

**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVATION PLAN ASSOCIATION (HCPA)  
EXECUTIVE GOVERNING COMMITTEE**

**DATE:** June 11, 2004  
**TO:** Executive Governing Committee (EGC)  
**FROM:** Member Agency Staff  
**SUBJECT:** Meeting Packet for EGC Meeting on Thursday, June 17, 2004 at the Pittsburg City Council Chambers

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The next meeting of the East Contra Costa County Habitat Conservation Plan Association (HCPA) Executive Governing Committee (EGC) is scheduled for **Thursday, June 17, 2004, 5:30 pm to 7:00 pm** at the City of Pittsburg Council Chambers on 65 Civic Drive. Attached is the meeting agenda and associated staff reports.

Please have your agency post a copy of the meeting agenda in accordance with the requirements of the Brown Act.

If you need additional information regarding this meeting please contact John Kopchik of the Contra Costa County Community Development Department at (925)335-1227 (email: [jkopc@cd.co.contra-costa.ca.us](mailto:jkopc@cd.co.contra-costa.ca.us)).

We look forward to seeing you on June 17 at 5:30 p.m.

Attachments.



**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVATION PLAN ASSOCIATION (HCPA)  
EXECUTIVE GOVERNING COMMITTEE**

**REGULAR MEETING**

Date: Thursday, June 17, 2004

Time: 5:30 p.m. to 7:00 p.m.

Location: City of Pittsburg Council Chambers  
65 Civic Drive, Pittsburg

**Agenda**

- 1) Introduce Executive Governing Committee (“EGC”) members, staff, and any members of the public.
- 2) Public Comment.
- 3) Approve Meeting Report for April 8, 2004.
- 4) Updates and status reports:
  - a) General (John Kopchik, HCPA staff, and David Zippin, Jones and Stokes Associates)
    - Work of consultants and products
    - Wetlands
    - EIR/EIS
    - Implementation Agreement
    - Funding
    - Schedule
  - b) Public Outreach and Involvement Program, including:
    - Web-site
    - HCPA Coordination Group
    - Additional meetings attended and outreach performed
    - Plans for other public meetings and workshops
  - c) State and federal resource agency perspectives
- 5) Consider the following action items related to contracts and budget:
  - a) Authorizing staff and consultants to proceed with work necessary to include, to the extent feasible, Flood Control and certain unincorporated road projects as covered activities in the HCP/NCCP and Implementing Agreement, once funds are received from the proponents for this work (estimated cost=\$40,000; requested funds = \$60,000);

- b) Authorizing staff and consultants to proceed with work necessary to add Western pond turtle and round leaf filaree as covered species in the HCP (estimated cost=\$10,500).
- c) Authorizing staff to increase the interim payment limit for the Jones and Stokes contract from \$800,000 to \$942,000 as sufficient funds are deposited in the HCPA account;
- d) Authorizing staff to increase the interim payment limit for the Resources Law Group contract from \$40,000 to \$66,500 as sufficient funds are deposited in the HCPA account;
- e) Authorizing staff to pay the \$25 fee and submit a permit application to the Fish and Wildlife Service to initiate the application process (the permit application must be submitted before a Draft HCP or Draft EIS is published).

6) Policy discussion and guidance to staff and Coordination Group:

- Funding to implement the HCP/NCCP
  - a) Review status of funding plan
  - b) Funding commitments, implementing ordinance, and compulsory or non-compulsory fees
  - c) Tiering of fees
  - d) Exploring concept of including on-going charges on new developments as an option for local governments in lieu of part of impact fee
  - e) Update on Coordination Group discussions on these matters
- Interim projects: creating trust fund
- CEQA guidelines
- Update on covering rural infrastructure projects

7) Administrative matters:

- Ratify invoices submitted by Jones and Stokes, Contra Costa County, Resources Law Group, and Erica Fleishman and paid by the HCPA Treasurer.

8) Review future Executive Governing Committee discussion items.

9) Select Next Meeting Dates

- Alternative recommended dates for next meeting:
  - Thursday, September 2, 2004 (1<sup>st</sup> Thursday)
  - Thursday, September 9, 2004 (2<sup>nd</sup> Thursday)
  - Thursday, September 16, 2004 (3<sup>rd</sup> Thursday)
  - Thursday, September 23, 2004 (4<sup>th</sup> Thursday)

10) Adjourn by 7:00 p.m.

*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.*

*The HCPA will provide reasonable accommodation for persons with disabilities planning to participate in this meeting who contact staff at least 72 hours before the meeting.*

**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVATION PLAN ASSOCIATION  
Executive Governing Committee  
Draft Meeting Report  
April 8, 2004**

**INTRODUCTION**

The East County Habitat Conservation Plan Association (HCPA) Executive Governing Committee (EGC) met on Thursday, April 8, 2004, 5:30 p.m. in the City of Pittsburg City Council Chambers. In attendance were EGC Representatives from City of Brentwood (Vice Chair Bill Hill), Contra Costa County (Supervisor Millie Greenberg), City of Clayton (Council member Greg Manning), City of Pittsburg (Council member Michael Kee), Contra Costa Water District (Vice President Elizabeth Anello), and East Bay Regional Park District (Director Ted Radke).

**DISCUSSION**

The following is a review of the meeting agenda.

- 1) **Introduce Executive Governing Committee (“EGC”) Members, Staff, and any Members of the Public**
- 2) **Public Comment**
- 3) **Approve Meeting Report for January 22, 2004** - The meeting report was unanimously approved as presented (4-0).
- 4) **Updates and Status Reports**
  - a) **General (John Kopchik, HCPA staff, and David Zippin, Jones and Stokes Associates)**
    - **Work of Consultants and Products** - The consultant work in the last quarter has been focused on incorporating comments on the preliminary draft HCP/NCCP, and preparing the DEIR/S and Implementation Agreement. Also, more frequent meetings have been occurring with United States Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG) regarding the HCP/NCCP and related documents. The consultant’s work is on schedule. The current total amount billed by the consultant is \$616,931, which is about 87% of the \$705,400 original contact amount. The consultant contract limit was increased under agenda item 5 below.
    - **Wetlands** – Some progress has been made with the Army Corps of Engineers (ACOE). The consultant and Agency Staff met with the ACOE to discuss incorporating wetland permitting into the HCP. The ACOE was encouraged by

the plan but only prepared to discuss a concurrent permitting process and not integration. Agency Staff will continue to work with ACOE on the wetlands permitting issue.

- **EIR/EIS** - The current schedule is to have the Draft EIR/EIS out for public review in July 2004.
- **Implementation Agreement** - The Resources Law Group is developing a draft agreement and should have a document ready for review by Agency Staff soon. There was some interest expressed by representatives from the East Bay Regional Park District regarding the formation of the implementing entity. Mr. Kopchik responded that the structure of the implementing entity will be established by a Joint Power's Agreement creating the implementing entity.
- **Schedule** - The project schedule was reviewed under item 7 of the agenda.

**b) Public Outreach and Involvement Program, including:**

- **Web-site** - Agency Staff keeps the website updated with current meeting notices, records of meetings and work products.  
(<http://www.cocohcp.org/index.html>).
- **HCPA Coordination Group** - The Coordination Group has been meeting on a monthly basis. The main focus of the Coordination Group has been on the implementation issues (fee structure, management, etc).
- **Science Advisory Panel** - Erica Fleishman gave an overview of the Science Panel activities. The work of the Science Panel was completed under budget. Ms. Fleishman described several areas where the Science Panel's recommendations were incorporated into the plan and made a difference in the HCP/NCCP (e.g. increased mapping, groundtruthing, thorough review of species information, evaluating restoration on a case by case basis, critically reviewing management tools, evaluating trade offs in acquisition strategies, a need to form an implementing entity early, and establishing a realistic funding structure that works for the long term). There was a comment from the public that the panelists may have been overly academic in terms of their experience and the panel may not have spent time in the field verifying what was in the plan. Ms. Fleishman rebutted that the panelists had varying degrees of field experience mixed with their academic background. She said all panelists had worked in the field at some point in their career as part of their training. She was not aware if any had spent time in the field during this assignment but she was certain that the panelists had an excellent knowledge of the land in the area covered by the HCP. Ms. Fleishman also stated that the draft HCP/NCCP is a scientifically sound

East County Habitat Conservation Plan Association Executive Governing Committee  
 Representatives (Vice President Elizabeth Anello and Director Bette Boatman)  
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document. She did not expect any issues on the science in the plan from the USFWS and CDFG. She said she would expect most of their issues to be in the area of regulatory compliance and concerns about funding for the plan.

- **Additional Meetings Attended and Outreach Performed** - Mr. Kopchik said he had attended the Citizens Land Alliance Land Use Symposium on February 28 and the East County Municipal Advisory Committee (MAC) meeting on April 3.

- **Plans for Other Public Meetings and Workshops** – Mr. Kopchik will continue to make reports to land use planning agencies. Clayton City Council and the County Board of Supervisors have received briefings thus far. Presentations to the Councils of the Cities of Brentwood, Pittsburg, and Oakley are being planned.

c) **State and Federal Resource Agency Perspectives** – A representative from CDFG was present but did not make any comments.

5) **Consider amending contract with Jones and Stokes to increase overall contract limit from \$705,400 to \$942,000, consistent with the approved HCPA Budget. Authorize staff to increase the interim payment limit for the Jones and Stokes contract from \$705,400 to \$800,000 as sufficient funds are deposited in the HCPA account.**

Mr. Kopchik explained that, when the EGC increased the overall project budget last year, contracts were not amended accordingly as it seemed to make sense to address the contracts when the time came. The work that Jones and Stokes needs to perform between now and July will cause their current contract limit to be exceeded. The recommended contract limit adjustment will allow the consultants work to continue on schedule. Agency Staff recommended that the EGC authorize an increase in the contract limit. No work will be authorized without available funding. The recommendation was unanimously approved as presented (4-0).

6) **Authorize staff to sign Statement of Responsibilities Regarding Preparation of Joint EIR/EIS for the East Contra Costa County HCP / NCCP, a document the U.S. Fish and Wildlife Service requires be signed to specify procedures for joint preparation of the environmental document.**

Agency Staff requested EGC authorization to sign the Statement of Responsibilities Agreement between the HCPA, Jones and Stokes, and USFWS. The agreement is a requirement of USFWS when the EIR (which is a state CEQA requirement) and EIS (which is a federal NEPA requirement) are prepared jointly. The EGC unanimously approved the recommendation as presented (4-0).

East County Habitat Conservation Plan Association Executive Governing Committee  
Representatives (Vice President Elizabeth Anello and Director Bette Boatmun)  
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- 7) **Policy Discussion** - All of these items were for discussion and information only. Agency Staff did not make any recommendations and the EGC was not asked to make any decisions on this issues.
- **Overview of the array of major products that will come out of the HCPA planning process.** – These items were reviewed and the EGC was reminded that land use agencies would need to consider each as the HCP/NCCP is completed and proceeds to implementation.
    - a) **HCP / NCCP**
    - b) **EIR/S**
    - c) **Implementing Agreement**
    - d) **Implementing Ordinance template**
    - e) **Joint Power’s Agreement for Implementing Entity**
    - f) **Draft Regional Wetlands Permit Process document (for information purposes only—will not be a formal part of the HCP and local agencies will not have to adopt it)**
  - **Decision-making process and draft schedule** – The current schedule projects issuing the Draft EIR/EIS and HCP/NCCP and related documents in July 2004. A two-month delay from the previous schedule is expected due to time necessary for review of the EIR/EIS by various wildlife agency offices.
  - **Update on Options for Tiering the HCP/NCCP Fees** – Mr. Kopchik explained that fee tiering involves varying the fee for permit recipients based on the type of habitat disrupted. This approach has been used on other HCP’s within the State. The Coordination Group has been discussing various strategies for tiering the fee such as having a higher fee for grassland, a medium fee for irrigated agricultural lands and a low fee for urban infill. Higher fees for wetlands would probably be another component. This and other alternatives will be evaluated as the plan is further developed.
  - **Proposed Countywide Open Space Funding Measure and Relationship to HCP/NCCP** – Under both the “fair share” approach and the “no funding gap” approach to allocating implementation costs, more than \$100M of the \$300M overall plan cost is estimated to come from existing and currently proposed public funding sources. The open space measure that the County is preparing through an assessment district approach would provide about \$40M for open space

East County Habitat Conservation Plan Association Executive Governing Committee  
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acquisition and stewardship in the east county area that is complementary to the goals of the HCP. The funding analysis for the HCP reflects this potential contribution from the open space measure. The assessment district balloting will take place in June and July. The results will be known in August.

**8) Administrative Matters**

- **Ratify invoices submitted by Jones and Stokes, Resource Law Group and Erica Fleishman and paid by the HCPA Treasurer** – All except the Erica Fleishman invoices were ratified unanimously (5-0). The amount of the invoice on the cover memo conflicted with the invoice amount for Erica Fleishman. Mr. Kopchik said he would resolve the issue and bring the invoice back to the EGC for ratification at the next meeting.

**9) Review future Executive Governing Committee Discussion Items**

**10) Select Next Meeting Dates** – Thursday, June 17, 2004, 5:30 p.m., Pittsburg City Council Chambers.

**11) Adjourned 7:00 p.m.**



**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVATION PLAN ASSOCIATION (HCPA)  
EXECUTIVE GOVERNING COMMITTEE**

**DATE:** June 17, 2004  
**TO:** Executive Governing Committee (EGC)  
**FROM:** Member Agency Staff  
**SUBJECT:** Updates and status reports

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**RECOMMENDATION**

- 1) ACCEPT status report on the project, including work of the consultants, the public involvement program, the schedule and comments from the resources agency.

**FISCAL IMPACTS**

None.

**DISCUSSION**

**a) General update:** HCPA committees, staff, and consultants are working intensively to prepare for the next major HCPA milestone, the release of the formal Draft HCP / NCCP, the Draft EIR / EIS, the Draft Implementation Agreement and other related documents. End of summer (late August) is the target for completing these documents, though regulatory agency staff have cautioned patience.

- **Work of consultants and products:** see attached quarterly report from Jones and Stokes
- **Wetlands:** A detailed update was provided in the April EGC packet. Necessary additional studies, including additional analysis of watershed processes and more detailed classifications of wetland types in the inventory area is on-going. Staff hope a\it may be possible for a Regional Wetlands Permitting Program proposal to keep pace with or follow close on the heels of the HCP/NCCP.
- **EIR / EIS:** A separate team within Jones and Stokes is working to complete a Draft EIR / EIS by the end of summer. The HCPA will be the lead agency under CEQA. The USFWS will be the lead agency under NEPA. The next EGC meeting will probably also serve as a CEQ hearing.
- **Implementation Agreement:** Resources Law Group are taking the lead in drafting an Implementation Agreement. A Draft Implementation Agreement will be part of the package of draft documents staff hopes to release in midsummer.
- **Budget update:** Attached please find an updated financial summary and HCPA Budget. In the Budget, neither committed revenues nor estimated expenses have changed from the Budget approved by the EGC in October 2003 (though actions under item 5 could change that). However, actual expenditures and revenues have been updated to reflect grant

checks received and invoices paid. As noted on in the Fund Raising Strategy on following the Budget, several new, likely funding sources have been identified (see last few rows).

- **Schedule update:** The attached updated draft timeline/flowchart provides an updated general overview of the products and schedule from now to project completion. We are still reviewing this schedule with the resource agencies. Resource agency concurrence with draft documents is required before they can be published.

**b) Update on the Public Outreach and Involvement Program:**

- **Web site:** <http://www.cocohcp.org>, is continuously updated to reflect meeting records, future scheduled meetings and agendas for all HCPA committees. The documents section of the website continues to include all major draft documents released to date, including the Working Draft HCP/NCCP. As mentioned previously, maps that are part of then Working Draft HCP/NCCP are now also available online.
- **HCPA Coordination Group:** The CG has met three times since the last EGC meeting. The agendas, and meeting records are available on the HCPA website. The recent meetings have focused on funding and tiered fees.
- **Additional meetings attended and outreach performed:** Since the last EGC meeting, a presentation was been made to the American Society of Civil Engineer's Water Resources Technical Group & the Chinese American Environmental Professionals (May 26) and meeting was held with members of the Byron MAC (June 9).
- **Plans for other public meetings and workshops:** Staff continues to be open to making presentations to public groups. Update reports to the HCPA land use planning agencies are in progress. Updates to the Clayton, Pittsburg, and Oakley City Councils and the County Board of Supervisors have been completed. Updates to the Brentwood City Council and the Council's Housing and Economic Development Committee are planned for July 13 and July 1, respectively. When the Draft EIR is released, an EGC meeting will also serve as a CEQA hearing.

**c) State and Federal Resource Agencies' perspectives:** Agency representatives may be present and may wish to comment on the direction of the planning effort.



## Memorandum

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Date: June 10, 2004

To: East Contra Costa County HCP Association Executive Governing Committee  
c/o John Kopchik

cc:

From: David Zippin, Project Manager

Subject: **ECCTCo. HCP/NCCP Status Report: February 23 to May 23, 2004**

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This is the 10th quarterly status report on our progress in completing a Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) for the East Contra Costa County Habitat Conservation Plan Association (HCPA). This status report provides a brief narrative summary of our accomplishments, a summary of the project's financial status, a list of accomplishments by task, a description of schedule changes, and a summary of next steps.

### Summary of Accomplishments

The major work completed during this period was the administrative draft Environmental Impact Report (EIR)/Environmental Impact Statement (EIS), submitted May 13. We have also been working hard to revise the preliminary working draft HCP/NCCP to prepare the public draft HCP/NCCP. We have prepared for, attended, and presented at 5 Staff meetings, 2 Coordination Groups meetings, 6 additional meetings with stakeholders and agency staff, and 1 EGC meeting.

### Financial Status

As of May 23, 2004, we have spent \$753,125 of our authorized contract of \$942,000. If this full contract amount is funded, there would be approximately \$189,000 left in the budget to complete the project.

### Accomplishments by Task

This section lists our accomplishments by task for this status report period.

#### Task 1: Project Management and Meetings

- Prepared for and attended 5 staff committee meetings
- Prepared for and attended 2 meetings of the HCPA Coordination Group
- Prepared 3 invoices and summary documents
- Prepared for and attended 6 meetings with agency staff and Contra Costa County staff (public works, mosquito and vector control) to discuss project status and review their comments on the

conservation strategy

- Prepared quarterly status report #9
- Tracked project schedule and budget closely with client

#### **Task 2: Public Involvement**

- Posted new material on web site as requested by Agency staff
- Hosted web site for 3 months

#### **Task 5: Economic Analysis**

- None

#### **Task 6: HCP/NCCP**

- Revised preliminary draft HCP/NCCP based on comments from stakeholders, CDFG, USFWS, EPA, CCWD, EBRPD, City of Pittsburg, and City of Oakley
- Continued to revise conservation strategy to shift land acquisition priorities in Zones 1, 4, and 5
- Reviewed comments from CDFG on monitoring and adaptive management plan and began developing strategy to address them
- Coordinated work flow for all revisions to HCP/NCCP for public draft document
- Finalized strategy to address extensive comments from DFG and FWS on monitoring and adaptive management plan (chapter 6) and developed revised chapter outline and approach to address them
- Continued to revise planning survey conservation measures
- Made extension revisions and additions to chapter 7 (implementation) and chapter 5 (conservation strategy) based on >200 comments from DFG, FWS, and EPA
- Prepared for agency working group meetings and distributed draft review material in advance of meetings
- Reviewed proposed list of new covered activities submitted by Contra Costa County Public Works for inclusion in HCP and prepared scope and budget to address these items
- Major revisions to chapter 6 to address extensive comments from DFG and FWS on monitoring and adaptive management plan
- Finished addressing all comments from DFG on Chapter 5; nearly completed revisions to Chapter 5 based on FWS comments.

#### **Task 7: EIR/EIS**

- Continued to coordinate EIR/EIS tasks and schedule with HCPA, FWS and staff.
- Coordinated with HCPA staff in the finalization of project alternatives
- Continued preparing other required sections of the EIR/EIS such as cumulative impacts, executive orders, growth inducement, and others.
- Prepared USFWS conflict of interest statement
- Gathered documents and emails for administrative record
- Reviewed additional HCPs/NCCPs to expand potential range of alternatives.
- Developed initial range of alternatives and criteria for alternatives screening (matrix format)
- Met with HCPA staff on March 25 to discuss project alternatives and get staff buy-off on Reduced Development Area Alternative
- Developed initial land cover and acreage estimates for Reduced Development Area Alternative

- Revised alternatives discussion in Chapter 2 based on alternatives screening process
- Conducted research and contacted agency staff regarding land use, public services, socioeconomic, agriculture, and biological resources.
- Conducted updated CNDDDB records search for special status species in project area.
- Senior staff review of preliminary EIR/EIS resource sections
- Review of completed preliminary sections of EIR/EIS
- Staff revisions to preliminary sections of EIR/EIS
- Coordinated completion of outstanding document sections and issues for Admin Draft EIR/EIS.
- Submitted initial draft Chapter 2, Proposed Action and Alternatives, to USFWS and County for preliminary review
- Reviewed list of potential Public Works and Flood control projects for consideration in the EIR/EIS
- Submitted request for GIS-based figures to County and reviewed/revised drafts
- Continued identification and evaluation for non-covered special status species
- Completed review of land use compatibility issues for Antioch and other cities
- Completed cultural resource impact assessment and review of Section 106 compliance strategies
- Coordinated revisions based on senior technical review of air quality, noise, and geology and soils
- Reviewed Contra Costa County Public Works proposed covered activities and developed scope and cost estimate to integrate into EIR/EIS
- Revised draft Chapter 2, Proposed Action and Alternatives based on preliminary comments from County and USFWS
- Extensive senior review of all key EIR/EIS section by Paul Cylinder (almost all time at no charge)
- Completed revisions to all EIR/EIS sections based on senior review by Paul Cylinder
- Completed revisions to biological resources section of EIR/EIS
- Final review by EIR/EIS task manager of Admin. Draft EIR/EIS for consistency and content
- Completed final editing, formatting, and production on CD-ROMs of Administrative Draft EIR/EIS
- Completed final revisions to all EIR/EIS graphics
- Delivered Administrative Draft EIR/EIS on May 13
- Attendance of EIR/EIS task manager at May 13 HCPA Staff meeting

### **Tasks 9 and 10: Wetlands Permitting**

- Prepared presentation for Feb. 27 meeting with Corps for wetland approach proposal
- Met with USACE and EPA on February 27 in Oakland to present our proposed approach to landscape-scale wetland delineation and our proposed permit outline
- Refined approach/method to wetlands inventory, classification, functional description based on information/guidance provided by ACOE during February 27 meeting
- Continued researching relevant regional permits as references to Contra Costa situation
- Revised permit outline to conform to the model of the Regional Permit Program used in Chicago, per ACOE comments at the February 27 meeting.
- Met with USACE in March 26 in Sacramento to present revised permit outline and discuss details of Regional Permit Program structure and process.
- Revised Permit outline to reflect ACOE comments at the March 26 meeting

- Prepared case study analysis of Deer Creek sub-basin for wetland inventory, classification, functional description
- Coordinated with County staff in developing detailed GIS maps of all subbasins for wetlands analysis
- Reviewed existing literature for wetland inventory, classification, functional description.
- Refined Regional Permit Program structure based on results of March 26 meeting with USACE
- Reviewed Contra Costa County Public Works proposed covered activities and developed scope and cost estimate to integrate into wetlands permitting
- Prepared for field inventory work by developing logistics and field checklists
- Continued to coordinate with County staff in developing detailed GIS maps of all subbasins for wetlands analysis to prepare for field work
- Continued revision/refinement of Regional Permit Program (RPP) based on feedback from Corps staff and on-going information collected from field evaluation.
- Considered how Contra Costa County Public Works proposed covered activities would be included in draft RPP permit
- Conducted field inventory of wetland types and functions in 8 of the sub-basins in the permit area
- Wrote portions of the wetlands inventory report based on review of maps, aerial photographs and fieldwork conducted during this period
- Met with Regional Board representatives to begin the process of including 401 certification in the regional permit

## **Schedule**

Comments are due from agency and HCPA staff on the administrative draft EIR/EIS on June 30. Once the EIR/EIS is revised and accepted by the U.S. Fish and Wildlife Service (the EIS is the Service's document), it will be released for a mandatory 90-day public review. The draft HCP/NCCP and draft Implementing Agreement (IA) will also be released at the same time. We expect this to occur in August or September depending on the nature of comments received from USFWS and our ability to resolve key issues in the HCP/NCCP.

## **Next Steps**

Remaining short-term work includes:

- Revise the administrative draft EIR/EIS when comments received June 30
- Add additional covered species if additional funding is secured
- Incorporate all comments into the public draft HCP/NCCP
- Continue to work closely with the USACE to develop the regional wetlands permit
- Continue discussions with RWQCB and CDFG regarding CWA Sect. 401 certification and programmatic streambed alteration agreements, respectively
- Continue to refine estimates of the cost of conservation strategy and the funding strategy to pay for it

June 10, 2004

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- Revise the land acquisition priorities to reflect the recommendations of regulatory agencies and the science panel



## EAST CONTRA COSTA COUNTY HABITAT CONSERVATION PLAN ASSOCIATION

**Budget**

Approved on October 23, 2003

(actual expenditures and deposits have been updated from October version; updates since April-04 are shaded)

**REVENUE (Current)**

	<u>Approved</u>	<u>Deposited in HCPA account</u>
CCWD	\$325,000	\$325,000
Route 4 Bypass	\$114,056	\$114,056
City of Clayton	\$11,762	\$11,761
EPA Grant (Approved)	\$75,000	\$75,000
CCWD (FESA Map Transfer)	\$40,000	\$40,000
County Fish and Wildlife Committee	\$35,000	\$35,000
FWS/CDFG Section 6 Grants (approved)	\$347,040	\$237,232
Interest	\$2,630	\$2,630
<b>Total current revenue</b>	<b>\$950,488</b>	<b>\$840,679</b>

**EXPENSES (estimated and actual)**

	<u>Total estimated</u>	<u>Billed to date</u>
Jones & Stokes (Project Consultant)	\$925,536	\$753,125
County - Coordinating Agency	\$150,000	\$12,604 <sup>1</sup>
Independent Science Review (including J&S)	\$45,000	\$44,570
Legal support from Resources Law Group	\$66,500	\$30,687
Multi-county \$ request to Congress (IEH)	\$1,500	\$1,500
Business Expenses	\$4,600	\$0
<b>Total</b>	<b>\$1,193,136</b>	<b>\$826,022</b>
10% contingency reserve	+ \$119,314	
<b>Total estimated expenses + reserve</b>	<b>\$1,312,450</b>	
Current revenue	- \$950,488	
<b>Additional funding needs (total)</b>	<b>\$361,961</b>	
Reserve funds committed by CCWD <sup>2</sup>	- \$32,500	
<b>Additional funding needs (minus CCWD contrib.)</b>	<b>\$329,461</b>	
Non-CCWD portion of contingency reserve	- \$86,814	
<b>Additional funding needs (w/out reserve)</b>	<b>\$242,647</b>	
Optional task: additional covered species	- \$48,000	
<b>Additional funding needs (w/out optional task)</b>	<b>\$194,647</b>	

<sup>1</sup> Actual expenses to date estimated at \$120k. County has not invoiced in many months to assist with cash flow balance.

<sup>2</sup> Article 14 of the HCPA Agreement provides that, if outside funding cannot be found, CCWD will contribute half of contingency funds up to a maximum contribution of \$32,500 to the contingency reserve.

**Fund Raising Strategy and Progress Update: Target = \$365,000**

Potential Source	Amount to be Requested	Internal projection	Background/Update	Dead-line	When may we know status?	When may we receive \$?
1) Six-County request to Congress for FY'05	\$500,000	\$0	Official requests submitted to Congressional representatives in February and March.	N/a	Sept. 2004	Spring 2005
3) Section 6 grant, FY04	\$300,000	\$240,000	Pre-proposal accepted. Invited to submit full proposal requesting \$300,000. Full proposal submitted in March to CDFG and USFWS.	March 2004	August 2004	Fall 2004
5) Development community (for enhanced permit coverage (additional covered species)(budget augmentation item #3)	Up to \$48,000	\$0 to \$20K	This request has been made of several representatives of the development community on several occasions. Staff to follow-up.	June 2004	June 2004	July 2004
6) CALFED Bay-Delta Program	\$300,000	300,000?	Working with Carl Wilcox and CCWD staff to explore this approach		??	
8) Farmland Conservancy Program (CA Dept. of Conservation)	\$50K	\$0	Planning is not their focus, but is possible. Farmland conservation, not habitat, is main priority. Deniz Tuncer has indicated this is not a good fit.	rolling	Fall/ Winter 2003	Spring/ Summer 2004
9) National Fish & Wildlife Foundation	\$50K	\$0 to \$50K	Rejected our pre-proposal previously, but indicated it was premature. They granted \$50K to South Sac HCP years ago.	?	?	?
10) Small local grants: East Bay Community Foundation, CA Trails and Greenways	?	\$0 to \$5K	Contributed \$1K to Biodiversity	?	?	?
11) SFRWQCB Supplemental Environmental Programs	N/a	\$0 to \$50K	When punishing violators, SFRWQCB requires contributions to environmental programs. No violations at moment, but HCP is on the list.	N/a	N/a	N/a
12) Potential mitigators like USBR	\$50k	\$25K	Just like SR4 Bypass Authority for Phase 1 of that project. \$50,000 from a USBR mitigation program has been requested. \$25k preliminarily approved	N/a	Summer 2004	?
13) EBRPD	\$15K	\$0 to \$15K	EBRPD has offered to contribute \$15,000 to the effort if it can assume a more formal role in the planning process, such as a voting role on the EGC.	N/a	N/a	N/a
14) Flood Control	\$60k	\$60k	Flood control seeks to have their activities covered	N/a	June '04	June '04
15) CCWD FESA Map Transfer	\$20k	\$20k	CCWD has asked FWS to redirect map \$ to HCP	N/a	June '04	July '04

## HABITAT CONSERVATION PLAN ASSOCIATION ACTIVITY SUMMARY

As of May 14 2004

### TRUST 499300

11/25/2002	Opening Deposit - Transfer balance from CCWD	\$153,703.76
12/12/2002	Transfer from PW Lowell Tunison, JV2195 12/5/02	\$100,000.00
12/12/2002	Interest earnings from PW Lowell Tunison, JV2195 12/5/02	\$14,056.38
3/18/2003	Transfer from LAIF Account DP402206 3/18/03	\$30,000.00
4/14/2003	Transfer from Fish & Wildlife Propagation fund J/V4137 4/14/03	\$35,000.00
7/10/2003	Transfer from LAIF Account DP408375 7/10/03	\$30,000.00
9/24/2003	Dept of Fish & Game	\$109,451.70
1/14/2004	Transfer from LAIF Account	\$100,000.00
2/27/2004	Dept of Fish & Game	\$87,457.50
4/5/2004	Loan from Land Dev 3520 JV5564	\$100,000.00
4/13/2004	HCPA-CCWD [EPA grant]	\$25,000.00
4/28/2004	Clayton Sphere of Influence	\$1,760.50
5/4/2004	Dept of Fish & Game	\$40,322.70

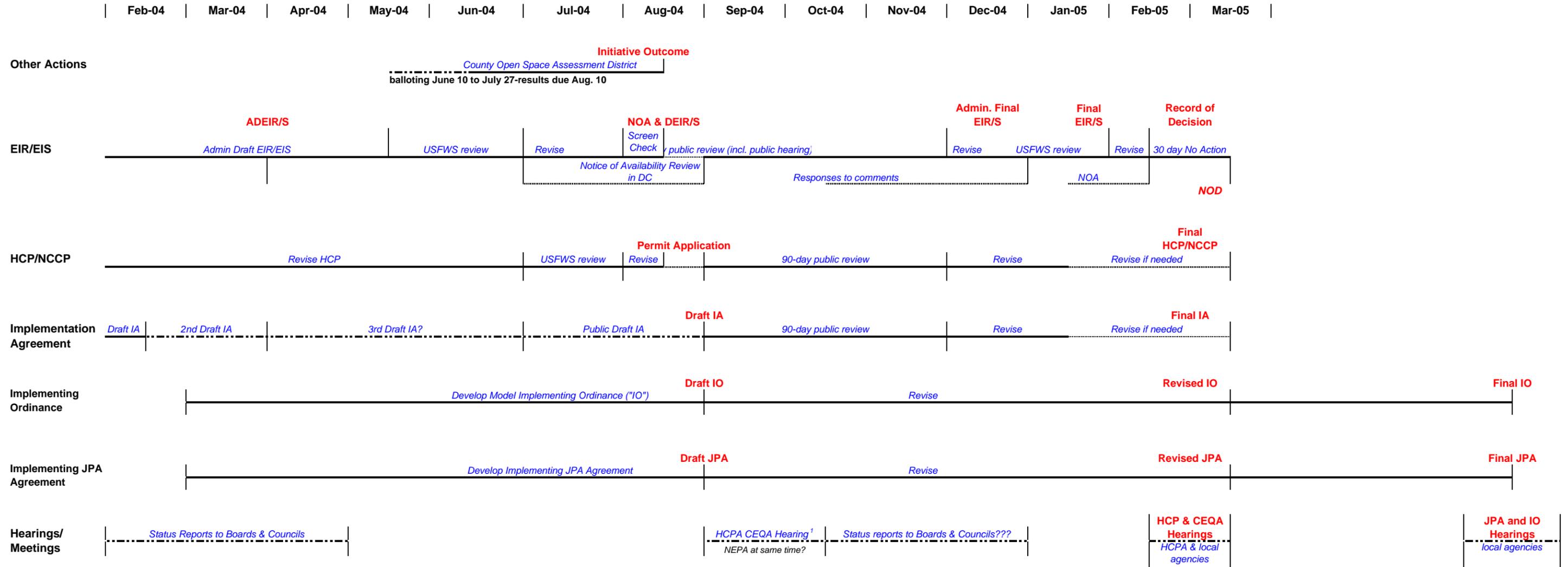
**Total Deposits:        \$826,752.54**

12/10/2002	Jones & Stokes Oct 10, 02 invoice	\$8,600.97
12/10/2002	Jones & Stokes Nov 08, 02 invoice	\$8,000.54
12/10/2002	Erica Fleishman Dec1, 02 invoice	\$988.33
1/7/2003	Jones & Stokes Dec 13, 02 invoice	\$18,340.14
2/4/2003	Jones & Stokes Jan 15, 03 invoice	\$11,925.13
2/5/2003	Transfer \$200,000 to LAIF account	\$200,000.00
2/19/2003	SAP meeting payment B. Ertter	\$800.00
2/19/2003	SAP meeting payment S. Orloff	\$800.00
2/19/2003	SAP meeting payment B. Pavlik	\$800.00
2/19/2003	SAP meeting payment L. Huntsinger	\$1,300.00
3/17/2003	Erica Fleishman March1, 03 invoice	\$2,186.81
4/10/2003	SAP meeting pmt, S. Terrill	\$400.00
4/10/2003	SAP 2/26/03 meeting pmt, L. Huntsinger	\$1,300.00
4/10/2003	SAP 2/26/03 meeting pmt, B. Pavlik	\$800.00
4/10/2003	SAP 2/26/03 meeting pmt, IBIS S. Orloff	\$800.00
4/10/2003	SAP 2/26/03 meeting pmt, B. Ertter	\$800.00
4/10/2003	SAP 5/29/02 & 2/26/03 meeting pmts, A. Launer	\$1,600.00
4/10/2003	Erica Fleishman April 1, 2003 invoice	\$937.50
4/16/2003	Jones & Stokes 2/7/30 invoice	\$11,848.56
4/16/2003	Jones & Stokes 2/10/03 Retainage invoice	\$18,194.70
4/16/2003	Jones & Stokes 2/25/03 invoice	\$2,660.31
5/15/2003	Jones & Stokes 3/13/03 & 4/10/03 invoices	\$9,536.90
6/14/2003	Jones & Stokes 5/7/03 invoice	\$10,659.33
6/18/2003	HCPA Institute for Ecology 6/5/03 invoice	\$1,500.00
6/25/2003	Jones & Stokes 6/4/03 invoice	\$13,999.77
9/3/2003	Jones & Stokes 7/15/03 & 8/8/03 invoices	\$24,972.66
10/8/2003	Transfer \$50,000 to LAIF account	\$50,000.00
11/17/2003	Jones & Stokes 9/10/03 and 10/3/03 invoices	\$60,293.36
12/5/2003	Erica Fleishman 12/1/03 invoice	\$651.83
1/14/2004	Jones & Stokes Retainage invoice 12/15/03	\$21,129.32
1/14/2004	Erica Fleishman 1/1/04 invoice	\$2,266.03
1/14/2004	E/C J&S invoice #16000 dated 9/10/03	\$4,614.98
1/14/2004	Jones & Stokes 11/6/03 invoice	\$20,838.70
1/14/2004	Jones & Stokes 12/8/03 invoice	\$30,248.02

3/12/2004	J&S #17744 dated 1/15/04 and #17844 dated 2/5/04	\$41,643.77
3/12/2004	RLG #1313 dated 11/20/03 and #1349 dated 1/16/04	\$11,325.00
4/9/2004	J&S 18316 dated 3/8/04	\$30,690.43
4/9/2004	Erica Fleishman 3/3/04 invoice	\$525.00
4/9/2004	SAP meeting pmt, S. Terrill	\$900.00
4/9/2004	SAP 2/26/03 meeting pmt, L. Huntsinger	\$1,400.00
4/9/2004	SAP 2/26/03 meeting pmt, B. Pavlik	\$900.00
4/9/2004	SAP 2/26/03 meeting pmt, IBIS S. Orloff	\$900.00
4/9/2004	SAP 2/26/03 meeting pmt, B. Ertter	\$900.00
4/9/2004	SAP 5/29/02 & 2/26/03 meeting pmts, A. Launer	\$900.00
5/11/2004	Erica Fleishman 4/30/04 invoice	\$276.10
5/11/2004	Resources Law Group, LLP Inv# 1370	\$3,150.00
5/11/2004	Resources Law Group, LLP Inv# 1422	\$8,218.75
5/11/2004	Resources Law Group, LLP Inv# 1455	\$7,993.75
		<b>\$653,516.69</b>
	<b><u>Balance 499300:</u></b>	<b><u>\$173,235.85</u></b>

**LAIF ACCOUNT**

2/5/2003	Transferred from Trust 499300	\$200,000.00
4/15/2003	Interest	\$551.34
7/15/2003	Interest	\$751.10
10/9/2003	Transferred from Trust 499300	\$50,000.00
10/15/2003	Interest	\$591.11
1/15/2004	Interest	\$736.60
4/15/2004	Interest	\$399.58
	<b>Total Deposits:</b>	<b><u>\$253,029.73</u></b>
3/18/2003	Transferred \$30000 to Trust 499300	\$30,000.00
7/10/2003	Transferred \$30000 to Trust 499300	\$30,000.00
1/14/2004	Transferred \$100000 to Trust 499300	\$100,000.00
	<b>Total Expenditures:</b>	<b><u>\$160,000.00</u></b>
	<b><u>Balance LAIF:</u></b>	<b><u>\$93,029.73</u></b>



**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVATION PLAN ASSOCIATION (HCPA)  
EXECUTIVE GOVERNING COMMITTEE**

**DATE:** June 17, 2004  
**TO:** Executive Governing Committee (EGC)  
**FROM:** Member Agency Staff  
**SUBJECT:** Action items related to contracts and budget (agenda item #5)

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**RECOMMENDATION**

Consider the following action items related to contracts and budget:

- a) Authorizing staff and consultants to proceed with work necessary to include, to the extent feasible, Flood Control and certain unincorporated road projects as covered activities in the HCP/NCCP and Implementing Agreement, once funds are received from the proponents for this work (estimated cost=\$40,000; requested funds = \$60,000);
- b) Authorizing staff and consultants to proceed with work necessary to add Western pond turtle and round leaf filaree as covered species in the HCP (estimated cost=\$10,500).
- c) Authorizing staff to increase the interim payment limit for the Jones and Stokes contract from \$800,000 to \$942,000 as sufficient funds are deposited in the HCPA account;
- d) Authorizing staff to increase the interim payment limit for the Resources Law Group contract from \$40,000 to \$66,500 as sufficient funds are deposited in the HCPA account;
- e) Authorizing staff to pay the \$25 fee and submit a permit application to the Fish and Wildlife Service to initiate the application process (the permit application must be submitted before a Draft HCP or Draft EIS is published).

**DISCUSSION**

**a) Attempting to cover Flood Control and unincorporated road projects:** Staff representing the CCC Flood Control and Water Conservation District and the CCC Public Works Department provided a comment letter on the November 2003 Preliminary Working Draft HCP/NCCP several months requesting that a number of rural infrastructure projects not included in the proposed covered activities list be added to that list. Examples included construction of new detention basins, maintenance of existing Flood Control facilities, construction of water quality basins consistent with the new stormwater permit requirements, replacement of bridges, construction of traffic signals and other rural projects. HCPA staff and consultants have discussed this request with the CCC Flood Control/Public Works staff to explain that attempting to cover these activities was outside the scope of the HCP. HCPA consultants estimated that the additional work would cost \$40,000. HCPA staff proposed that CCC Flood Control/Public Works pay the \$40,000 cost plus an additional \$20,000 “buy-in” to reflect the general work on the HCP performed already that provide the HCPA with a head start in pursuing the CCC Flood Control/Public Works request. CCC Flood Control/Public Works staff have indicated that they are willing to accept this proposal, but would also like the Flood Control District to be a signator to the Implementation Agreement since it is a district separate from the County and a permit issued to the County could not be used by Flood Control. HCPA staff recommend that the EGC authorize staff and consultants to proceed with work necessary to include, to the extent feasible,

Flood Control and certain unincorporated road projects as covered activities in the HCP/NCCP and Implementing Agreement, once the requested funds.

**b) Adding Western pond turtle and round-leaf filaree:** In January 2003, HCPA staff reported on a variety of potential budget augmentations, including the addition of up to seven covered species, as recommended by the Science Advisory Panel. HCPA staff and consultants recommended that the covered species only be added if a dedicated source of funds could be found because prior analysis had indicated that attempting to cover these species would have marginal benefits relative to the costs. Staff and consultants felt the species in question had a low risk of being listed, were highly unlikely to be impacted by any HCPA covered activity, or were unlikely to be included in a permit issued by the wildlife agencies due to lack of scientific information on distribution and/or habitat requirements. No dedicated source of outside funds has been received. However, as discussed under item #4, fund-raising efforts hold some promise of success. Staff therefore recommend that the EGC authorize work to proceed to add Western pond turtle and round leaf filaree to the covered species list. Round leaf filaree would be relatively inexpensive to cover (plants require less analytical work in the species accounts; adding round leaf filaree will cost \$3000). Western pond turtle would cost more (\$7,500), but staff and consultants believe that, of the seven species under consideration, Western pond turtle makes the most sense to add to the list because it is frequently considered in CEQA analysis for projects in our area and its habitat requirements are relatively well-known.

**c) Interim Payment Limit for Jones and Stokes:** The HCPA maintains interim payment limits on contracts to account for the fact that our project is not yet fully-funded. Interim payment limits ensure that consultants perform no work that cannot be paid for with existing funds. The EGC previously authorized staff to increase the Jones and Stokes interim payment limit to \$800,000. Staff recommends EGC authorization to increase this amount to \$942,000, the full contract amount. Staff would raise the interim payment limit to the EGC-authorized maximum in intervals as funds are deposited to the HCPA account. Such authorization is requested because, with work now underway on the EIR/EIS, the formal DRAFT HCP/NCCP, and the wetlands permit application, it is possible the current \$800,000 threshold could be reached in the next several months. Staff recommend raising the limit to the maximum at this time so that interim limits don't cause unnecessary delays at this critical juncture of the project.

**d) Interim Payment Limit for Resources Law Group:** Staff recommends EGC authorization to increase the interim payment limit on this contract from \$40,000 to \$66,500, the full contract amount. The rationale is the same as for item (c).

**e) Authorizing staff to pay the \$25 fee and submit a permit application to the Fish and Wildlife Service to initiate the application process:** The U.S. Fish and Wildlife Service requires a permit application fee of \$25 for HCPs. It also requires that this application be submitted before a Draft HCP or Draft EIS is published (we hope to publish these documents latter this summer). Submitting the permit application does not obligate the HCPA or local agencies to approve a final HCP.



**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVATION PLAN ASSOCIATION (HCPA)  
EXECUTIVE GOVERNING COMMITTEE**

**DATE:** June 11, 2004  
**TO:** Executive Governing Committee (EGC)  
**FROM:** Member Agency Staff  
**SUBJECT:** Policy Discussion

---

**RECOMMENDATION**

- Accept overview report from HCPA Member Agency staff on a variety of key policy issues related to the HCP / NCCP and offer guidance.

**DISCUSSION**

Staff will provide a verbal update on a variety of key policy topics. A short written synopsis is provided below.

**Funding to implement the HCP/NCCP:** Implementation funding for the HCP/NCCP is one of the most critical aspects of the planning effort and staff felt it was important to update the EGC on this topic and receive guidance from the EGC on aspects of the emerging funding strategy.

- a) **Review status of funding plan:** Below is an excerpt from the Draft Framework that summarizes our estimates of costs and alternatives for paying these costs as of November 2003. Cost estimates will be refined and modified for the Draft HCP/NCCP to reflect changes to the plan and additional work is underway to further develop the funding strategy. But the excerpt below provides a concise review of the current status of our plan with respect to funding.

**Costs:**

The preliminary cost estimates for implementing the HCP/NCCP have been estimated both for the Preliminary Draft Initial Permit Area and for the Preliminary Draft Maximum Permit Area. Cost estimates include the costs of land acquisition, land management, restoration, monitoring, administration and other actions required by the Implementing Entity over the 30 year life of the Plan. Detailed information on these estimates is provided in Chapter 8 and in Appendix G. The preliminary grand total estimates are:

Preliminary Draft Initial Permit Area  
\$233 million

Preliminary Draft Maximum Permit Area  
\$287 million

**Funding:**

Funding scenarios have been developed in parallel with the cost estimation process and have assumed an overall implementation cost of \$300 million (which now appears slightly high, but the

Plan is not finalized yet...). Additional detail on the funding strategy may be found in Chapter 8 and in Appendix H. The 2 scenarios under consideration are described below.

**Hypothetical Funding Scenarios and Funding Gap Analysis**

Item	Scenario 1: No Funding Gap	Scenario 2: “Fair Share” Apportionment
Total Plan Costs	\$300m	\$300m
Non-Fee Funding		
Maintenance of existing Conservaion Effort*	\$54m	\$54m
New State and Federal Contribution**	\$10m	\$10m
FAA Airport Clear Zone Match	\$6.5m	\$6.5m
Contra Costa Open Space Funding Measure***	<u>\$30m</u>	<u>\$30m</u>
Total Non-Fee Funding	\$100m	\$100m
Remaining	\$200m	\$200m
Fee per Acre****	\$18,000	\$11,000
Fee Funds	\$200m	\$120m
Fee % of Total Cost	67%	40%
<b>Funding Gap</b>	<b>\$0</b>	<b>\$80m</b>

\* Includes continued private, local, regional, state, and federal conservation efforts.

Conservatively estimated by assuming continued acquisitions at approximately one-half of EBRPD’s acquisition rate over the past 30 years.

\*\* Mainly from Federal Endangered Species Act Section 6 land acquisition funds

\*\*\* Open Space Measure must pass for these funds to be available.

\*\*\*\* The question of whether to scale fees based on type of habitat impacted has not yet been addressed. Preliminary fee per acre calculations are rough estimates of what the fee might be for impacts to natural lands if agricultural impacts were charged 50% as much.

**b) Funding commitments, implementing ordinance, and compulsory or non-compulsory fees:** Key elements of the plan for funding implementation of the HCP/NCCP will be some of the most difficult provisions to resolve. Future work on funding will focus on:

- updating cost estimates to reflect plan revisions;
- determining the state and federal contributions to implementation (state and federal contributions will be expressed in terms of acres rather than dollars; work still remains to negotiate a mutually agreeable level of state and federal commitment and to express that commitment in acres);
- determining the local share of required funding and the type of funding assurances the wildlife agencies will require to issue permits;
- determining the portion of local funds that will come from fees on development (e.g., should the plan adopt scenario 1? Scenario 2? A different scenario?);
- determining the amount of the fees on new development (see item (c) below)
- determining how fees should be collected (e.g., should the fee be imposed broadly--a compulsory “Habitat Conservation Fee”--to provide a more assured revenue stream and reduce project-by-project administration by local agencies

and wildlife agencies? Or, should the fee be voluntary—a “Permit Issuance Fee”—that allows project proponents to comply with regulations through the plan or on their own? Will the wildlife agencies agree to a voluntary fee? Will local agencies be able to make funding commitments with a voluntary fee? Would a voluntary fee need to be set higher than a compulsory fee to be a revenue neutral alternative? Would the voluntary fee become so high that no one would want to pay it? Can agreement be reached with stakeholders on this matter? –examples of tough questions we still must resolve.

c) **Tiering of fees:** Though we still have work to do before we can propose actual fee levels, staff and the Coordination Group have been examining the question of whether and how fees should be tiered. Three non-exclusive options have been considered:

- Tier fees by land cover (i.e. set higher fees on land cover types (vegetation types) with greater habitat value)
- Tier fees by location (i.e., adjust fees based on geographic and biological factors; set lower fees on projects already surrounded by development; set higher fees on projects “at the edge”)
- Tier fees by type of impact (i.e. set lower fees on temporary impacts such as maintenance impacts; set higher fees on linear projects that may have greater fragmentation effects per acre disturbed)

To foster continued discussion of this issue, HCPA staff asked the HCPA’s economic consultants, Economic and Planning Systems (EPS), Inc., to develop conceptual fee alternatives to reflect some of the ideas outlined by the Coordination Group. EPS analyzed various alternatives under a fee zone approach that integrates tier-by-landcover and tier-by-location concepts raised by the Coordination Group. Staff suggested this approach as a more straightforward, easy-to-administer alternative to tiering fees by landcover. The tier-by-activity concepts were not part of this initial analysis but should be a next item of discussion.

The inventory area was divided into three zones: I, II and III. Zone I, located east of the City of Antioch, is dominated by flatter topography. Undeveloped land in this zone is typically used for irrigated agriculture. Zone II, located to the south and west of the City of Antioch, is dominated by more hilly topography and natural landcover predominates in undeveloped areas. Zone III is composed exclusively undeveloped areas of 10 acres or less surrounded by existing development. Attached please find a draft illustrating the locations of the fee zones. Four different conceptual fee alternatives are presented in the attached table. Please note, since cost estimates still need to be refined to reflect revisions to the conservation strategy and to covered activities and estimated impacts, and since the portion of plan funds to come from development fees still has not been determined, actual dollar amounts should be viewed as examples rather than proposals.

Additional considerations:

- There would probably need to be exceptions to the fee zone approach in cases where wetlands were to be impacted. Alkali grasslands and possibly other landcover features could also be considered for exceptions to the standard zones fees.

- Variations in fee amount for linear projects, for one time temporary impacts, and for periodic temporary impacts (e.g. maintenance) have not yet been considered in the analysis to keep things simple, but should be discussed and considered further.

EGC guidance is requested on the general approach. Setting aside questions of fee amounts and fee ratios, does the EGC believe that a tiered fee zone approach is appropriate?

- d) **Exploring concept of including on-going charges on new developments as an option for local governments in lieu of part of impact fee:** Because some local jurisdictions rely on on-going charges on new development (e.g., assessments or CFDs) to pay for infrastructure instead of or in addition to one-time impact fees, staff are exploring whether such on-going charges may be a viable alternative to full payment of impact fees.
- e) **Update on Coordination Group discussions on these matters:** At their meeting on the afternoon of June 17, the Coordination Group will discuss and summarize the status of opinion on funding issues. No significant consensus may be reported at the time this memo is being written. Staff did receive a comment letter on this topic from several members of the Coordination Group which is attached.

**Interim projects: creating a trust fund.** Various project proponents have contacted HCPA member agency staff or wildlife agency staff over the past several months to find out if the HCP/NCCP is far enough along to receive funding as compensation for imminent impacts. While the HCP/NCCP cannot receive and spend such funds until such time as the plan is approved and implementation entity is established, the wildlife agencies have expressed interest in collecting fees on interim basis and setting the funds aside until such time as the plan is done and ready to be implemented. The details of the interim fees would be negotiated separately by individual project proponents and the wildlife agencies. But the wildlife agencies have asked for the assistance of local agencies to set up a trust account to hold the funds. The wildlife agencies would establish a contingency plan for spending the funds if the HCP/NCCP is not approved. HCPA Member Agency staff has discussed the idea and recommend that the County be asked to set up such a trust account for the wildlife agencies. Member agency staff also recommend that any funds collected also be available to complete the HCP/NCCP, should that be necessary.

**CEQA guidelines:** June 11 was the deadline for comments on draft revisions to the CEQA guidelines. The draft revisions contained provisions that would limit the ability of HCPs to simplify the CEQA process for projects covered by HCPs. HCPA Member Agency staff discussed the revisions and agreed to submit a comment letter. Please find attached the comment letter submitted by staff.

**Update on covering rural infrastructure projects:** Staff plan to set up a meeting between transportation officials and wildlife agency staff to discuss provisions for covering major transportation projects in East County. Improvements to Vasco Road and the Byron Highway continue to be discussed as potential activities to be covered by the HCP/NCCP.

**Sample Fee Calculations - Maximum Permit Area  
East Contra Costa County NCCP/ HCP**

Item	Fee Zones			Total/ Avg
	Eastern Agricultural Zone I	South + West Natural Areas Zone II	Infill (less 10 acres) Zone III	
Permit Area (acres)	9,031	5,949	136	15,116
<b>Alternative 1: Flat Fee (1)</b>				
Fair Share Apportionment Scenario	\$71,700,000	\$47,200,000	\$1,100,000	\$120,000,000
Per Acre Fee	\$7,939	\$7,939	\$7,939	\$7,939
No Funding Gap Scenario	\$119,500,000	\$78,700,000	\$1,800,000	\$200,000,000
Per Acre Fee	\$13,231	\$13,231	\$13,231	\$13,231
<b>Alternative 2: Ratio 1-3-0 (2)</b>				
Fair Share Apportionment Scenario	\$40,300,000	\$79,700,000	\$0	\$120,000,000
Per Acre Fee	\$4,467	\$13,400	\$0	\$7,939
No Funding Gap Scenario	\$67,200,000	\$132,800,000	\$0	\$200,000,000
Per Acre Fee	\$7,442	\$22,325	\$0	\$13,231
<b>Alternative 3: Ratio 2-4-1 (3)</b>				
Fair Share Apportionment Scenario	\$51,600,000	\$68,000,000	\$400,000	\$120,000,000
Per Acre Fee	\$5,715	\$11,430	\$2,858	\$7,939
No Funding Gap Scenario	\$86,000,000	\$113,400,000	\$600,000	\$200,000,000
Per Acre Fee	\$9,528	\$19,055	\$4,764	\$13,231
<b>Alternative 4: Ratio 1-3-1 (4)</b>				
Fair Share Apportionment Scenario	\$40,100,000	\$79,300,000	\$600,000	\$120,000,000
Per Acre Fee	\$4,443	\$13,330	\$4,443	\$7,939
No Funding Gap Scenario	\$66,900,000	\$132,100,000	\$1,000,000	\$200,000,000
Per Acre Fee	\$7,403	\$22,210	\$7,403	\$13,231

(1) Same fee for all lands.

(2) Natural Lands Fees three times agricultural lands fee; no fee on infill land.

(3) Natural Lands Fees twice agricultural lands fee and four times infill fee.

(4) Natural Lands Fees three times fee on agricultural lands fee and on infill areas.

Sources: Contra Costa County; Economic & Planning Systems, Inc.



# MORRISON & FOERSTER LLP

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LOS ANGELES  
DENVER  
PALO ALTO  
WALNUT CREEK  
SACRAMENTO  
CENTURY CITY  
ORANGE COUNTY  
SAN DIEGO

ATTORNEYS AT LAW

PLEASE RESPOND TO:

P.O. BOX 8130

WALNUT CREEK, CALIFORNIA 94596-8130

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June 8, 2004

Writer's Direct Contact  
925/295-3317  
CMorrison@mofocom

John Kopchik, Senior Planner  
Community Development Department  
Contra Costa County  
County Administration Building, 4th Floor  
651 Pine Street  
Martinez, CA 94553

Re: East County HCP

Dear Mr. Kopchik:

On behalf of the Contra Costa Council ("Council") and in conjunction with the Home Builders Association of Northern California ("HBA"), I am writing to offer the following comments on recent revisions to the East County Habitat Conservation Plan's (the "HCP") Jump Start/Stay Ahead provisions and fee structure.

### *Jump Start Requirements*

The revisions to the HCP suggest that Jump Start provisions should be permissive rather than mandatory. For the following reasons, we feel that is not prudent. As you are aware, we are concerned that take coverage under the HCP could be suspended if the Implementing Entity is unable to maintain required land acquisition ratios over the life of the plan. We feel that the buffer provided by the Jump Start requirements helps assure that the HCP's acquisition goals are met and, moreover, are critical to ensuring that the requirements of Section 10 of the Endangered Species Act ("ESA") are satisfied. Accordingly, we believe that the HCP should include a requirement that a specified number of acres be acquired at the commencement of plan implementation.

## MORRISON & FOERSTER LLP

John Kopchik, Senior Planner

June 8, 2004

Page Two

### *Stay Ahead Requirements*

In our view, the HCP's Stay Ahead requirements are overly stringent and, as such, may jeopardize the Implementing Entity's ability to maintain the mandated mitigation ratios in the event of a shortage of willing sellers. For example, the required 1.5:1 mitigation ratio for annual grasslands seems to exceed the mitigation requirements typically imposed on projects impacting this biological resource. In order to ensure that Stay Ahead requirements are both fair and practicable, while maintaining the integrity of the HCP, such requirements should reflect standard mitigation measures associated with most East County development projects.

We also believe that it is very important for added measures of flexibility to be implemented into the HCP. For example, in the event that the Stay Ahead requirement is not being met on a plan-wide basis, individual projects should retain the ability to receive take coverage if the project proponent is able to dedicate to the Implementing Entity land within the preserve system consistent with the HCP's Stay Ahead mitigation ratios. Under this scenario, if a project impacts ten acres of alkali grasslands, take coverage under the otherwise suspended HCP will be permitted, provided that the project dedicates 20 acres of alkali grasslands within the preserve system.

### *Tiered Fees*

We support the concept of a tiered fee structure and feel that the "Alternative 3: Ratio 2-4-1 Fair Share Apportionment Scenario," as such scenario is labeled on the Habitat Conservation Plan Association's (the "HCPA") *Sample Fee Calculations*, dated 4/9/2004, is the preferred alternative. We are not, however, endorsing a specific fee amount but, rather, the tiered fee methodology. In addition, we believe the HCPA should explore the possibility of incorporating a fee increase mechanism into the HCP, provided clear and definable criteria for fee increases are also adopted with the plan.

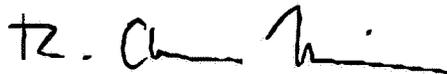
Finally, both organizations identified several concerns in separate letters dated January 28, 2004 (HBA), and February 9, 2004 (Council), and we want to remind you that they are still outstanding.

MORRISON & FOERSTER LLP

John Kopchik, Senior Planner  
June 8, 2004  
Page Three

I am happy to discuss our ideas with you further, at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Clark Morrison". The signature is fluid and cursive, with a long horizontal stroke at the end.

R. Clark Morrison

cc: Paul Campos  
Daniel Muller  
Linda Best  
Bradley Brownlow



# East Contra Costa County Habitat Conservation Plan Association

June 11, 2004

California Resources Agency  
Attention: Sandra S. Ikuta  
Deputy Secretary and General Counsel  
1416 Ninth Street, Suite 1311  
Sacramento, CA 95814

Re: Comments on Draft Revisions to the CEQA Guidelines

Dear Ms. Ikuta:

I am submitting these comments on behalf of the staff for the East Contra Costa County Habitat Conservation Plan Association (HCPA), a Joint Powers Authority formed by the Cities of Clayton, Oakley, Pittsburg, and Brentwood; Contra Costa County; Contra Costa Water District; and the East Bay Regional Park District. The Joint Powers Authority was formed for the purpose of developing a Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP) for over 175,000 acres of eastern Contra Costa County. Our comments are limited to the proposed amendments to Section 15065 of the CEQA Guidelines ("Mandatory Findings of Significance") as they relate to approved habitat conservation plans and natural community conservation plans (subsection (b)(2)). In general, we support the concept of reducing need to prepare an EIR when projects are subject to approved HCPs or NCCPs. However, the proposed changes do not achieve this goal.

We disagree with the proposed changes to Section 15065(b)(2) because the language does not accurately describe how an approved regional HCP/NCCP works. Project proponents will apply for coverage under the approved HCP/NCCP from the local jurisdictions. If approved, the proponent will pay a fee and implement only those mitigation measures in the HCP/NCCP that apply to the project site. All other conservation measures, including land acquisition, land management, habitat restoration, and species monitoring, will be conducted by a local implementing entity using a variety of funds, including those collected from project proponents. We recommend that subsection (b)(2)(A) be revised to "the project proponent has agreed to comply with the applicable requirements of an approved [HCP]" to more accurately reflect how regional HCPs and NCCPs work. This phrase would also encompass single-applicant HCPs (i.e., project HCPs) in which the project proponent would be responsible for implementing all mitigation measures.

We also disagree with subsection (b)(2)(C) and recommend this subsection be deleted. This subsection introduces a new standard in CEQA that exceeds the state and federal standards under which HCPs and NCCPs are approved. HCP and NCCP standards should be sufficient to satisfy CEQA standards for species covered by the HCP or NCCP. Few, if any, projects will ever meet the standards proposed because they are nearly impossible to measure.

California Resources Agency  
June 11, 2004  
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Should you have any questions or to schedule a meeting, please contact John Kopchik of the Contra Costa County Community Development Department at (925) 335-1227.

Sincerely,



John Kopchik, Principal Planner  
Contra Costa County Community Development Department, Coordinating Agency  
East Contra Costa County Habitat Conservation Plan Association

Cc: HCPA Member Agency Staff