

**EAST CONTRA COSTA COUNTY
HABITAT CONSERVANCY**

DATE: May 10, 2012
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 Vasco Road Line 200 Pipeline Emergency Release Project:

- a. AUTHORIZE staff to execute a Participating Special Entity Agreement with ConocoPhillips Pipeline Company for take coverage of the Vasco Road Line 200 Pipeline Emergency Release Project.**
- b. AUTHORIZE staff to file a Notice of Exemption with the County Clerk for the project.**

DISCUSSION

ITEM (A). ConocoPhillips Pipeline Company (“ConocoPhillips”) owns and operates the Line 200 pipeline which runs through the southwest part of the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) inventory area. The pipeline transports crude oil from the Bakersfield area to a ConocoPhillips refinery in Richmond. On August 27, 2011, the ConocoPhillips 24-inch crude oil Line 200 pipeline was punctured due to an unauthorized trackhoe excavation by an unknown party. This unauthorized damage to the Line 200 pipeline resulted in the release of pressurized crude oil into an undeveloped area southeast of Vasco Road, in east Contra Costa County, California, including a portion of the Souza 3 property which was acquired by EBRPD in partnership with the Conservancy to become part of the Preserve System. ConocoPhillips Pipeline control center, through its SCADA monitoring system, detected the unexpected pressure drop at 5:50 a.m. PDT on August 27, 2011. The pipeline was remotely shutdown by the control center at 6:00 a.m. PDT. Immediately thereafter, personnel were dispatched to the pipeline segment where the pressure drop occurred. This pipeline segment is located between ConocoPhillips’ Byron pump station and the Rodeo Refinery. At 8:00 a.m. PDT, personnel found the release site and began making internal

CONTINUED ON ATTACHMENT: Yes
 ACTION OF BOARD ON: May 10, 2012 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

notifications to obtain response resources. The emergency release was fully contained on the morning of August 27, 2011 and emergency and resource agencies were notified of the event. ConocoPhillips began mobilizing the equipment and personnel necessary to remedy the emergency release event on August 27, 2011, and clean-up began the same day. Although the pipeline was remotely shutdown within 10 minutes of detection of the pressure drop, approximately 12.02 acres were affected by the oil release and required various levels of remediation. The remediation and restoration of the site was funded by ConocoPhillips and conducted by ConocoPhillips, authorized consultants, or third parties.

Working in coordination with multiple resource agencies, ConocoPhillips completed a series of remediation actions at the Project site. Remediation and restoration specifically included excavation, recontouring, and revegetation. Contaminated soils and vegetation were removed and the topography of the site was restored as close as possible to the original topography. In locations where contaminated soil removal was greater than a few inches, fill was imported, deposited, and recontoured. Soil was imported from immediately south of the site from an area with similar soil and seed bank. For those areas where soil removal was not required, contaminated vegetation was removed using hand tools (i.e., raking). Vegetation removal included grasses and three bluegum eucalyptus trees (*Eucalyptus globulus*). All earthwork was completed before the onset of the fall/winter rainfall. The site was revegetated to provide erosion control and restoration consistent with the levels of the surrounding grassland community. Lastly, the site was hydroseeded and mulched using a California native grassland seed mix.

Early in the spill response process, the U.S. Fish and Wildlife Service (USFWS), the California Department of Fish and Game (CDFG), and the East Bay Regional Park District also arrived on scene to evaluate the impact of the spill. These agencies, along with ConocoPhillips, determined that coverage under the East Contra Costa County HCP/NCCP was the best method of mitigating the impacts to special status species habitat from the emergency oil release event. The emergency oil release event is known as the Vasco Road Line 200 Pipeline Emergency Release Project (hereafter “Project”).

(See Figures 1A-1B and 3A-3B and the Project Description in the Planning Survey Report Application for more information on the Project and its location).

The Project occurred in 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 (in this case the oil spill occurred on Souza III which is part of the Preserve System). ConocoPhillips is responsible for securing all landowner permissions that may be necessary to conduct any ongoing remediation activities or future rare plant surveys as required by the HCP/NCCP. 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 (“PSE Agreement”) for this Project (attached). Attached as Exhibit 1 to the PSE 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 conduct the biological monitoring and surveys immediately following the emergency release event. Monk and Associates, Inc. worked onsite through the duration of the remediation activities and pipeline repair. The PSR documents the results of the biological assessment/surveys conducted immediately following the emergency release event for the impacted area (12.02 acres), documents compliance with the specific pre-construction surveys, avoidance/minimization/construction monitoring, and other mitigation measures as required in order for the Project to be covered through the HCP/NCCP. Since the Project was an emergency situation, the PSR reports on actions conducted and documents compliance with the provisions of the HCP/NCCP.

The PSR contains project vicinity maps, detailed maps showing the direct impacts and the indirect impact buffers of the site, 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	Areas Directly impacted		Areas Indirectly impacted	
	Phase I : Temporary impacts involving soil disturbance	Phase II: Temporary impacts NOT involving soil disturbance	Phase I: Temporary impacts involving soil disturbance	Phase II: Temporary impacts NOT involving soil disturbance
Annual Grassland	6.27	4.69	4.78	8.08
Ruderal				0.40
TOTAL	6.27	4.69	4.78	8.48

- 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 \$5,000.
- In addition, as set forth in the Agreement (page 6), ConocoPhillips will pay the Conservancy \$26,383.19 which amount includes all HCP/NCCP mitigation fees necessary for the Project. Given that impacts resulted from probable criminal activity targeted at ConocoPhillips, after consulting with USFWS and CDFG, and Conservancy staff are recommending that ConocoPhillips not be required to pay a Contribution to Recovery.
- The table below summarizes the required fees and administrative costs:

CONOCOPHILLIPS MITIGATION FEE SUMMARY	
Temporary Impact Fee (1 Year of Impact)	\$7797.12
Temporary Impact Fee (2 Years of Impact)	\$18,586.07
TOTAL FEES	\$26,383.19
Maximum Administrative Costs	\$5,000.00
MAXIMUM AMOUNT TO BE PAID	\$31,383.19

- The Fees and Administrative Costs must be paid before a Certificate of Inclusion will be issued.
- The Agreement provides detailed measures to remediate emergency release activities which may have caused impacts to special status plant species covered by the HCP/NCCP. Given the circumstance of the Project, Conservancy staff has worked with Monk and Associates Inc. to develop a number of detailed measures beyond those required by the HCP/NCCP which seek to minimize any potential impacts to special status plant species that may have occurred as a result of the release. These additional measures include:
 - Rare plant surveys in the project area during April, June, and August of 2012. Special-status plant surveys shall be conducted for big tarplant, showy madia, large-flowered fiddleneck, alkali milkvetch, round-leaved filaree, Mt. Diablo fairy lantern, diamond-petaled California poppy, and Mt. Diablo buckwheat. 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. Special-status plant surveys shall be conducted within the 24.22 acres of temporary impact area (which includes the temporary impacts buffers), as well as within an additional 200-foot survey

buffer around the 24.22 acre project area. In the unlikely event of a rare plant occurrence 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.

- A report shall be submitted to the East Contra Costa County Conservancy by September 30, 2012. If special-status plant species are identified on or within 200 feet of the project area, 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.

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

- Wildlife agencies review the PSE 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 fees and administrative costs, as outlined in the PSE Agreement.
- The Conservancy issues ConocoPhillips a Certificate of Inclusion. Take coverage would then be in effect, subject to the terms of the PSE Agreement.
- A rare plant survey report will be submitted to the Conservancy by September 30, 2012 in accordance with the PSE Agreement and Exhibit 1.

ITEM (B). California Environmental Quality Act (CEQA): The Board’s decision to authorize staff to execute a Participating Special Entity Agreement and to extend take authorization under the PSE Agreement to ConocoPhillips Pipeline Company for the Vasco Road Line 200 Pipeline Emergency Release Project is exempt from CEQA pursuant to a statutory exemption for emergency repairs to public service facilities (Pub. Resources Code section 21080 (b)(2); Cal. Code Regs., tit. 14, §15269 (b)).

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 2 Temporary Impact Calculator)

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 Vasco Road Line 200 Pipeline Emergency Release Project and seeks take coverage through the Conservancy’s Permits to mitigate for the impacts associated with the August 27, 2011 emergency release event and subsequent remediation activities, 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 Vasco Road Line 200 Pipeline Emergency Release 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 **\$26,383.19**, which amount includes all HCP/NCCP mitigation fees necessary for the Project. The payment does not include a contribute to the recovery of endangered and threatened species (“Contribution to Recovery”). The overall payment amount is the sum of the following:

Temporary Impact Fee (1 Year of Impact): **\$7797.12**

Temporary Impact Fee (2 Year of Impact): **\$18,586.07**

The payment must be paid in full prior to issuance of a Certificate of Inclusion for the Project. 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, 2013 and construction of the Project commences before March 15, 2013, the amount due will be as stated above. If PSE pays on or after March 15, 2013 or construction of the Project does not commence before March 15, 2013, 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 the Project, the Conservancy is the CEQA lead agency. The Conservancy has determined the Project is exempt from CEQA pursuant to a statutory exemption for emergency repairs to public service facilities (Pub. Resources Code section 21080 (b)(2); Cal. Code Regs., tit. 14, §15269 (b)).

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.

6.2 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 \$5,000 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

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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

30 Muir Road

Martinez, CA 94553

Email: john.kopchik@dcd.cccounty.us

Phone: 925/674-7819

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: Vasco Road Line 200 Pipeline Emergency Release
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: Southeast of Vasco Road, near Livermore, CA
Project APN(s) #: 005-180-007; 005-190-001
Number of Parcels/Units: 2
Size of Parcel(s): NA
Project Description/Purpose (Brief): On August 27, 2011, ConocoPhillips Pipeline Company's 24-inch crude oil Line 200 Pipeline was punctured due to unauthorized trackhoe excavation by an unknown party. This unauthorized damage resulted in the release of pressurized crude oil into an undeveloped area southeast of Vasco Road, in east Contra Costa County, California (Figures 1A and 1B). Working in coordination with multiple resource agencies, ConocoPhillips Pipeline Company conducted an emergency remediation action 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 and Associates, Inc.
Lead Contact:	Brian Spirou
Contact's Phone:	(925) 947-4867, Ext. 223 Fax: (925) 947-1165
Contact's Email:	brian@monkassociates.com
Mailing Address:	1136 Saranap Avenue, Suite Q Walnut Creek, California 94595

East Contra Costa County HCP/NCCP Planning Survey Report for Vasco Road Line 200 Pipeline Emergency Release Participating Special Entity

I. Project Overview

Project proponent: ConocoPhillips Pipeline Company

Project Name: Vasco Road Line 200 Pipeline Emergency Release

Application Submittal Date: January 10, 2012 (First Draft Submittal)

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: NA

Acreage of land to be permanently disturbed²: None

Acreage of land to be temporarily disturbed³, including impact buffers: 24.22

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.

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

Background

On August 27, 2011, ConocoPhillips Pipeline Company's 24-inch crude oil Pipeline Line 200 was punctured due to unauthorized trackhoe excavation by an unknown party. This unauthorized excavation and resultant pipeline puncture led to the release of pressurized crude oil into an undeveloped area southeast of Vasco Road, in east Contra Costa County, California (Figures 1A and 1B). ConocoPhillips's Pipeline control center, through its SCADA monitoring system, detected the unexpected pressure drop at 5:50 a.m. PDT on August 27, 2011. The pipeline was remotely shutdown by the control center at 6:00 a.m. PDT. Immediately thereafter, personnel were dispatched to the pipeline segment where the pressure drop occurred. This pipeline segment is located between ConocoPhillips' Byron pump station and the Rodeo Refinery. At 8:00 a.m. PDT, personnel found the release site and began making internal notifications to obtain response resources. The emergency release was fully contained on the morning of August 27, 2011 and emergency and resource agencies were notified of the event. ConocoPhillips began mobilizing the equipment and personnel necessary to remedy the emergency release event on August 27, 2011, and clean-up began the same day.

Monk and Associates (M&A) was notified of the emergency release event on August 27, 2011, and began biological monitoring and surveys the same day; M&A's monitoring and surveys continued for the duration of the pipeline repair and spill clean-up (see below for further details). Early in the spill response process, the U.S. Fish and Wildlife Service (USFWS), the California Department of Fish and Game (CDFG), and the East Bay Regional Park District also arrived on scene to evaluate the impact of the spill. These agencies, along with M&A, determined that coverage under the East Contra Costa County HCP/NCCP was the best method of mitigating the impacts for the emergency oil release.

Areas of Impact

The emergency oil release event (hereafter "project site") temporarily impacted 12.02 acres of relatively level non-native annual grassland in the East Contra Costa County HCP/NCCP jurisdictional area (Figures 1A and 1B). This non-native annual grassland is dominated by soft chess (*Bromus hordeaceus*)

³ *Acres 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).

(approximately 85-90 percent of the total cover) and foxtail barley (*Hordeum murinum* ssp. *leporinum*) (approximately 5-15 percent of the total cover). However, thistles also occur sporadically or in dense patches, including milk thistle (*Silybum marianum*) and Italian thistle (*Carduus pycnocephalus*). The project site also included three bluegum eucalyptus trees (*Eucalyptus globulus*) that were impacted by the emergency oil release. The project site is near an existing dirt road with a slight southward gradient. A second-order perennial drainage runs south-to-north approximately 150 feet west of the project area. A pre-existing stock pond occurs within the drainage; it appears to have been built by berming the drainage alignment.

The area of impact also includes a 100-foot temporary impact buffer on the aforementioned 12.02 acres of temporary impact area (Figure 2A). This temporary impact buffer “ring” is 12.2 acres in size. It consists of 11.8 acres of non-native annual grassland as described above, and 0.40-acre of ruderal habitat. The 0.40-acre of ruderal habitat is completely contained within a cattle corral, where vegetative growth is suppressed by ranching activities to the point of being almost completely barren.

Remediation Activities

ConocoPhillips’ remediation response to the oil release is mapped on Figure 2B. After the pipeline was temporarily repaired by patching the ruptured segment, clean-up began on the 12.02 acres of impacted area. Earth work began with vegetation clearing for fire suppression and to create a parking and staging area (approximately 1.37 acres of the impacted area). Where oil contamination extends to more than a few inches below the surface, remediation involved soil excavation to depths of two to three feet using a front-end loader and backhoe (approximately 0.47-acre of the release area). Where oil only penetrated the first few inches of soil, a front-end loader was used to scrape away the contaminated soil (approximately 1.66 acres of the release area). In some areas (approximately 1.30 acres of the release area), oil spray only lightly misted the emergent vegetation. Hence, no soil was removed from these areas, but the emergent vegetation was raked away by hand. To maintain the erosion control protection that the existing vegetation provides, vegetation was not removed from the oil-misted areas where slopes exceed 15% (7.33 acres). Retaining existing vegetation also preserves the seed bank, further protecting the area from erosion.

Once ConocoPhillips completed remediation, excavated and scraped areas were restored to pre-existing contours. In areas where contaminated soils were removed to depths exceeding a few inches, imported fill was used to rebuild and recontour the land surface. Imported soil originated from the Wind Energy Project immediately south of the oil release site. Thus, soils and any imported seed bank are consistent with original soils and seed bank.

All areas of soil and/or vegetation removal were stabilized via application of a hydroseed mix containing California native grassland species consistent with the table shown below. The suite of grassland species and the specified seeding rates in the hydroseed mix were prescribed Mr. Dave Amme, a renowned grassland ecologist with the EBRPD. Areas where contaminated grasses were removed via hand tools (i.e., raking), but where soils remained otherwise undisturbed, were similarly treated with the prescribed hydroseed application. However, raked areas maintained an intact, naturally-occurring seed bank, and these areas have readily recolonized with the fall/winter rains. The goal of the hydroseed/hydromulch application was to provide assurance that barren soils were stabilized at the earliest possible time.

<u>Seed Type</u>	<u>Approximate Seeding Rate</u>
California brome (<i>Bromus carinatus</i>)	20 lbs/acre
Big squirreltail (<i>Elymus multisetus</i>)	20 lbs/acre
Blue wild rye (<i>Elymus glaucus</i>)	15 lbs/acre
Meadow barley (<i>Hordeum brachyantherum californicum</i>)	5 lbs/acre
California melic (<i>Melica californica</i>),	5 lbs/acre
Purple needle grass (<i>Nasella pulchra</i>)	5 lbs/acre

A staging area for the remediation crew was established in an uncontaminated area on the south side of the site. Vegetation was stripped (scalped) from this area prior to mobilization in order to reduce the fire hazard

(0.56-acre). At the completion of remediation, stockpiled scalped soils from uncontaminated areas of the spill site were distributed back over the staging area. A hydroseed mix was applied to ensure vegetation establishment.

In addition to the soil and grassland vegetation remediation, three bluegum eucalyptus (*Eucalyptus globulus*) trees were also removed. These trees were located within the impacted area, and they were coated with wind-blown oil. As bluegum eucalyptus trees are non-native, they were not replaced, and their removal was not considered an impact. Instead, the area where the non-native bluegum eucalyptus trees occurred was restored to native annual grassland vegetation via application of the hydroseed mix prescribed above. To ensure that the bluegum eucalyptus trees do not re-sprout, stumps were treated with Garlon® by a licensed applicator.

As a final restorative measure, an electric fence has been installed around the project area to protect the restored project area from cattle trampling and grazing (Figure 2A and 2B). The fence was placed within the 100-foot temporary buffer area, and it was planned for removal in April of 2012. Furthermore, hay waddles were installed along the western edge of the project area to prevent contaminated runoff from entering a nearby second-order perennial channel. Straw bales were also placed in the swale upstream of the project area to divert stormwater runoff from the project area. These erosional control measures are mapped on Figure 2B.

Permanent Pipeline Repair

In January of 2012, ConocoPhillips replaced the 15-foot section of pipeline that was damaged and temporarily patched on August 27, 2011. The permanent repair included the excavation of a 50-foot long by 10-foot wide by 8-foot deep trench within the original 12.02 acre temporary impact area. With the product flow shut-off, the pipeline free of residual petroleum products, a 15-foot section of pipeline was removed, and a new 15-foot long piece of pipeline was installed. Upon completion of the permanent pipeline repair, the trench was backfilled, contours were restored, and the ground surface was re-hydroseeded with the same seed mix described above.

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)	Impacted Acres on the following segments of the Project:		Indirect Impact Mitigation Fee Buffers	
	Phase I: Acreage of Land "Temporarily Disturbed" ^b	Phase II: Acreage of Land to be "Temporarily Disturbed"	Phase I: Acreage of Land "Temporarily Disturbed" ^b	Phase II: Acreage of Land to be "Temporarily Disturbed"
Grassland^a	6.27	4.69	4.78	8.08
<input checked="" type="checkbox"/> Annual grassland				
<input type="checkbox"/> Alkali grassland				
<input checked="" type="checkbox"/> Ruderal				0.40
<input type="checkbox"/> Chaparral and scrub				
<input type="checkbox"/> Oak savanna^a				
<input type="checkbox"/> Oak woodland				
Jurisdictional wetlands and waters				
<input type="checkbox"/> Riparian woodland/scrub				
<input type="checkbox"/> Permanent wetland ^a				
<input type="checkbox"/> Seasonal wetland ^a				
<input type="checkbox"/> Alkali wetland ^a				
<input type="checkbox"/> Aquatic (Reservoir/ Open Water) ^a				
<input type="checkbox"/> Slough/Channel ^a				
<input type="checkbox"/> Pond ^a				
<input type="checkbox"/> Stream (acres) ^{a, d}				
<input type="checkbox"/> Total stream length (feet) ^{a, d}				
Stream length by width category				
<input type="checkbox"/> ≤ 25 feet wide				
<input type="checkbox"/> > 25 feet wide				
Stream length by type and order ^e				
<input type="checkbox"/> Perennial				
<input type="checkbox"/> Intermittent				
<input type="checkbox"/> Ephemeral, 3 rd or higher order				
<input type="checkbox"/> Ephemeral, 1 st or 2 nd order				
Irrigated agriculture^a				
<input type="checkbox"/> Cropland				
<input type="checkbox"/> Pasture				

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)	Impacted Acres on the following segments of the Project:		Indirect Impact Mitigation Fee Buffers	
	Phase I: Acreage of Land "Temporarily Disturbed" ^b	Phase II: Acreage of Land to be "Temporarily Disturbed"	Phase I: Acreage of Land "Temporarily Disturbed" ^b	Phase II: Acreage of Land to be "Temporarily Disturbed"
<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				

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)	Impacted Acres on the following segments of the Project:		Indirect Impact Mitigation Fee Buffers	
	Phase I: Acreage of Land "Temporarily Disturbed" ^b	Phase II: Acreage of Land to be "Temporarily Disturbed"	Phase I: Acreage of Land "Temporarily Disturbed" ^b	Phase II: Acreage of Land to be "Temporarily Disturbed"
<input type="checkbox"/> Buildings (bat roosts) ^a				
<input type="checkbox"/> Potential nest sites (trees or cliffs) ^a				
TOTAL (Acres of impact)	6.27	4.69	4.78	8.48

Field-Verified Land Cover Map

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

Figure 3A depicts the field-verified land cover map for the Vasco Road Line 200 Emergency Release site. Photographs of the site are also 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.

No waters of the U.S./State occur in the project area.

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		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
	-- California red-legged frog	Possible migration habitat in proposed project location	Identify potential breeding habitat; notify CDFG and USFWS of impacts.
<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.

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

^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.

The project area consists of non-native annual grassland dominated by soft chess (*Bromus hordeaceus*) (approximately 85-90 percent of the total cover) and foxtail barley (*Hordeum murinum ssp. leporinum*) (approximately 5-15 percent of the total cover). Thistles also occur sporadically or in dense patches, and include milk thistle (*Silybum marianum*) and Italian thistle (*Carduus pycnocephalus*). California ground squirrel (*Spermophilus beechyi*) burrows are abundant in the project area. The topography of the site varies from relatively flat along the southern portion of the project area to slopes of 15% or more along the northern extents of the project area. No waters of the United States or State occur within the project area. A perennial stream channel and pond are located approximately 150 feet to the west of the project area. This project site constitutes suitable habitat for the San Joaquin kit fox and western burrowing owl. It is also assumed that the California tiger salamander and the California red-legged frog could over-summer in this grassland habitat.

Due to the emergency nature of this oil release event, it was impossible to execute planning and preconstruction surveys prior to the onset of repair and remediation work.

San Joaquin Kit Fox

On 19 September 2011, Monk & Associates biologists surveyed the project area for San Joaquin kit fox by inspecting the project area for potential suitable dens (greater than or equal to 5" opening) and training remote cameras on those dens. Five cameras were run for seven days (one week). Species detected during the camera surveys included American badger (*Taxidea taxus*), California ground squirrel (*Spermophilus*

beecheyi), and coyote (*Canis latrans*). No San Joaquin Kit Fox, or signs of their presence, were detected during M&A's surveys.

Western Burrowing Owl

Surveys for western burrowing owl were conducted at the start of work each morning for the duration of the project. M&A biologist Mr. Jesse Fujikawa conducted surveys of the project site and its immediate vicinity for western burrowing owls, or indications of their presence. Other than a single owl detected along a dirt-road outside of the project area on the morning of September 19, no western burrowing owls, or indications of their presence, were found.

California Tiger Salamander

Ms. Stephanie Jentsch of the USFWS and Ms. Randi Adair of the CDFG visited the project site shortly after the emergency oil release occurred, while remediation was underway. Ms. Jentsch and Ms. Adair concurred that the project may affect California tiger salamander as CTS that may be estivating in ground squirrel burrows on the project site. Thus, impacts to estivation habitat are assumed, but no CTS were detected.

California Red-legged Frog

Ms. Stephanie Jentsch of the USFWS visited the project site shortly after the emergency oil release occurred, while remediation was underway. Ms. Jentsch and Ms. Adair concurred that the project may affect California tiger salamander as CTS may be estivating in ground squirrel burrows on the project site. Thus, impacts to estivation habitat are assumed, but no CRLF were detected.

Swainson's Hawk

Other than the three contaminated bluegum eucalyptus trees on the project site, the project site and the immediate vicinity did not provide suitable nesting habitat for Swainson's hawk. Thus, formal Swainson's hawk surveys were not conducted. However, the three bluegum eucalyptus trees were searched for evidence of raptorial nesting on August 27, 2011, the first day of the emergency release event. No signs of raptorial nesting were found in the three bluegum eucalyptus trees.

Golden Eagle

Other than the three contaminated bluegum eucalyptus trees on the project site, the project site and the immediate vicinity did not provide suitable nesting habitat for golden eagle. (It should be noted that the three bluegum eucalyptus trees constitute poor nesting habitat for golden eagle. Golden eagle typically prefer cliff faces with expansive views of the landscape for nesting.) Thus, formal golden eagle surveys were not conducted. However, the three bluegum eucalyptus trees were searched for evidence of raptorial nesting on August 27, 2011, the first day of the emergency release event. No signs of raptorial nesting were found in the three bluegum eucalyptus trees.

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

See Figure 4, attached.

Covered and No-Take Plants

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

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

Land Cover Type in the project area?	Plant Species	Covered (C) or No-Take (N)?	Typical Habitat or Physical Conditions, if Known	Typical Blooming Period ^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
	Recurved larkspur (<i>Delphinium recurvatum</i>)	C		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
	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
	Showy madia (<i>Madia radiata</i>)	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
<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).

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 project area. 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*).

No special-status plant species were observed in the project area during multiple site surveys conducted by Mr. Geoff Monk and Ms. Hope Kingma of Monk & Associates, as well as Mr. Steve Bobzien and Mr. Dave Amme of the East Bay Regional Park District. These surveys were conducted throughout the first week of the project (August 27, 2011 to September 4, 2011). Of the 10 special-status plant species that have the potential to occur in the project area, only two species can be dismissed from the project area due to the lack of suitable habitat: Brewer's dwarf flax and Contra Costa goldfields.

As ConocoPhillips was on an urgent timeline to complete the emergency pipeline repair and area remediation, they are proposing to conduct rare plant surveys in the project area during April, June, and August of 2012. Special-status plant surveys shall be conducted for big tarplant, showy madia, large-flowered fiddleneck, alkali milkvetch, round-leaved filaree, Mt. Diablo fairy lantern, diamond-petaled California poppy, and Mt. Diablo buckwheat. 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. Special-status plant surveys shall be conducted within the 24.22 acres of temporary impact area (which includes the temporary impacts buffers), as well as within an additional 200-foot survey buffer around the 24.22 acre project area. In the unlikely event of a rare plant occurrence 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.

ConocoPhillips salvaged and stockpiled the topsoil from the 1.37 acres of the project area cleared for parking, equipment staging, and fire suppression. The topsoil was replaced over the 1.37-acre cleared area after the ground-disturbing activities were completed. Thus, the seed bank for any rare plant that may occur within the project area will be retained in the project area.

A rare plant survey report shall be submitted to the East Contra Costa County Conservancy by September 30, 2012. If special-status plant species are identified on or within 200 feet of the project area, 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

To ensure that no project-related impacts occur to special-status plants in the project area, the applicant implemented the following avoidance measures over the 1.37 acres where the topsoil was salvaged and stockpiled:

- The removal and replacement of all uncontaminated soils within the project area ensured that all plants and their associated bulbs and seed in the soils were retained in the project area.

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 checked="" 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 checked="" type="checkbox"/> Swainson's hawk (p. 6-42)	Determine whether nests are occupied.
<input checked="" type="checkbox"/> Golden eagle (p. 6-39)	Determine whether nests are occupied.

Note: Page numbers refer to the 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

HCP/NCCP preconstruction survey requirements are as follows:

“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.”

Compliance with the HCP/NCCP

As the project resulted from an emergency oil release, San Joaquin kit fox surveys were conducted after impacts had occurred. On 19 September 2011, Monk & Associates biologists surveyed the project area for San Joaquin kit fox by inspecting the project area for potential suitable dens (greater than or equal to 5” opening) and training remote cameras on those dens. Five cameras were run for seven days (one week). Species detected during the camera surveys included American badger (*Taxidea taxus*), California ground squirrel (*Spermophilus beecheyi*), and coyote (*Canis latrans*). No San Joaquin Kit Fox, or signs of their presence, were detected during M&A’s surveys.

Western Burrowing Owl

HCP/NCCP preconstruction survey requirements are as follows:

“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.”

Compliance with the HCP/NCCP

Surveys for western burrowing owl were conducted at the start of work each morning for the duration of the project. M&A biologist Mr. Jesse Fujikawa conducted surveys of the project site and its immediate vicinity for western burrowing owls, or indications of their presence. Other than a single owl detected outside of the project area on the morning of September 19, no western burrowing owls, or indications of their presence, were found.

California Tiger Salamander

Ms. Stephanie Jentsch of the USFWS and Ms. Randi Adair of the CDFG visited the project site shortly after the emergency oil release occurred, while remediation was underway. Ms. Jentsch and Ms. Adair concurred that the project may affect California tiger salamander as CTS that may be estivating in ground squirrel burrows on the project site. Thus, impacts to estivation habitat are assumed, but no CTS were detected. No further action was necessary for CTS.

California Red-legged Frog

Ms. Stephanie Jentsch of the USFWS visited the project site shortly after the emergency oil release occurred, while remediation was underway. Ms. Jentsch concurred that the project may affect California tiger salamander as CTS may be estivating in ground squirrel burrows on the project site. Thus, impacts to estivation habitat are assumed, but no CRLF were detected. No further action was necessary for CRLF.

Construction Monitoring & Avoidance and Minimization Measures for Selected Covered Species

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

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

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

Table 4. Applicable Construction Monitoring Requirements

Species Assessed by Preconstruction Surveys	Monitoring Action Required if Species Detected
<input type="checkbox"/> None	N/A
<input checked="" type="checkbox"/> San Joaquin kit fox (p. 6-38)	Establish exclusion zones (>50 ft) for potential dens. Establish exclusion zones (>100 ft) for known dens. Notify USFWS of occupied natal dens.
<input checked="" type="checkbox"/> Western burrowing owl (p. 6-40)	Establish buffer zones (250 ft) around nests. Establish buffer zones (160 ft) around burrows.
<input type="checkbox"/> Giant garter snake (p. 6-44)	Delineate 200-ft buffer around potential habitat. Provide field report on monitoring efforts. Stop construction activities if snake is encountered; allow snake to passively relocate. Remove temporary fill or debris from construction site. Mandatory training for construction personnel.
<input type="checkbox"/> Covered shrimp species (p. 6-47)	Establish buffer around outer edge of all hydric vegetation associated with habitat (50 feet of limit of immediate watershed supporting the wetland, whichever is larger). Mandatory training for construction personnel.
<input checked="" type="checkbox"/> Swainson's hawk (p. 6-42)	Establish 1,000-ft buffer around active nest and monitor compliance.
<input checked="" type="checkbox"/> Golden eagle (p. 6-39)	Establish 0.5-mile buffer around active nest and monitor compliance.

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).

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

As this project was an emergency response action, it was not possible to conduct surveys prior to the impact. However, surveys were initiated as quickly as possible, and surveys were conducted in accordance with the HCP/NCCP. Below, the guidelines from the HCP/NCCP are presented, followed by a compliance statement.

HCP/NCCP construction monitoring and avoidance and minimization measures are as follows:

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.

1. Unoccupied dens should be destroyed immediately to prevent subsequent use.
2. 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.
3. 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).

Compliance with the HCP/NCCP

As the project resulted from an emergency oil release, San Joaquin kit fox surveys were conducted after impacts had occurred. On September 19, 2011, Monk & Associates biologists Ms. Hope Kingma and Ms. Sadie McGarvey surveyed the project area for San Joaquin kit fox by inspecting the project area for potential suitable dens (greater than or equal to 5" opening) and setting up remote cameras on those dens. Five cameras were run for seven consecutive days (one week). Species detected during the camera surveys

included American badger (*Taxidea taxus*), California ground squirrel (*Spermophilus beecheyi*), and coyote (*Canis latrans*). No San Joaquin Kit Fox, or signs of their presence, were detected during M&A's surveys.

Western Burrowing Owl

As this project was an emergency response action, it was not possible to conduct surveys prior to the impact. However, surveys were initiated as quickly as possible, and surveys were conducted in accordance with the HCP/NCCP. Below, the guidelines from the HCP/NCCP are presented, followed by a compliance statement.

HCP/NCCP construction monitoring and avoidance and minimization measures are as follows:

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.

Compliance with the HCP/NCCP

Surveys for western burrowing owl were conducted at the start of work each morning for the duration of the project. M&A biologist Mr. Jesse Fujikawa conducted surveys of the project site and its immediate vicinity for western burrowing owls, or indications of their presence. Other than a single owl detected outside of the project area on the morning of September 19, no western burrowing owls, or indications of their presence, were found.

California Tiger Salamander

HCP/NCCP construction monitoring and avoidance and minimization measures are as follows:

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).

Compliance with the HCP/NCCP

Ms. Stephanie Jentsch of the USFWS and Ms. Randi Adair of the CDFG visited the project site shortly after the emergency oil release occurred, while remediation was underway. Ms. Jentsch and Ms. Adair concurred that the project may affect California tiger salamander as CTS that may be estivating in ground squirrel burrows on the project site. Thus, impacts to estivation habitat are assumed, but no CTS were detected. No further action was necessary for CTS.

California Red-legged Frog

HCP/NCCP construction monitoring and avoidance and minimization measures are as follows:

Written notification to USFWS, CDFG, and the Implementing Entity, including photos and 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 red-legged frog 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).

Compliance with the HCP/NCCP

Ms. Stephanie Jentsch of the USFWS visited the project site shortly after the emergency oil release occurred, while remediation was underway. Ms. Jentsch concurred that the project may affect California red-legged frog as CRLF may be estivating in ground squirrel burrows on the project site. Thus, impacts to estivation habitat are assumed, but no CRLF were detected. No further action was necessary for CRLF.

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) were impacted by the emergency oil release. A second-order perennial drainage runs south-to-north approximately 150 feet west of the project area. A stock pond has been constructed by berming the drainage alignment (Figure 3A).

Best Management Practices (BMP's) were implemented as part of the project to ensure that runoff from the project area would not enter waters of the United States (Figure 2B). Hay waddles and straw bales were installed along the western edge of the project area to prevent contaminated runoff from entering the

adjacent second-order perennial channel and stock pond. Straw bales were also placed in swales upstream of the project area to divert stormwater runoff from the project area. Refueling areas were contained with fuel blankets to prevent any fuel spills during refueling. Finally, a California native seed hydroseed mix was applied to all disturbed areas upon completion of the project. A qualified biologist was at the release site during all work activities. The biological monitor ensured the appropriate placement of the BMP's and ensured that BMPs were not compromised during the work activities. The location of the BMP's were mapped with a GPS unit and are provided to demonstrate compliance with the conditions set forth in the HCP/NCCP for maintaining hydrologic conditions and minimizing erosion (Figure 2).

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 13-14 of the PSR. Please refer to the "Results of Covered and No-Take Plant Species Planning Surveys Required in Table 2b." Rare plant surveys will be conducted in the project area in accordance with HCP/NCCP guidelines in March, June and September, of 2012, and the results will be submitted to the Conservancy by November 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 project area. No suitable habitat for other fully-protected wildlife species occurs in project area.

The grasslands in the release area provide suitable nesting habitat for ground-nesting birds, such as western meadowlark (*Sturnella neglecta*) and horned lark (*Eremophila alpestris*). However, impacts to common nesting birds and raptors such as northern harrier (*Circus cyaneus*), American crow (*Corvus brachyrhynchos*), western meadowlark, and horned lark 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 project area included disturbance to nesting birds, and possibly death of adults and/or young. However, no active nests were identified in the grasslands, and given that the oil release occurred near the end of the avian nesting season (the release occurred on 27 August 2011; per CDFG, the nesting season ends on 15 September), it is highly unlikely that any new nesting attempts were made.

A biological monitor was present throughout the course of the Vasco Road Line 200 Pipeline Emergency repair and remediation project. Each morning, the monitor conducted a wildlife survey to search for nesting birds, new burrowing activity (e.g., ground squirrel or pocket gopher burrowing), or any other wildlife that may have wandered into the project area. Surveys consisted of walking transects of the entire project site. No nesting birds or wildlife were detected within the project site during these daily surveys.

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.

No streams occur on the project site. However, a first-order intermittent stream does occur to the west of the project site. Stream setbacks in excess of 100 feet were maintained throughout the project, and hay waddles were installed between the project site and the stream (see Figure 2).

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 occurred to waters of the U.S./State as a result of the Vasco Road Line 200 Pipeline Emergency release project. See HCP/NCCP Conservation Measure 1.10 for a description of the BMP's that were installed between the project area and the adjacent perennial stream, stock pond, and 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 Vasco Road Line 200 Pipeline Emergency release project is an emergency project that resulted in temporary impacts only. The project involved the removal of non-native grasses and three invasive eucalyptus trees, followed by a hydroseed application of native grass species, all of which served to restore the area to a native state. No development occurred. Thus, conservation measure 1.6 does not apply.

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 Vasco Road Line 200 Pipeline Emergency release project is an emergency project that resulted in temporary impacts only. The project involved the removal of non-native grasses and three invasive

eucalyptus trees, followed by a hydroseed application of native grass species, all of which served to restore the area to a native state. No development occurred. Thus, conservation measure 1.8 does not apply.

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 Vasco Road Line 200 Pipeline Emergency release project is an emergency project that resulted in temporary impacts only. The project involved the removal of non-native grasses and three invasive eucalyptus trees, followed by a hydroseed application of native grass species, all of which served to restore the area to a native state. No development occurred. Thus, conservation measure 1.9 does not apply.

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.

The Vasco Road Line 200 Pipeline Emergency release project is not a rural road maintenance project; no road construction or maintenance occurred. Thus, conservation measure 1.12 does not apply.

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.

The Vasco Road Line 200 Pipeline Emergency release project is not a flood control facility maintenance project; no flood control facilities occur in the area. Thus, conservation measure 1.13 does not apply.

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.

The Vasco Road Line 200 Pipeline Emergency release project is not a road construction or maintenance project; no road construction or maintenance occurred. Thus, conservation measure 1.14 does not apply.

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.

The total area of temporary impact for the Vasco Road Line 200 Pipeline Emergency Release project is 12.02 acres, consisting of 6.27 acres designated as one-year temporary impact area and 4.69 acres designated as a two-year temporary impact area. The remaining 1.06 acre area is where two-year impact area buffer overlaps the one-year impact area; thus, the two year mitigation rates apply. There are no permanent impacts. A 100-foot buffer was also applied to the entire impact area. The buffer consisted of 4.78 acres of one-year impact area, and 7.42 acres of two year impact area. In summary, one-year temporary impacts total 11.05 acres, while two-year temporary impacts total 13.17 acres. The applicant is planning to mitigate for the 24.22 acres of temporary impacts by paying a temporary impact fee of \$26,383.19, which includes \$7,797.12 for 11.05 acres of one-year impact area, and \$18,586.07 for 13.17 acres of two-year impact area. These fee amounts (\$705.62 per acre for one-year temporary impacts, and \$1,411.24 per acre for two-year temporary impacts) were determined to be appropriate by Mr. John Kopchick in a call with Mr. Geoff Monk of M&A and Mr. Jim Adams of ConocoPhillips Pipeline Company.

Temporary Impact Recovery Plan

Upon completion of the Vasco Road Line 200 Pipeline Emergency Release project, all disturbed soils were stabilized by compaction, and all grades were re-contoured to the pre-existing topography. ConocoPhillips salvaged and stockpiled the topsoil from the 1.37 acres of the project area cleared for parking, equipment staging, and fire suppression. The topsoil was replaced over the 1.37-acre cleared area after the ground-disturbing activities were completed. Finally, the area was re-seeded/vegetated with any salvaged seeds/bulbs.

A California native seed hydroseed mix was also applied to disturbed areas upon completion of the project, as detailed early in this PSR. The minimum seed purity was 96.82 percent, with germination rates ranging from 82 to 96 percent. The seed mix was applied at 70 pounds per acre. Fertilizer was 16-20-0 with 13% sulfur and applied at a rate of 250 pounds per acre. The amount of fertilizer is reduced over the standard recommendation of 500 pounds per acre to minimize runoff into downstream drainages.

The mulched hydroseed application was applied with the California native species seed mix. An organic tackifier such as M-binder or R-Binder was included in the hydroseed mix using the techniques and application rates specified by the manufacturer.

Fresh seeds for the hydroseed mix were obtained from:

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

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

Exhibit 2: TEMPORARY IMPACT FEE CALCULATOR WORKSHEET

PROJECT APPLICANT INFO:

Project Applicant: ConocoPhillips Pipeline Company

Project Name: Vasco Road Line 200 Pipeline Emergency Release

APN (s): 005-180-007; 005-190-001

Date: May 4, 2012

Jurisdiction: Participating Special Entity

TEMPORARY DEVELOPMENT 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) ¹		Years of Disturbance (2 years is the minimum for ground-disturbing)		Fee per Acre (subject to change on 3/15/13)	
Fee Zone 2	<u>11.05</u>	x	<u>1</u>	/30	<u>\$21,168.64</u>	<u>\$7,797.12</u>
Fee Zone 2	<u>13.17</u>	x	<u>2</u>	/30	<u>\$21,168.64</u>	<u>\$18,586.07</u>

Temporary Impact Fee Total = \$26,383.19

**TEMPORARY WETLAND MITIGATION FEE

	Acreage of wetland		Yrs. Of Disturbance (minimum shown)		Fee per Acre (subject to change on 3/15/13)	
Riparian woodland / scrub	<u> </u>		<u>5.00</u>	x	<u>\$69,992.40</u>	= \$ -
Perennial Wetland	<u> </u>		<u>2.00</u>	x	<u>\$120,428.10</u>	= \$ -
Seasonal Wetland	<u> </u>		<u>2.00</u>	x	<u>\$252,178.50</u>	= \$ -
Alkali Wetland	<u> </u>		<u>2.00</u>	x	<u>\$234,680.40</u>	= \$ -
Ponds	<u> </u>		<u>2.00</u>	x	<u>\$120,428.10</u>	= \$ -
Aquatic (open water)	<u> </u>		<u>2.00</u>	x	<u>\$59,699.40</u>	= \$ -
Slough / Channel	<u> </u>		<u>2.00</u>	x	<u>\$127,633.20</u>	= \$ -
Linear Feet						
Streams						
Streams 25 Feet wide or less (Fee is per Linear Foot)	<u> </u>		<u>0.00</u>	2.00 x	<u>\$418.93</u>	= \$0.00
Streams greater than 25 feet wide (Fee is per Linear Foot)	<u> </u>			2.00 x	<u>\$630.96</u>	= \$0.00

Wetland Mitigation Fee Total = \$ -

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 TEMPORARY IMPACT FEES

Development Fee Total	<u>\$26,383.19</u>
Wetland Mitigation Fee Total +	<u>\$0.00</u>
Fee Subtotal =	<u>\$26,383.19</u>

TOTAL TEMPORARY IMPACT FEES TO BE PAID = \$26,383.19

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 "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 HCP).

Template date: March 15, 2012

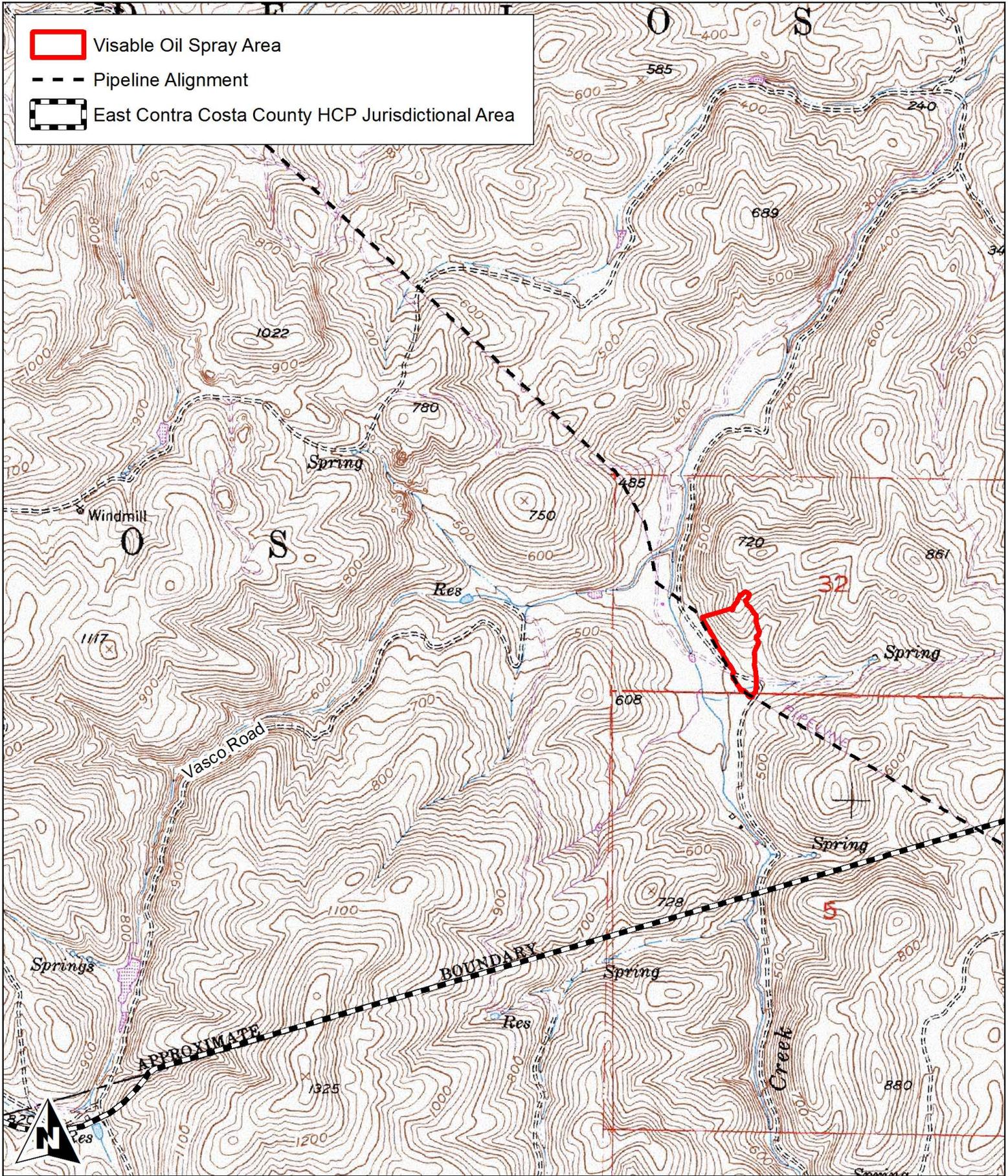
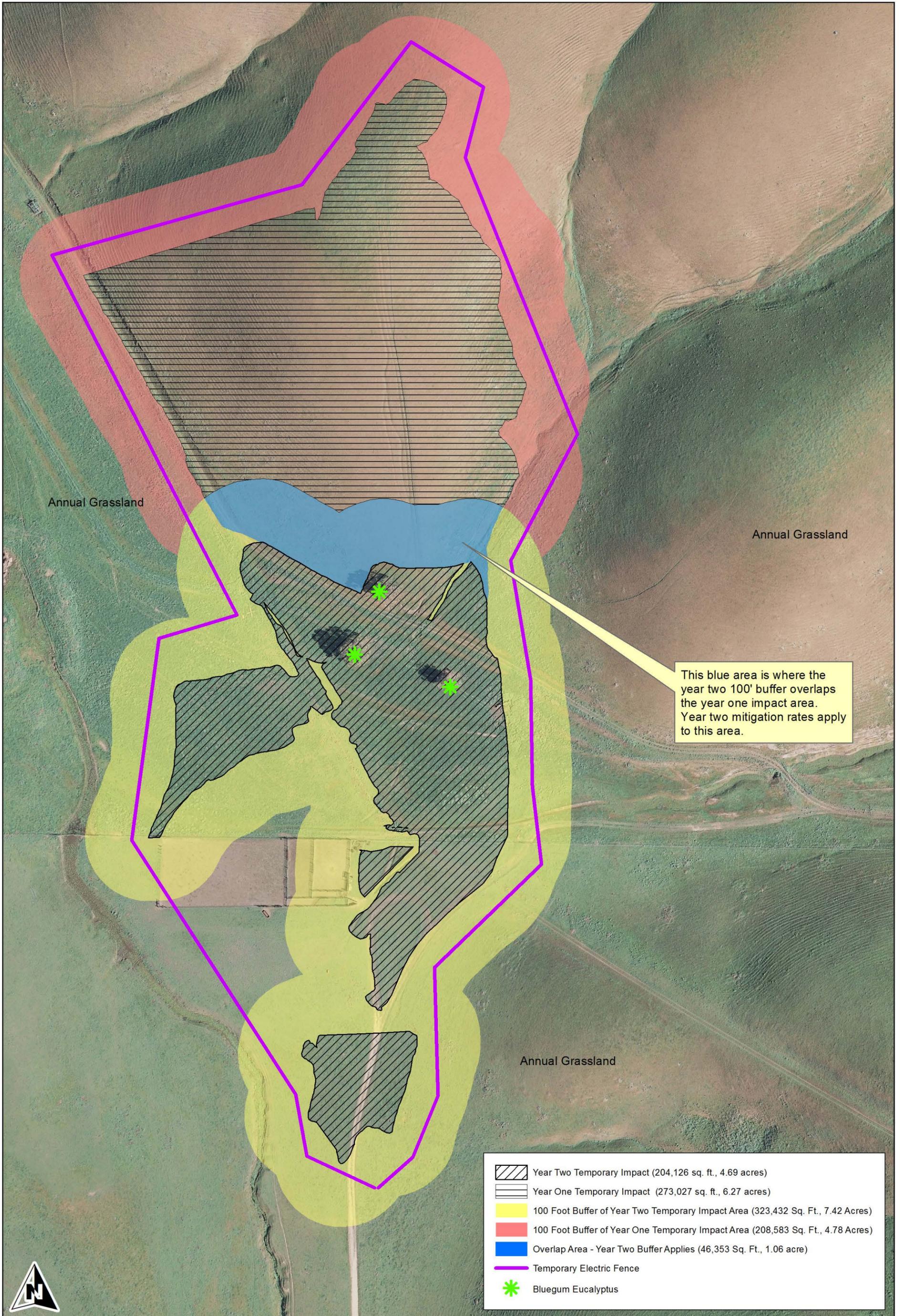
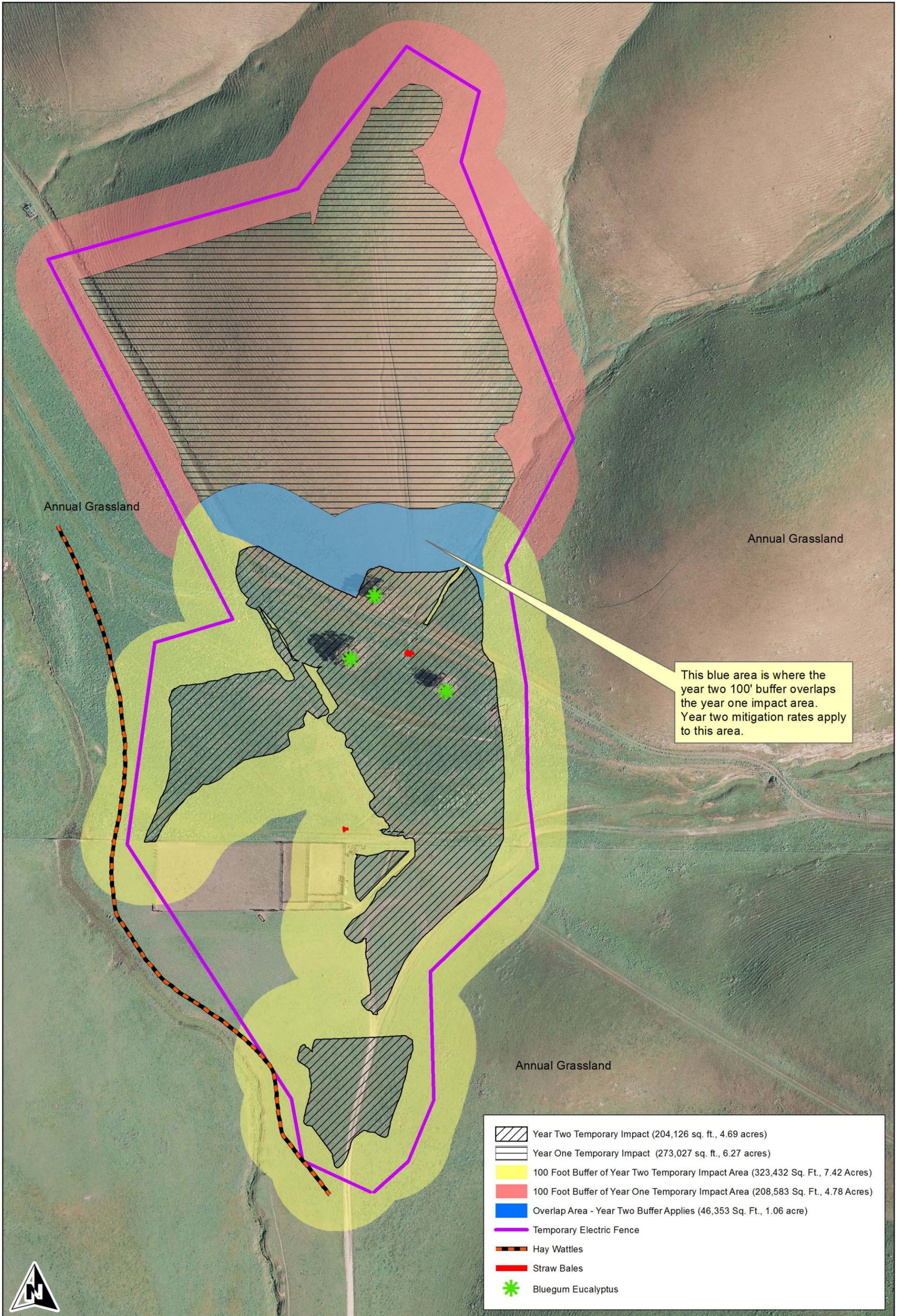


Figure 1B. ConocoPhillips Line 200 Pipeline
 Vasco Road Emergency Release Location Map
 Contra Costa County, California



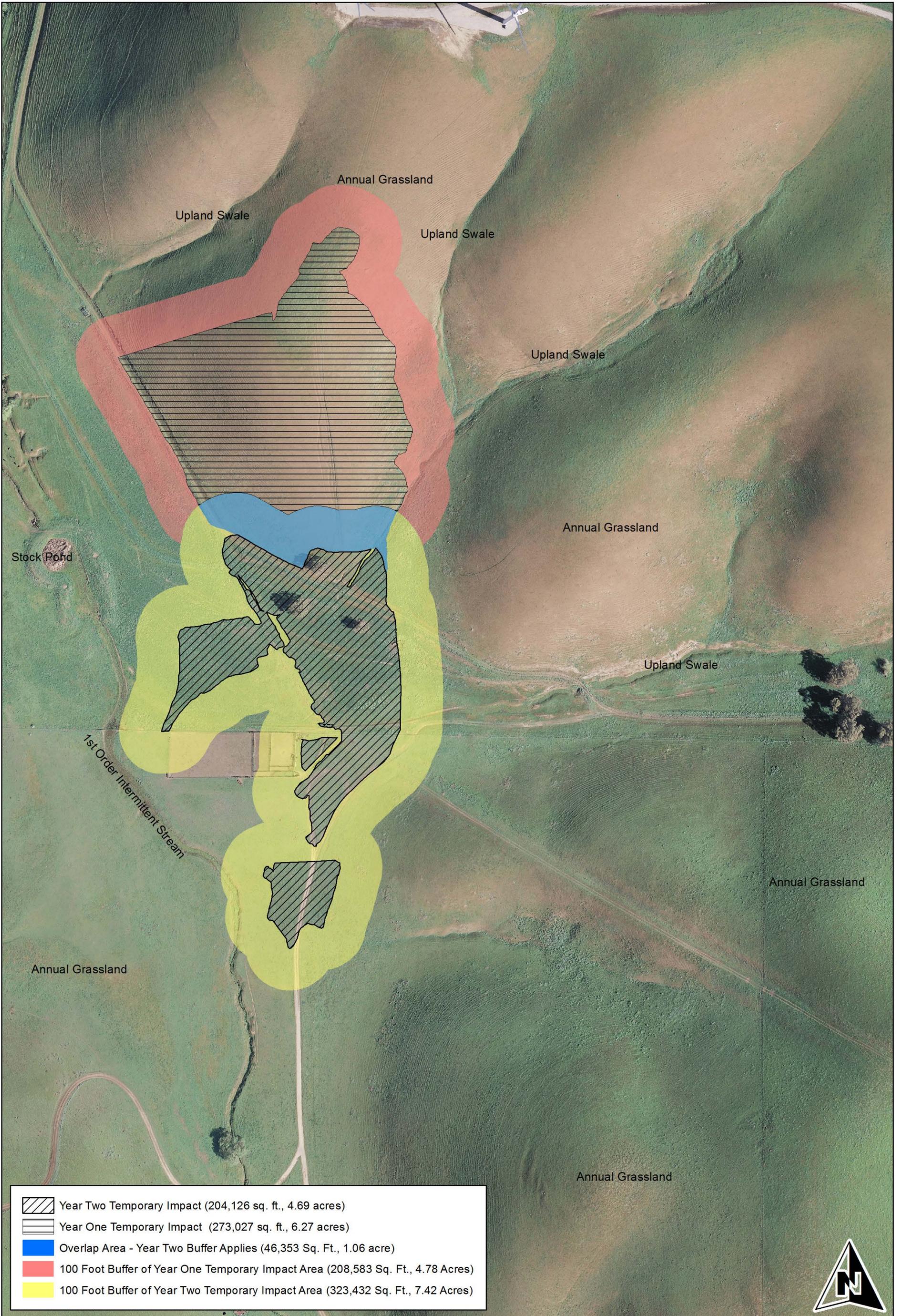


This blue area is where the year two 100' buffer overlaps the year one impact area. Year two mitigation rates apply to this area.

-  Year Two Temporary Impact (204,126 sq. ft., 4.69 acres)
-  Year One Temporary Impact (273,027 sq. ft., 6.27 acres)
-  100 Foot Buffer of Year Two Temporary Impact Area (323,432 Sq. Ft., 7.42 Acres)
-  100 Foot Buffer of Year One Temporary Impact Area (208,583 Sq. Ft., 4.78 Acres)
-  Overlap Area - Year Two Buffer Applies (46,353 Sq. Ft., 1.06 acre)
-  Temporary Electric Fence
-  Hay Wattles
-  Straw Bales
-  Bluegum Eucalyptus



0 50 100 200 300 400 500 Feet



	Year Two Temporary Impact (204,126 sq. ft., 4.69 acres)
	Year One Temporary Impact (273,027 sq. ft., 6.27 acres)
	Overlap Area - Year Two Buffer Applies (46,353 Sq. Ft., 1.06 acre)
	100 Foot Buffer of Year One Temporary Impact Area (208,583 Sq. Ft., 4.78 Acres)
	100 Foot Buffer of Year Two Temporary Impact Area (323,432 Sq. Ft., 7.42 Acres)

Figure 3A. ConocoPhillips Line 200 Pipeline
 Vasco Road Emergency Release Land Cover Map
 Contra Costa County, California

Figure 3B. Project Site Photographs
Vasco Road Line 200 Pipeline Emergency Release
East Contra Costa County, California

Monk & associates

Image 1: Site overview immediately after the emergency oil release (08/31/2011).



Image 2: Fire suppression top soil removal (08/31/2011).



Figure 3B. Project Site Photographs
Vasco Road Line 200 Pipeline Emergency Release
East Contra Costa County, California

Monk & associates

Image 3: Excavation of the damaged pipeline to facilitate its repair (09/01/2011).



Image 4: Removal of the oil-sprayed eucalyptus trees (09/13/2011).



Figure 3B. Project Site Photographs
Vasco Road Line 200 Pipeline Emergency Release
East Contra Costa County, California

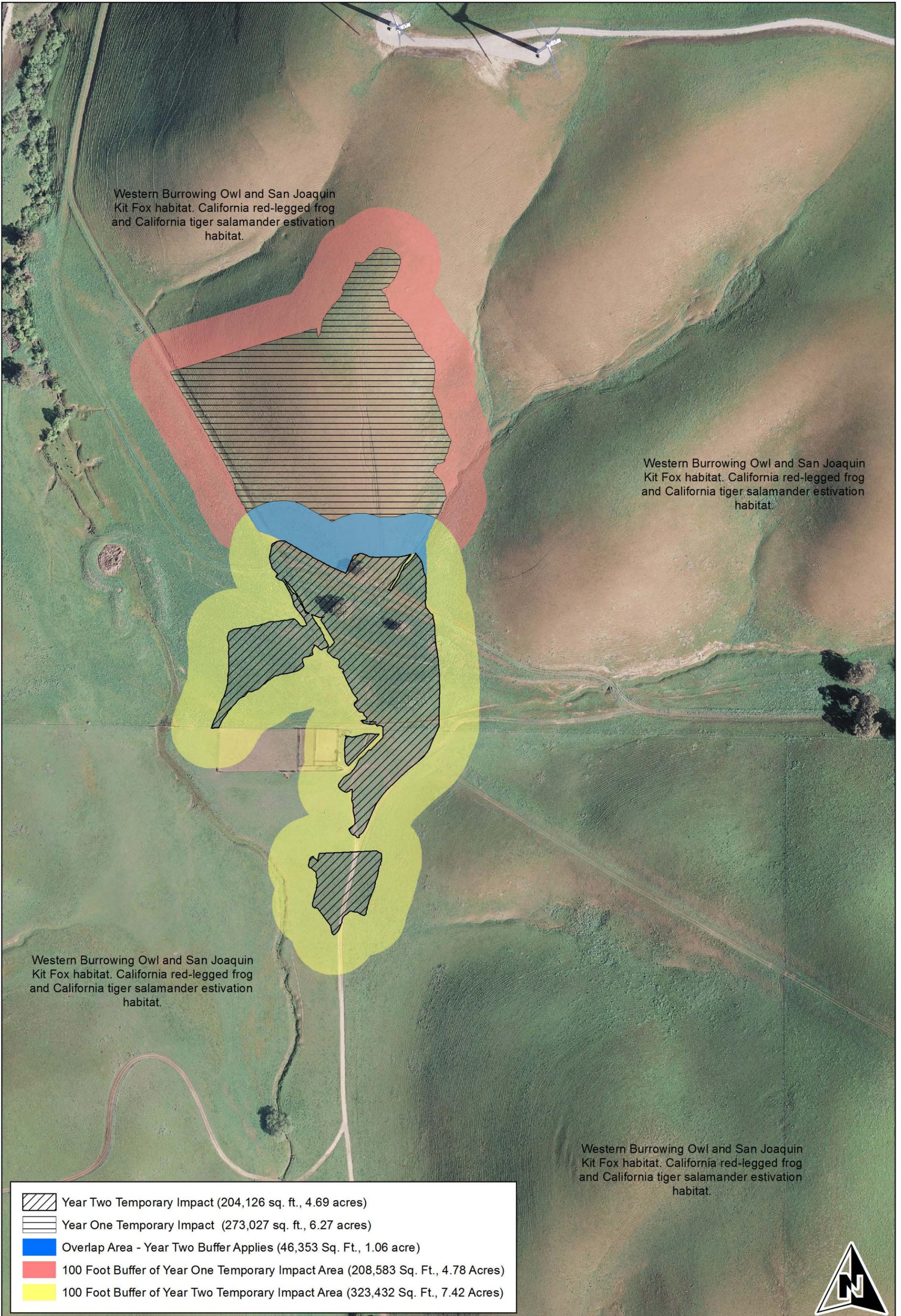
Monk & associates

Image 5: Scraped away oil-contaminated soils (09/20/2011).



Image 6: Completely remediated project site after hydroseed application (11/03/2011).





Western Burrowing Owl and San Joaquin Kit Fox habitat. California red-legged frog and California tiger salamander estivation habitat.

Western Burrowing Owl and San Joaquin Kit Fox habitat. California red-legged frog and California tiger salamander estivation habitat.

Western Burrowing Owl and San Joaquin Kit Fox habitat. California red-legged frog and California tiger salamander estivation habitat.

Western Burrowing Owl and San Joaquin Kit Fox habitat. California red-legged frog and California tiger salamander estivation habitat.

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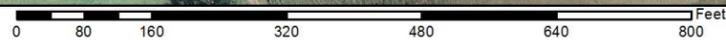


Figure 4. ConocoPhillips Line 200 Pipeline
 Vasco Road Emergency Release Habitats Map
 Contra Costa County, California