fencing on the project site has been re-categorized as temporary impacts (Table I.2b, Rev 01). Therefore, the total permanent impact area mitigation required for the project site would increase from 16.70 acres to 16.72 acres (Table I.2a, Rev 01) and the total temporary impact area mitigation requirement would increase from 0.30 acre to 0.82 acre (Table I.2b, Rev 01).

The entire project parcel would remain within Development Fee Zone I.

An additional nesting bird survey will be conducted immediately prior to the removal of the four eucalyptus trees, and the ESA fencing will be kept in place during the tree-trimming process to protect the remaining eucalyptus trees (Figure 3a, Rev 01).

Table I.2a, Rev 01
Permanent Project Impacts by Habitat Cover Category

Habitat Cover	Total Area (Acres)	Area Inside ESA Fencing (Acres)	Mitigation Acres Required	Fee Zone
Non-Native Woodland	0.10	0.0	0.10	I
Ruderal	2.68	0.0	2.68	I
Urban	2.82	0.0	0.0	I
Vineyard	13.94	0.0	13.94	I
Wetland E Conservation Easement	1.60	1.60	0.0	
Total (Fee Zone I)	21.14	1.60	16.72	

Table I.2.b, Rev 01
Temporary Project Area Impacts by Habitat Cover Category

Habitat Cover	Total Area (Acres)	Area Inside ESA Fencing (Acres)	Mitigation Acres Required*	Years of Disturbance (minimum is 2 years per guidelines)	Fee Zone
Ruderal	0.30	0.0	0.30	2	I
Non-Native Woodland	0.52	0.52	0.52	2	I
Total (Fee Zone I)	0.82	0.52	0.82	2	

*Although the non-native woodland area will be protected by ESA fencing, the tree trimming activities are categorized as temporary impacts and the total disturbance and recovery period is expected to be less than 2 years.

1.3.2 Construction Laydown Area

The additional construction laydown and parking areas will be located on the former DuPont manufacturing facility site (Figure 1b, Rev 01). The additional 4.64-acre construction laydown area is primarily a paved surface and is located east of the proposed project site and north of the existing construction laydown area. The area is categorized as “urban” with the exception of a row of mature eucalyptus trees present along the southern boundary of the paved area, which is 0.23 acre in area and is categorized as “non-native woodland.” With the exception of the potential removal of dead trees along the existing grove for worker safety, no tree removal is expected as part of the preparation of the additional construction laydown area, and ESA fencing will be installed around the row of eucalyptus trees prior to the use of this area (Figure 3a, Rev 01). The construction laydown area will be accessed via the proposed temporary entrance extending from Bridgehead Road, just south of the intersection of Bridgehead Road and Wilbur Avenue (Figure 3a, Rev 01).

An additional 0.56-acre area will be used for staging vehicle movement along the proposed access route. This area, between 5th Street and Stockpile 1, was formerly used by DuPont as a truck wash station. The truck wash facilities have been removed, leaving only pavement and hard-packed gravel and dirt. The area has been categorized as “urban.” Use of this additional access area would eliminate the need for the access road that was previously part of the northern access route to Stockpile 1. The entire construction laydown parcel would remain within Development Fee Zone I and it is assumed the disturbance and recovery would occur over approximately 4 years.

To allow for the trimming of trees within the ESA fencing to promote safe working conditions for workers next to the grove, the 0.57-acre grove within the existing construction laydown area and the additional 0.23-acre grove within the proposed construction laydown area have been re-categorized as a temporary impact, and the total disturbance and recovery period has been conservatively estimated to be the same as the other construction laydown area impacts – approximately 4 years. The permanent impacts associated with the removal of dead or dying trees has been incorporated in the additional 0.02 acre of permanent impact identified in the project site total (Table I.2a, Rev 01)

Therefore, the proposed modifications would result in an overall increase in the temporary construction laydown area from 20.31 acres to 25.51 acres and the total temporary impact area mitigation requirement would increase from 13.13 acres to 13.93 acres. (Table I.3, Rev 01). Upon completion of the project, the paved surfaces will remain paved. The revised

stormwater best management practices (BMPs) map for the proposed and existing construction laydown areas are included in Section 4.

Table I.3, Rev 01

Temporary Construction Laydown Area Impacts by Habitat Cover Category

Habitat Cover	Total Area (Acres)	Area Inside ESA Fencing (Acres)	Mitigation Acres Required*	Years of Disturbance (minimum is 2 years per guidelines)	Fee Zone
Non-Native Woodland	0.84	0.80	0.84	4	I
Ruderal	13.22	0.13	13.09	4	I
Urban	11.45	0.0	0.0	4	I
Total (Fee Zone I)	25.51	0.93	13.93	4	

*Although the non-native woodland area will be protected by ESA fencing, the trimming of trees is categorized as a temporary impact and the total disturbance and recovery period is estimated to be 4 years.

1.3.3 Soil Stockpile Areas and Access Roads

The proposed modifications to the project description do not include any changes to the soil stockpile areas. However, because the access roads were addressed under the soil stockpile heading in the original PSR, the access roads were included under the Section 1.3.3 heading and addressed in this section.

As previously discussed, much of the 5th Street access road was already included in the project's temporary impacts footprint as part of the haul route from the power block site to the stockpile areas, and the additional area between 5th Street and Stockpile 1 would eliminate the need for the access road that was previously part of the northern access route to Stockpile 1. Therefore, the proposed modification to the temporary access roads would result in an overall decrease in the affected urban area from 2.33 acres to 2.01 acres. Despite the overall decrease, the mitigation total for the temporary access roads would remain 0.21 acre (Table I.4b, Rev 01). Upon completion of the project, the paved surfaces for the access roads will remain paved.

Table I.4b, Rev 01

Temporary Access Road Impacts by Habitat Cover Category (Access Roads on DuPont Property)

Habitat Cover	Total Area (Acres)	Area Inside ESA Fencing (Acres)	Mitigation Acres Required	Years of Disturbance (minimum is 2 years per guidelines)	Fee Zone
Ruderal	0.21	0.0	0.21	2	I
Urban	2.01	0.0	0.0	2	I
Total (Fee Zone I)	2.22	0.0	0.21	2	

SECTION 2

Land Cover Types (PSR Section II)

The only changes to the land cover types associated with the proposed modifications include the non-native woodland and the urban land cover types for the project site, laydown areas, and soil stockpile areas (Table 1, Rev 01). Therefore, only the acreage totals for these two categories have been updated in Table 1, Rev 01.

Because the urban acreage is not included in the calculation of the total impacted acres, only the additional 0.02 acre of non-native woodland habitat would add to the overall permanently impacted acreage from 16.70 acres to 16.72 acres. The proposed modifications would also increase the temporarily impacted non-native woodland acreage by 1.32 acre, for an overall increase in temporarily impacted acreage from 18.6 acres to 19.96 acres (Table 1, Rev 01).

The proposed modifications would not affect jurisdictional wetlands and waters nor would they change the species-specific planning survey requirements, including covered and no-take plants.

See updated Figure 3a, Rev 01, Land Cover Habitat Survey

Table 1, Rev 01
Revised Land Cover Type Acreages

Land Cover Type (acres, except where noted)	Impact Acres on the following segments of the Project: Project Site, Laydown Areas, and Soil Stockpile Areas		Impacts on the Electrical Transmission Line Route, Pull Sites, and Force Main	
	Acreage of Land to be "Permanently Disturbed" by Project ^b	Acreage of Land to be "Temporarily Disturbed" by Project ^b	Acreage of Land to be "Permanently Disturbed" by Project ^b	Acreage of Land to be "Temporarily Disturbed" by Project ^b
Other				
<input checked="" type="checkbox"/> Nonnative woodland	0.10-acres	1.36-acres	NA	NA
Developed*				
<input checked="" type="checkbox"/> Urban	2.8-acres	15.67-acres	NA	6.4-acres
Uncommon Vegetation Types (subtypes of above land cover types)				
TOTAL (*Developed acre types)	2.8-acres	15.67-acres	0.0-acres	6.4-acres
TOTAL (Acre to be impacted, minus the developed acre types)	16.72-acres	19.96-acres	0.0-acres	19.9-acres

SECTION 3

Preconstruction Survey Results for Selected Covered Wildlife (PSR Section III)

A preconstruction survey of the 4.64-acre laydown/parking area and 0.56-acre staging area was conducted on August 16, 2011, by OGS Designated Biologist Rick Crowe. The additional 4.64-acre construction laydown area is composed of paved and graveled surfaces and is located east of the project site and north of the existing construction laydown area. A row of mature eucalyptus trees (*Eucalyptus sp.*) is present along the southern boundary of the paved area. This area provides marginal nesting habitat for avian species and no occupied nest sites were observed during this survey. Common bird species observed flying over the area consisted of mourning dove (*Streptopelia decaocto*), Eurasian collared dove (*Columba livia*), rock pigeon (*Sterna fosteri*), American crow (*Corvus brachyrhynchos*), and common raven (*Corvus corax*). No sign or observations of mammal species were observed. The additional 0.56-acre area between 5th Street and Stockpile 1 is graveled and no wildlife was observed in this area during the survey.

An additional nesting bird survey will be conducted immediately prior to the tree-trimming work and the removal of the four eucalyptus trees.

The proposed modifications would not alter the construction monitoring, avoidance, and minimization measures for selected covered species. Representative photos of the two areas are provided.



Photo of additional 4.64-acre construction laydown area facing east, 8/16/11.



Photo of 0.56-acre additional access route facing north (the "urban" Soil Stockpile 1 area is shown in the background), 8/16/11.

SECTION 4

Landscape and Natural Community-Level Avoidance and Minimization Measures (PSR Section IV)

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

Construction Laydown Area

Similar to much of the existing construction laydown and parking area, the additional parking and laydown area proposed as part of this addendum is also covered by existing concrete. As noted in the PSR, stormwater flows across the concrete, toward the north and east end of the pavement area and drains into an old asphalt swale that was part of the original DuPont stormwater system.

As part of the proposed modifications to the laydown area, a stormwater pollution prevention plan (SWPPP) amendment will also be prepared for submittal to the State Regional Water Quality Control Board. The proposed stormwater BMP revisions for the additional construction laydown and parking area SWPPP amendment are presented in Figure 7, Rev 1.

4.2 Various HCP/NCCP Conservation Measures

The proposed modifications would not alter the implementation of the following HCP/NCCP conservation measures listed in the March 2011 PSR:

- Conservation Measure 1.11 - Avoid Direct Impacts on Extremely Rare Plants, Fully Protected Wildlife Species, or Covered Migratory Birds
- Conservation Measure 1.7 - Establish Stream Setbacks
- Conservation Measure 2.12 - Wetland, Pond, and Stream Avoidance and Minimization
- Conservation Measure 1.6 - Minimize Development Footprint Adjacent to Open Space
- Conservation Measure 1.8 - Establish Fuel Management Buffer to Protect Preserves and Property
- Conservation Measure 1.9 - Incorporate Urban-Wildland Interface Design Elements
- Conservation Measure 1.12 - Implement Best Management Practices for Rural Road Maintenance

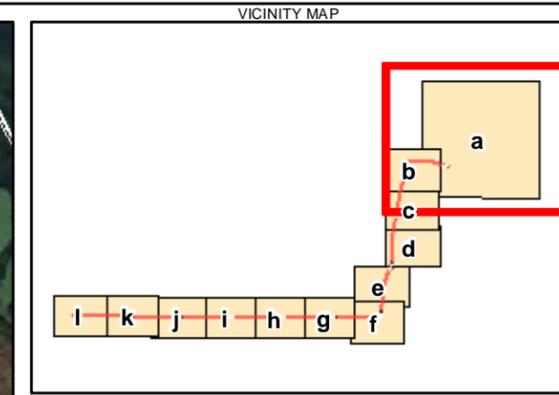
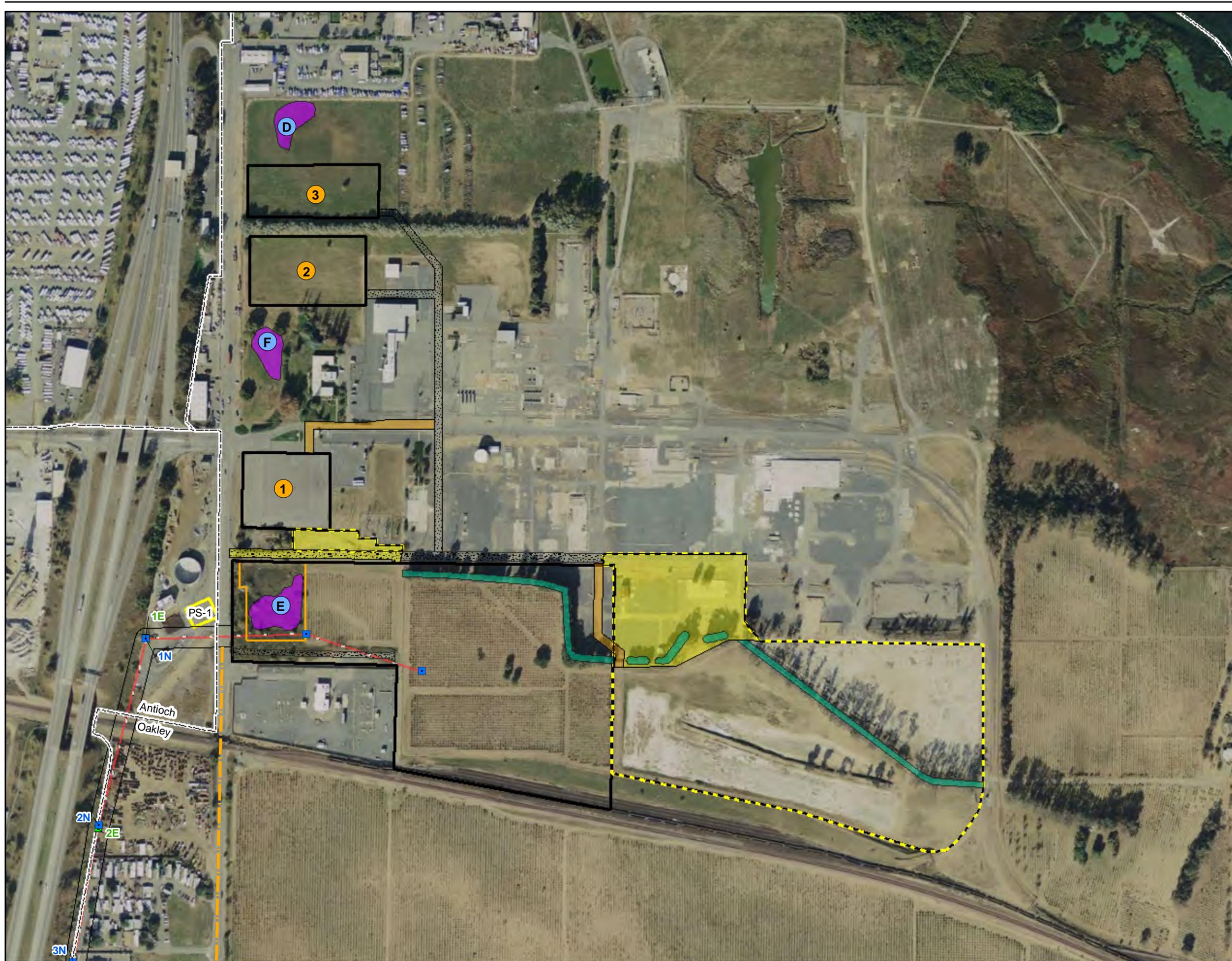
- Conservation Measure 1.13 – Implement Best Management Practices for Flood Control Facility Maintenance
- Conservation Measure 1.14 – Design Requirements for Covered Roads outside the Urban Development Area

SECTION 5

Mitigation Measures (PSR Section V)

The permanent project mitigation fee increased by \$213.24, for a total of \$178,271.15. The temporary mitigation fee increased by \$1,506.92, for a total of \$53,890.07. Therefore, the new total project mitigation fee would be \$232,161.22. Per discussions with Conservancy staff, the Contribution to Recovery fee was also increased by \$1,720.16 from \$200,000 to \$201,720.16, though the Complimentary Conservation Planning fee did not change. The permanent and temporary fee calculation exhibits are included as an attachment to this addendum.

Figures



- LEGEND**
- Existing 60 kV Tower Locations
 - New 230 kV Tower Locations
 - Existing 230 kV Tower Location (40' Extension to be Added)
 - Proposed 230 kV Transmission Line
 - Sanitary Sewer Force Main
 - Wetland E Conservation Easement
 - - - Construction Laydown Area
 - Pull Site
 - - - City Limits
- Land Cover Habitat Survey**
- Wetland
 - Reduced Urban Habitat Acreage
 - Additional Temporary Construction Laydown, Staging, and Access Road Areas
 - Areas of Tree Trimming and Tree Removal
 - Soil Stockpile Area
 - Wetland Area

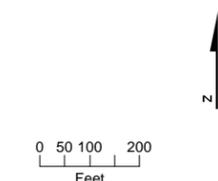


Figure ES-1
Revised OGS Project Area
 Oakley Generating Station
 Oakley, California



This map was compiled from various scale source data and maps and is intended for use as only an approximate representation of actual locations.

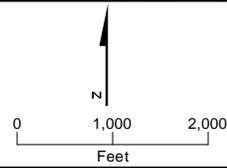
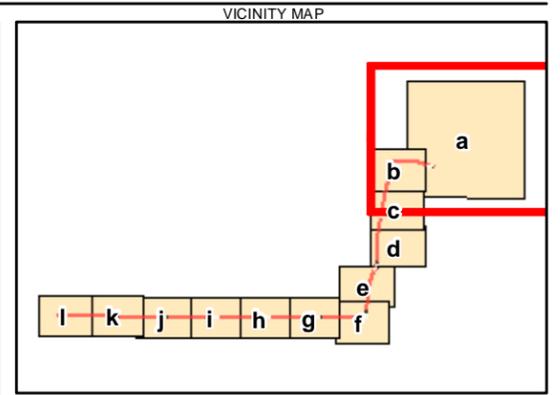
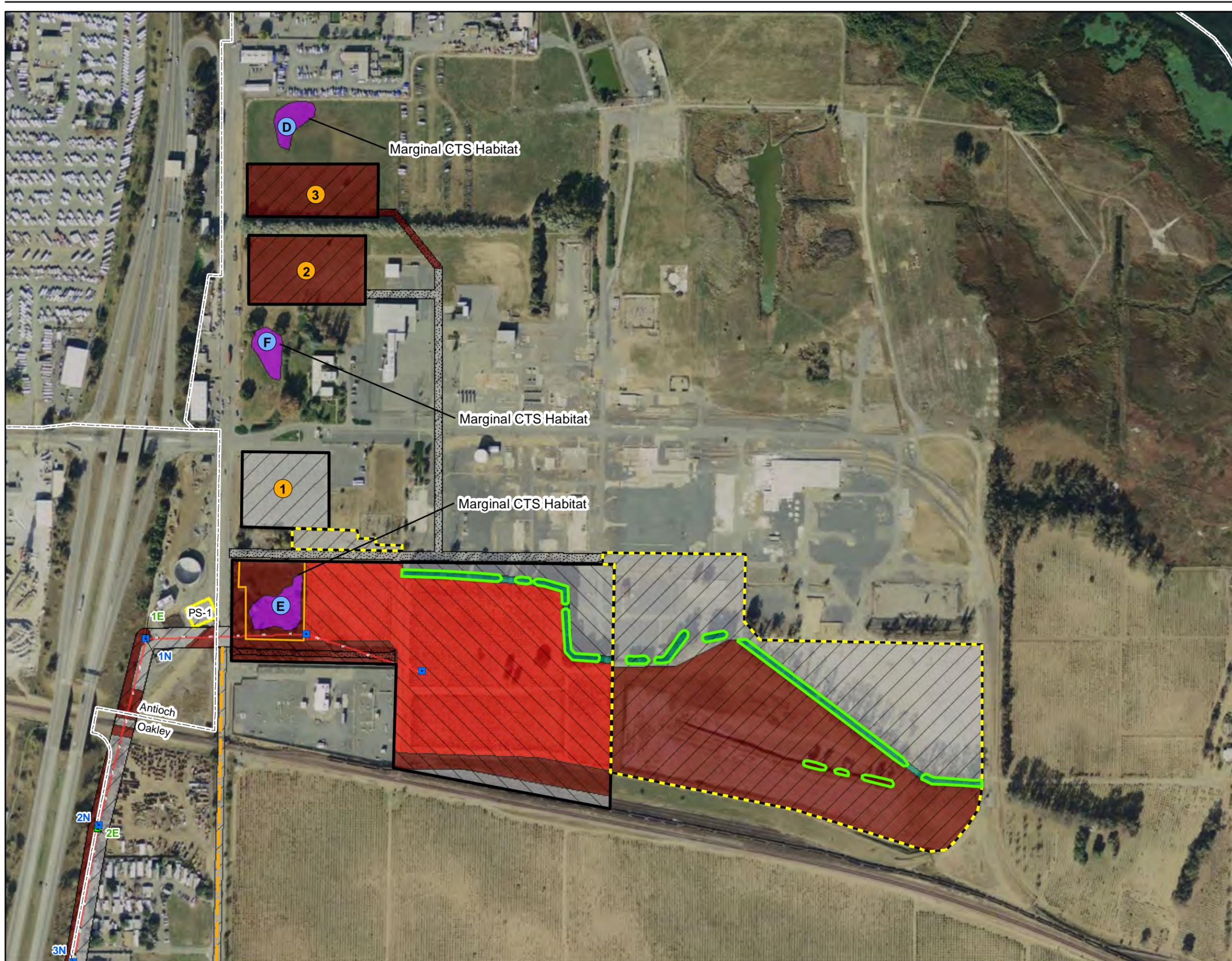


FIGURE 1b - Rev 1
PROJECT LOCATION
 Oakley Generating Station
 Oakley, California



- LEGEND**
- Existing 60 kV Tower Locations
 - New 230 kV Tower Locations
 - Existing 230 kV Tower Location (40' Extension to be Added)
 - Proposed 230 kV Transmission Line
 - Sanitary Sewer Force Main
 - Wetland E Conservation Easement
- Land Cover Habitat Survey**
- Non-native Woodland
 - Riparian
 - Ruderal
 - Urban
 - Vineyard
 - Wetland
 - Water Edge
 - GGS Upland Habitat (200FT Buffer)
 - ESA Fencing
 - Temporary Impacts
 - Permanent Impacts
 - Construction Laydown Area
 - Pull Site
 - City Limits

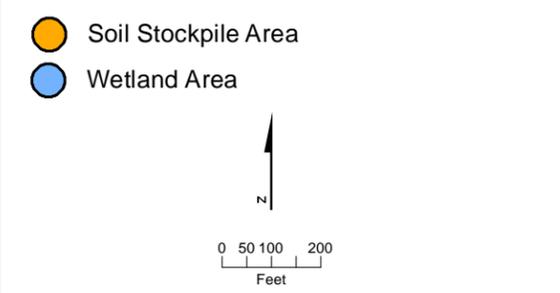
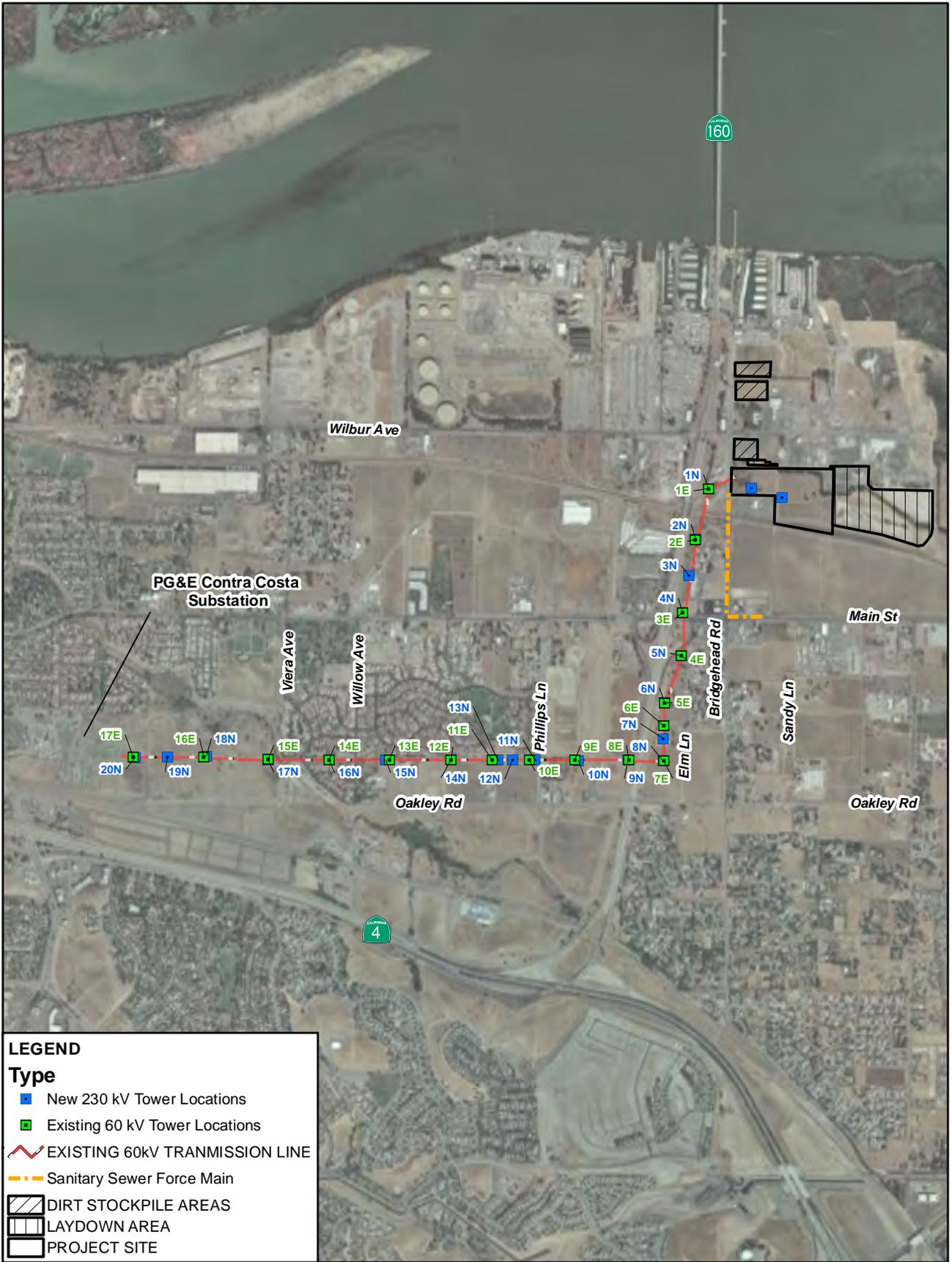


Figure 3a Rev. 1
Land Cover Habitat Survey
 Oakley Generating Station
 Oakley, California

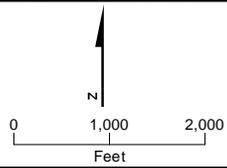


LEGEND

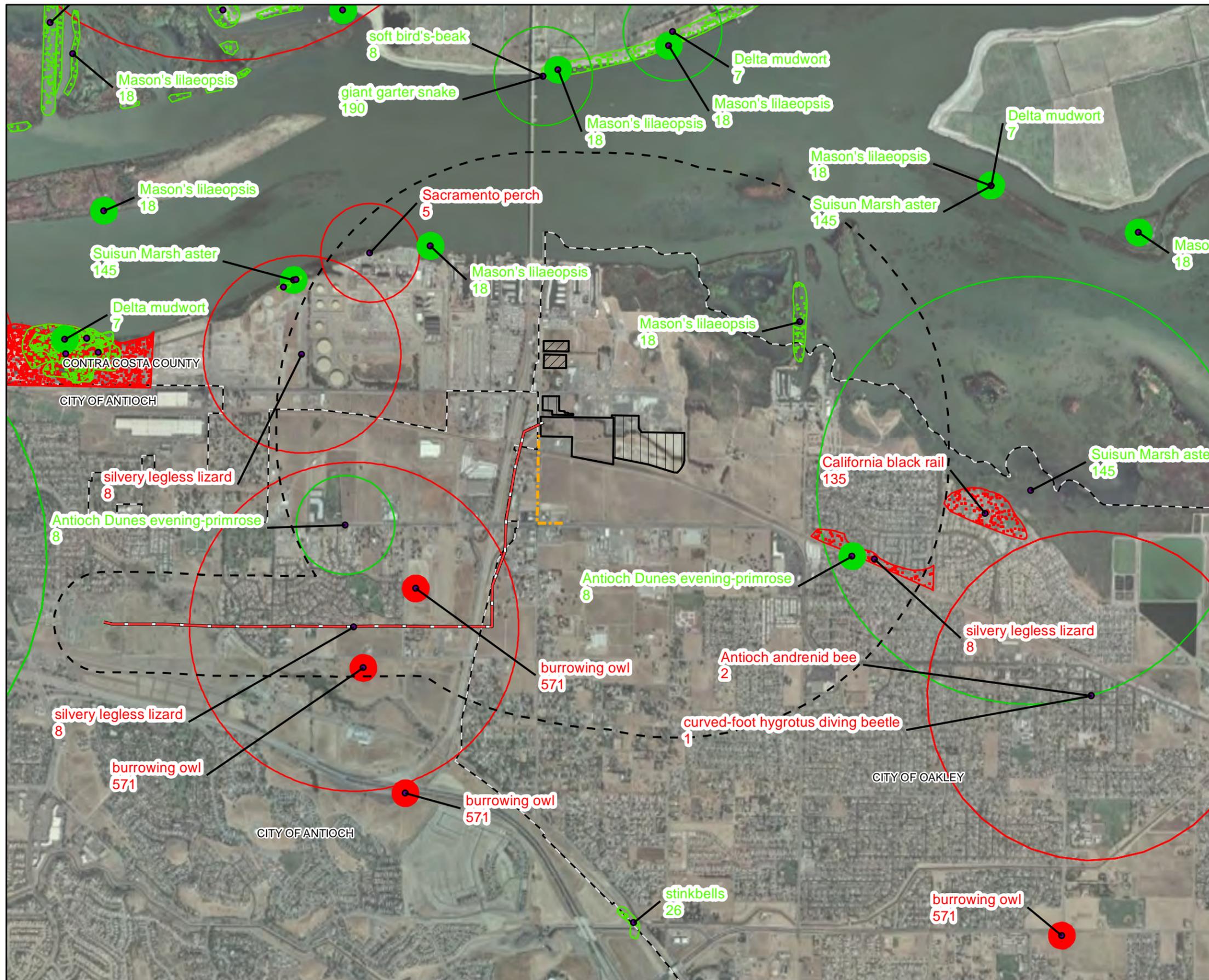
Type

- New 230 kV Tower Locations
- Existing 60 kV Tower Locations
- EXISTING 60kV TRANSMISSION LINE
- Sanitary Sewer Force Main
- DIRT STOCKPILE AREAS
- LAYDOWN AREA
- PROJECT SITE

This map was compiled from various scale source data and maps and is intended for use as only an approximate representation of actual locations.



**FIGURE 4 - Rev 1
TRANSMISSION TOWER
LOCATIONS**
Oakley Generating Station
Oakley, California



LEGEND

- EXISTING 60KV TRANSMISSION LINE
- SANITARY SEWER FORCE MAIN
- DIRT STOCKPILE AREAS
- LAYDOWN AREA
- PROJECT SITE
- CITY LIMITS
- BUFFER

CNDDDB DATA MAY 2010

- PLANT (80m)
- PLANT (SPECIFIC)
- PLANT (NON-SPECIFIC)
- PLANT (CIRCULAR)
- ANIMAL (80m)
- ANIMAL (SPECIFIC)
- ANIMAL (NON-SPECIFIC)
- ANIMAL (CIRCULAR)

Notes:

- Source: California Dept. of Fish and Game, California Natural Diversity Database (CNDDDB) May, 2010.
- 1 mile around Project Site, 1000 feet around existing Transmission Corridor.

This map was compiled from various scale source data and maps and is intended for use as only an approximate representation of actual locations.

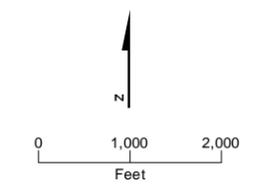
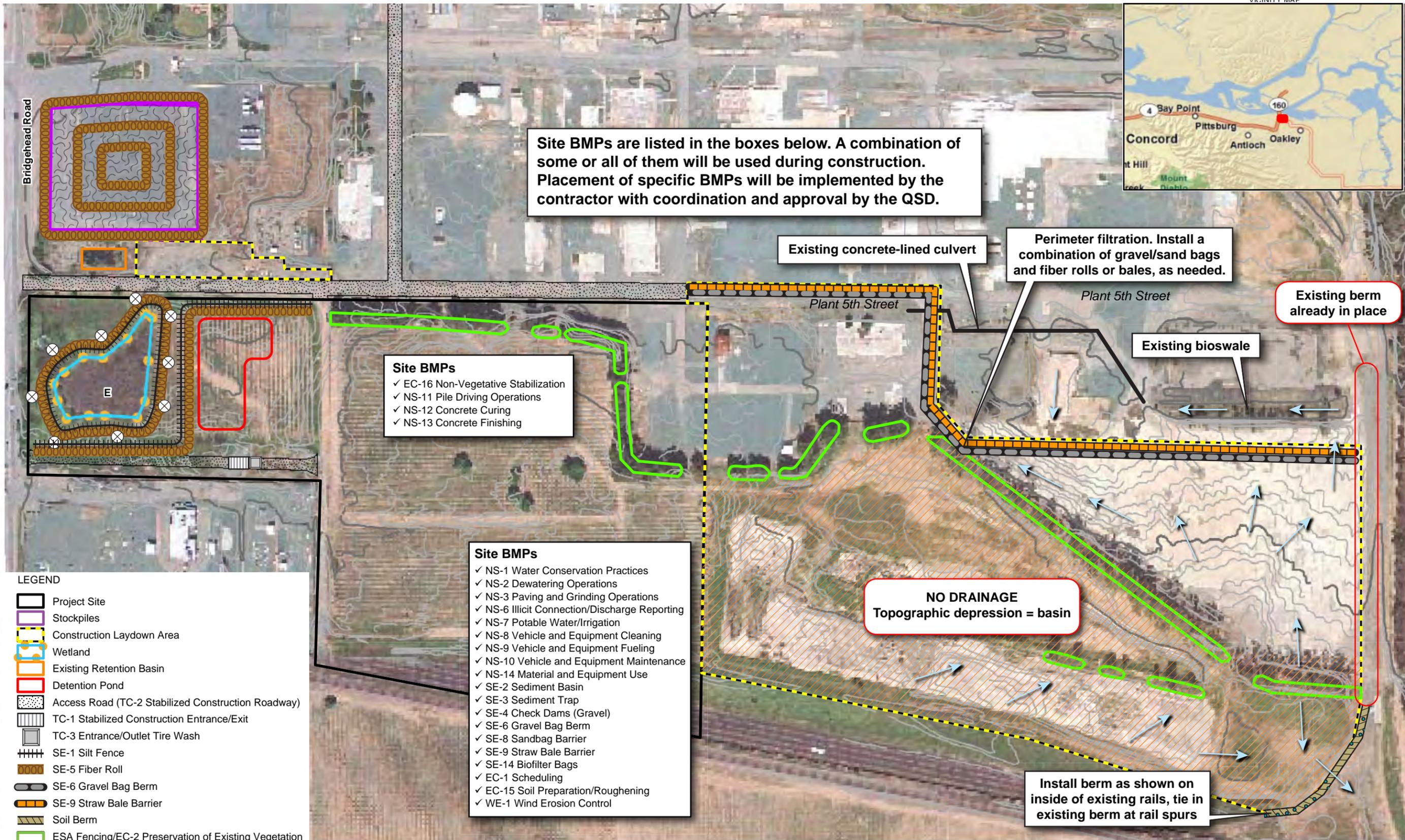


FIGURE 5 - Rev 1
SPECIAL-STATUS SPECIES WITHIN
THE OGS SURVEY AREA
 OAKLEY GENERATING STATION
 OAKLEY, CALIFORNIA



Site BMPs are listed in the boxes below. A combination of some or all of them will be used during construction. Placement of specific BMPs will be implemented by the contractor with coordination and approval by the QSD.

Site BMPs
 ✓ EC-16 Non-Vegetative Stabilization
 ✓ NS-11 Pile Driving Operations
 ✓ NS-12 Concrete Curing
 ✓ NS-13 Concrete Finishing

Site BMPs
 ✓ NS-1 Water Conservation Practices
 ✓ NS-2 Dewatering Operations
 ✓ NS-3 Paving and Grinding Operations
 ✓ NS-6 Illicit Connection/Discharge Reporting
 ✓ NS-7 Potable Water/Irrigation
 ✓ NS-8 Vehicle and Equipment Cleaning
 ✓ NS-9 Vehicle and Equipment Fueling
 ✓ NS-10 Vehicle and Equipment Maintenance
 ✓ NS-14 Material and Equipment Use
 ✓ SE-2 Sediment Basin
 ✓ SE-3 Sediment Trap
 ✓ SE-4 Check Dams (Gravel)
 ✓ SE-6 Gravel Bag Berm
 ✓ SE-8 Sandbag Barrier
 ✓ SE-9 Straw Bale Barrier
 ✓ SE-14 Biofilter Bags
 ✓ EC-1 Scheduling
 ✓ EC-15 Soil Preparation/Roughening
 ✓ WE-1 Wind Erosion Control

- LEGEND**
- Project Site
 - Stockpiles
 - Construction Laydown Area
 - Wetland
 - Existing Retention Basin
 - Detention Pond
 - Access Road (TC-2 Stabilized Construction Roadway)
 - TC-1 Stabilized Construction Entrance/Exit
 - TC-3 Entrance/Outlet Tire Wash
 - SE-1 Silt Fence
 - SE-5 Fiber Roll
 - SE-6 Gravel Bag Berm
 - SE-9 Straw Bale Barrier
 - Soil Berm
 - ESA Fencing/EC-2 Preservation of Existing Vegetation
 - EC-4 Hydroseed
 - EC-4 Hydroseed, Post-construction
 - EC-7 Geotextiles and Mats
 - "Sensitive Area" Signage

Note: Watering or street sweeping will occur throughout the site for the duration of construction, as needed, for dust control.

Contractor may opt to use either straw bales or fiber roll as where shown.

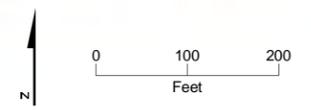


FIGURE 7
Project Site and Laydown Area BMP Map - Rev 01
 Oakley Generating Station
 Oakley, California

**Attachment
Permanent and Temporary
Fee Calculation Exhibits**

Exhibit 1: HCP/NCCP FEE CALCULATOR WORKSHEET

PROJECT APPLICANT INFO:

Project Applicant: Contra Costa Generating Station LLC

Project Name: Oakley Generating Station

APN (s): 037-020-012; 2.4 Mile PG&E easement/right-of-way

Date: September 20, 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	x	Fee per Acre (subject to change on 3/15/12)	=	
Fee Zone 1	16.72	x	\$10,662.15	=	\$178,271.15
Fee Zone 2		x	\$21,324.30	=	\$0.00
Fee Zone 3		x	\$5,331.52	=	\$0.00
Fee Zone 4		x	\$15,993.23	=	\$0.00
Development Fee Total					\$178,271.15

**WETLAND MITIGATION FEE

	Acreage of wetland	x	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					
Streams					
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
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		\$178,271.15	
Wetland Mitigation Fee Total	+	\$0.00	
Fee Subtotal		\$178,271.15	
Contribution to Recovery		+	\$201,720.16
Complimentary Conservation Planning		+	\$100,000.00
See Exhibit 2 for Temporary Impact Fees			
TOTAL AMOUNT TO BE PAID (2011)			\$479,991.31

* 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

Exhibit 2: TEMPORARY IMPACT FEE CALCULATOR WORKSHEET

PROJECT APPLICANT INFO:

Project Applicant: Contra Costa Generating Station LLC

Project Name: Oakley Generating Station

APN (s): 037-020-012; 2.4 mile PG&E easement/right-of-way

Date: September 20, 2011

Jurisdiction: Participating Special Entity

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

	Acreage of land to be temporarily disturbed (from Table 1)*		Years of Disturbance (2 years is the minimum for ground-disturbing)			Fee per Acre (subject to change on 3/15/12)	
Fee Zone 1	<u>6.03</u>	X	<u>2</u>	/30	X	\$10,662.15	= \$4,286.18
Fee Zone 1	<u>3.86</u>	X	<u>3</u>	/30	X	\$10,662.15	= \$4,115.59
Fee Zone 1	<u>13.93</u>	X	<u>4</u>	/30	X	\$10,662.15	= \$19,803.17
Fee Zone 4	<u>16.06</u>	X	<u>3</u>	/30	X	\$15,993.23	= \$25,685.13
Temporary Impact Fee Total							\$53,890.07

**TEMPORARY WETLAND MITIGATION FEE

	Acreage of wetland	Yrs. Of Disturbance		Fee per Acre (subject to change on 3/15/11)	
Riparian woodland / scrub	<u> </u>	5.00	X	\$64,570.30	= \$ -
Perennial Wetland	<u> </u>	2.00	X	\$88,359.36	= \$ -
Seasonal Wetland	<u> </u>	2.00	X	\$191,445.28	= \$ -
Alkali Wetland	<u> </u>	2.00	X	\$181,249.97	= \$ -
Ponds	<u> </u>	2.00	X	\$96,289.05	= \$ -
Aquatic (open water)	<u> </u>	2.00	X	\$48,710.93	= \$ -
Slough / Channel	<u> </u>	2.00	X	\$109,882.80	= \$ -

	Linear Feet				
Streams					
Streams 25 Feet wide or less (Fee is per Linear Foot)	<u>0.00</u>	2.00	X	\$526.42	= \$0.00
Streams greater than 25 feet wide (Fee is per Linear Foot)	<u> </u>	2.00	X	\$792.97	= \$0.00
Wetland Mitigation Fee Total				\$	-

FEE REDUCTION

Development Fee reduction (authorized by Implementing Entity) for land in lieu of fee	<u> </u>
Development Fee reduction (up to 33%, but must be approved by Conservancy) for permanent assessments	<u> </u>
Wetland Mitigation Fee reduction (authorized by Implementing Entity) for wetland restoration/creation performed by applicant	<u> </u>
Reduction Total	\$0.00

CALCULATE FINAL TEMP IMPACT FEE

Development Fee Total	\$53,890.07
Wetland Mitigation Fee Total +	\$0.00
Fee Subtotal	\$53,890.07

TOTAL TEMPORARY IMPACT FEES TO BE PAID \$53,890.07

* 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

Permanent Impact Fee Table

Impact Acreage Development Fee Zone						
	Fee Zone I	<u>Cost per Acre</u> (\$10,662.15[1])	<u>Acres of</u> <u>Developed Land</u> <u>Cover Types[2]</u>	Fee Zone IV	<u>Cost per Acre</u> (\$15,993.23[3])	<u>Acres of Developed</u> <u>Land Cover Types[4]</u>
Construction Segments						
Project Site	16.72	\$178,271.15	2.8	0	\$ -	0
Construction Laydown Area	0	\$ -	0	0	\$ -	0
Soil Stockpile Area	0	\$ -	0	0	\$ -	0
Access Roads (DuPont Property)	0	\$ -	0	0	\$ -	0
T-Line ROW	0	\$ -	0	0	\$ -	0
T-Line Pull Sites Outside T-Line ROW	0	\$ -	0	0	\$ -	0
T-Line Access Roads Outside T-Line ROW	0	\$ -	0	0	\$ -	0
Force Main Sewer Line ROW	0	\$ -	0	0	\$ -	0
Total	16.72	\$178,271.15	Exempt	None	\$ -	Exempt

[1] Based on the March 15, 2011 – March 14, 2012 Fee Schedule

[2] Developed Land Cover Types field verified as urban, aqueduct, non-native woodland, turf, and landfill.

[3] Based on the March 15, 2011 – March 14, 2012 Fee Schedule

[4] Developed Land Cover Types field verified as urban, aqueduct, non-native woodland, turf, and landfill.

Temporary Impact Fee Table

Construction Segments	Impact Acreage Development Fee Zone					
	Acres Impacted in Fee Zone I	Years of Disturbance (2 years is the minimum for ground-disturbing)	Estimated Cost (Acres*(Years of Disturbance/30)*\$10,662.15/acre)	Acres Impacted in Fee Zone IV	Years of Disturbance (2 years is the minimum for ground-disturbing)	Estimated Cost (Acres*(Years of Disturbance/30)*\$15,993.23.14/a cre)
Project Site	0.82	2	\$582.86	0.0	2	\$0.00
Construction Laydown Area	13.93	4	\$19,803.17	0.0	4	\$0.00
Soil Stockpile Area	5.0	2	\$3,554.05	0.0	2	\$0.00
Access Roads (DuPont Property)	0.21	2	\$149.27	0.0	2	\$0.00
T-Line ROW	3.52	3	\$3,753.08	14.63	3	\$23,398.10
T-Line Pull Sites Outside T- Line ROW	0.33	3	\$351.85	0.88	3	\$1,407.40
T-Line Access Roads Outside T-Line ROW	0.01	3	\$10.66	0.55	3	\$879.63
Force Main Sewer Line ROW	0.0	2	\$0.00	0	2	\$0.00
Total	23.8		\$28,204.94	16.1		\$25,685.13

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: September 29, 2011
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Agreement Amendment with Equilon Enterprises dba Shell Oil Products US

RECOMMENDATION

AUTHORIZE staff to execute an Amendment to the Participating Special Entity Agreement with Equilon Enterprises dba Shell Oil Products for the Coalinga-Avon Pipeline Repair Project.

DISCUSSION

At the June 16, 2010 meeting, the Board authorized staff to execute a Participating Special Entity (“PSE”) Agreement for take coverage of the Coalinga-Avon Pipeline Repair Project consisting of targeted repairs to three sites along the Coalinga-Avon Pipeline at the Los Vaqueros Reservoir. On June 30, 2010 the PSE Agreement was executed. Equilon Enterprises dba Shell Oil Products paid all mitigation fees, administrative costs and the contribution to recovery required in the Agreement and the Certificate of Inclusion authorizing activities to commence was issued on July 29, 2010.

In September 2011, the applicant informed the Conservancy that additional repairs to the pipeline need to be completed. The new area requiring repair is an extension of Dig Site 1. The new repair work (herein after referred to as Dig Site 1a) is located immediately northwest of Dig Site 1, adjacent to an existing unpaved service road. The section of pipeline to be repaired extends approximately 94 feet, with a total impact area of approximately 0.05 acres. The applicant is requesting an amendment to the Participating Special Entity Agreement in order to cover the work to be conducted at Dig Site 1a.

CONTINUED ON ATTACHMENT: Yes
ACTION OF BOARD ON: September 29, 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 require an amendment to the terms of the original PSE agreement between the Conservancy and Equilon Enterprises dba Shell Oil Products dated June 30, 2010. The agreement amendment reflects the change in the project description, an increase in the development fees (from \$5,701.32 to \$6767.54), an increase in the contribution to recovery (from \$5,701.32 \$6767.54), and an increase in the cap on administrative fees (from \$5,000 to \$8,500). A new Planning Survey Report Application was completed for Dig Site 1a and is attached. The Planning Survey Report for Dig Site 1a is Exhibit 2 and will be added to and incorporated within the PSE Agreement.

Attachments:

- **PSE Agreement First Amendment, including:**
 - Main body of amendment
 - Exhibit 2 to the First Amendment: Planning Survey Report
 - Main body of planning survey report
 - Project Vicinity Maps, Impact and Land Cover Maps, Species Habitat Maps
 - Fee Calculator (Exhibit 1 to the PSR)

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 EQUILON ENTERPRISES dba SHELL OIL PRODUCTS US, a Participating Species Entity

RECITALS

The Participating Special Entity Agreement between the East Contra Costa County Habitat Conservancy (“Conservancy”) and Equilon Enterprises dba Shell Oil Products US (“Participating Special Entity” or “PSE”) was entered into June 30, 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. The attached Exhibit 2 is added to and incorporated within Exhibit 1.
2. Section 2.7 of the Agreement is amended as follows:

PSE is responsible for the Coalinga-Avon Pipeline Repair Project and seeks extension of the Conservancy’s permit coverage for targeted repairs ~~on (3)~~ to (4) sites along the Coalinga-Avon Pipeline at the Los Vaqueros Reservoir as further described in Exhibit 1 and Exhibit 2.

3. 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 2](#) and is hereby incorporated into this Agreement by reference.

4. 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 2](#). 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.

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

“Proposed Activities” means the activities described in Exhibit 1 [and Exhibit 2](#) that will be covered by the extension of the Conservancy’s take authorization.

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

As set forth in the Application, PSE agrees to pay the Conservancy ~~\$11,402.64~~ [\\$13,535.08](#) 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: ~~\$5,701.32~~ [\\$6767.54](#)

Contribution to recovery of endangered species: ~~\$5,701.32~~ [\\$6767.54](#)

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 2011, 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.

7. 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 ~~\$5,000~~ \$8,500. 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

**EQUILON ENTERPRISES dba SHELL OIL
PRODUCTS US**

Dated: _____

By: _____
M.L. Elmore, 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
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: Coalinga-Avon Pipeline Repair Extension - First Amendment
Project Applicant's Company/Organization: Shell Oil Products USA
Contact's Name: Michael Elmore, 20945 S. Wilmington Avenue, Carson, CA 90810
Contact's Phone: 310.816.2208 Fax: [enter fax number]
Contact's Email: Michael.Elmore@shell.com
Mailing Address: as above

Project Description:

Lead Planner: Krystal Hinojosa - Conservancy
Project Location: at Los Vaqueros Reservoir
Project APN(s) #: 005-100-002
Number of Parcels/Units: 1
Size of Parcel(s): N/A
Project Description/Purpose (Brief): Repairs of existing Coalinga-Avon Pipeline,
extension of previous (2010) Dig 1 area

Biologist Information:

Biological/Environmental Firm: Harmsworth Associates
Lead Contact: Paul Galvin
Contact's Phone: 714-389-9527 Fax: 714-389-9534
Contact's Email: pgalvin9@cox.net
Mailing Address: 29 Vacaville
Irvine
CA 92602

East Contra Costa County HCP/NCCP Planning Survey Report for Coalinga-Avon Pipeline Repair Extension First Amendment Application Participating Special Entity

I. Project Overview

Project proponent: Mike Elmore

Project Name: Coalinga-Avon Pipeline Repair Extension-First Amendment

Application Submittal Date: September 19, 2011

Jurisdiction: Contra Costa County Participating Special Entity

- City of Oakley
- City of Pittsburg
- City of Clayton
- City of Brentwood

**Check appropriate
Development Fee Zone(s):** Zone I
 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: N/A, all impacts are temporary.

Acreage of land to be temporarily disturbed³: 0.05

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:

Not applicable

Anticipated Construction Date:

November 15, 2011

Project Description:

On June 30th 2010 Shell Oil Products US (“Shell”), who owns and operates the existing Coalinga-Avon Pipeline, entered into a Participating Special Entity Agreement implementing the HCP/NCCP and Granting Take Authorization to Shell for repairs to three (3) damaged areas of the Coalinga-Avon Pipeline. On July 29th, 2010 the Conservancy issued a Certificate of Inclusion for the Coalinga-Avon Pipeline Repair Project.

The Coalinga-Avon Pipeline Repair Project consisted of the following repair sites:

- Dig Site 1: located in the valley floor northeast of the reservoir outlet.
- Dig Site 2: located on a hillside northwest of the reservoir outlet.
- Dig Site 3: located further up the hillside on the northwest of the reservoir outlet.

In September 2011, the applicant informed the Conservancy that additional repairs to the pipeline need to be completed. The new area requiring repair is an extension of “Dig Site 1.” The new repair work (herein after referred to as Dig Site 1a) is located immediately northwest of Dig Site 1, adjacent to an existing unpaved service road (Figures 1 and 2). The section of pipeline to be repaired extends approximately 94 feet, with a total impact area of approximately 20 x 110 feet (0.05 acre) to allow for work space. Minimal equipment, consisting of a backhoe and a pick-up truck, would be required for this repair work.

The applicant is requesting an amendment to the Participating Special Entity Agreement in order to cover the work to be conducted at Dig Site 1a. This Planning Survey Report Application reflects only the required repairs at Dig Site 1a.

Planned Site Restoration

All pipeline repair work and any resulting impacts are temporary. Upon completion of the repair, the impact area will be re-contoured to its original conditions. Prior to grading the

work site, the existing vegetation would be mowed and seeds bagged. Once the repair work is complete, the site contours would be restored and the salvaged seed would be spread back over the disturbed area to assist in rapid restoration of the site. Before and after pictures will be provided to the Conservancy as proof of compliance with the required site restoration work.

Figure 1: Project vicinity map.



Figure 2: Project vicinity map.



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	0.05			
<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				

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
<input type="checkbox"/> Pasture				
<input type="checkbox"/> Orchard				
<input type="checkbox"/> Vineyard				
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	—	—		—

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
Total (Impacted Acres)	0.05			

^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.

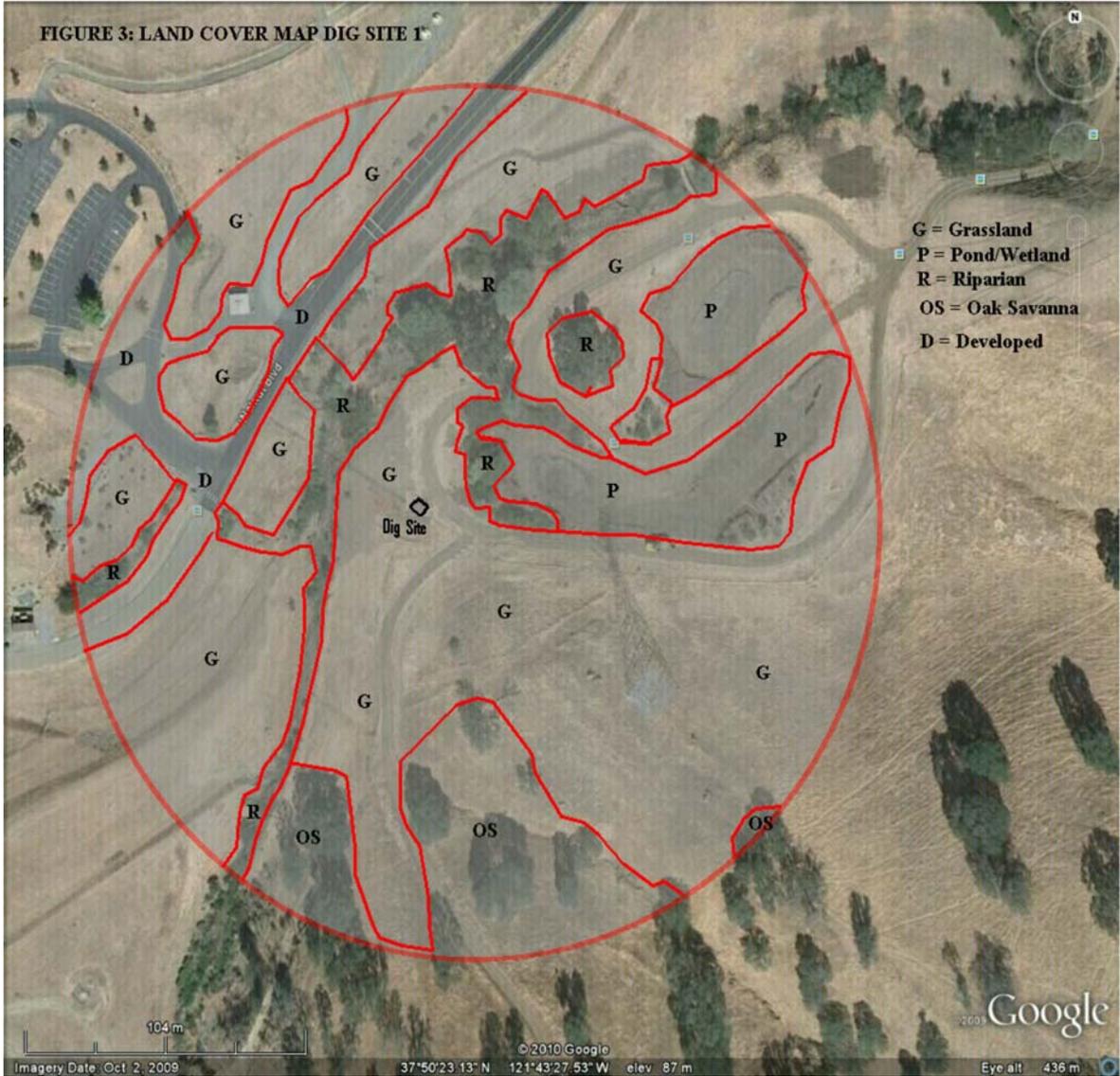
^c Dedication of land in lieu of fees must be approved by the local agency and the Implementing Entity before they can be credited toward HCP/NCCP fees. See Section 8.6.7 on page 8-32 of the Plan for details on this provision. Stream setback requirements are described in Conservation Measure 1.7 in Section 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 3). Please attach representative photos of the project site





Photograph 1: Looking northeast. Dig site is located just to the left of the gate.

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.

No wetlands on project site.

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.
<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.
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.

Land Cover Type in the project area?	Species	Habitat Element in the project area?	Planning Survey Requirement
	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.

Existing conditions

The general project area includes Kellogg Creek, which drains from the Los Vaqueros Reservoir, and its associated wetlands and stock ponds. The valley and adjacent hillsides support non-native grasslands, oak savannah and oak woodlands.

The vicinity of Dig Site 1a contains non-native grassland dominated by oats (*Avena fatua*) and foxtail barley (*Hordeum murinum* subsp. *leporinum*). Ryegrass (*Lolium* sp.), red-stemmed filaree (*Erodium cicutarium*), California burclover (*Medicago polymorpha*), fiddleneck (*Amsinckia menziesii* var. *intermedia*), popcorn flower (*Plagiobothrys* sp.), cheesweed (*Malva parviflora*), milk thistle (*Silybum marianum*) and black mustard (*Brassica nigra*) were also present.

During the 2010 field survey no wildlife occurred at Dig Site 1, but common species such as red-tailed hawk (*Buteo jamaicensis*), acorn woodpecker (*Melanerpes formicivorus*), Bullock's oriole (*Icterus bullockii*), red-winged blackbird (*Agelaius phoeniceus*) and California ground squirrel (*Spermophilus beecheyi*) occurred in the general vicinity.

San Joaquin kit fox (*Vulpes macrotis mutica*)

San Joaquin kit fox has the potential to occur in the Dig Site 1a project area. San Joaquin kit fox occur in grassland, oak savannah and other open areas and suitable habitat occurs within the project vicinity for San Joaquin kit fox. No kit foxes, tracks or other kit fox sign was detected during the 2010 field surveys. No kit fox dens occur at the dig site. In addition, there are no records for kit fox from the project site (CNDDDB 2010).

Western burrowing owl (*Athene cunicularia*)

Western Burrowing owls occur in shortgrass prairies, grasslands, lowland scrub, agricultural lands (particularly rangelands), prairies, coastal dunes, desert floors, and some artificial, open areas as a yearlong resident. They require large open expanses of sparsely vegetated areas on gently rolling or level terrain with an abundance of active

small mammal burrows. As a critical habitat feature, they require the use of rodent or other burrows for roosting and nesting cover. They can also use pipes, culverts, and nest boxes (USFWS 2003, Haug *et al.* 1993, Zeiner *et al.* 1990).

Although the project vicinity does support grassland, during the 2010 field surveys the grass was too tall to be suitable burrowing owl habitat. Burrowing owls prefer short grass or sparsely vegetated areas where they can get a good view. No burrowing owls or their sign were detected during the 2010 field surveys and none are likely to occur onsite based on the habitat conditions. In addition, there are no records for burrowing owl from the project site (CNDDDB 2010).

Although field surveys were not conducted in order to complete this Planning Survey Report, the applicant relied on the field studies and pre-construction surveys conducted for the 2010 repair work. As a result the Conservancy requires the applicant to conduct pre-construction surveys for both San Joaquin kit fox and Western burrowing owl prior to construction at Dig Site 1a in compliance with the requirements of the HCP/NCCP.

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



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 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
	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

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"/> 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
	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

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
	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

^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).

Although several special status plant species have potential to occur onsite, none were detected during the May 2010 and August 2010 floristic surveys at Dig Site 1 . In May of 2010 surveys were conducted for Alkali milkvetch (*Astragalus tener* ssp. *tener*), Brewer’s dwarf flax (*Hesperolinon breweri*), Contra Costa goldfields (*Lasthenia conjugens*), diamond-petaled poppy (*Eschscholzia rhombipetala*), large-flowered fiddleneck (*Amsinckia grandiflora*), Mount Diablo buckwheat (*Eriogonum truncatum*), Mount Diablo fairy-lantern (*Eriogonum truncatum*), round-leaved filaree (*California macrophylla*) and showy madia (*Madia radiata*). In August of 2010 focused surveys were conducted for Big tarplant (*Blepharizonia plumose*) within a 500 foot surrounding Dig Site 1.

In addition to already completing the rare plant survey requirements, there are no CNDDDB records for any special status plant species in the vicinity of the project site (CNDDDB 2010). No additional rare plant surveys are required at this time.

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 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, a USFWS/CDFG – approved biologist will conduct a preconstruction survey at the dig site. 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. 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. The status of all dens will be determined and mapped. Written results of preconstruction surveys will be

submitted to USFWS and the Conservancy within 5 working days after survey completion and before the start of ground disturbance. Concurrence is not required prior to initiation of covered activities.

Burrowing owl

Prior to any ground disturbance, a USFWS/CDFG - approved biologist will conduct a preconstruction survey at the dig site. 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 non-breeding 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 non-breeding) during which the survey is conducted.

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

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).

Species Assessed by Preconstruction Surveys	Monitoring Action Required if Species Detected
<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.
<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

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).

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.

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 non-disturbance 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 non-breeding 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).

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.

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.

Construction will be conducted during the dry season, no erosion or run-off is anticipated. Adjacent wetlands and streambeds will be avoided.

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.

No extremely rare plants or fully protected wildlife are known to occur onsite.

- Compliance with the MBTA shall be accomplished by the following:
 - If possible, all vegetation removal activities shall be scheduled from September 15 to February 15, which is outside the nesting season. This would ensure that no active nests would be disturbed and that removal could proceed rapidly,
 - If vegetation is to be cleared during the nesting season (February 15 – September 15), all suitable habitat will be thoroughly surveyed for the presence of nesting birds by a qualified biologist 72 hours prior to clearing. If any active nests are detected, the area shall be flagged and mapped on the construction plans along with a minimum 50-foot buffer and up to 300 feet for raptors, with the final buffer distance to be determined by the qualified biologist in consultation with the Conservancy. The buffer area shall be avoided until the nesting cycle is complete or it is determined that the nest has failed. In addition, the biologist will be present on the site to monitor the vegetation removal to ensure that any nests, which were not detected during the initial survey, are not disturbed.

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 is approximately 60 feet from the closest water body and no work will occur within the wetland.

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.

All wetlands, ponds, streams adjacent the dig site will be avoided.

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.

Project is O&M activity for existing facility. Project works minimized to the extent possible, access via existing access roads to the extent possible. All impacts 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.

Project is O&M activity for existing facility.

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 project is a repair of existing facility and not new development. 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.

N/A

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.

N/A

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.

N/A

V. Mitigation Measures

Complete and Attach Exhibit 1 Fee Calculator 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.

Although impacts associated with the repairs at Dig Site 1a are temporary, the applicant will be mitigating for the 0.05 acres of temporary impact 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.

Exhibit 1: HCP/NCCP FEE CALCULATOR WORKSHEET

PROJECT APPLICANT INFO:

Project Applicant: Equilon Enterprises dba Shell Oil Products US

Project Name: Coalinga-Avon Pipeline Repair Project First Amendment

APN (s): 005-100-002

Date: September 20, 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)¹

	Full Development Fee		Fee per Acre (subject to change on 3/15/12 ²)	=	
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 ³		x	\$15,993.23	=	\$0.00
Development Fee Total					\$1,066.22

**WETLAND MITIGATION FEE

	Acreage of wetland		Fee per Acre (subject to change on 3/15/12 ²)	=	
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

Streams				=	
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

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	\$1,066.22
Wetland Mitigation Fee Total +	\$0.00
Fee Subtotal	\$1,066.22
Contribution to Recovery +	\$1,066.22
TOTAL AMOUNT TO BE PAID	\$2,132.44

Notes:

1 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.

2 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.

3 "Fee Zone 4" is not shown on Figure 9.1 of the HCP/NCCP but refers to the fee applicable to those few covered activities located in northeastern Antioch (see page 9-21 of the HC

Template date: March 15, 2011

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: September 29, 2011
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Agreement with ConocoPhillips Pipeline Company to Extend Take Coverage

RECOMMENDATION

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 anode bed and rectifier installations and repairs along the Line 200 route.**

DISCUSSION

ITEM (A). California Environmental Quality Act (CEQA): The Conservancy's issuance of a Certificate of Inclusion to ConocoPhillips to grant take coverage for the project is a discretionary action requiring compliance with CEQA. The project consists of emergency repairs to an existing pipeline and a minor alteration to install an anode bed resulting in negligible expansion of the existing use. The Conservancy has determined the project is categorically exempt from the requirements of CEQA under Class 1, "Existing Facilities," of the State CEQA Guidelines Section 15301.

ITEM (B). As part of the ConocoPhillips Line 200 Pipeline Repair Project ("Project"), ConocoPhillips will perform operational and safety repairs at two locations along the ConocoPhillips Line 200 mainline trunk pipeline. The pipeline transports crude oil from the Bakersfield area to a ConocoPhillips refinery in Richmond. ConocoPhillips owns and operates Line 200 which runs through the southwest part of the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) inventory area.

CONTINUED ON ATTACHMENT: <u>Yes</u> ACTION OF BOARD ON: <u>September 29, 2011</u> OTHER _____	APPROVED AS RECOMMENDED: <u>YES</u>
<p><u>VOTE OF BOARD MEMBERS</u></p> ___ 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 _____ <i>Catherine Kutsuris, SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY</i> BY: _____, DEPUTY

The U.S. Department of Transportation (“DOT”) pipeline safety regulations require ConocoPhillips to install deep well anode beds and rectifiers to protect the underground steel pipeline from corrosion and maintain the integrity of the steel pipe and coating and to conduct maintenance repairs to the pipeline within a set timeframe of 180 days from detection of an anomaly.

Routine tests on the pipeline detected 2 sites along Line 200 which need to be repaired in order to be in compliance with DOT pipeline safety regulations. The required repairs are to occur at the following sites:

- Marsh Creek Pipeline Repair Site: The total impact footprint for this pipeline repair site is 1.36 acres and includes the project footprint, a temporary access road, and a 25-foot temporary impact buffer on both sides of the access road.
- Marsh Creek Anode Site: The total project footprint would be approximately 0.01 acres, and includes installation of an anode bed well and rectifier and the cable/electrical connections associated with the installations.

(See Figures 3A, 3B and the Project Description in the Planning Survey Report Application for more information on the Project and its location).

The Project is within habitat suitable for several species covered by the HCP/NCCP. ConocoPhillips is requesting take authorization for the Project through the Conservancy as a Participating Special Entity. Chapter 8.4 of the HCP/NCCP provides that organizations, including public agencies and private organizations, may apply directly to the Conservancy for take coverage as a Participating Special Entity (PSE) for projects not subject to the land use authority of one of the land use agencies participating in the HCP/NCCP. ConocoPhillips does not require any city or county land use permits for this project. Therefore, in order to receive permit coverage under the HCP/NCCP, the Conservancy and ConocoPhillips must enter into an agreement obligating compliance with the applicable terms and conditions of the Implementing Agreement, the HCP/NCCP, and the state and federal permits. The agreement must describe and bind ConocoPhillips to perform all avoidance, minimization, and mitigation measures applicable to the Project.

Of course, a Participating Special Entities’ project must also be an eligible covered activity under the HCP/NCCP in order to be covered as a PSE. As set forth in Section 2.3.3 and 2.3.4 of the HCP/NCCP, Utility Line or Facility Operation and Maintenance is an eligible covered activity within the HCP/NCCP inventory area, including within HCP/NCCP Preserves. The Project is therefore an eligible covered activity. However, it should be noted that the pipeline is within an easement owned by ConocoPhillips on land owned by others. ConocoPhillips is responsible for securing all landowner permissions that may be necessary to conduct this project. ConocoPhillips has made it clear they are aware of this requirement and will obtain any necessary access permission.

Conservancy staff has prepared a draft Participating Special Entity Agreement (“Agreement”) for this Project (attached). Attached as Exhibit 1 to the Agreement is the completed Planning Survey Report Application (“PSR”) for the Project, which was prepared by Monk and Associates Inc., the biological firm hired by ConocoPhillips to complete the PSR. The PSR documents the results of the planning-level surveys conducted at the 2 sites and associated access areas where impacts will occur and describes the specific pre-construction surveys, avoidance/minimization/construction monitoring, and mitigation measures that are required in order for the Project to be covered through the HCP/NCCP. The PSR contains project vicinity maps, detailed maps showing the impacts at each of the 2 sites, land cover and species habitat maps, and the Fee Calculator Worksheet.

Key provisions of the Agreement:

- The Project impacts are reflected in the table below:

Land Cover Type	Impact Type (acres)	
	Permanent	Temporary
Annual Grassland		1.36
Ruderal	0.003	0.01

- The Agreement provides that ConocoPhillips will reimburse the Conservancy for staff costs associated with processing the request for take coverage, up to a maximum reimbursement of \$3,500.
- In addition, as set forth in the Agreement (page 6), ConocoPhillips will pay the Conservancy **\$43,917.40** which amount includes all HCP/NCCP mitigation fees necessary for the Project as well as a Contribution to Recovery for Endangered Species.
- The table below summarizes the required fees, contribution to recovery and administrative costs:

CONOCOPHILLIPS FEE SUMMARY	
Development fees:	\$29,278.26
Contribution to Recovery for Endangered Species:	\$14,639.13
TOTAL FEES AND CONTRIBUTIONS	\$43,917.40
Maximum Administrative Costs	\$3,500.00
MAXIMUM AMOUNT TO BE PAID	\$47,417.40

- The Fees and Administrative Costs must be paid before work commences. ConocoPhillips anticipates starting work by October 15, 2010 (as soon as they are issued the Certificate of Inclusion the applicant hopes to proceed with construction).

- As set forth in the HCP/NCCP, the Conservancy may charge a Participating Special Entity a Contribution to Recovery to help the Conservancy cover certain costs associated with the HCP/NCCP that are not included in the mitigation fees (for example, the costs of preserve management beyond the permit term, the costs born by the Conservancy of exceeding mitigation requirements and contributing to the recovery of covered species (as is required because the plan is an NCCP and by state law NCCP's must contribute to recovery, etc.). Staff proposes a Contribution to Recovery in the amount of \$14,639.13. This amount is half (50%) of the mitigation fees required for the impacts and Staff believes this is consistent with the amount charged in previous Participating Special Entity projects.
- The Agreement requires a number of detailed measures to avoid impacts to several covered species including pre-construction surveys for San Joaquin kit fox, western burrowing owl, California tiger salamander, and Golden Eagle.
- The Agreement provides a number of detailed measures to avoid impacts to special status plant species covered by the HCP/NCCP. The required rare plant surveys for five (5) species (showy madia, large-flowered fiddleneck, round-leaved filaree, Mt. Diablo fairy lantern, and diamond-petaled California poppy) during the appropriate spring blooming season was infeasible prior to submission of the application (Alkali milkvetch, Brewer's dwarf flax and Contra Costa goldfields can be dismissed due to the lack of suitable habitat. Big tarplant and Mt. Diablo buckwheat would have been detectable during M&A's September 2010 site visit). In a rare plant assessment by Monk and Associates botanists it was determined that all five (5) species which were not surveyed for have a low probability of occurring within the footprint of the Marsh Creek Pipeline Repair site, but could not be definitively ruled out without the required blooming season surveys. Given the urgent nature of the project as well as the short duration of the proposed impacts, Conservancy staff has worked with the applicant to develop a number of detailed measures beyond those required by the HCP/NCCP which seek to limit and avoid potential impacts to special status plant species. These additional measures include:
 - Rare plant surveys will be conducted during the March and May of 2012 blooming season on the repair site plus a 200 foot buffer around the repair site. The results of the surveys will be documented in a rare plant survey report submitted to the Conservancy by July 30, 2012. The significance of requiring surveys during the March and May of 2012 blooming season on the repair site plus a 200 foot buffer around the repair site is to identify plants within the same population as might occur on the dig sites but not disturbed by the project. Identifying a species within the adjacent 200 foot buffer of the repair site, would inform the Conservancy if a covered plant could have been lost during project construction. If a species is detected during the March and/or May 2012 surveys 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 6.3.1, "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 the species is protected.

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

- Wildlife agencies review the Agreement and are asked to concur with the Conservancy's determination that the Agreement imposes all applicable conditions of the HCP/NCCP onto the project. Note: Participating Special Entity Agreements, unlike the granting of take authorization by a participating City or County, requires wildlife agency concurrence.
- ConocoPhillips pays all required mitigation, contribution to recovery, and staff time fees, as outlined in the Agreement.
- The Conservancy issues ConocoPhillips a Certificate of Inclusion. Take coverage would then be in effect, subject to the terms of the Agreement.
- ConocoPhillips conducts pre-construction surveys to determine which species-specific avoidance and minimization measures are required during construction.
- Before implementing the covered activity, ConocoPhillips will develop and submit a construction monitoring plan to the Conservancy in accordance to Section 6.3.3 of the HCP/NCCP.
- ConocoPhillips constructs the project subject to the terms of the Agreement.
- A rare plant survey report will be submitted to the Conservancy by July 30, 2012 in accordance with the Agreement and Exhibit 1.

Attachments:

- **PSE Agreement, including:**
 - Main body of agreement
 - 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)

PARTICIPATING SPECIAL ENTITY AGREEMENT

Between

**THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY
and
CONOCOPHILLIPS PIPELINE COMPANY**

1.0 PARTIES

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

2.0 RECITALS

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

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

- 2.5 The Conservancy has received authorization from the United States Fish and Wildlife Service (“USFWS”) under incidental take permit TE 160958-0, and the California Department of Fish and Game (“CDFG”), under incidental take permit 2835-2007-01-03, for the Take of the twenty-eight (28) special-status species and certain other species, as take is defined respectively under federal and state law, while carrying out certain development and other activities.
- 2.6 The Conservancy may enter into agreements with participating special entities that allow certain activities of theirs to be covered by the Federal Permit and the State Permit, subject to the conditions in the Implementing Agreement (“IA”), the HCP/NCCP and the Permits.
- 2.7 PSE is responsible for the ConocoPhillips Line 200 Pipeline Repair Project and seeks an extension of the Conservancy’s permit coverage for anode bed and rectifier installations and repairs along the Line 200 route, as further described in Exhibit 1.
- 2.8 The Conservancy has concluded, based on the terms of this Agreement and the application submitted by PSE (the “Application”), that PSE has provided adequate assurances that it will comply with all applicable terms and conditions of the IA, the HCP/NCCP, and the Permits. The Application is attached hereto as Exhibit 1 and is hereby incorporated into this Agreement by reference.

3.0 DEFINITIONS

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

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

- 3.4** “**CESA**” means the California Endangered Species Act (Fish & G. Code, § 2050 et seq.) and all rules, regulations and guidelines promulgated pursuant to that Act.
- 3.5** “**Changed Circumstances**” means changes in circumstances affecting a Covered Species or the geographic area covered by the HCP/NCCP that can reasonably be anticipated by the Parties and that can reasonably be planned for in the HCP/NCCP. Changed Circumstances and planned responses to Changed Circumstances are more particularly defined in Section 12.2 of the IA and Chapter 10.2.1 of the HCP/NCCP. Changed Circumstances do not include Unforeseen Circumstances.
- 3.6** “**Covered Activities**” means those land uses and conservation and other activities described in Chapter 2.3 of the HCP/NCCP to be carried out by the Conservancy or its agents that may result in Authorized Take of Covered Species during the term of the HCP/NCCP, and that are otherwise lawful.
- 3.7** “**Covered Species**” means the species, listed and non-listed, whose conservation and management are provided for by the HCP/NCCP and for which limited Take is authorized by the Wildlife Agencies pursuant to the Permits. The Take of Fully Protected Species is not allowed. The Take of extremely rare plants that are Covered Species is allowed only as described in Section 6.0 and the IA.
- 3.8** “**Effective Date**” means the date when this Agreement is fully executed.
- 3.9** “**Federal Listed Species**” means the Covered Species which are listed as threatened or endangered species under FESA as of the Effective Date, and the Covered Species which are listed as threatened or endangered pursuant to FESA during the term of the HCP/NCCP as of the date of such listing.
- 3.10** “**Federal Permit**” means the federal incidental Take permit issued by USFWS to the Conservancy and other local agencies pursuant to Section 10(a)(1)(B) of FESA (permit number TE 160958-0), as it may be amended from time to time.
- 3.11** “**FESA**” means the Federal Endangered Species Act of 1973, as amended (16 U.S.C § 1531 et seq.) and all rules, regulations and guidelines promulgated pursuant to that Act.
- 3.12** “**Fully Protected Species**” means any species identified in California Fish and Game Code sections 3511, 4700, 4800, 5050 or 5515 that occur within the Plan Area.
- 3.13** “**HCP/NCCP**” or “**Plan**” means the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan.
- 3.14** “**Implementing Agreement**” or “**IA**” means the “Implementing Agreement for the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan,” dated January 22, 2007.

- 3.15 “Jurisdictional Wetlands and Waters”** means State and federally regulated wetlands and other water bodies that cannot be filled or altered without permits from either the U.S. Army Corps of Engineers under section 404 of the Clean Water Act or, from the State Water Resources Control Boards under either section 401 of the Clean Water Act or the Porter-Cologne Water Quality Act, or CDFG under section 1602 of the Fish and Game Code, as further explained in Chapter 1.3.5 of the HCP/NCCP.
- 3.16 “Listed Species”** means a species (including a subspecies, or a distinct population segment of a vertebrate species) that is listed as endangered or threatened under FESA or CESA.
- 3.17 “NCCPA”** means the Natural Community Conservation Planning Act (Fish & G. Code, § 2800 et seq.) and all rules, regulations and guidelines promulgated pursuant to that Act.
- 3.18 “Non-listed Species”** means a species (including a subspecies, or a distinct population segment of a vertebrate species) that is not listed as endangered or threatened under FESA or CESA.
- 3.19 “Party” or “Parties”** means any or all of the signatories to this Agreement.
- 3.20 “Permit Area”** means the area within the Plan Area where the Conservancy has received authorization from the Wildlife Agencies for the Authorized Take of Covered Species while carrying out Covered Activities.
- 3.21 “Permits”** means the Federal Permit and the State Permit.
- 3.22 “Plan Area”** means the geographic area analyzed in the HCP/NCCP, located in the eastern portion of Contra Costa County, as depicted in Figure 1-1 of the HCP/NCCP. The Plan Area is further described in detail in Chapter 1.2.1 of the HCP/NCCP. The Plan Area is also referred to as the “Inventory Area” in the HCP/NCCP.
- 3.23 “Preserve System”** means the land acquired and dedicated in perpetuity through either a fee interest or conservation easement intended to meet the preservation, conservation, enhancement and restoration objectives of the HCP/NCCP.
- 3.24 “Project”** means the ConocoPhillips Line 200 Pipeline Repair Project, as described in Section 2.7.
- 3.25 “State Permit”** means the state Take permit issued to the Conservancy and other local agencies pursuant to Section 2835 of the California Fish and Game Code (permit number 2835-2007-01-03), as it may be amended from time to time.
- 3.26 “Take”** has the same meaning provided by FESA and its implementing regulations with regard to activities subject to FESA, and also has the

same meaning provided in the California Fish and Game Code with regard to activities subject to CESA and NCCPA.

- 3.27 “Unforeseen Circumstances”** under the Federal Permit means changes in circumstances affecting a Covered Species or geographic area covered by the HCP/NCCP that could not reasonably have been anticipated by the Plan developers and USFWS at the time of the Plan’s negotiation and development, and that result in a substantial and adverse change in the status of a Covered Species. “Unforeseen Circumstances” under the State Permit means changes affecting one or more species, habitat, natural community, or the geographic area covered by the Plan that could not reasonably have been anticipated at the time of Plan development, and that result in a substantial adverse change in the status of one or more Covered Species.
- 3.28 “USFWS”** means the United States Fish and Wildlife Service, an agency of the United States Department of Interior.
- 3.29 “Wildlife Agencies”** means USFWS and CDFG.

4.0 PURPOSES

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

5.0 AVOIDANCE, MINIMIZATION AND MITIGATION OF IMPACTS

5.1 General Framework

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

5.2 Surveys and Avoidance Measures

Planning surveys are required prior to carrying out any Covered Activity for which a fee is collected or land in lieu of a fee is provided. PSE has submitted a planning survey report for approval by the Conservancy in accordance with Chapter 6.2.1 of the HCP/NCCP. This planning survey report is contained within the Application, which

describes the results of the planning survey and describes in detail the pre-construction surveys, construction monitoring, avoidance measures and mitigation measures that apply to the Project and shall be performed by PSE. Based on the Application, the Conservancy has determined that PSE will implement and comply with all applicable preconstruction surveys and construction monitoring requirements described in Chapters 6.2.2 and 6.2.3 of the HCP/NCCP.

5.3 No Take of Extremely Rare Plants or Fully Protected Species

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

5.3.1 Golden Eagle

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

5.4 Fees and Dedications

As set forth in the Application, PSE agrees to pay the Conservancy a one-time payment of **\$43,917.40**, which amount includes all HCP/NCCP mitigation fees necessary for the Project. The payment also includes an amount sufficient to implement additional actions that will contribute to the recovery of endangered and threatened species (“Contribution to Recovery”). The overall payment amount is the sum of the following:

Development Fee: **\$29,278.26**

Contribution to Recovery: **\$14,639.13**

The payment must be paid in full before any ground-disturbance associated with the Project occurs. Notwithstanding the above, the Parties acknowledge that the Conservancy adjusts its fee schedule annually on March 15 of each year in accordance with the fee adjustment provisions of Chapter 9.3.1 of the HCP/NCCP. If the PSE pays before March 15, 2012 and construction of the Project commences before March 15, 2012, the amount due will be as stated above. If PSE pays on or after March 15, 2012 or construction of the Project does not commence before March 15, 2012, the amount due will be subject to annual fee adjustments for all fees, and subject to annual adjustments of the Contribution to Recovery based on the formula set forth in Chapter 9.3.1 for the HCP/NCCP wetland mitigation fee. Based on these adjustments, if PSE pays before March 15 of any year, but construction does not commence before March 15 of that year, PSE will either be required to submit an additional payment for any increases or be entitled to a refund without interest for any decreases.

6.0 TAKE AUTHORIZATION

6.1 Extension of Take Authorization to PSE

As provided in Chapter 8.4 of the HCP/NCCP, after receipt of the Wildlife Agencies' written concurrence that the Project complies with the HCP/NCCP, the Permits and the IA, and after execution of this Agreement, payment of fees, compliance with the California Environmental Quality Act (Public Resources Code section 21000, et seq.) ("CEQA"), the Conservancy shall issue a Certificate of Inclusion to PSE that specifically describes the Authorized Take and required conservation measures and extends Take authorization under the Permits to PSE. PSE is ultimately responsible for compliance with all applicable terms and conditions of this Agreement, the IA, the HCP/NCCP and the Permits.

6.1.1 Compliance with the California Environmental Quality Act

The Conservancy's issuance of a Certificate of Inclusion to the PSE is a public agency action that must comply with CEQA. For purposes of the Project, the Conservancy is the CEQA lead agency. The Conservancy has determined the Project is categorically exempt from the requirements of CEQA under Class 1, "Existing Facilities," of the State CEQA Guidelines Section 15301.

6.2 Duration of Take Authorization

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

6.3 Section 7 Consultations with USFWS

Nothing in this Agreement is intended to alter the obligation of a federal agency to consult with USFWS pursuant to Section 7 of FESA (16 U.S.C. §1536(a)). The PSE acknowledges that, if the Project is authorized, funded, or carried out by a federal agency, the federal agency and the Project must also comply with Section 7. As provided in Section 16.1 of the IA, USFWS has made a commitment that, unless otherwise required by law or regulation, it will not require any measures under Section 7 that are inconsistent with or exceed the requirements of the HCP/NCCP and the Permits for activities covered by the HCP/NCCP and the Permits.

The Project is not authorized, funded, or carried out by a federal agency, therefore ConocoPhillips Pipeline Company is not required to comply with Section 7 of FESA with regard to the Project.

7.0 RIGHTS AND OBLIGATIONS OF PSE

7.1 Rights

Upon the Conservancy's issuance of a Certificate of Inclusion to PSE, PSE may Take the Covered Species while carrying out the Project in the Permit Area, as further authorized

by and subject to the conditions of this Agreement, the IA, the HCP/NCCP, and the Permits. The authority issued to PSE applies to all of its elected officials, officers, directors, employees, agents, subsidiaries, contractors, and subcontractors, and their officers, directors, employees and agents to the extent that they participate in the implementation of the Project. PSE shall periodically conduct an educational program to fully inform all such persons and entities of the terms and conditions of the Permits, and PSE shall be responsible for supervising their compliance with those terms and conditions. All contracts between PSE and such persons and entities shall require their compliance with the Permits.

7.2 General Obligations

The PSE will fully and faithfully perform all obligations assigned to it under this Agreement, the IA, the HCP/NCCP, the Permits, including but not limited to the obligations assigned in the following chapters of the HCP/NCCP: Chapter 6.0 (Conditions on Covered Activities), Chapter 8.4 (Participating Special Entities), and Chapter 9.0 (Funding). PSE shall implement all measures and adhere to all standards included in the Application, and PSE shall reserve funding sufficient to fulfill its obligations under this Agreement, the IA, the HCP/NCCP and the Permits throughout the term of this Agreement. PSE will promptly notify the Conservancy of any material change in its financial ability to fulfill its obligations under this Agreement.

7.3 Obligations In The Event of Suspension or Revocation

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

7.4 Interim Obligations upon a Finding of Unforeseen Circumstances

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

7.5 Obligations In The Event Of Changed Circumstances

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

7.6 Obligation to Compensate Conservancy for Administrative Costs

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 \$3,500 in the aggregate. 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.

This provision is not intended to, and shall not be construed to, limit PSE's duty to indemnify the Conservancy as provided in Section 7.7 of this Agreement.

7.7 Indemnification

PSE agrees to defend, indemnify, and hold harmless the Conservancy and its board members, officers, contractors, consultants, attorneys, employees and agents from any and all claim(s), action(s), or proceeding(s) (collectively referred to as "Proceedings") brought against Conservancy or its board members, officers, contractors, consultants, attorneys, employees, or agents arising out of or resulting from any of the following.

- Decisions or actions of the Conservancy related to the Project, this PSE Agreement, or compliance with the California Environmental Quality Act of 1970, as amended ("CEQA") with regard to the Project; and
- The negligence, recklessness, or intentional misconduct of any representative, employee, or agent of PSE.

Notwithstanding the above, (i) PSE shall have no duty to defend, indemnify, or hold harmless the Conservancy to the extent damages are sought in a tort claim arising out of or resulting from the individual negligence, recklessness, or intentional misconduct of any representative, employee, or agent of the Conservancy and (ii) the indemnification obligations set forth above shall in no way limit the rights and remedies of PSE with respect to any breach of the terms and conditions of this PSE Agreement by the Conservancy.

PSE's duty to indemnify the Conservancy includes, but is not limited to, damages, fees and/or costs awarded against or incurred by Conservancy, if any, and costs of suit, claim or litigation, including without limitation attorneys' fees and other costs, liabilities and expenses incurred in connection with any Proceedings.

7.7.1 Enforcement of Indemnification Provision

PSE agrees to indemnify Conservancy for all of Conservancy's costs, fees, and damages incurred in enforcing the indemnification provisions of this Agreement.

7.7.2 Compliance Costs

PSE agrees to defend, indemnify and hold harmless Conservancy, its officers, contractors, consultants, attorneys, employees and agents from and for all costs and fees incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending, any document (such as this Agreement or any document required for purposes of compliance with CEQA) if made necessary by any Proceedings.

7.7.3 Obligations in the Event of Litigation

In the event that PSE is required to defend Conservancy in connection with any Proceedings, Conservancy shall have and retain the right to approve, which approval shall not be withheld unreasonably:

- the counsel to so defend Conservancy;
- all significant decisions concerning the manner in which the defense is conducted; and
- any and all settlements.

Conservancy shall also have and retain the right to decline to participate in the defense, except that Conservancy agrees to reasonably cooperate with PSE in the defense of the Proceedings. If Conservancy participates in the defense, all Conservancy fees and costs shall be paid by PSE.

PSE's defense and indemnification of Conservancy set forth herein shall remain in full force and effect throughout all stages of litigation including any and all appeals of any lower court judgments rendered in the Proceedings.

8.0 REMEDIES AND ENFORCEMENT

If PSE fails to comply with the terms of this Agreement, the IA, the HCP/NCCP, or the Permits, the Conservancy may withdraw the Certificate of Inclusion and terminate any Take authorization extended to PSE. The Conservancy shall also have all of the remedies available in equity (including specific performance and injunctive relief) and at law to enforce the terms of this Agreement, the IA, the HCP/NCCP and the Permits, and to seek redress and compensation for any breach or violation thereof. The Parties acknowledge that the Covered Species are unique and that their loss as species would be irreparable and that therefore injunctive and temporary relief may be appropriate in certain instances involving a breach of this Agreement.

9.0 FORCE MAJEURE

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

- The suspension of performance is of no greater scope and no longer duration than is required by the Force Majeure;

- Within seven (7) days after the occurrence of the Force Majeure, the Party invoking this section shall give the Conservancy written notice describing the particulars of the occurrence;
- The Party shall use best efforts to remedy its inability to perform (however, this paragraph shall not require the settlement of any strike, walk-out, lock-out or other labor dispute on terms which in the sole judgment of the Party is contrary to its interest); and
- When the Party is able to resume performance of their obligations, it shall give the other Party written notice to that effect.

10.0 MISCELLANEOUS PROVISIONS

10.1 Calendar Days

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

10.2 Notices

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

John Kopchik

East Contra Costa County Habitat Conservancy

c/o Contra Costa County Department of Conservation and Development

651 Pine Street, North Wing, 4th Floor

Martinez, CA 94553

Email: john.kopchik@dcd.cccounty.us

Phone: 925-335-1227

Frank L. Nichols

ConocoPhillips Company

1232 Park Street, Suite 300

Paso Robles, CA 93446

Email: frank.l.nichols@conocophillips.com

Phone: 805/226-2644

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

10.3 Entire Agreement

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

10.4 Amendment

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

10.5 Attorneys' Fees

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

10.6 Governing Law

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

10.7 Duplicate Originals

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

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

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

10.9 No Third Party Beneficiaries

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

10.10 References to Regulations

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

10.11 Applicable Laws

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

10.12 Severability

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

10.13 Due Authorization

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

10.14 No Assignment

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

10.15 Headings

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

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

EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY

By: _____
JOHN KOPCHIK, Executive Director

DATE: _____

CONOCOPHILLIPS PIPELINE COMPANY

By: _____
WILLIAM A. HALLETT, Attorney-In-Fact

DATE: _____



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 and Anode Bed Project
Project Applicant's Company/Organization: ConocoPhillips Pipeline Company.
Contact's Name: Frank Nichols
Contact's Phone: (805) 226-2644 Fax: (805) 239-4410
Contact's Email: frank.l.nichols@conocophillips.com
Mailing Address: 1232 Park Street Suite 300
Paso Robles, CA 93446

Project Description:

Lead Planner: Krystal Hinojosa
Project Location: Marsh Creek Road, Clayton (see Figures 1A, 1B)
Project APN(s) #: 078-260-030; 078-260-021
Number of Parcels/Units: 2
Size of Parcel(s): N/A
Project Description/Purpose (Brief): ConocoPhillips Pipeline Company is proposing to install a deep well anode bed and rectifier and complete an operational and safety pipeline repair at two locations along its Line 200 Mainline trunk pipeline within the HCP/NCCP jurisdictional area. The pipeline transports crude oil from the Bakersfield area to a ConocoPhillips refinery in Richmond.

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 and Anode Bed Replacement Participating Special Entity

I. Project Overview

Project proponent: Frank Nichols

Project Name: ConocoPhillips Line 200 Pipeline Repair and Anode Bed Project

Application Submittal Date: September 20, 2011

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: 0.003

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.

Acreage of land to be temporarily disturbed³:

1.37

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:

Project Description:

ConocoPhillips Pipeline Company is proposing to undertake two projects along its Coalinga-Avon Line 200 Mainline trunk pipeline within the HCP/NCCP jurisdictional area: the installation of a deep well anode bed and rectifier, and the completion of operational and safety repairs along a 120 foot section of the pipeline. The pipeline transports crude oil from the Bakersfield area to a ConocoPhillips refinery in Richmond. ConocoPhillips Pipeline Company is required by the Department of Transportation (DOT) to install deep well anode beds and rectifiers to protect the underground steel pipeline from corrosion and maintain the integrity of the steel pipe and coating. The DOT also requires ConocoPhillips Pipeline Company to conduct maintenance repairs to the pipeline within a specified timeframe, upon discovery of dents and/or anomalies.

The project consists of one anode bed and rectifier construction site (hereinafter referred to as "the anode site") and one pipeline repair site (hereinafter referred to as "repair site"), at two locations along the north side of Marsh Creek Road, southeast of the town of Clayton. The locations of the two sites are depicted in a regional map in Figure 1A. Figure 1B provides the location of the anode site and the repair site within the Clayton USGS 7.5-minute quadrangle. Figures 2A and 2B provide site plans for the anode site and Figure 2C provides a site plan for the repair site. Figures 3A and 3B provide aerial photographs of the anode site and the repair site locations, the pipeline alignment, the footprint of impact for each site, the footprint of the associated access

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).

area for the repair site, and the land cover in the area of the anode site and the repair site. Photographs of each site are also attached.

Marsh Creek Pipeline Repair Site (Site ID# 216,030.00.03 & 216,000.38.80)

The pipeline repair site is located on a steep grassland hillslope approximately 750 feet north of Marsh Creek Road, 2.4 miles southeast of downtown Clayton (Figures 1A and 1B). The site plan for this repair is attached as Figure 2C. All proposed pipeline repair impacts are temporary. The total impact footprint for this pipeline repair site is **59,128 sq. ft. (1.36 acre)**, and includes the project footprint, a temporary access road, and a 25-foot temporary impact buffer on both sides of the access road (Figure 3A). The project footprint would be approximately 100 x 120 ft. (12,000 square feet; 0.28 acres). Access to the repair site is mapped on Figure 3A: equipment would drive from Marsh Creek Road overland, over an existing dirt road. A temporary access road would be graded from the existing dirt road to the repair site, resulting in 7,600 square feet (760 feet X 10 feet and 0.17 acres) of temporary impacts to grassland habitat. In addition, in accordance with HCP/NCCP policy, a 25 foot buffer on both sides of the access road is required, and would result in 39,528 square feet (0.91 acre) of temporary impacts.

A small bulldozer will be required to grade an access road from the existing dirt road to the repair site on the hillside. Staging will be limited to the access road to the site. Within the project footprint, work will be conducted with a backhoe and pick-up trucks with welding equipment and supplies/parts. The applicant will dig one to two holes of approximately 11 feet by 24 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.

Marsh Creek Anode Site (Site ID# MP 203.40)

The Marsh Creek anode site is located in ruderal vegetation adjacent to a private driveway, approximately 625 feet north of Marsh Creek Road and 2.1 miles southeast of downtown Clayton (Figures 1A and 1B). The site plans for this repair are attached as Figures 2B and 2C. The total project footprint would be approximately **490 sq. ft. (0.01 acre)** (Figure 3B), and includes 150 square feet (10 feet by 15 feet; 0.003 acre) of permanent impacts where the anode well and rectifier will be installed, and 340 square feet (0.01 acre) of temporary impacts where cable and electrical connections will be trenched (Figures 2B and 3B). Access to the anode site would be via an existing dirt road as mapped on Figure 3B.

Figure 2B provides a cross-section of the anode bed. The anode bed will be drilled into a 10 inch diameter x 350 foot deep well, and will consist of fifteen 3-inch by 60-inch high silicon cast iron anodes and Astbury 218L coke breeze. A concrete cap will be poured to seal the top of the well. A 2-inch PVC vent pipe will be installed from 24 inches below

grade with 2 x 90 degree PVC fittings with a plastic screen at the end to vent trapped air from the well.

A 50 volt 50 amp Universal Type B rectifier will be installed aboveground in order to maintain the required -0.850 millivolt potential for the pipeline. A new electrical connection will be made from PG&E's existing power pole and transformer to the rectifier. The new electrical connection will consist of 3-inch conduit encased with red concrete that will be installed in a 20 foot long by 30 inch deep by 1 foot wide trench that will be backfilled. A 320 foot long by 2 foot deep x 1 foot wide trench will be excavated using a hydro-vacuum truck to lay new cable from the pipe to the rectifier, which is located south of the fence line, and north of the resident's driveway as shown in the attached Figure 3B.

At both sites, project footprints will be staked and fenced with silt fencing backed by a construction fence prior to the commencement of the work. All construction equipment and work will be limited to the area within the fenceline. Where the ground is level, overland access routes and temporary work areas will be covered in ¾-inch plywood to protect the soil from tire traction. Contained refueling areas with fuel blankets will be established to contain any fuel spills during fueling.

Best Management Practices (BMP's) will be implemented as part of the project to ensure that waters from a first-order ephemeral drainage located 200 feet to the north of the anode site do not enter the anode site. Hay wattles will be installed along the fenceline immediately north of the project footprint and the drainage, as mapped in Figure 4B. BMP's will also include the installation of silt fence along the project footprint boundaries.

A qualified biologist will be at the pipeline repair work site during all 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. The biological monitor will also ensure that special-status wildlife is not impacted by the proposed work, and that all special-status plant avoidance measures are implemented. As the anode site occurs in disturbed ruderal habitat, a biological monitor would not be necessary during work at this location.

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 sites to reduce the potential for attracting predators, such as crows and ravens.

Any contaminated soils and materials will be excavated and removed from the work sites 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 work is complete, the work sites will be re-contoured to the original site conditions 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 ^(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		1.36		
<input type="checkbox"/> Alkali grassland				
<input checked="" type="checkbox"/> Ruderal	0.003	0.01		
<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}				

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
<input type="checkbox"/> Total stream length (feet) ^a				
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				
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)				

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
<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 (Impacted Acres)	0.003	1.37		

^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 3A and 3B depict the field-verified land cover maps for the anode bed site and the repair site. Photographs of the sites are attached.

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 anode bed site and the repair 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.

Land Cover Type in the project area?	Species	Habitat Element in the project area?	Planning Survey Requirement
	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.
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 checked="" 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.

Marsh Creek Pipeline Repair Site (Site IDs # 216,030.00.03 & 216,000.38.80)

The Marsh Creek Pipeline Repair site consists of a west-facing hillslope vegetated by annual grassland. One blue oak (*Quercus douglasii*) occurs at the top of the hill, adjacent to the repair site. Grassland vegetation is dominated by wild oats (*Avena barbata*),

Italian ryegrass (*Lolium multiflorum*), yellow star thistle (*Centaureum solstitialis*), ripgut brome (*Bromus diandrus*), and bellardia (*Bellardia trixago*). This site constitutes suitable habitat for the San Joaquin kit fox and western burrowing owl. Suitable nesting habitat for the golden eagle occurs in the oak woodlands within 0.5 mile of the pipeline repair site. It is also assumed that the California tiger salamander could over-summer in this grassland habitat.

No suitable habitat for Swainson's hawk occurs in the area of the repair site. The repair site is located in an area characterized by hills, annual grasslands and oak woodlands. Swainson's hawk forages in open agricultural fields that do not occur in this area. Thus, M&A does not expect Swainson's hawks to nest within the area of affect of the repair site.

Marsh Creek Anode Bed & Rectifier Site (Site ID# MP 203.40)

The Marsh Creek Anode Bed & Rectifier Site is located in ruderal vegetation adjacent to a driveway of a rural residence (Figure 3B). Vegetation consists of wild oats, Italian ryegrass, spiny cocklebur (*Xanthium spinosum*), cheeseweed (*Malva* sp.), amaranth (*Amaranthus* sp.), common knotweed (*Polygonum aviculare*), and Italian thistle (*Carduus pycnocephalus*). A first-order ephemeral drainage terminates approximately 200 feet to the north of the site (Figure 4B). This site is located within a highly disturbed area associated with a private residence and wood chipping/mulch operation, and would therefore not be considered suitable habitat for the San Joaquin kit fox, western burrowing owl, or California tiger salamander.

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

See Figures 4A and 4B, 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 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
	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

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
	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 ^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

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
	Showy madia (<i>Madia radiata</i>)	C		Mar–May
☐ 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

^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 10 covered and no-take species have the potential to occur in the grasslands of the Marsh Creek Pipeline Repair site. No suitable habitat for these species occurs on the Marsh Creek Anode Bed site, as this site is highly disturbed. The 10 covered and no-take 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 at the Marsh Creek Pipeline Repair site by M&A biologists Ms. Hope Kingma and Mr. Brian Spirou on September 1, 2010.

Of the 10 plant species that have the potential to occur, 5 species can be dismissed from the Marsh Creek Pipeline Repair site. Alkali milkvetch, Brewer's dwarf flax and Contra Costa goldfields can be dismissed due to the lack of suitable habitat. Big tarplant and Mt. Diablo buckwheat would have been detectable during M&A's September 2010 site visit. 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 5 species, which include showy madia, large-flowered fiddleneck, round-leaved filaree, Mt. Diablo fairy lantern, and diamond-petaled California poppy. These species have a low probability of occurring within the footprint of the Marsh Creek Pipeline Repair site.

As ConocoPhillips is on an urgent timeline to complete the federally mandated repair, they are proposing to conduct rare plant surveys at the repair site, during March and May of 2012, 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 repair site, and within a 200 foot buffer around the repair 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 2012 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 pipeline repair area, estimated to be approximately 22 feet by 48 feet. The topsoil would be replaced over the work 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, 2012. If special-status plant species are identified on or within 200 feet of the repair site or 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 project-related impacts occur to special-status plants in the area of the repair site, the applicant will implement the following avoidance measures:

- All plants and their associated bulbs, seed and soil will be salvaged from the repair site footprint prior to construction. 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 level portions of the access areas. 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 checked="" 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 upland over-summering/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).

Golden Eagle

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

Construction Monitoring & 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.

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).

Species Assessed by Preconstruction Surveys	Monitoring Action Required if Species Detected
<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 checked="" 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 non-disturbance 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

Minimization is addressed in the Pre-Construction survey requirements above.

Golden Eagle

Avoidance and Minimization Measures

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

Construction Monitoring

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

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

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. A first-order ephemeral drainage terminates approximately 200 feet to the north of the anode site (Figure 4B).

Best Management Practices (BMP's) will be implemented as part of the project to ensure that waters from the drainage do not enter the anode site. Hay wattles will be installed between the project footprint and the drainage. BMP's will also include the installation of silt fencing along the northern 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 anode site and the repair site during all work 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 work activities. 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 11-15 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 anode site. Rare plant surveys will be conducted on the repair site in accordance with HCP/NCCP guidelines in March and May of 2012, and the results will be submitted to the Conservancy by July 30, 2012.

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 anode site or the repair site. No suitable habitat for other fully protected wildlife species occurs on the anode site or repair site.

The grasslands and trees in the area of the anode site and repair site provide suitable nesting habitat for birds. Impacts to common nesting birds and raptors such as northern harrier (*Circus cyaneus*), American crow (*Corvus brachyrhynchos*) 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 or trees; however, no specific surveys for nesting passerine birds or raptors have been conducted.

In order to avoid impacts to 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 15th and September 15th, 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 anode site and repair site and/or their associated access areas. If nesting birds are identified during the surveys, a qualified biologist shall determine whether the proposed work could negatively impact the nest.

If the proposed work has the potential to negatively impact the nest, all work at the site near the nest 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 the project, 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 anode site project footprint is located approximately 200 feet downslope from the first-order ephemeral drainage (Figure 4B). As such, no impacts would occur within the 25 foot setback of this drainage. Hay bales will be installed between the project footprint and the drainage, to prevent waters from entering the anode site.

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 anode bed or pipeline repair projects. See HCP/NCCP Conservation Measure 1.10 for a description of the BMP's that will be installed between the anode 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).

- 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 a pipeline repair project and the installation of a deep well anode bed and rectifier along an existing pipeline utility. The applicant has access to these work areas via an existing pipeline easement. Permanent impacts are limited to 150 square feet in a ruderal area; the remaining 1.37 acres of proposed impacts are temporary and would be re-contoured to the original site conditions at the completion of the project.

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 projects consist of a pipeline repair and the construction of a deep well anode bed along an existing pipeline utility. Pipeline repair impacts will be temporary. Construction of the anode bed will occur within a ruderal area next to a private driveway. As such, a buffer between the two sites and wildlands would not be necessary.

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 a pipeline repair and the construction of a deep well anode bed along an existing pipeline utility. Pipeline repair impacts will be temporary. Construction of the anode bed will occur within ruderal area next to a private driveway. As such, urban-wildland interface design elements would not be necessary.

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

Site	Project Footprint (sq. ft.)		Temporary Road Access (sq. ft.)	Total Impacts (sq. ft./Acres)	
	Temporary Impacts	Permanent Impacts		Temporary Impacts	Permanent Impacts
Anode Bed	340	150	0	340 sq ft/ 0.008 acre	150 sq. ft./ 0.003 acre
Pipeline Repair	12,000	-	47,128	59,128 sq. ft./ 1.36 acres	
Total				1.37 acre	0.003 acre

Table 5 above provides a summary of the areas of impact for the anode bed site and the pipeline repair site and the associated access route. Project impacts consist of 1.37 acres of temporary impacts and 0.003 acres of permanent impacts. Although 1.37 acres of impacts associated with the repairs are temporary, the applicant will be mitigating for the 1.37 acres of temporary impact 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 (Chapter 9.3.1 “Activities outside the UDA with Soil Disturbance” of the HCP/NCCP).

Please refer to Exhibit 1: HCP/NCCP Fee Calculator Worksheet, attached.

Temporary Impact Recovery Plan

At completion of the pipeline repair project and anode 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, as detailed below.

Seed Type	Seeding Rate PLS (Pure Live Seed)
California brome (<i>Bromus carinatus</i>)	12.5 lbs./acre
meadow barley (<i>Hordeum brachyantherum</i>)	10 lbs./acre
needlegrass (<i>Nassella pulchra</i>)	5 lbs./acre
creeping wild rye grass (<i>Leymus triticoides</i>)	5 lbs./acre
California poppy (<i>Eschscholzia californica</i>)	2.5 lbs./acre
sky lupine (<i>Lupinus nanus</i>)	4 lbs./acre
white yarrow (<i>Achillea millefolium</i>)	0.5 lbs./acre
bicolored lupine (<i>Lupinus bicolor</i>)	2.5 lbs./acre

- Seed mix shall be applied at a minimum rate of 42 PLS pounds per acre, using a hand-type rotary spreader.
- Native grass seed shall be from genetic stock derived from the region of the project site.
- Fertilizer shall be 7-2-1 BioSol Mix or equal and applied at a rate of 1000 pounds per acre.
- Rice straw shall be placed over hydroseed mix to prevent winter erosion. The straw shall be applied at a rate of 2 tons per acre.
- Following the spreading of straw, an organic tackifier such as M-binder shall be sprayed over the straw using the techniques and application rate specified by the manufacturer.

Fresh seeds for the hydroseed mix will be obtained from:

Pacific Coast Seed, Inc.
6144-A Industrial Way
Livermore, California 94550-9749

Phone: (800) 733-3462
Fax: (925) 373-6855

Exhibit 1: HCP/NCCP FEE CALCULATOR WORKSHEET

PROJECT APPLICANT INFO:

Project Applicant: Conoco Phillips Pipeline Company

Project Name: Line 200 Pipeline Repair and Anode Bed Project

APN (s): 078-260-030; 078-260-021

Date: 20-Sep-11

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)¹

	Full Development Fee		Fee per Acre (subject to change on 3/15/12 ²)	=	
Fee Zone 1		x	\$10,662.15	=	\$0.00
Fee Zone 2	1.373	x	\$21,324.30	=	\$29,278.26
Fee Zone 3		x	\$5,331.52	=	\$0.00
Fee Zone 4 ³		x	\$15,993.23	=	\$0.00
Development Fee Total					\$29,278.26

**WETLAND MITIGATION FEE

	Acreage of wetland		Fee per Acre (subject to change on 3/15/12 ²)	=	
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

Streams				=	
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

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	\$29,278.26
Wetland Mitigation Fee Total +	\$0.00
Fee Subtotal	\$29,278.26
Contribution to Recovery +	\$14,639.13
TOTAL AMOUNT TO BE PAID	\$43,917.40

Notes:

1 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.

2 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.

3 "Fee Zone 4" is not shown on Figure 9.1 of the HCP/NCCP but refers to the fee applicable to those few covered activities located in northeastern Antioch (see page 9-21 of the HC

Template date: March 15, 2011

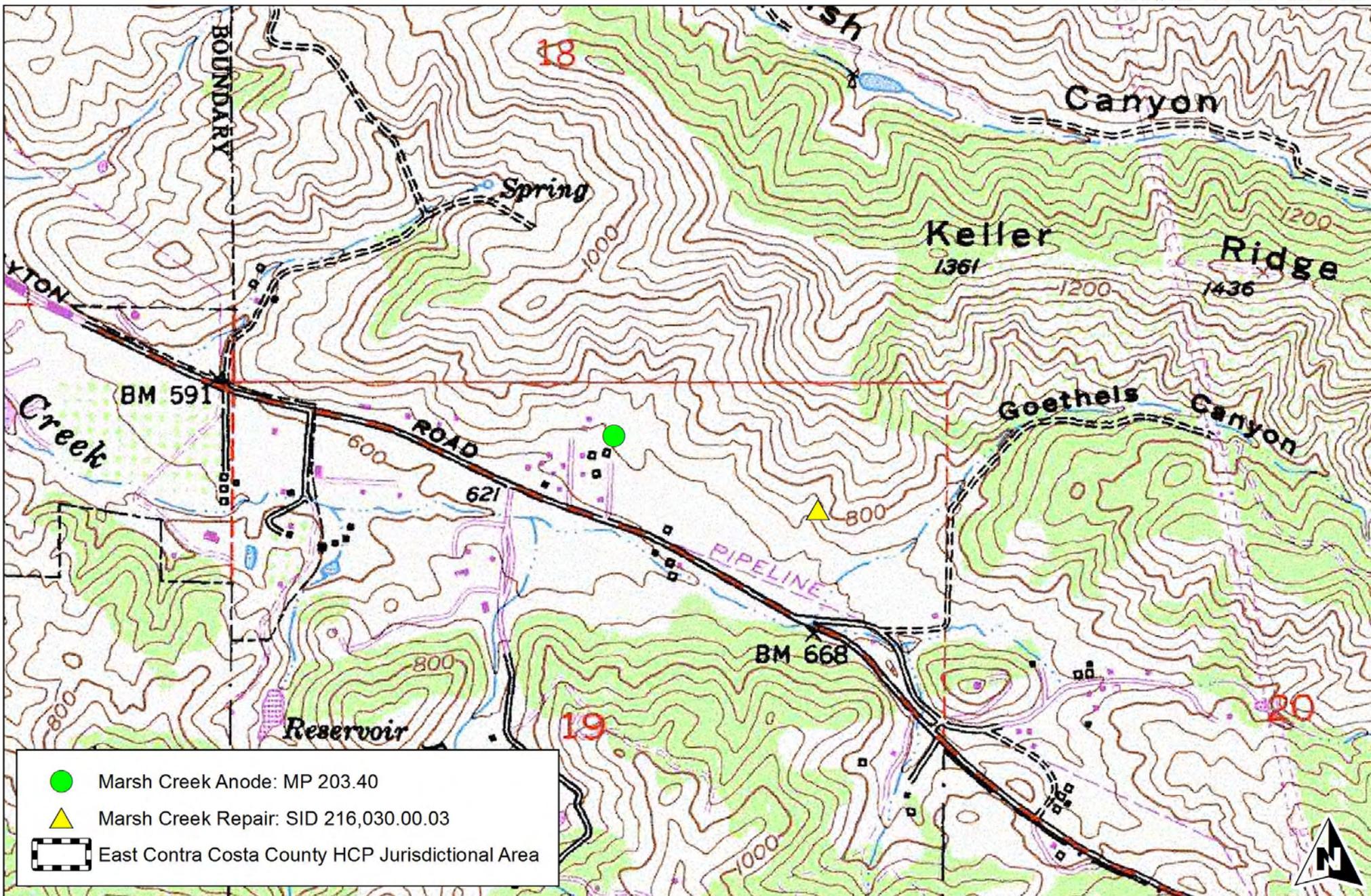
- Marsh Creek Anode: MP 203.40
- ▲ Marsh Creek Repair: SID 216,030.00.03
- ▭ East Contra Costa County HCP Jurisdictional Area



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

Figure 1A. ConocoPhillips Line 200 Pipeline Repair and Anode Bed Replacement Project
Project Site Regional Map
East Contra Costa County, California

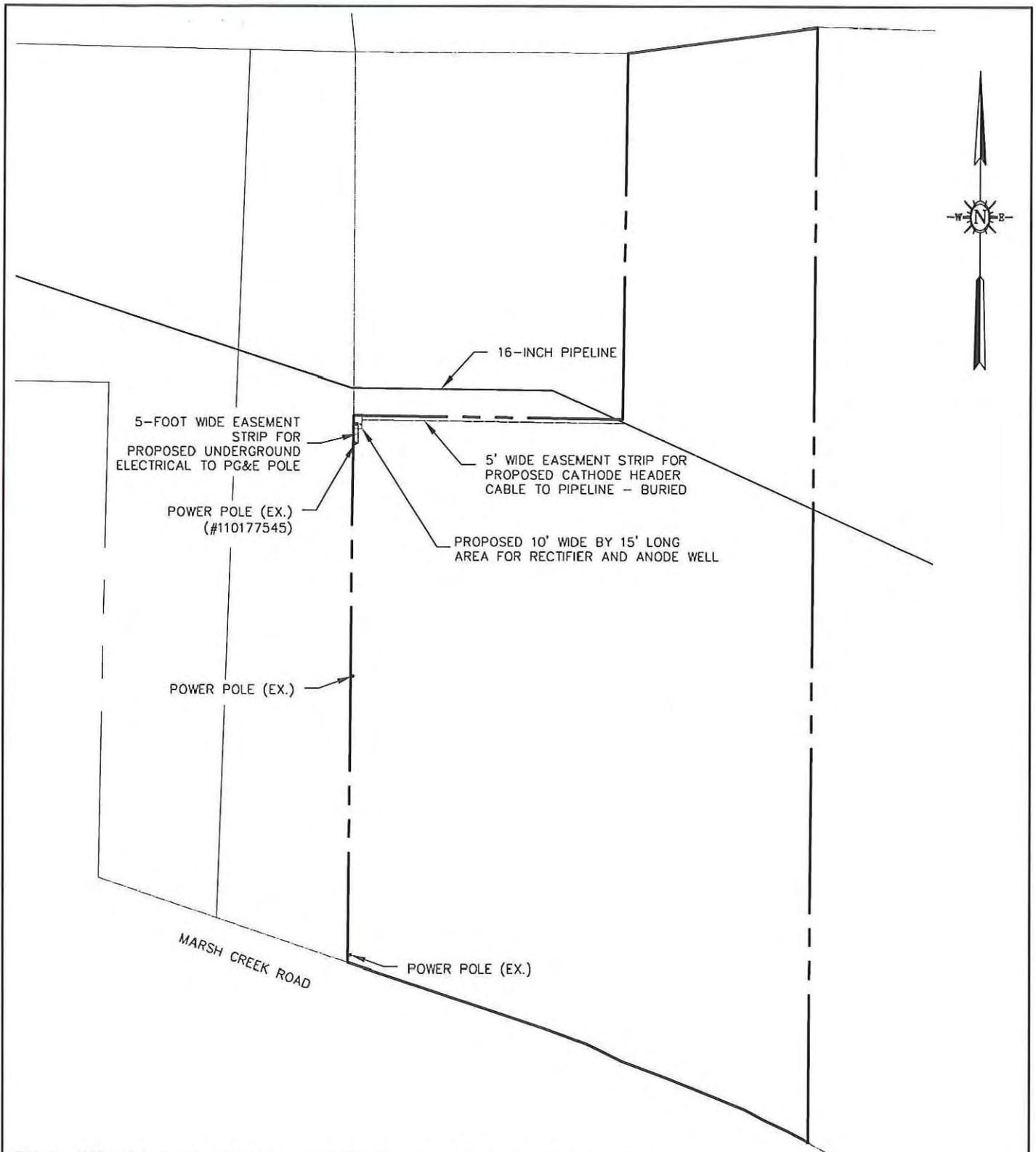
County: Contra Costa
Map Preparation Date: September 9, 2011



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

Figure 1B. ConocoPhillips Line 200 Pipeline Repair
 and Anode Bed Replacement Project
 Project Site Location Map
 East Contra Costa County, California

7.5-Minute Clayton quadrangle
 Topography Source: <http://gis.ca.gov>
 Map Revision Date: September 20, 2011



NOTE: ALL DATA SHOWN IS FOR GEOGRAPHICAL REFERENCE ONLY. DO NOT SCALE OR USE FOR FINAL MAP

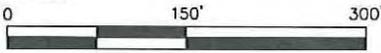
<p>LEGEND</p> <p>—— 16-INCH PIPELINE</p> <p>----- PROPERTY LINE (APPROXIMATE)</p>	<p align="center">EXHIBIT MAP A-1</p> <p align="center">RECTIFIER LOCATION MAP NORTH OF MARSH CREEK ROAD FOR LINE 200 CONTRA COSTA COUNTY, CA APN: 078-260-030 SECTION 19, T.1N., R.1E., M.D.B. & M.</p>	 <p>ConocoPhillips Pipe Line Company</p> <p>TRACY DISTRICT</p>
<p>SCALE</p> <p>0 150' 300'</p>  <p>1 INCH = 150 FEET</p>		

Figure 2A. Marsh Creek Anode Bed Project Site Plan

Appendix A: Typical Deep Anode Designs

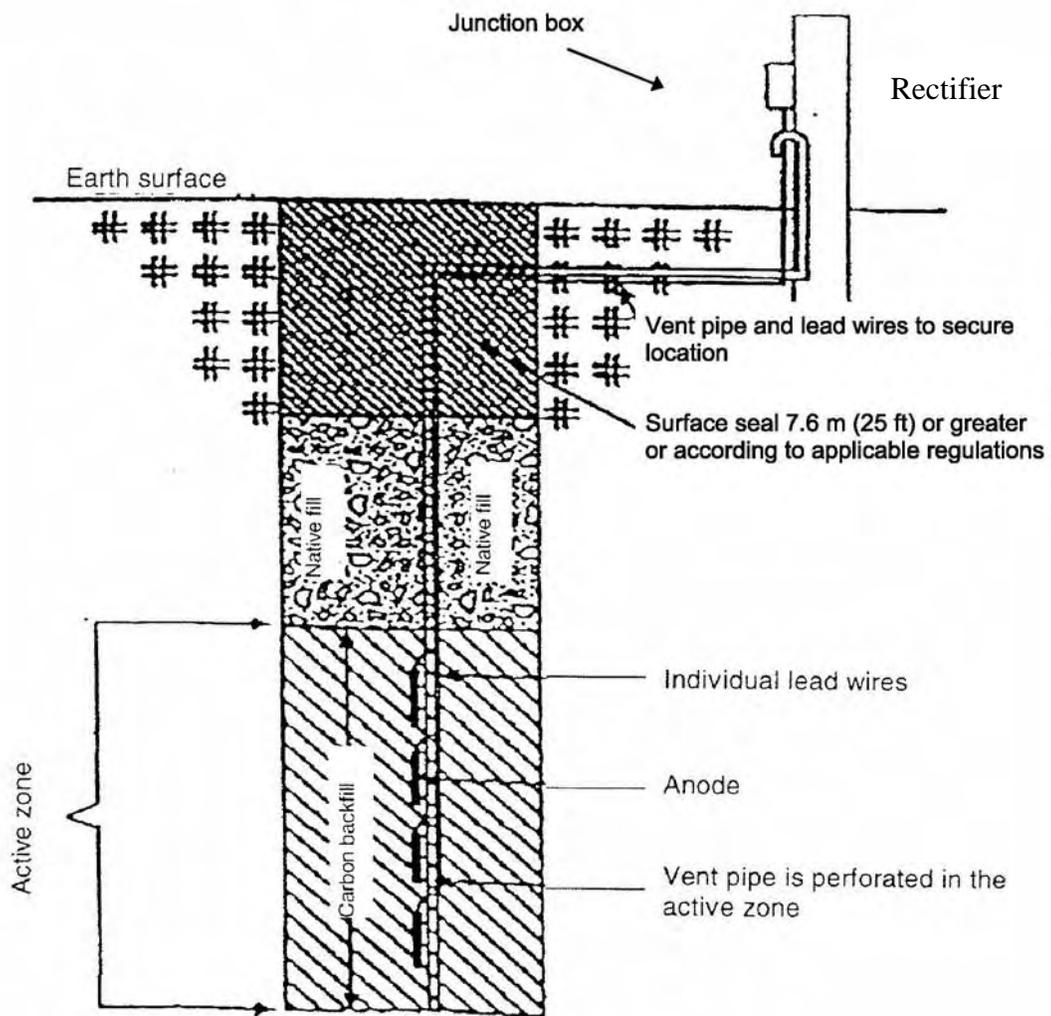
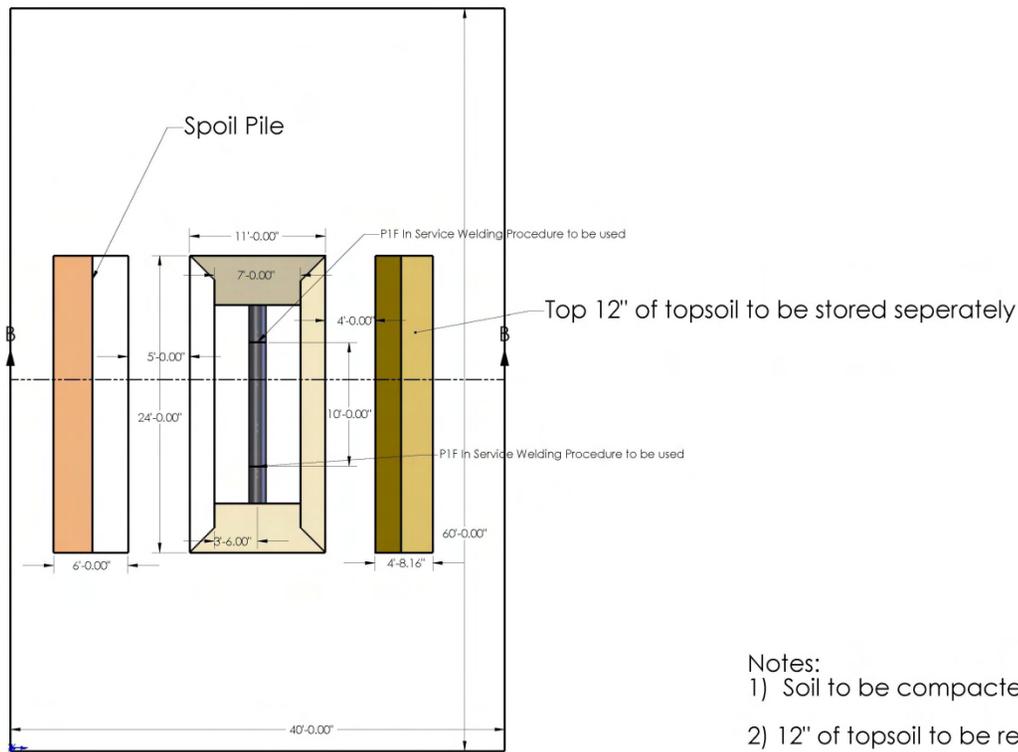
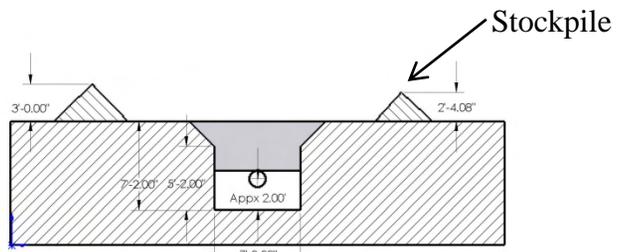


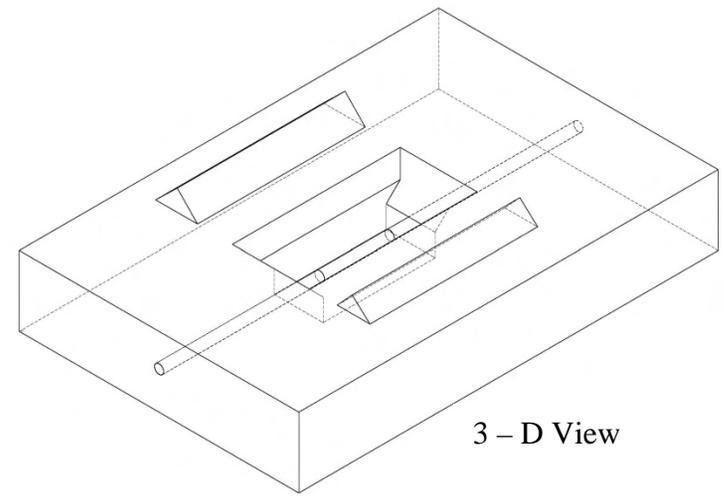
Figure 2B. Marsh Creek Anode Bed Project Site Plan



Plan View



Cross-Section View



3 - D View

- Notes:
- 1) Soil to be compacted to 90%
 - 2) 12" of topsoil to be removed and placed separately for replacement
 - 3) Disturbed soil to be hydroseeded with County approved native mix design
 - 4) ConocoPhillips welding procedure P1F in service to used for tie-in welds
 - 5) 100% X-Ray per API 1104
 - 6) For excavations over 4 feet speed shoring or other approved shoring equipment to be installed per OSHA section 1926
 - 7) All contract employees to be Operator Qualified per the DOT regulated activities and proper span of control administered
 - 8) Ensure proper joint conditional and surface preparation prior to denso 7200 epoxy placement per TSP 8003.

PROBREMARY AND CONFIDENTIAL THIS DOCUMENT IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE. IT IS THE PROPERTY OF CONOCO-PHILLIPS. IT IS TO BE RETURNED TO THE OFFICE OF ORIGIN UPON REQUEST.		<table border="1"> <tr> <th>DATE</th> <th>DESCRIPTION</th> <th>BY</th> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>	DATE	DESCRIPTION	BY										<table border="1"> <tr> <th>DATE</th> <th>DESCRIPTION</th> <th>BY</th> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>	DATE	DESCRIPTION	BY										<table border="1"> <tr> <th>DATE</th> <th>DESCRIPTION</th> <th>BY</th> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>	DATE	DESCRIPTION	BY										<table border="1"> <tr> <th>DATE</th> <th>DESCRIPTION</th> <th>BY</th> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>	DATE	DESCRIPTION	BY									
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Figure 2C. Marsh Creek Pipeline Repair Project Site Plan

-  Impact Footprint (100' x 120', 12,000 Sq. Ft., 0.28 Acre)
-  25 Foot Buffer (39,528 Sq. Ft., 0.91 Acre)
-  Temporary Access Road (760 Lin. Ft., 760' x 10', 7,600 Sq. Ft., 0.17 Acre)
-  Existing Repair Access Road
-  Line 200 Pipeline

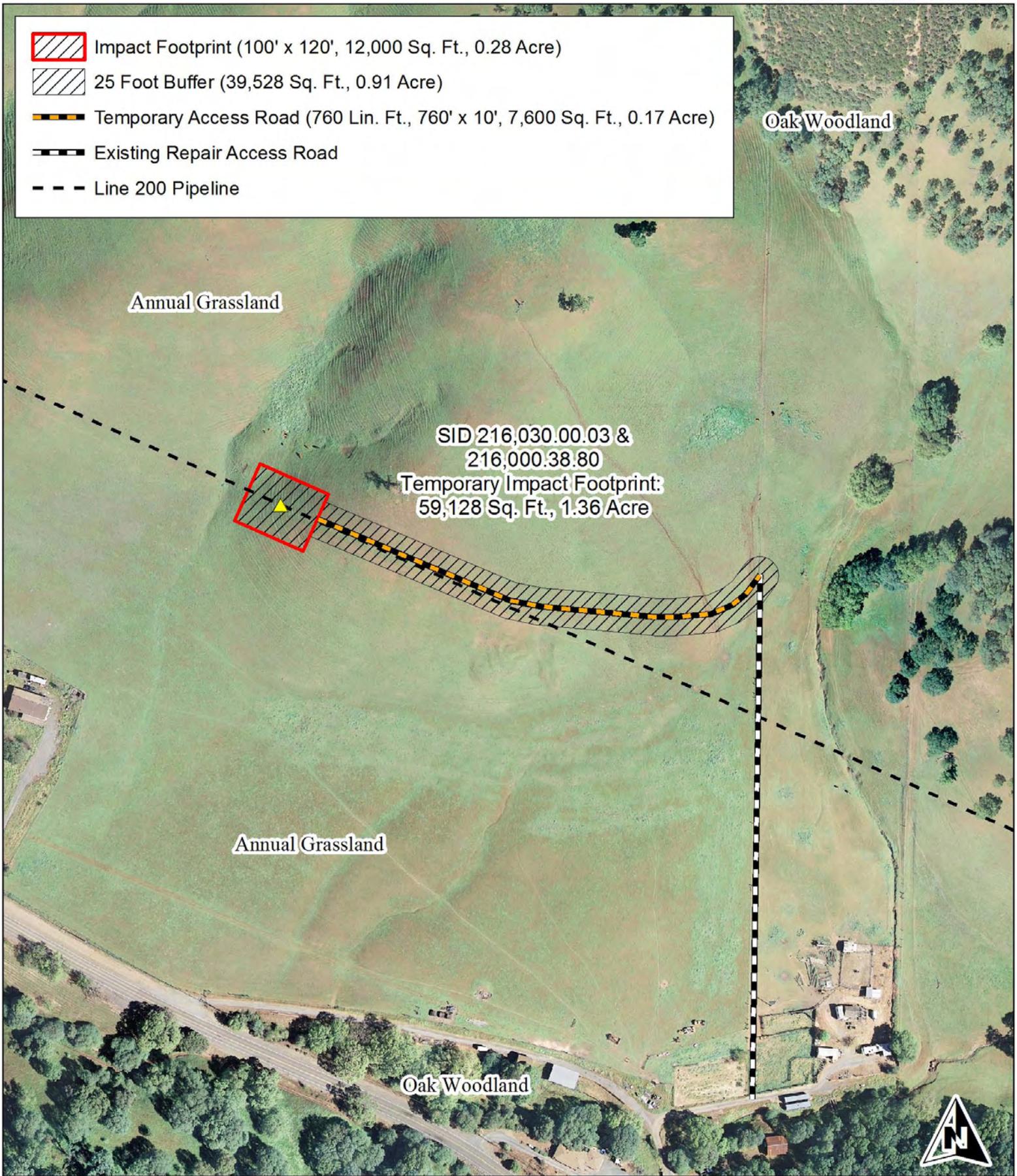
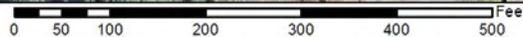
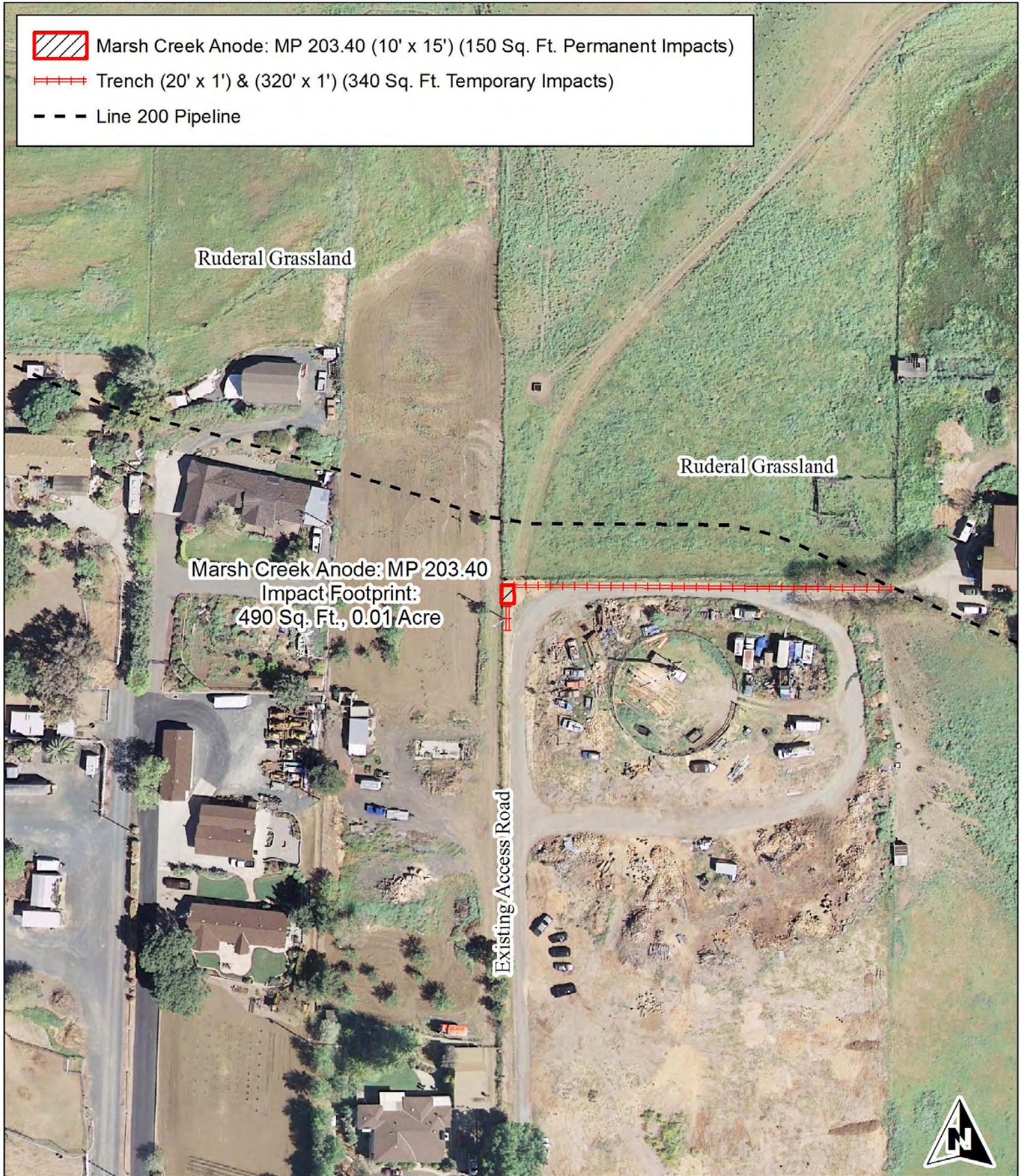


Figure 3A. Impact Area and Landcover Map
 ConocoPhillips Line 200 Pipeline
 Marsh Creek Repair SID 216,030.00.03 & 216,000.38.80
 East Contra Costa County, California



-  Marsh Creek Anode: MP 203.40 (10' x 15') (150 Sq. Ft. Permanent Impacts)
-  Trench (20' x 1') & (320' x 1') (340 Sq. Ft. Temporary Impacts)
-  Line 200 Pipeline

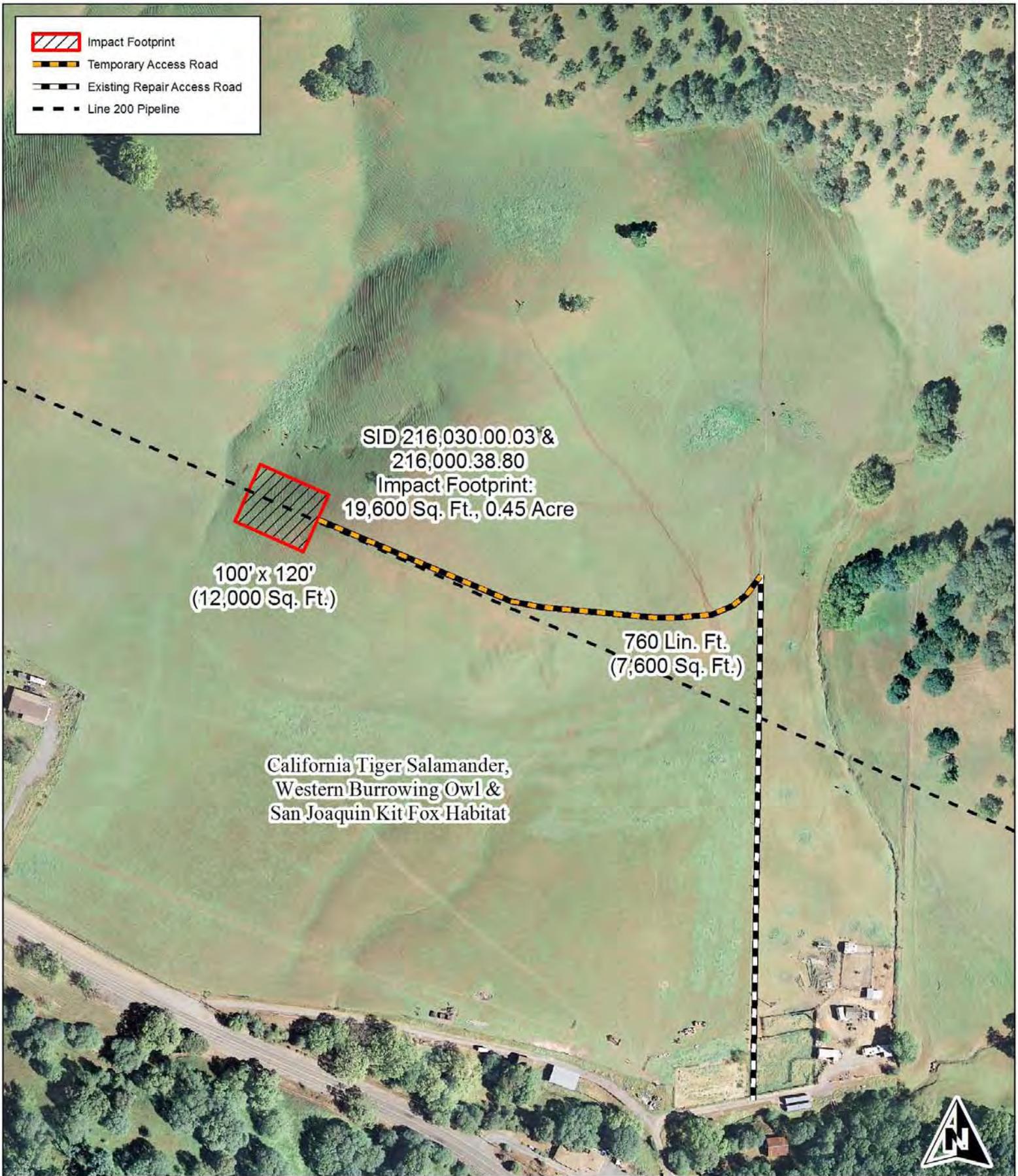


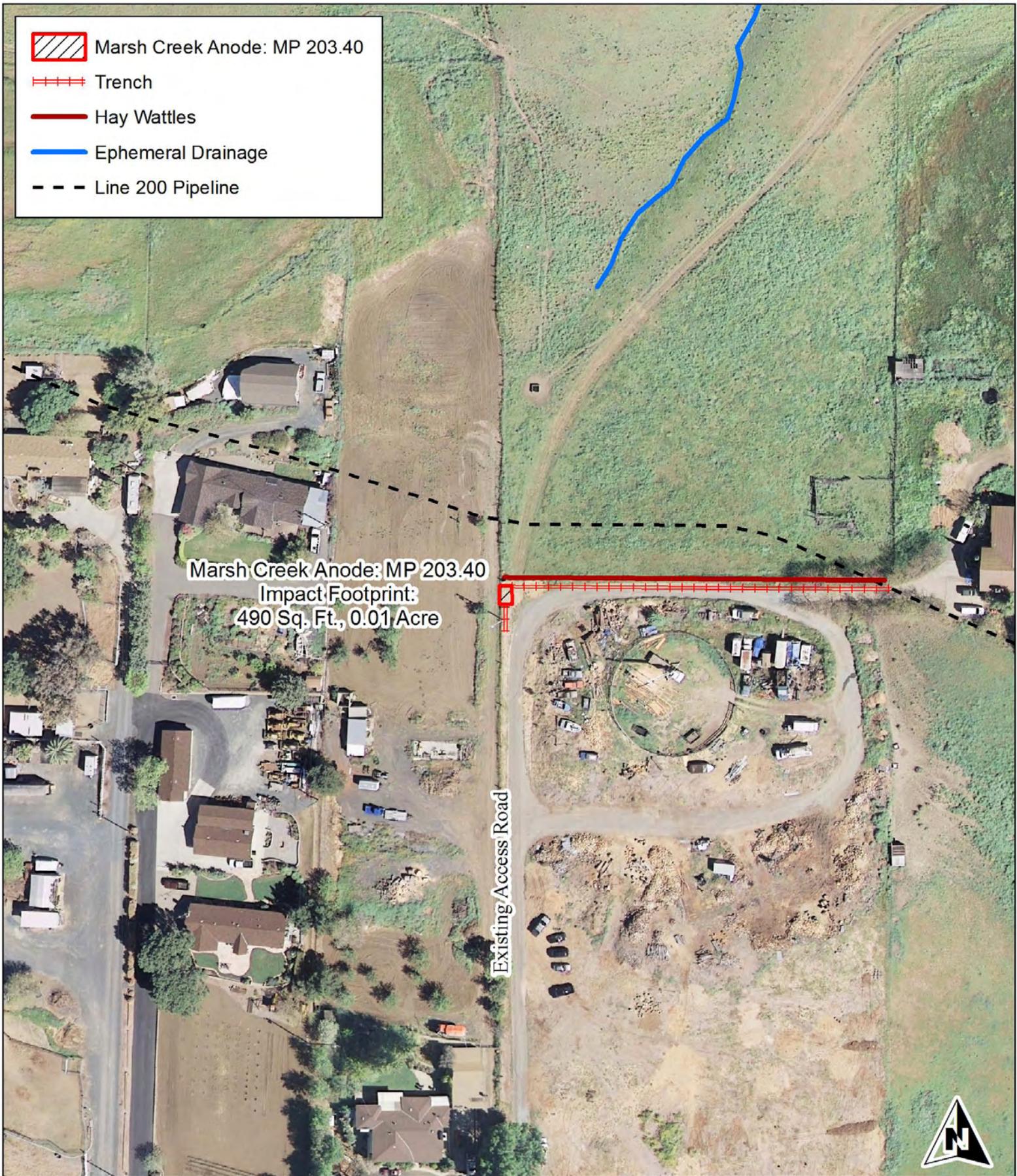
0 25 50 100 150 200 250 Feet

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

Figure 3B. Impact Area and Landcover Map
ConocoPhillips Line 200 Pipeline
Marsh Creek Anode Bed MP 203.40
East Contra Costa County, California

Map Preparation Date: September 20, 2011
Aerial Photograph Source:
<ftp://coco-county.projects.atlas.ca.gov> (2008)





**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: September 29, 2011
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Bird Research Associated with 2010 Gordon and Betty Moore Foundation Grant

RECOMMENDATION

AUTHORIZE staff to execute a contract for \$140,000 for the term from September 29, 2011 through December 31, 2013 with the East Bay Regional Park District (“EBRPD”) for implementation of a research project to track golden eagles and analyze behavior in and around the wind farms of the Altamont Pass Wind Resource Area (APWRA).

DISCUSSION

Overview of Research Grant and Proposed Project: In 2010, the Gordon and Betty Moore Foundation (GBMF) awarded the Conservancy a \$2,250,000 grant; \$2,000,000 to contribute to acquisition of Souza III (matching funds for a federal Section 6 grant) and \$250,000 for the design and implementation of a research project related to wind turbine generator (WTG) and wildlife interactions. The purpose of the research grant was to contribute to the body of science focused on reducing WTG-related impacts to birds and bats, while taking advantage of the fact that the Souza III property includes a portion the Buena Vista wind farm thus facilitating access to a study site.

The Buena Vista wind farm was repowered (repowered means replacement of old, less efficient WTGs with fewer, new, more efficient WTGs) in 2006, when 31 new WTGs replaced approximately 180 first generation WTGs. The Buena Vista project was the second major wind farm in the APWRA to repower, and the first in Contra Costa County. Monitoring at Buena Vista before and after construction indicates that larger WTGs with reduced rotations per minute and blades that are higher off the ground may result in a reduction in bird mortalities due to WTG operation. While these results are promising, results vary by species and more research into WTG-wildlife interactions could support better siting and, therefore, reduced mortality at

CONTINUED ON ATTACHMENT: YES ACTION OF BOARD ON: <u>May 27, 2010</u> OTHER _____	APPROVED AS RECOMMENDED _____
<p><u>VOTE OF BOARD MEMBERS</u></p> _____ 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 _____ <i>CATHERINE KUTSURIS, SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY</i> BY: _____, DEPUTY	

other sites in the APWRA and potentially other sites throughout California.

In collaboration with EBRPD and after contacting local avian experts regarding research gaps in the APWRA, Conservancy staff determined that research focusing on the golden eagle is an urgently need and would be an appropriate use of funding. Not only is this species one of the raptors experiencing the highest level of WTG-associated mortality in the APWRA, but it is also a species covered by the HCP/NCCP and any regional conservation actions for this species would support conservation requirements of the HCP/NCCP. EBRPD Wildlife Program Manager, Doug Bell, has been active in the APWRA working to develop models that identify geographic locations where golden eagle use is the highest, and as such, present the highest risk for eagles if WTGs are sited in these areas. The output of this work is a “hazard collision map” that shows locations of highest avian use and where WTGs are expected to have the most severe impacts. To date, Mr. Bell has supported development of such maps for the Tres Vaqueros wind farm repowering project in Contra Costa County. These maps are based on computer models using observational data collected by biologists in the field, and are currently the standard by which WTG siting is conducted in the APWRA (both the Tres Vaqueros and Vasco Winds repowering projects in Contra Costa County have used these models as the basis for WTG siting for repowering projects, although only the Tres Vaqueros maps are published).

With recent advances in global positioning system (GPS) hardware, transmitter devices are now small enough to be placed on golden eagles without risk of harm to the eagle. These new transmitters collect geographic coordinates (horizontal and vertical) at 30 second intervals and can be used to accurately calculate location, elevation, flight direction, and time spent in specific areas. Conservancy and EBRPD staff discussed how trapping, tagging, and tracking golden eagles could help advance our understanding of how golden eagles use the APWRA and how to this information could inform siting of WTGs in future repowering projects and, potentially, operation of already repowered projects.

Details of research project: Mr. Bell developed this research concept into a research proposal titled, “Using Satellite Telemetry to Improve and Expand Golden Eagle Hazard Collision Mapping to Lessen

Impacts of Wind Turbine Repowering in the Altamont Pass Wind Resource Area, California.”

The proposal includes five main tasks:

1. trapping and attachment of transmitters on up to six golden eagles;
2. eagle tracking, including mapping using a geographic information system (GIS);
3. validating current collision hazard maps (based on only observational data) by comparing newly collected transmitter data against existing collision hazard maps to determine whether eagles use the landscape as modeled;
4. revising collision hazard maps for Tres Vaqueros using new data, and developing new golden eagle collision hazard maps for the remainder of the APWRA; and
5. developing one or more peer-reviewed, publication-ready papers discussing the outcomes of this research.

Revised and new collision hazard maps (Task 4) would be developed using all available data (e.g., post-construction monitoring data for golden eagle use collected at Buena Vista wind farm). The publication-ready paper(s) (Task 5) would be distributed widely to wind companies,

Alameda County, U.S. Fish and Wildlife Service, and the California Department of Fish and Game to encourage their use during repowering in Alameda County and development of new wind farms in other areas of the state.

Other minor tasks would include development of collision hazard maps for red-tailed hawk and American kestrel at Buena Vista wind farm and processing of data and samples collected from eagles during trapping (e.g., vital statistics, blood samples) for submittal to the Molecular Ecology Laboratory at the Alaska Science Center. Collision hazard maps for Buena Vista would be developed using observational data collected by biologist performing post-construction monitoring at Buena Vista.

The proposed project would require two years to complete; trapping, tagging, and data collection would occur in the first year, and additional data collection, data analysis, and development of maps and papers would occur in the second year. In addition to 2.5% of Doug Bell’s time as EBRPD staff (EBRPD would contribute an additional 2.5% of Mr. Bell’s time as in-kind match), the proposal includes time for an EBRPD intern (\$6,000 per year), and several consultants to assist with trapping and/or data analysis.

A quick start and rapid implementation is critical for this project. The 2010 GBMF grant identified a timeline of two months from receipt of grant funds in October 2010 to identify a research project. The target completion date was 20 months after identifying the project. We have already missed the target for defining a research program and thus it is important to move quickly to avoid falling further behind the targeted schedule. In addition, repowering in the APWRA is moving ahead at a rapid pace. The sooner this research available for use in siting of WTGs during repowering, the more beneficial it will be for the conservation of golden eagles.

Form of contract: The contract would adhere to the standard professional services contract template that the Board previously approved.

Funding: The Conservancy received a grant from GBMF in 2010 in the amount of \$2,250,000, \$250,000 of which was allocated to a research project. The Conservancy already has the funding in hand. A portion of this funding would support the proposed work. Below is a table estimating how budget would be allocated by task.

Table 1. Research Project Budget Summary

Available budget for Moore foundation Grant		\$250,000		
	Year 1	Year 2	Total	
Task 1. Trap and tag	\$25,000	\$8,000	\$33,000	
Task 2. Eagle tracking and mapping	\$44,000	\$29,000	\$73,000	
Task 3. Validate current model	\$0	\$7,000	\$7,000	
Task 4. Update models and develop APWRA-wide	\$0	\$10,000	\$10,000	
Task 5. Write up	\$0	\$5,000	\$5,000	
Other Tasks/Intern	\$6,000	\$6,000	\$12,000	
Total	\$75,000	\$65,000	\$140,000	

Remaining budget from Moore Foundation Grant

\$110,000

This project will require 5% of Mr. Bell's time. The budget includes funding for 2.5% of his time, with the remaining 2.5% being covered by EBRPD. Budget to support 18% FTE for an intern (375 hours/year) and 136 hours of consultant time are also included in this budget.

The Conservancy's time to administer the contract and support the research contract would be covered by the grant.

The remaining grant funds could be used to further fund this research project (e.g., tagging and tracking of additional eagles), or it could be used for other research projects in eastern Contra Costa County that would inform management of covered species.

Would the Research Project Help the Conservancy Achieve the Conservation Goals of the HCP/NCCP? Yes. The golden eagle is a covered species under the HCP/NCCP. Although the HCP/NCCP does not cover construction or operation of wind turbines, nor does the Plan allow direct take of golden eagle in the form of mortality, conservation of this species in Contra Costa County is a requirement of the HCP/NCCP. The HCP/NCCP has a species-level conservation goal to "maintain or increase population size and distribution of golden eagles in the inventory area." Research commissioned by the Conservancy that would lead to a reduction in mortality in the area of the Altamont Hills will support the HCP/NCCP's golden eagle conservation goal.

Conservancy costs and funding sources: The Conservancy's total out-of-pocket contribution to the acquisition would be \$0. The Conservancy would arrange for its grant funds to cover all project costs.

Reasons for recommendation: Staff recommends funding this research project because:

- The GBMF included funding of such a project in its 2010 grant.
- Implementation of this research project is likely to support the HCP/NCCP species-level conservation goal to "maintain or increase population size and distribution of golden eagles in the inventory area."
- The Conservancy regularly partners with EBRPD and fully anticipates EBRPD will successfully implement this research project.
- EBRPD is contributing a funding match for Mr. Bell's time on this project.

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: Sept 29, 2011
TO: Governing Board
FROM: Conservancy Staff
SUBJECT: Report on Upper Hess Creek Watershed Habitat Restoration Project

RECOMMENDATION

ACCEPT update on restoration project.

BACKGROUND

Construction on the Upper Hess Creek Watershed Habitat Restoration Project (formerly referred to as Land Waster Management Restoration Project) started in early August 2011. Much of the work on the project has been completed. Staff will provide a slide show documenting construction progress.

CONTINUED ON ATTACHMENT:

ACTION OF BOARD ON: September 29, 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