

# **HCPA** East Contra Costa County Habitat Conservation Plan Association

## **HCPA Coordination Group Meeting**

Thursday, May 15, 2003

12 p.m. to 3 p.m. ← **Note earlier start time!**

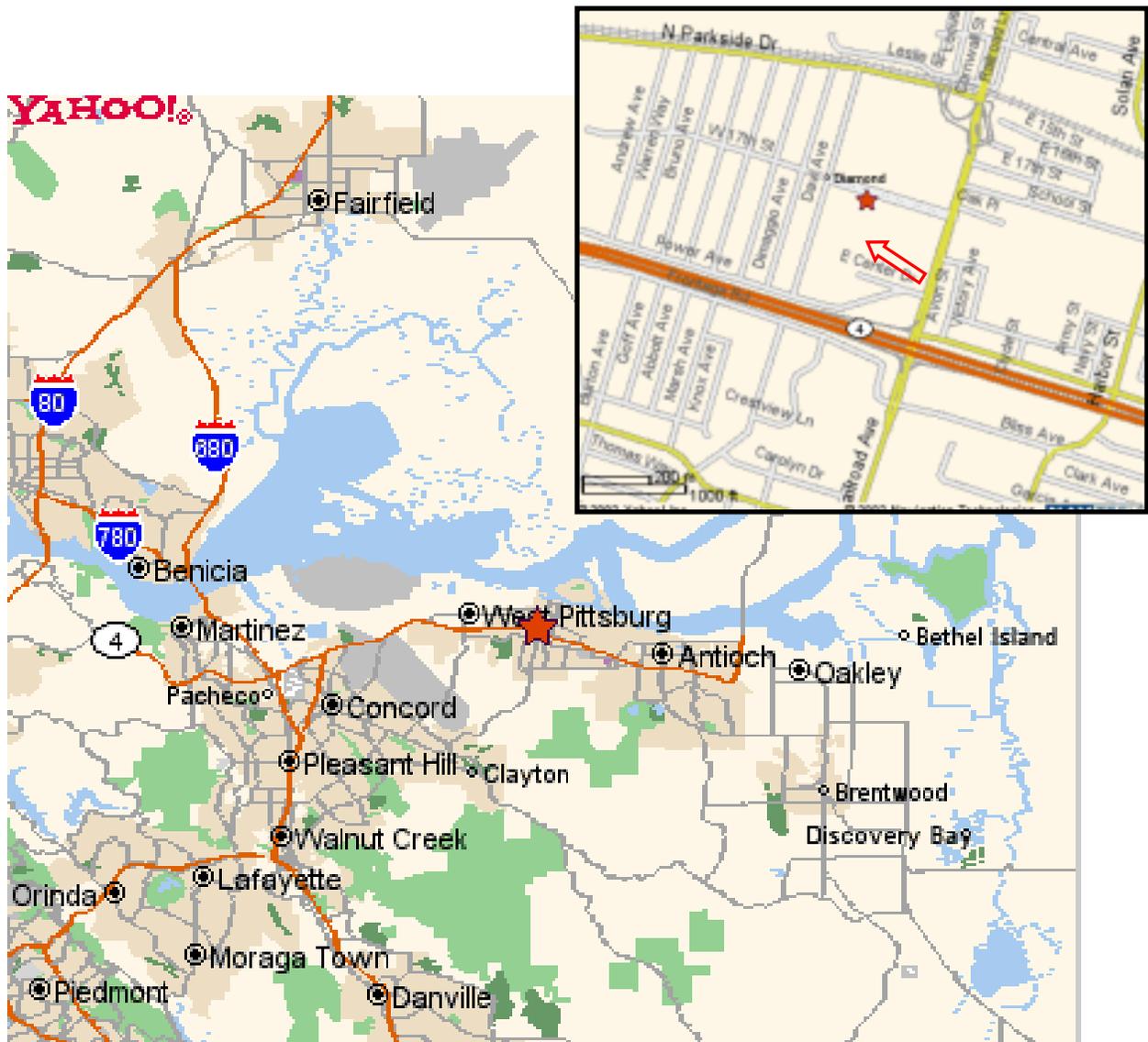
City of Pittsburg Council Chambers  
65 Civic Drive in Pittsburg, 3<sup>rd</sup> Floor  
(see map on reverse)

### **Agenda**

- 12:00 Introductions. Review contents of meeting packet.
- 12:05 Review and approve Draft Meeting Record of the April 17, 2003 Coordination Group meeting.
- 12:10 Briefly recap written comments received on Preliminary Draft Conservation Strategy and Alternatives. Copies of these comments will be available at the meeting.
- 12:30 Review revised draft Framework document edited to reflect discussion at April 17, 2003.
- 1:00 Presentation by Jim Gwerder on proposed land use plan developed for Byron area by the Byron Municipal Advisory Council
- 1:15 Permit area workshop:
- **Criteria for a good permit area** (participants were and are encouraged to review the preliminary criteria collected earlier and to come to the meeting with specific suggested additions and edits—see earlier criteria list attached)
  - **Relation to other policies and policy discussions**
  - **Presentation of Flowchart/Menu for Framing permit Area Alternatives** (attached)
  - **Presentation on biological implications of permit area alternatives**
  - **Discuss and attempt to frame alternative permit area scenarios**
- 2:50 Confirm upcoming meeting dates. Upcoming Coordination Group meetings are scheduled as follows for the City of Pittsburg Council Chambers (usually 3<sup>rd</sup> Thursdays):  
Thursday, June 19, 1 p.m. to 3 p.m. (tentative)  
Thursday, July 17, 1 p.m. to 3 p.m. (tentative)  
(Executive Governing Committee scheduled to meet June 19 at 5:30 p.m.- 7 p.m..)
- 2:55 Public comment.
- 3:00 Adjourn.

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

## Map and Directions to Pittsburg City Hall 65 Civic Drive



### Directions from I-680, Central County

- 1) Take Hwy 4 East toward Antioch/Stockton
- 2) Follow Hwy East over the hill (Willow Pass)
- 3) Exit Railroad Ave. (the 2<sup>nd</sup> exit after the hill)
- 4) At the end of the exit ramp, turn left on Railroad Ave.
- 5) Turn left at the second intersection, East Center Drive (signs for various city offices will also point you this way)
- 6) Immediately bear right into the large parking lot next to City Hall
- 7) Meeting is on the 3<sup>rd</sup> floor

### Directions from Antioch and points east

- 1) Take Hwy 4 West toward Martinez/Richmond
- 2) Exit Railroad Ave.
- 3) At the end of the exit ramp, turn right on Railroad Ave.
- 4) Turn left at the next intersection, East Center Drive (signs for various city offices will also point you this way)
- 5) Immediately bear right into the large parking lot next to City Hall
- 6) Meeting is on the 3<sup>rd</sup> floor

# DRAFT MEETING RECORD

## East Contra Costa County Habitat Conservation Plan Association (HCPA) Coordination Group Meeting

Thursday, April 17, 2003  
1 p.m. to 3 p.m.

City of Pittsburg Council Chambers

**1:00 Welcome and Introductions.** Meeting attendees introduced themselves. Coordination Group members in attendance were:

Elizabeth Anecco, CCWD	Kathy Leighton, Byron MAC
Chris Barton, City of Pittsburg	Suzanne Marr, U.S. EPA
Jerry Brown, CCWD	Jody Merriam, Byron MAC
Bradley Brownlow, Morrisom & Foerster	Brad Olson, EBRPD
Paul Campos, HBANC	Wendy Roberts, Sierra Club, Bay Chapter
Mike Daley, Sierra Club, Bay Chapter	John Slaymaker, Greenbelt Alliance
Abby Fateman, CCC Community Dev.	Dick Vrmeer, CNPS
Jim Gwerder, CCC Citizens Land Alliance	Carl Wilcox, CA Dept of Fish & Game
Cheryl Johnson, U.S Fish and Wildlife	Scott Wilson, CA Dept of Fish & Game
John Kopchik, CCC Community Dev.	David Zippin, Jones & Stokes, Inc.
Sheila Larsen, U.S. Fish and Wildlife	

**1:05 Review and approve Draft Meeting Record of the March 20, 2003 Coordination Group meeting.** The Draft Meeting Record was approved without changes.

**1:10 Continued open discussion of Preliminary Draft Conservation Strategies and Alternatives and related draft documents.** These documents (minus color maps) are available on the project website under the January 23 meeting materials. Hard copies of these documents with the color maps were handed out in January & February and a few additional copies will be available at the meeting. All of these documents may also be obtained by contacting staff. Any individual comments are due April 30, 2003. John Kopchik informed the group that the HCPA was awarded \$35,000 from the Contra Costa County Fish and Wildlife Committee for the Small-Scale Features enhancement to the biological inventory, a task originally recommended by the Coordination Group. Discussion continued on the Draft Conservation strategies. The meaning of “maximum extent practicable” was discussed again, with continued concern over the ambiguity of that term and the possible implication tht the plan would result in postage stamp preserves. Sheila Larsen stated that she sees avoidance as primarily related to avoidance of individual organisms. David Zippin stated that section 1.2.2 was the only place where the rare need for postage stamp preserves was ever discussed and suggested that perhaps this issue could be cleared up in the yet-to-be written Chapter 1 and in the Framework document. John Slaymaker asked that the terms feasible and practicable be clarified—they seemed to be used interchangeably. David said that they were and that in future iterations of the document usage would be more consistent. The group also discussed the question of the eventual implementing authority of the HCP.

- 1:30 Review revised draft Framework document edited to reflect discussion at March 20, 2003.** Paul Campos made specific suggestions to the draft Framework document. Most were discussed by the group in some detail, and the group provided guidance to John on editing the document for next time. Please see the May 15, 2003 draft of the Framework for more detail on the edits discussed.
- 2:00 Discuss covered activities and permit area. Expand on the discussion held at last meeting regarding criteria for shaping the HCPA permit area. Develop draft list of criteria.** David Zippin and John Kopchik went over the memo on permit area uncertainty, including the amendment and cushion approaches to dealing with such uncertainty, and responded to many questions. Due to the shortness of time and relative quietness of the group on this key issue, John asked if perhaps a subcommittee should be performed to make progress on this issue. The general response from the group was that lack of time more than anything was limiting discussion, and preferred to keep the discussion at the full Coordination Group level and have a longer meeting next time. John Kopchik asked that representatives from each stakeholder “sector” be prepared to discuss criteria for a good permit area next time. This item will appear on the agenda of the May HCPA Coordination Group meeting, a meeting that the group agreed would start at noon.
- 2:50 Confirm upcoming meeting dates. Upcoming Coordination Group meetings are scheduled as follows for the City of Pittsburg Council Chambers (usually 3<sup>rd</sup> Thursdays):**  
    **Thursday, May 15, 12 p.m. to 3 p.m. (NOTE: THE TIME CHANGE)**  
    **Thursday, June 19, 1 p.m. to 3 p.m. (tentative)**  
    *(Executive Governing Committee scheduled to meet June 19 at 5:30 p.m- 7 p.m..)*
- 2:55 Public comment.** None
- 3:00 Adjourn.**

## Excerpt from 3-20-03 Meeting Record

Participants are encouraged to review the rough list of “Qualities for a good permit area” below and come prepared to discuss in more detail on May 15.

.....Below is a paraphrasing of what was recorded on the flipcharts as individuals made comments.

### Scenario 1 (lands designated for development inside ULL):

PROs:

- Less growth inducing
- HCP can later be amended to include a larger permit area

CONs:

- Not realistic, will not provide enough housing
- City and County General Plans typically have about a 15 year planning horizon; the HCP has 30-year planning horizon
- plan would need to be amended.

### The qualities of a good permit area:

- realistic for 30 years
- permit areas don't conflict with preserve design
- relies on local governments existing approved land use plans
- should not assume that just because something is in the permit area that it is buildable; (participants should be able to discuss permit area without being asked to “endorse” all development within the permit area)
- takes into account the land use outside study area/across county lines
- adjustable/amendable

Participants also observed that the CALFED Dutch Slough Restoration Project near Big Break was shown in the impact scenarios as an area of impact and that now seemed unlikely. Participants also discussed the implications of Antioch's lack of participation on the permit area.



# Flowchart/Menu for Defining Permit Area Alternatives

## I. Choose baseline permit area for urban growth

- |   |
|---|
| 1) Impact scenario 1 (development land use within ULL); or  |
| 2) Impact scenario 2 (all non-protected lands within ULL); or   |
| 3) Impact scenario 3 (City general Plans); or   |
| 4) Impact scenario x where it does not conflict with Conservation Strategy; or  |
| 5) A hybrid of scenarios 1,2, and/or 3, perhaps departing from these 3 scenarios by including or omitting specific areas (this will almost certainly happen at Byron airport—we don't need permit coverage in some of the areas shown in the impact analysis) |

## IIa. (option 1) Identify "cushion" for urban growth

- |   |
|---|
| A) Difference between impact scenarios 2 and 3; or  |
| B) Difference between some other combination of impact scenarios (i.e. 1 & 2 or 1& 3); or     |
| C) Region(s) outside core permit area not conflicting with Conservation Strategy (many alts.) |
| D) Some other large cushion; or   |
| E) Some other small cushion   |

## IIb. (option 1) Determine how to describe cushion

- |  |
|--|
| i) Map in detail; or   |
| ii) Blob-like regions supported by narrative description & acreage limit; or |
| iii) Narrative text & acreage limit only; or                                 |
| iv) Acreage limit only   |

## II. (option 2) Rely on HCP amendment process to address permit area uncertainty

- |   |
|---|
| F) Define permit area clearly and leave no uncertainty (still amendable); or  |
| G) Define permit area clearly but also define the permit area amendment process in more detail to facilitate amendment, should that be required; or                     |
| H) Define permit area clearly but also define and <u>analyze</u> the permit area amendment process in more detail to try to facilitate the amendment process even more. |

## II. (option 3) Don't try to cover growth outside baseline permit area in HCP/NCCP

- |  |
|--|
| I) Any urban growth that occurs outside the baseline permit area would seek permits through current project-by-project process |
|--|

## III. Define other aspects of HCP permit

- Finalize list of covered activities (other than urban growth; e.g. ag? Ranchette? Infrastructure? Recreation on existing parks); and
- Pre-define some specific public infrastructure projects we know we will want to cover (SR4 Bypass, Armstrong Road extension, others?); and
- Pre-define some specific public infrastructure projects we know we will want to cover (SR4 Bypass, Armstrong Road extension, others?); and
- Develop funding plan to implement HCP/NCCP, including fee on permit users (and possibly a different or higher fee on permit users in the cushion area)

or

or



## PRELIMINARY DISCUSSION DRAFT OUTLINE

**Framework for the East Contra Costa County HCP/NCCP**

*This document is intended to outline key components of the HCP/NCCP and serve as a focus of discussion for the Coordination Group. The document will record key recommendations of the Coordination Group as they are made. The Framework cannot replace the detailed information that will be contained in supporting documentation such as the Conservation Strategy and other chapters of the plan itself (these will continue to be discussed), but it can guide development of the more detailed work products and allow the Coordination Group to focus on the most important policy questions.*

*Aspects from two previous documents have been integrated in this draft: the Principles of Participation approved by HCPA member agencies upon joining the HCPA (County version is used as a starting point) and the list of key upcoming decisions from the process flow chart presented in July of 2002.*

**Contents**

- I Purpose of the HCP/NCCP
- II Background: The Intersection of Natural Resources, Development, and Agriculture in East County
- III Mechanism: the HCP/NCCP as an Alternative to Project-By-Project Permitting and Mitigation
- IV Key Permit Terms and Conditions
- V Biological Commitments
- VI Landowner Commitments
- VII Implementing Entity
- VIII Funding to Implement HCP/NCCP
- IX Adaptive Management and No Surprises
- X Amendment

**I Purpose of the HCP/NCCP**

*Mission statement (below) recommended by Coordination Group on 5-17-02 and approved by the Executive Governing Committee on 5-23-02.*

The East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan will provide comprehensive species, wetlands and ecosystem conservation and contribute to recovery of endangered species within East Contra Costa County, while:

- balancing open space, habitat, agriculture, and urban development;
- reducing the cost and increasing the clarity and consistency of federal and state permitting by consolidating and streamlining these processes into one, locally-controlled plan,

- encouraging, where appropriate, the multiple use of protected areas, including recreation and agriculture,
- sharing the costs and benefits of the habitat conservation plan as widely and equitably as possible, and
- protecting the rights of private property owners.

## II Background: The Intersection of Natural Resources, Development, and Agriculture in East County

*Language below is mainly boiler plate from a grant application and is included just to show the kind of information that could be presented in this section. In other words, please remember that this is just a draft to prompt discussion.*

Eastern Contra Costa County is one of the fastest growing regions in the state--with a population that is predicted to grow by 127,000 people by 2025<sup>1</sup>--~~providing important new housing for the Bay Area's growing workforce. Though efforts are underway to direct future growth toward infill opportunities (to the maximum extent practicable), existing land use plans and development approvals will allow~~ ~~Much of this growth~~ significant new development will occur on rangelands and irrigated crop lands. ~~and will~~ This new development will displace a variety of natural habitats, including valley floor and foothill grassland, oak woodland, oak woodland savannah, chaparral, riparian woodland, emergent wetland, and vernal pool habitat. Anticipated growth could also threaten key habitat corridors needed to protect a variety of state and federally listed threatened and endangered species. Approximately 154 special status species occur or could occur in the East County area, including the San Joaquin Kit Fox, California Red-Legged Frog, Alameda Whipsnake, Golden Eagle, Western Burrowing Owl, Vernal Pool Fairy Shrimp, and Diablo Heliantha. The East County area is also home to productive agricultural lands, including intensively cultivated areas with high quality soils in lower elevations and productive grazing lands in the hills that cover a large part of the region. Agriculturalists depend on these lands for income and as an important investment.

Conflict between these different land-uses or community values is, to some extent, unavoidable. However, coordinated conservation planning is an opportunity to reduce the level of conflict and to uncover mutually acceptable approaches to these problems.

## III Mechanism: the HCP/NCCP as an Alternative to Project-By-Project Permitting and Mitigation

*This is excerpted from an old staff report and is too long, but again provides an example of the kind of information that could be included here.*

### **Current Process for Complying with Endangered Species Acts and Other Resource Protection Regulations:**

<sup>1</sup> ABAG, Projections 2002. By 2025, the populations of Brentwood, Oakley, Pittsburg, and Antioch are expected to grow by 123%, 57%, 52%, and 30%, respectively.

Public agencies, developers, and other project sponsors currently address endangered species regulations individually on a project-by-project basis. Potential impacts to endangered species are considered and potentially mitigated within the California Environmental Quality Act (CEQA) process, but in many cases must also be addressed through individual consultation with the USFWS and CDFG. Regardless of regulatory venue, endangered species compliance typically requires:

- a) thorough field surveys of the site at appropriate times for endangered species;
- b) negotiations on mitigation, site design, and construction practices; and
- c) identification and procurement of any needed off-site mitigation and/or dedication of on-site mitigation (e.g., open space easements) and establishment of mitigation monitoring program.

The above compliance is performed individually by the landowner/developer and the USFWS and CDFG in order to obtain an individual take permit (ITP) pursuant to CESA section 2081 and FESA section 10 when a non-federal action (i.e., project or activity) may jeopardize or impact a listed species, or its habitat. In Contra Costa County, the ITP is more often issued under section 7 of FESA which applies when a project has federal funding or requires federal permits, such as for wetlands. The local land use agency is usually not involved, but does separately negotiate mitigation under CEQA.

The amount of time and funding dedicated to each of the above three tasks varies, sometimes dramatically, from one project to another. Some project proponents in East County have incurred significant expense in this process. All project proponents must contend with some uncertainty regarding how long endangered species compliance will take, how much mitigation will be required, and what will happen in the future if unforeseen circumstances arise that affect a protected species before an ITP issued.

In addition to endangered species requirements, CEQA (and NEPA if a federal project), and any resource protection measures adopted by the local land use planning agency, project proponents must also comply with a number of other environmental regulations. For example, actions that could affect wetlands must have a thorough site survey and formal wetland delineation sanctioned by an appropriate regulatory agency. Such projects must also receive permits from the U.S. Army Corps of Engineers (COE), and the Regional Water Quality Control Board (RWQCB). Depending on the project, the U.S. Environmental Protection Agency (EPA), USFWS, and CDFG might be involved in processing the wetlands permit from the COE. Projects affecting streams require a streambed alteration agreement with CDFG and may also be subject to wetland regulations. Construction activities require a separate permit from the RWQCB to control water quality impacts. Projects might also face local and other restrictions on impacts to prime agricultural lands.

### **How the HCP/NCCP's Will Provide an Alternative Process for Compliance:**

The East County HCP/NCCP establishes a coordinated process for permitting and mitigating the incidental take of endangered species that can be used in place of the current, project-by-project approach. Rather than individually surveying, negotiating, and securing mitigation, project proponents typically receive an ITP by paying a fee (and/or dedicating land), performing limited surveys, and adhering to protocols to avoid and minimize impacts during construction. The fees are collected by the Implementation Entity (TBD) (often a Joint Powers Authority composed of representatives of local agencies). The Implementation Entity then uses the fee money, as well as grants and any other funding sources established in the plan, to purchase habitat lands or easements from willing sellers. Collected funds are also used for monitoring and any habitat enhancement or management actions.

The HCP/NCCP will (we hope) also offer an alternative, parallel means for complying with wetlands regulations, including the Sections 404 and 401 of the federal Clean Water Act (wetlands fill and water quality certification) and Section 1601 of the California Fish and Game Code (Streambed Alteration). The approach to complying with wetlands regulations will be similar to the approach used for endangered species compliance: coordination of off-site mitigation through the plan when impacts cannot be avoided.

A comprehensive, landscape-level analysis of the biological resources of East County forms the basis for the permits issued and conservation actions taken under the plan. By examining conservation priorities at a regional scale, the plan is better suited for implementing key conservation biology principles than more focused work with perhaps greater detail. The biological work in this plan cannot replace the site-specific biological work that will still be required under the California Environmental Quality Act for specific projects, but it can provide a broader scientific context and it should facilitate both the preparation and review of future site-specific studies.

HCP/NCCP's are intended to benefit developers by improving regulatory certainty, by reducing the need for surveys and mitigation negotiations, and by providing a coordinated, more cost effective system for acquiring mitigation. HCP/NCCP's are also intended to benefit species by replacing the current project-by-project mitigation with a coordinated system more suitable for protecting connected blocks of habitat in a biologically sound manner. Larger and connected blocks of conserved lands will increase the potential to benefit and preserve multiple species.

## IV Key Permit Terms and Conditions

*Most of the information provided below has been discussed in a general way but has not been the focus of specific recommendations or decisions.*

### **Relevant Principles of Participation:**

**12. Opportunities for site-by-site planning and permitting by individual property owners should be continued.**

**14. The plan should provide for the issuance of a programmatic 404 permit and identify any required wetlands mitigation. Alternatively, the HCP must be accepted as tacit approval**

**by USFWS of any 404 permit application to the U.S. Army Corps of Engineers within the affected area and consistent with the HCP.**

Summarized below are key aspects of the permits to be requested through the HCP/NCCP.

**Term of permit:** 30 years (*local agency's working assumption from the beginning of the process*)

**Permit holders:** TBD (local land use planning agencies, individually (probably), and ?)

**Permit issuers:** U.S. Fish and Wildlife Service  
California Department of Fish and Game  
Wetlands agencies like USACE and SWRCB and EPA (we hope)

**Desired permits:**

- a) Section 10 of FESA (Regional Incidental Take Permit under Section 10 of the Federal Endangered Species Act)
- b) Section 2800 of CESA (Regional Incidental Take Permit under the California Endangered Species Act through provisions of the California Natural Community Conservation Planning Act)
- c) Section 1601 (Regional streambed alteration agreement under the California Fish and Game Code)
- d) Section 404 of CWA (Programmatic General Permit or Regional General Permit under Section 4 of the federal Clean water Act)
- e) Section 401 of CWA (Water Quality Certification)
- f) Section 7 assurances?

**Permit area:** TBD (preliminary Impact Analysis begins this discussion)  
The permit area criteria we began to outline on March 20 perhaps belong here once we have pursued that discussion a bit further.

**Covered activities:**

*Below please find a DRAFT of the covered activities list reflecting the Coordination Group discussion through its August 15 meeting:*

Discussion Draft of Covered Activities List<sup>2</sup>

1. Residential, commercial, and industrial development (and other development activities, such as described in items 2 thru 4, inside the Urban Limit Line)
2. Road and highway construction and maintenance outside the ULL
3. Water infrastructure construction and maintenance outside the ULL
4. Flood control project construction and maintenance outside the ULL

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<sup>2</sup> The introductory text on this subject should explain the difference between Section 7 and Section 10 of the Federal Endangered Species Act and make clear that, while an HCP can only provide coverage under section 10, HCPs can be an instrument for identifying permit conditions under Section 7.

5. Sanitary system infrastructure construction and maintenance
  6. Rural recreational facility construction, maintenance, and operation
  7. Recreational use of rural parks and preserves
  8. Mining facility construction, operation, and maintenance (if requested by mining companies)
  9. Miscellaneous development outside the ULL (to be defined later)
  10. Population surveys, species relocation, habitat restoration, management, and scientific research on preserve lands or potential preserve lands
  11. Clearing, grading, or filling of natural communities for new irrigated agriculture (if requested by agricultural community)
  12. On-going operations of existing agriculture (if requested by agricultural community)
- Wind turbines to be discussed later

**Voluntary participation:** participation principle #12 needs to be articulated more fully here

## V Biological Commitments

### **Relevant Principles of Participation:**

9. **Habitat areas acquired through the plan must be within Contra Costa County. Expenditure of funds collected to protect habitat should be guided primarily by biological considerations. Economic development opportunities and public open space value should be secondary considerations in spending habitat protection funds.**
17. **The HCP's conservation strategy should provide full recognition of past and future public and private habitat and open space acquisition and other mitigation efforts. Existing public lands should not be considered for future species mitigation, since many of these areas were acquired for other purposes. Certainly such areas can be considered for limited species enhancement projects, but the focus should be on preservation of habitat not already protected or publicly managed. Mitigation should result in expansions and enhancements of preserved habitat rather than restrictions on use of existing public lands.**
19. **The plan should rely on avoidance as the primary means for addressing irreplaceable resources such as creeks, wetlands, and endangered native plant communities.**

*This section is left largely blank for now, though several comments were made on March 20 that seem appropriate for including here as we start to fill this section out. It is tempting to just put a note here that says "see Conservation Strategy", though that would defeat the purpose this document. Suggest culling key principles from the Preliminary Draft Conservation Strategy as we proceed. Could reference aspects of NCCP requirements here. Also, comments from past Coordination Group meetings, such as the importance of small scale features and the importance of not forgetting about such features even though many activities to protect such resources would be deferred to implementation could be recorded here.*

**Qualitative Conservation Requirements:**

- Habitat connectivity must be carefully analyzed and maximized, both within the inventory area and to areas outside the inventory area and the County.
- Conservation dollars must be spent efficiently and effectively. Conservation easements may be an effective tool in this regard, though the funding strategy for the plan should not assume that such transactions will be as common as they might be in an ideal situation. Conservation easements have not been common in this area in the past and factors that have limited their use may continue to be limiting in the future.
- Restoration of native habitats and plants must be aggressively pursued.
- Agriculture can be compatible with conservation and many agricultural activities, such as grazing, will be critical for maintaining and restoring habitat values in some areas.
- *Perhaps we should insert the conservation biology principles discussed previously here?*
- Reference section 2.1.1???

**Quantitative Conservation Requirements:**

- *pending*

**VI Landowner Commitments**

**Relevant Principles of Participation:**

- 8. The plan should not include any provision for the use of eminent domain.**
- 10. Properties bordering lands to be used as mitigation must be protected from any impacts caused by the mitigation program.**
- 11. Participation in the planning process by any property owner does not constitute agreement that use of the property produces any impact on endangered species.**
- 20. The HCP should not lock in permanent uses before conservation easements or fee title land interests are purchased.**

*This section is also left largely blank, though several comments were made on March 20 that seem appropriate for including here as we start to fill this section out. The above principles need be expanded into actual plan measures and recorded here. Likewise the upcoming work of the Agricultural Subcommittee could generate material for this section.*

- Landowner rights should be protected.
- HCP/NCCP fees and other funding sources must be adequate to fund the full cost of land acquisition and maintenance, but must not be so high as to discourage all-necessary development.
- Lands conserved for habitat may constitute an increasingly significant portion of the agricultural resource in the area. Land management practices must maximize the compatibility of agriculture with conservation, avoid all unnecessary restrictions of agricultural operations, and generally support the viability of agriculture in East County.

- The plan will operate in and effect the local real estate market. This role must be undertaken sensitively to avoid significant disruptions of the private marketplace.

## VII Implementing Entity

### Relevant Principles of Participation:

15. There must be a committee of stakeholders established in advance of the planning process which includes landowner representatives, environmental organizations, and other interested parties. A similar committee should be established for implementation of any approved HCP.

*No detailed work to date on this topic, but this section should describe what body will be responsible for implementing the HCP/NCCP, what entity will be responsible for acquiring and managing the land (could be the same, or the overall implementation authority could delegate or contract for such responsibilities), what responsibilities are assigned to the implementing authority, etc.*

## VIII Funding to Implement HCP/NCCP

### Relevant Principles of Participation:

13. The plan must be economically feasible to implement and the total cost of implementation of the plan, including soft costs, land acquisition, maintenance and monitoring must be known prior to adoption.
16. Funding of the HCP proposed for East Contra Costa County should be as broadly based as is justified by the purpose and content of the plan when written. Cost allocations should be guided by regulatory obligations, cumulative responsibility for impact, and by who benefits from non-regulatory components of the plan. Developer fees for permits and public funds, possibly including water rates and/or bond funds, should be included.
18. There should be federal participation in HCP funding since this effort is a pass-through of obligations imposed by USFWS on other federal agencies under Section 7 of the Endangered Species Act.

*This section should summarize how much the plan will cost to implement and how this will be funded. The cost estimate should be broken down by acquisition, restoration, management, monitoring, and administration. Fund raising aspect should include information on the amount of the fee on new development seeking permits through the plan and details on other funding sources and the amount of revenue to be generated through each of these. The preliminary land valuation memo and the funding sources memo have draft background information on these topics.*

## IX Adaptive Management and No Surprises

**Relevant Principles of Participation:**

6. Any HCP must have a "no surprises" clause consistent with the current federal policy. Should the no surprises clause be invalidated by court action, the HCP implementing agreement should be terminable by local agencies.
7. Consistent with the "no surprises" policy which precludes changes to the terms of permits based on future biological conditions, the plan should not impose costs of any contingent mitigation on private property owners. However, the plan may include inflation corrections in the mitigation fee, different fees for different specific impacts, and assurances that funding keeps pace with habitat protection benchmarks established in the HCP conservation strategy.

*This section should summarize and expand on key assurances such as described in principles 6 and 7 and should also summarize the adaptive management program. Preliminary suggestion is keeping these topics together because they are obviously linked.*

**X Amendment**

*Not sure we will want to keep such a section in this framework, but I thought it might be useful to think in these terms because consideration of the amendment process may help us balance the desire to resolve all issues in the plan with the need to maintain some flexibility over the long term.*

**Remaining Principles of Participation**

1. The U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG) should allow development consistent with local plans to proceed as before (in accordance with existing permitting requirements) until any HCP is implemented.
2. The plan must be based on respectable and credible biological information on the presence of endangered species and on sound scientific analyses, i.e. the need exists and the program will produce the intended result. A scientific advisory committee should be created and there should be independent peer review by scientists specializing in conservation biology.
3. USFWS and CDFG must agree in advance not to unreasonably withhold approval of the HCP nor insist on modification after all parties have agreed to the process and local agencies have approved the resultant HCP.
4. USFWS, CDFG and the plan sponsors should agree to hold periodic reviews during the development of the plan to avoid any major disagreements later.
5. The Incidental Take Permit must be totally consistent with the approved HCP.
21. USFWS and CDFG should allow public infrastructure projects, such as those for roads, highways, water delivery, sanitation, storm drainage, and flood control to proceed in

accordance with existing permit requirements in an expeditious and timely manner before an HCP is implemented.