

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

**DATE:** July 10, 2003  
**TO:** Executive Governing Committee (EGC)  
**FROM:** Member Agency Staff  
**SUBJECT:** Meeting Packet for EGC Meeting on Thursday, July 17, 2003 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, July 17, 2003 from 5:30 pm to 7:00 pm at the City of Pittsburg Council Chambers on 65 Civic Drive. This meeting has been rescheduled from June 19. The meeting agenda and packet sent last month have not changed and are still applicable to the July 17 meeting. For your convenience, a copy of the unchanged meeting packet is attached (though we have not sent an extra copy of the consultant invoices to be considered under item 7).

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

Several other HCPA meetings are also scheduled for July 17. EGC members are more than welcome to attend the other meetings, but the only meeting at which a quorum of the EGC must be present is the 5:30 meeting. The overall schedule that day is the following (all meetings in Pittsburg City Council Chambers):

|                        |                            |
|------------------------|----------------------------|
| 1pm to 3 pm            | Coordination Group         |
| 3:30pm to 5pm          | EIR/EIS Scoping Meeting #1 |
| <b>5:30 pm to 7 pm</b> | <b>EGC meeting</b>         |
| 7 pm to 8:30 pm        | EIR/EIS Scoping Meeting #2 |

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 July 17 at 5:30pm.

Attachments.



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

**REGULAR MEETING / WORKSHOP**

Date: Thursday, ~~June 19~~ July 17, 2003 (rescheduled)

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

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

**Agenda**

- 1) Introduce new and returning Executive Governing Committee (“EGC”) members, staff, and any members of the public.
- 2) Public Comment.
- 3) Approve Meeting Report for March 20, 2003.
- 4) Updates and status reports:
  - a) General (John Kopchik, HCPA staff, and David Zippin, Jones and Stokes Associates)
    - Work of consultants and products
    - Budget performance
    - Fund-raising efforts, including 6-county request to Congress for funds
    - Regulatory news
    - Wetlands
    - Schedule update
  - b) Public Outreach and Involvement Program, including:
    - EIR/EIS Scoping Meetings on July 17
    - Web-site
    - HCPA Coordination Group
    - HCPA Coordination Group Agriculture Subcommittee
    - Science Advisory Panel
    - Plans for other public meetings and workshops
  - c) State and federal resource agency perspectives
- 5) Consider letter received from the City of Antioch requesting removal from the HCPA study area.
- 6) Consider raising the interim payment limit for the Jones and Stokes contract

7) Administrative matters:

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

**8) WORKSHOP: Briefing and discussion of the following key policy topics:**

- **HCPA Framework document** (a document that is being developed through the Coordination Group that will seek to summarize key “deal points” of the HCP)
  - **Permit area and covered activities**
  - **Conservation requirements and funding sources**
  - **Implementing the plan: how it could work in practice**
  - **Stakeholder perspectives as the plan evolves**

9) Review future Executive Governing Committee discussion items.

10) Select Next Meeting Dates

- Alternative recommended dates for next meeting:
  - ✓ Thursday, September 18, 2003 (3<sup>rd</sup> Thursday) (*tentatively selected at March meeting*)
  - Thursday, September 25, 2003 (4<sup>th</sup> Thursday)
  - Thursday, October 16, 2003 (3<sup>rd</sup> Thursday)
  - Thursday, October 23, 2003 (4<sup>th</sup> Thursday)
- Alternative recommended dates for subsequent meeting:
  - Thursday, December 11, 2003 (2<sup>nd</sup> Thursday)
  - Thursday, December 18, 2003 (3<sup>rd</sup> Thursday)
  - Thursday, January 8, 2004 (2<sup>nd</sup> Thursday)
  - Thursday, January 15, 2004 (3<sup>rd</sup> Thursday)
  - Thursday, January 22, 2004 (4<sup>th</sup> Thursday)

11) 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.*

**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVATION PLAN ASSOCIATION  
Executive Governing Committee  
Draft Meeting Record  
March 20, 2003**

The East County Habitat Conservation Plan Association (HCPA) Executive Governing Committee (EGC) met on Thursday, March 20, 2003, 5:30 p.m. in the City of Pittsburg City Council Chambers. In attendance were EGC Representatives from the City of Clayton (Council member Greg Manning), City of Oakley (Mayor Jeff Huffaker), Contra Costa Water District (Vice President Elizabeth Anello and Director Bette Boatman, alternate), City of Brentwood (Council member Bill Hill), and East Bay Regional Park District (Director Beverly Lane, alternate for Ted Radke).

The following is a review of the actions taken in accordance with the meeting agenda:

**1. Introductions**

The following individuals were in the audience and introduced themselves: Janess Hansen (Sierra Club), Mike Vukelich (Contra Costa County Farm Bureau), Sheila Larson (U.S. Fish and Wildlife Service), and Carl Wilcox (California Department of Fish and Game).

**2. Public Comment**

There were no public comments.

**3. Approve Meeting Report of January 16, 2003**

The meeting report was unanimously approved as presented (5-0).

**4. Updates and Status Reports**

**a) Project Status Report by Consultant (David Zippin, Jones and Stokes Associates)**

Mr. Zippin gave a presentation on the consultant's March 20<sup>th</sup> status report. The consultant's focus since January 2003 has been on presenting the preliminary conservation strategies and alternatives and responding to comments. Mr. Zippin reported that the project is on schedule although the consultant has slowed progress on its work until stakeholders and agencies provide comments on the Phase 1 deliverables. This "pause" was anticipated at the September 2002 EGC meeting but was not part of the original schedule. Staff and consultants are evaluating how the enhanced public process and the budget issues could affect the project schedule and will provide a complete schedule update at the June 2003 EGC meeting. The upcoming major decisions for the EGC relate to defining the permit area, and executing a NCCP Planning Agreement.

**b) Updates on Public Outreach and Involvement Program**

- **Web-site** -- (<http://www.cocohcp.org/index.html>).
- **HCPA Coordination Group** -- A meeting was held March 20, just prior to the EGC meeting and was well attended. Mr. Kopchik reported that the Coordination Group is making good progress in their review of the materials provided by the consultant. The next meeting of the Coordination Group is set for April 2003.
- **Science Advisory Panel** -- The last meeting was February 26, 2003 and the next meeting is not yet scheduled.
- **Plans for Other Public Meetings and Workshops** -- There was no report on this item.

**c) State and Federal Resource Agency Perspectives** -- Sheila Larson (USFWS) reported that the Notice of Intent to prepare the HCP EIR/EIS is being reviewed in the USFWS Portland office. The review has been delayed because of staff unavailability, but should be complete soon. The delay is not impacting the project schedule. Carl Wilcox (CDFG) reported that they have been focusing on developing an NCCP Agreement and getting the Section 6 grant funds transferred.

**d) Project Budget and Fundraising Efforts, including the 6-County Request to Congress for Funds** -- Mr. Kopchik reported on the multi-county trip to Washington last month where support was sought from California congressional representatives for the "Northern California Regional Conservation Planning Funding Partners". The response was positive. On the House side, it is expected that Congressman Miller will sponsor the request. On the Senate side, Senator Feinstein will be key since she sits on the committee reviewing appropriations of this nature. Congressional staff have indicated it would be helpful if the individual agencies submit letters of support for the funding to appropriate representatives prior to April 2 which is the date the Congressional letter requesting the funding will be submitted. Mr. Kopchik also reported that the County Fish and Wildlife Committee unanimously approved a recommendation for a \$35,000 grant to the HCP. The funds would be available following the County Board of Supervisors decision on April 1.

**5. Overview of New Draft Work Products: Preliminary Partial Draft Conservation Strategies and Alternatives and Related Documents, Presented to the Coordination Group on January 23, 2003** -- Mr. Zippin reviewed the preliminary conservation strategies. The key points of Mr. Zippin's presentation were: 1) a decision will need to be made by the EGC in terms of a growth scenario in order to define a permit area for the HCP, 2) conservation is reviewed at three levels of detail (landscape, habitat and species) and the HCP EIR/EIS needs to be completed at a programmatic level because of uncertainties in timing and location of development, 3) the EGC will need to select an alternative for the preserve design – three alternatives are currently being discussed, and 4) the conservation strategy needs to address how conservation keeps pace with development and how property rights of neighbors to preserve areas are protected. An issue was raised regarding when conserved property will be checked for hazardous materials. It is expected that the buyer or

the seller would be required to conduct screening for hazardous materials as part of due diligence which is typically conducted prior to the property sale.

Ms. Hansen (audience member representing Sierra Club) raised a question about addressing wind farms within the HCP. Mr. Kopchik responded that wind farms are not currently planned as one of the impacts to be covered in the permit although a final decision has not yet been made. Wind farms already exist in some of the areas proposed for conservation as it is possible for the wind farms to both produce energy and provide habitat, however the biological impacts of wind farms on bird species will have to be factored in to conservation decisions.

- 6. Addressing Agricultural Concerns in the Planning Process: the Coordination Group has Agreed to Establish an Agriculture Subcommittee** -- At the January meeting, Mike Vukelich expressed concerns over the potential impacts of the HCP on agriculture interests in the permit area. The Coordination Group felt an Agriculture Subcommittee would be an appropriate venue for ensuring these specific concerns get addressed in the final plan. Mr. Vukelich was in the audience and expressed satisfaction with how this issue was being handled and said the members making up the subcommittee would be effective because each has some interest in agriculture. He said that the key issue is to ensure that the HCP provides flexibility to vary crops on farmland in conserved areas in case the property owner needs to change to adapt to market forces.
- 7. Consider Authorizing Staff to Execute a Contract with the California Department of Fish and Game for the Receipt of Approximately \$250,000 in Section 6 Grant Funds** -- Mr. Kopchik reported that authorization is needed to execute the contract with CDFG so that there is no delay in receiving these funds. The contract is not currently in a form that is ready for signature, however, it is expected that the contract will be ready for signature within a month. Waiting until the next EGC meeting in June for this authorization could delay receipt of this important funding. The EGC unanimously approved the recommendation (5-0).
- 8. Consider Letter received from the City of Antioch Requesting Removal from the HCPA Study Area** -- Mr. Huffaker reported that he had made contact with the Antioch Mayor and discussed the letter and prospects for Antioch joining the HCPA. He reported that Antioch continues to seek assurances regarding HCPA cost overrun responsibility. He felt it might be possible to satisfy Antioch's concerns through clarification of the assurances provided to date. The EGC concurred that the Chair should continue to meet with the Antioch Mayor and attempt to address the City's concerns. Mr. Huffaker indicated he would not make any commitments to Antioch on behalf of the HCPA without first bringing them to the EGC for consideration. Mr. Kopchik indicated that an appropriate response to the letter, assuming Mr. Huffaker's efforts are unsuccessful, would be to exclude Antioch from the permit area but continue to include the City in the inventory area and conservation area in case there are sellers willing to make their property available for conservation. The EGC agreed with the suggested response, however, it was felt no response should be issued until Mr. Huffaker has concluded his efforts.
- 9. Administrative Matters**

- **Elect HCPA Secretary** -- No replacement has been named yet for Supervisor Gerber who resigned from office earlier this month. The alternate County representative to the EGC is Supervisor Federal Glover. It was felt that maintaining the Secretary duties with the County representative was important, therefore, Supervisor Glover was unanimously elected (5-0) to the position of HCPA Secretary until such time that a permanent representative is named by the Board of Supervisors.
- **Ratify Invoices Submitted by Jones and Stokes, Contra Costa County, and Erica Fleishman and Paid by the HCPA Treasurer** -- The EGC unanimously approved this item (5-0).

**10. Review Future Executive Governing Committee Discussion Items** -- Mr. Kopchik reported that project schedule, Antioch participation, and the NCCP Planning Agreement will be agenda items for the June 2003 meeting.

**11. Select Next Meeting Dates**

The next meeting date was tentatively set for June 19, 2003. The fall meeting was tentatively set for September 18, 2003.

**12. Adjournment at Approximately 6:45 p.m.**

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

**DATE:** June 19, 2003  
**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, comments from the resources agency, and HCPA budget and finances and fund-raising. AUTHORIZE the Chair to sign thank you letters to elected officials that have assisted the HCPA with its fund-raising efforts.

**FISCAL IMPACTS**

None.

**DISCUSSION**

**a) General update:** Phase 2 of the project involves building on (and refining) work to date, including the preliminary Draft Conservation Strategy and Impact Analysis, to develop a preliminary draft HCP/NCCP and EIR/EIS. The goal is to have a preliminary draft of the HCP/NCCP completed by October 2003 (the revised Draft HCP/NCCP would be completed in the Spring of 2004).

Recent work has included the extended presentation and discussion of the suite of work products produced in January (including the Conservation Strategy), refinements to the biological inventory, initiation of economic studies on implementation costs, and preliminary work on the chapters of the HCP/NCCP not already drafted. A HCP/NCCP Framework document is also being developed that attempts to summarize the key aspects of the emerging plan (this Framework Document will be the focus of the workshop segment of the meeting). Additional detail on existing work may be found in the attached quarterly report from Jones and Stokes.

- **Work of consultants and products:** see attached quarterly report from Jones and Stokes
- **Budget performance:** HCPA finances are summarized in the attached budget which shows not only the overall project budget provisionally approved by the EGC in January, but also updated information on approved and received revenues and on expenditures. An Activity Summary showing all deposits and debits since the County became Treasurer is also provided.

Phase 1 of the project was completed within the budget approved by the EGC in September 2002. We have just started Phase 2, but are within budget thus far. HCPA

revenues have increased by \$35,000 to more than \$867,000 since March with the approval and receipt of a grant from the County through the Fish and Wildlife Committee. The EGC will more comprehensively review the provisionally approved HCPA Budget again at its September meeting, and may consider revisions and/or full approval at that time.

- **Fund-raising efforts, including 6-county request to Congress for funds:** Fund raising efforts since January are summarized in the table on the reverse side of the HCPA budget. In addition to the successful request for \$35,000 from the County Fish and Wildlife committee for completion of the small scale features upgrade, staff have continued to work with the Institute for Ecological Health and the other five counties to pursue our request for funds from Congress. Congressman Miller has sponsored a Congressional Request Letter for \$3 million of FY2004 funds for the six county efforts and a total of eight House Members have signed the letter (including Congresswoman Tauscher, who also sponsored the request letter last year).. A copy of the letter is attached. Efforts with the Senate continue as well (the Senate does not operate through a formal letter process) and we have received verbal support (though no commitments) from staff of both Senators Feinstein and Boxer. Efforts to secure a personal meeting with Senator Feinstein continue. The entire matter will be discussed and decided in committees and in the full chambers in the next several months, and we should know a lot more about the status of our request by the September EGC meeting.
- **Regulatory news:** The attached memo from David Zippin summarizes recent regulatory developments and any bearing on our HCP/NCCP.
- **Wetlands:** Integrating wetlands permitting into the HCP/NCCP has always been a key goal of the HCPA's planning efforts, and we have recently been taking small but hopefully productive steps forward in this regard. In pursuing our combined request to Congress for funds, the six conservation planning efforts involved discovered a shared goal of/concern over integration of wetlands permits with endangered species permits. We raised this issue in a meeting with Steve Thompson, the U.S. Fish and Wildlife Service's (USFWS) top administrator for this part of the country, and he invited us to present on this topic at a joint meeting of top administrators from USFWS (including Mr. Thomson), the U.S. Army Corps of Engineers (including General Davis from the Southwest Division and Colonels McCormick and Conrad from the San Francisco and Sacramento Districts), and the California Department of Fish and Game (including Mr. Hight, Director of the Department of Fish and Game). Staff representing the HCPA and the other efforts in other counties explained our perceptions of the advantages of integrating wetlands in HCPs, discussed the obstacles encountered thus far in doing so, and requested that: 1) the Army Corps attempt to provide staff to attend meetings of individual conservation planning efforts; 2) that a working group be established to identify feasible approaches for integrating wetlands and endangered species. A copy of the follow-up letter sent by the six planning efforts is attached. We are working now to set-up the working group.
- **Schedule update:** As discussed in September and again in March, the HCPA has been making good process and churning out preliminary work products at a very rapid, so rapid that we were concerned with outpacing stakeholder and agency participation and buy-in. For this reason, we have paused the process of developing new work at critical times—for instance, upon release of the preliminary Draft Conservation Strategy and related work products in January—to enable thorough presentation and discussion of these matters at the Coordination Group and elsewhere. The cumulative effect of such pauses is presented

in the attached revised HCPA Schedule (the flowchart seen previously) which shows about a six month schedule extension.

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

- **EIR/EIS Scoping Meetings on July 17:** The HCPA and the U.S. Fish and Wildlife Service will host two scoping meetings to announce preparation of an EIR/EIS for the HCP/NCCP project and to solicit comments on July 17, 2003 at 3:30 p.m. and again at 7:00 p.m. at the Pittsburg City Council Chambers. This date was chosen to coincide with the Coordination Group meeting scheduled for 1 p.m. on that day. The USFWS published the Notice of Intent document in the Federal Register several weeks ago, and the HCPA's Notice of Preparation will be distributed to the EGC and the full HCPA mailing list next week. A notice of the NOP will also be published in the newspaper.
- **Web-site:** <http://www.cocohcp.org>, has been updated to reflect meeting records, future scheduled meetings and agendas for all HCPA committees. Separate sections for each committee have been set-up to improve navigability and offer background information on each body. The Preliminary Partial Draft Conservation Strategies and Alternatives and related documents are also available online. Maps that are referenced throughout these documents are not available online and will be mailed upon request.
- **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. These recent meetings have focused on topics such as covered activities and permit area and the development of a framework document to record key decisions and remaining issues. For Coordination Group members who wished to comment in writing on HCPA work products to date, a comment deadline was established and four comment letters were received. Copies of these letters will be available at the meeting. Staff and consultants plan to discuss comments in more detail with the individuals who submitted them. Comments will be considered and incorporated as appropriate in developing the revised Conservation Strategy and preliminary draft HCP/NCCP.
- **HCPA Coordination Group Agriculture Subcommittee:** This group held a productive meeting in May and will meet again in late June. The group has discussed relationships between agriculture and the HCP at a variety of levels and has already developed a series of recommendations, including: a de-emphasis of conservation of irrigated agricultural lands in the Conservation Strategy, recognition of the need to maintain the viability of grazing as both an agricultural practice and a resource management tool, and the need for including neighboring landowner protections in the HCP/NCCP.
- **Science Advisory Panel:** This body last met on February 26 and is expected to meet again in September or October. Past meeting packets and meeting reports are provided on the project website.
- **Plans for other public meetings and workshops:** Staff presented to Contra Costa County Citizens Land Alliance Annual Symposium on June 7. Staff have also discussed with the Home Builders Association the possibility of organizing a special luncheon update for HBA members over the summer.

**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 12, 2003

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 24 to May 25, 2003**

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This is the sixth 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 within Phase 2.

### Summary of Accomplishments

The majority of our work during this reporting period has been to receive comments on the major deliverables submitted in January from Staff, the HCPA Coordination Group, the Science Advisory Panel, regulatory agencies, and members of the public. We have prepared for, attended, and presented at 5 Staff meetings, 3 Coordination Groups meetings, and the third Science Advisory Panel, which met on February 26. During this period we also collected additional baseline data to improve the land cover mapping, and continued to develop the impact scenarios and permit area.

### Financial Status

Table 1 summarizes our Phase 2 budget status as of May 25, 2003. The current Phase 2 budget is a combination of money remaining from Phase 1 (\$8,852 for Task 007 only), \$80,000 authorized under the Phase 2 budget, and a \$35,000 augmentation received on April 4 to map small-scale features. To complete Phase 2 (through the administrative draft HCP and EIR/EIS), we estimate that another \$276,000 is needed out of the total remaining budget of approximately \$451,000, or an additional authorization of \$193,000.

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**Table 1. Jones & Stokes Budget Status as of May 25, 2003.**

| <b>Task</b>                 | <b>Phase 1<br/>Spent</b> | <b>Phase 2<br/>Budget*</b> | <b>Spent<br/>Phase 2</b> | <b>Remain<br/>Phase 2</b> | <b>%<br/>Remain</b> | <b>Est. %<br/>Complete**</b> |
|-----------------------------|--------------------------|----------------------------|--------------------------|---------------------------|---------------------|------------------------------|
| 1: Project management       | \$ 63,441                | \$ 35,000                  | \$ 16,087                | \$ 18,916                 | 54%                 | 55%                          |
| 2: Public involvement       | \$ 5,479                 | \$ 4,000                   | \$ 1,077                 | \$ 2,923                  | 73%                 | 25%                          |
| 3: Baseline data inventory  | \$124,468                | \$ 17,500                  | \$ 15,127                | \$ 2,373                  | 14%                 | 85%                          |
| 4: Conservation strategies  | \$105,101                | \$ 8,000                   | \$ 3,862                 | \$ 4,138                  | 52%                 | 50%                          |
| 5: Economic analysis        | \$ 22,215                | \$ 11,000                  | \$ 949                   | \$ 10,051                 | 91%                 | 3%                           |
| 6: Develop HCP/NCCP         |                          | \$ 37,500                  | \$ 1,615                 | \$ 35,885                 | 97%                 | 2%                           |
| 7: NEPA/CEQA documents      | \$ 5,977                 | \$ 8,852                   | \$ 1,919                 | \$ 6,934                  | 78%                 | 2%                           |
| 8: Implementation agreement |                          |                            |                          |                           |                     |                              |
| 9: CWA Compliance           | \$ 5,630                 | \$ 1,000                   | \$ 316                   | \$ 684                    | 68%                 | 15%                          |
| 10: CFGC 1600 Compliance    | \$ 1,746                 | \$ 1,000                   |                          | \$ 1,000                  | 100%                | 0%                           |
| <b>Total</b>                | <b>\$334,056</b>         | <b>\$ 123,852</b>          | <b>\$ 40,951</b>         | <b>\$ 82,901</b>          | <b>67%</b>          |                              |

\*Partial Phase 2 budget (see discussion above); allocations by task are temporary until complete Phase 2 budget can be developed.

\*\*Based on % complete for all of Phase 2

## 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 4 staff committee meetings
- Prepared for and attended 3 meetings of the HCPA Coordination Group
- Prepared 3 invoices and summary documents
- Prepared fourth quarterly status report on project
- Prepared for and attended third Science Advisory Panel meeting

### Task 2: Public Involvement

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

### Task 4: Conservation Strategy

- Received and reviewed comments on preliminary draft conservation strategy
- Continued analyzing the potential effects of the covered activities on listed and potentially-listed fish in Marsh Creek and developed strategy for approaching NOAA-Fisheries with analysis

### Task 5: Economic Analysis

- Met with Staff and Economic & Planning Systems in Berkeley on May 13 to discuss Contra Costa County's development of a land acquisition cost model
- Began developing spreadsheet templates to calculate overall cost of HCP/NCCP including land acquisition, program administration, preserve management, and habitat restoration

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

- Coordinated with Staff and FWS regarding NOI, NEPA scoping meeting, and overall EIR/EIS schedule
- Began developing options for EIR/EIS alternatives for staff consideration

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

- Attended strategy meeting with staff and the Northern CA Funding Partners Organization prior to meeting with U.S. Army Corps of Engineers in Sacramento (April 29, without J&S)

### **Schedule**

The Administrative Draft HCP/NCCP and Administrative Draft EIR/EIS are expected to be completed at the end of October. In order to meet this schedule, we need to complete all of the additional baseline data collection and addition of extra covered species (if funded) by mid-July. In addition, the EIR/EIS alternatives and the proposed permit area and impact scenario need to be selected in July.

### **Next Steps**

Remaining work in Phase 2 includes:

- Revise conservation strategy and alternatives based on feedback from HCPA Coordination Group, Scientific Advisory Panel, and HCPA staff
- Conduct NEPA/CEQA scoping meetings on July 17
- Complete the update of the land cover mapping
- Add additional covered species if additional funding is secured
- Finalize covered activities
- Revise and expand impact analysis after selecting the permit area and alternatives
- Finalize and sign NCCP Planning Agreement
- Estimate full cost of conservation strategy
- Prepare remaining chapters of HCP/NCCP to complete Administrative Draft HCP/NCCP
- Prepare Administrative Draft EIR/EIS



## EAST CONTRA COSTA COUNTY HABITAT CONSERVATION PLAN ASSOCIATION

**Budget**

Provisionally Approved on January 16, 2003

(actual expenditures and deposits have been updated; updates are shaded)

**REVENUE (Current)**

|                                      | <u>Approved</u>  | <u>Deposited in<br/>HCPA account</u> |
|--------------------------------------|------------------|--------------------------------------|
| CCWD                                 | \$325,000        | \$325,000                            |
| Route 4 Bypass                       | \$114,056        | \$114,056                            |
| City of Clayton                      | \$11,762         | \$10,000                             |
| EPA Grant (Approved)                 | \$75,000         | \$50,000                             |
| CCWD (FESA Map Transfer)             | \$40,000         | \$40,000                             |
| County Fish and Wildlife Committee   | \$35,000         | \$35,000                             |
| FWS/CDFG Section 6 Grants (approved) | \$267,040        | awaiting contract <sup>1</sup>       |
| <b>Total current revenue</b>         | <b>\$867,858</b> | <b>\$574,056</b>                     |

**EXPENSES (estimated and actual)**

|   | <u>Total estimated<sup>2</sup></u> | <u>Billed to date</u> |
|---|------------------------------------|-----------------------|
| Jones & Stokes (Project Consultant)                   | \$925,536                          | \$364,647             |
| County - Coordinating Agency                          | \$150,000                          | \$70,000 <sup>3</sup> |
| Independent Science Review (including J&S)            | \$45,000                           | \$28,487              |
| Legal support from Resources Law Group                | \$66,500                           | \$0                   |
| Multi-county \$ request to Congress (IEH)             | \$1,500                            | \$1,500               |
| Business Expenses                                     | \$4,600                            | \$0                   |
| <b>Total</b>  | <b>\$1,193,136</b>                 | <b>\$464,634</b>      |
| 10% contingency reserve                               | + \$119,314                        |                       |
| <b>Total estimated expenses + reserve</b>             | <b>\$1,312,450</b>                 |                       |
| Current revenue                                       | - \$867,858                        |                       |
| <b>Additional funding needs (total)</b>               | <b>\$444,592</b>                   |                       |
| Reserve funds committed by CCWD <sup>4</sup>          | - \$32,500                         |                       |
| <b>Additional funding needs (minus CCWD contrib.)</b> | <b>\$412,092</b>                   |                       |
| Non-CCWD portion of contingency reserve               | - \$86,814                         |                       |
| <b>Additional funding needs (w/out reserve)</b>       | <b>\$325,278</b>                   |                       |

<sup>1</sup> Section 6 grant funds are dependent on the HCPA executing a NCCP Planning Agreement and preparing a NCCP.

<sup>2</sup> The EGC has approved interim expenditure limits in conjunction with the provisionally approved expenditure estimates. The interim expenditure limits collectively ensure flexibility to reduce the expenditure budget to \$975,000 should fund-raising be unsuccessful.

<sup>3</sup> Rough estimate only. County has not invoiced in many months to assist with cash flow balance.

<sup>4</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

| Potential Source  | Amount to be Requested | Update  | When may we know if request was successful?                       |
|---|------------------------|---|---|
| 1) Six-County request to Congress for FY'04   | \$500,000              | EGC approved resolution in January (other 5 partners have done likewise). Delegation traveled to D.C. March 4 and met with Congressional delegation staff and committee and administration staff. Letter of support signed by 8 members of Congress. Intense effort over the next few months to pursue this request in committee and solicit more letters of support. | Preliminarily in July 2003; Final word in October 2003 (probably) |
| 2) Augmentation to Section 6 grant awarded this year  | \$40,000               | Approved by USFWS and CDFG in early 2003.   | It was successful.  |
| 3) Section 6 grant  | \$100,000              | Pre-proposal accepted. Invited to submit full proposal requesting \$100,000. Full proposal submitted in February to CDFG and USFWS.   | September 2003  |
| 4) County Fish and Wildlife Propagation Fund (for small scale features mapping (budget augmentation item #4 in the 1/16/03 budget augmentation staff report)) | \$35,000               | Grant application to County Fish and Wildlife Committee submitted 12/31/02. Presented proposal to committee on 1/15/03 and 2/19/03. Committee recommended approval to Board of Supervisors on 3/19/03. Board approved 4/1/03.   | It was successful.  |
| 5) Development community (for enhanced permit coverage (additional covered species)(budget augmentation item #3)  | Up to \$48,000         | Initial conversations have been held with representatives of the development community. Follow-up meeting held with HBA in June. HBA to circulate request to members.   | July 2003   |
| 6) CALFED Bay-Delta Program   | ??                     | Working with Carl Wilcox and CCWD staff to explore this approach  | ??  |
| 7) Other sources (future permit seekers, augmentation of EPA wetlands grant, other grants etc.)   | ??                     |   | ??  |
| <b>TOTAL</b>  | <b>\$723,000 +</b>     |   |   |

## HABITAT CONSERVATION PLAN ASSOCIATION ACTIVITY SUMMARY

As of June 2, 2003

### 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  |                     |
|            | <b>Total Deposits:</b>   |              | <b>\$332,760.14</b> |

|            |   |              |                     |
|------------|---|--------------|---------------------|
| 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   |                     |
|            | <b>Total Expenditures:</b>                    |              | <b>\$302,619.89</b> |

**Balance 499300:      \$30,140.25**

### LAIF ACCOUNT

|          |                               |              |                     |
|----------|-------------------------------|--------------|---------------------|
| 2/5/2003 | Transferred from Trust 499300 | \$200,000.00 |                     |
|          | <b>Total Deposits:</b>        |              | <b>\$200,000.00</b> |

|           |                                     |             |                    |
|-----------|-------------------------------------|-------------|--------------------|
| 3/18/2003 | Transferred \$30000 to Trust 499300 | \$30,000.00 |                    |
|           | <b>Total Expenditures:</b>          |             | <b>\$30,000.00</b> |

**Balance LAIF:      \$170,000.00**



**Congress of the United States**  
**Washington, DC 20515**

April 3, 2003

The Honorable Charles Taylor  
Chairman  
Subcommittee on Interior and Related Agencies

B-308 Rayburn HOB  
Washington, DC 20515

The Honorable Norm Dicks  
Ranking Member  
Subcommittee on Interior and Related  
Agencies  
1016 Longworth House Office Building  
Washington, DC 20515

Dear Chairman Taylor and Ranking Member Dicks:

Thank you for your leadership on habitat protection and land stewardship by recognizing the distinct challenges facing each area of our county. We are writing to respectfully request that you include \$3,000,000 for northern California local governments to assist development of regional conservation plans.

This funding will assist local jurisdictions in the San Francisco Bay - Sacramento Region to continue their development of six large scale conservation plans located in Contra Costa, Placer, Sacramento, Santa Clara, Solano, and Yolo counties under Section 10 of the Endangered Species Act. The rapidly growing region has 40 federally listed species and an additional 51 federal species of concern. The six emerging plans will likely address a total of 152 species, including several that could become federally listed without prompt and effective conservation.

Local government have already raised over \$5,700,000 for development of these plans, including over \$3,000,000 from local governments and local fees and taxes. In addition, these local governments have spent well over \$1,500,000 of their own staff time on this effort.

Resolutions supporting this request have been adopted by the Placer County Board of Supervisors, Sacramento County Board of Supervisors, Santa Clara County Board of Supervisors, Yolo County Board of Supervisors, Solano County Water Agency, and Yolo County Habitat/NCCP Joint Powers Agency. In addition this planning effort is supported by an array of community leaders, homebuilders, and environmental organizations.

Conservation planning can benefit the environment, development projects, and agricultural landowners. These six plans will resolve major conflicts between rapid economic development and endangered species protection, and so avoid future conflicts. The six plans will also carefully respect private property rights, integrate conservation with the needs of the region's world-class agricultural industry, provide opportunities to reward ongoing resource stewardship, and provide for multiple federal and state permits.

Finally, the planning process involves multi-interest stakeholder committees, including representatives of a wide range of interest groups and scientific advisory bodies to ensure community support and sound science.

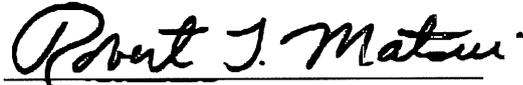
As you are aware, the Habitat Conservation Plan development and approval requires extensive work by the local Fish and Wildlife Service Field office. Therefore, as you consider our request, we ask that your support of this project not negatively impact funding for other efforts within the Sacramento Field Office of the Fish and Wildlife Service.

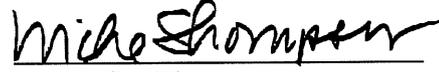
We do greatly appreciate your past support of our efforts to address growth and environmental planning efforts in our districts. We thank you, in advance, for your strong consideration of our request. Should you have any questions, please contact Amelia Jenkins in Rep. Miller's office at 225-2095.

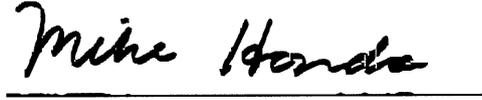
Sincerely,

  
Rep. George Miller

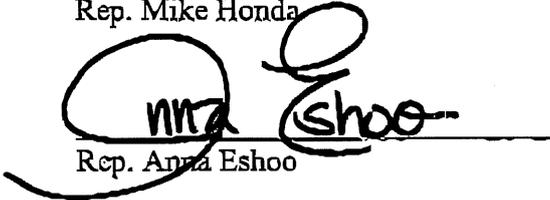
  
Rep. Ellen Tauscher

  
Rep. Robert Matsui

  
Rep. Mike Thompson

  
Rep. Mike Honda

  
Rep. Zoe Lofgren

  
Rep. Anna Eshoo

  
Rep. Doug Ose



## Memorandum

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Date: June 3, 2003

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

cc:

From: David Zippin, Jones & Stokes

Subject: **Recent Activity by U.S. Fish and Wildlife Service**

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This memorandum provides an update on recent activity at the U.S. Fish and Wildlife Service (USFWS) regarding species listings and critical habitat designations and explains how this recent activity affects the East Contra Costa County HCP/NCCP process.

### **California Tiger Salamander**

On May 23, the USFWS published a proposed rule listing the California tiger salamander (CTS) as threatened within the Central California Distinct Population Segment (DPS). CTS is listed as endangered in Sonoma and Santa Barbara Counties (two other DPSs). USFWS proposes to down-list these populations to threatened. USFWS will make their final decision to list or not within about a year. During the review process, the Central California DPS of CTS is not protected under the Endangered Species Act (ESA).

USFWS is proposing a special rule under Section 4(d) of the ESA, which gives them the authority to exempt certain activities from the take prohibitions of the ESA. USFWS proposes to exempt "routine ranching practices" from take prohibitions for CTS because these practices are either neutral or beneficial for the species. They propose defining routine ranching practices as:

1. Livestock grazing according to normally acceptable and established levels of intensity in terms of the number of head of livestock per acre of rangeland,
2. control of ground-burrowing rodents using poisonous grain according to the labeled directions and local, State, and Federal regulations and guidelines (use of toxic gases is not exempt)
3. control and management of burrow complexes using discing and grading to destroy burrows and fill openings in areas less than 10 acres within any one-quarter section,
4. routine management and maintenance of stock ponds and berms to maintain livestock water supplies at levels present at the time of the listing of CTS (introduction of exotic species that may prey on CTS into stock ponds is not exempt).

In this proposed rule, USFWS states their intention not to designate critical habitat for CTS when the final rule is published due to their severe staff shortages. USFWS states that recent critical

June 3, 2003

Page 2

habitat designations made in response to lawsuits and court orders have diverted their resources away from the substantial backlog of other work such as listing decisions.

The California tiger salamander is a covered species in our HCP/NCCP. We have assumed in the HCP/NCCP that the CTS could be listed in the near future, so if it does become listed, it would not affect the plan. The preliminary draft conservation strategy for the East Contra Costa County HCP/NCCP is consistent with the proposed 4(d) rule proposed by USFWS. The routine ranching practices numbers 2 (poisoning) and 3 (discing) exempted for CTS under the 4(d) rule would not be allowed within preserve lands established under the HCP/NCCP.

### **Midvalley Fairy Shrimp**

On April 29, the USFWS published a notice in the Federal Register that they are initiating a status review of the midvalley fairy shrimp, which is currently not listed. This status review is in response to a petition to list the species as an endangered on an emergency basis. The USFWS declined to emergency list the species but has initiated a 90-day review of the status of the species. We expect the USFWS at the end of this period to propose listing this species as either threatened or endangered under the ESA. Through this process, this species could be listed as early as June 2004.

The East Contra Costa County HCP/NCCP includes the midvalley fairy shrimp as a covered species because we expected this species to become listed during either the planning process or during the term of the permit. We have been treating the species as if it were listed. Listing the species should therefore have no effect on the HCP/NCCP.

### **Critical Habitat Designations**

On April 24, the USFWS published proposed revised critical habitat designations for the California Gnatcatcher, a small bird that occurs in coastal sage scrub habitat in southern California. This proposed revision was in response to several lawsuits filed after critical habitat was first designated in 2000. This rule, if adopted, will set an important precedent for HCPs around the United States. The proposed revisions to California Gnatcatcher critical habitat exclude the proposed reserves of approved regional HCPs. The USFWS concluded that the complex regional HCPs in southern California already addressed the requirements that would have been introduced by a critical habitat designation, so the designation was unnecessary. The USFWS also concluded that the benefits of excluding critical habitat in these areas outweighed the benefits of designating critical habitat. For example, USFWS believed that excluding critical habitat from these areas would “relieve landowners, communities, and Counties of any additional regulatory burden that may result solely from such a designation.” USFWS also believed that by excluding critical habitat from HCP reserve areas, it would increase their ability to develop and maintain partnerships with state and local agencies, conservation organizations, and private landowners.

June 3, 2003

Page 3

It is unclear how this rule may affect the East Contra Costa County HCP/NCCP. Critical habitat designations for two HCP/NCCP covered species, California red-legged frog and Alameda whipsnake, were withdrawn earlier this year pending further economic analysis. If the USFWS redesignates critical habitat for these species after the East Contra Costa County HCP/NCCP is approved, there may be an opportunity to exclude the proposed HCP/NCCP preserves. USFWS proposed critical habitat for vernal pool fairy shrimp and longhorn fairy shrimp on September 24, 2002. Both of these species are proposed for coverage in the HCP/NCCP. The final rule on critical habitat for these species will likely be published this summer or fall. This is well before the HCP/NCCP is expected to be approved, so critical habitat will likely overlap with future HCP/NCCP preserves.

There is an important difference, however, between the southern California HCPs and the East Contra Costa County HCP/NCCP. Land acquisition in the southern California HCPs is based largely on hard boundaries of proposed reserves (i.e., the location of future reserves is certain or nearly certain). In contrast, the land acquisition process for the East Contra Costa County HCP/NCCP, as currently written, is a more flexible process. The location of future reserves is much less certain than is the case for southern California. This may pose challenges for USFWS in excluding critical habitat from the East Contra Costa County HCP/NCCP Preserve System.



# Northern California Regional Conservation Planning Funding Partners

May 23, 2003

Dear Colonel Conrad and Field Supervisor White:

**East Contra Costa  
County HCP/ NCCP**

We would like to express our thanks to the Corps and the Service for the opportunity to address the April 29th Corps - U.S. Fish and Wildlife Service 7th Partnering Session and to discuss our interest in integrating permitting under Section 404 of the Clean Water Act and regional Habitat Conservation Plans.

**Placer County  
HCP/ NCCP**

We are most appreciative of your willingness to hold a short series of meetings to discuss these issues. By assembling key individuals from the Corps, the Service, and the six counties, we believe these meetings will offer a real opportunity to make progress on identifying feasible alternatives for addressing 404 permitting in parallel with the HCP process. Since several of the conservation planning efforts are well under way, it would be a great help to hold these meetings at your earliest convenience. We hope that it will be possible to have an initial meeting in June, then three additional meetings in subsequent months.

**South Sacramento  
County HCP**

**County of  
Santa Clara**

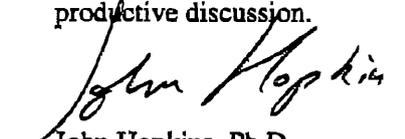
**Solano  
HCP / NCCP**

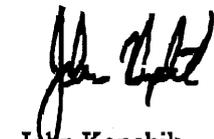
We have discussed potential agenda items among ourselves and look forward to working with you to plan an initial meeting. Our thoughts regarding the initial meeting include the consideration of objectives, the Corps' needs, the background for each of the conservation plans, and some initial discussion of the permitting options. We will be happy to attend to the logistics of the meetings.

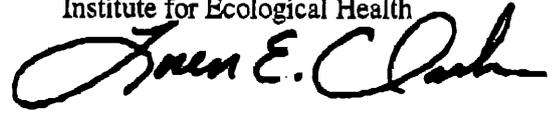
**Yolo County  
HCP/ NCCP**

We will contact you by phone within the next several days to discuss initiating our planning. Should you have any questions or need to contact us, we suggest you do so through John Hopkins (530-756-6455; [ieh@cal.net](mailto:ieh@cal.net)), the coordinator for our six county coalition.

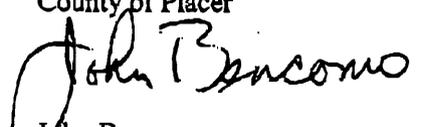
Thank you again for your willingness to participate in what we trust will be a productive discussion.

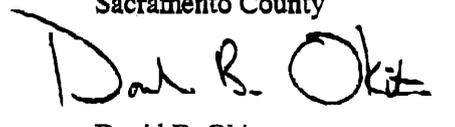
  
John Hopkins, Ph.D  
Funding Partners Coordinator  
Institute for Ecological Health

  
John Kopchik  
Contra Costa County/East  
Contra Costa County Habitat JPA

  
Loren E. Clark  
County of Placer

  
Ann Baker  
Sacramento County

  
John Bencomo  
County/Cities of Yolo JPA

  
David B. Okita  
Solano County Water Agency



# Process, Schedule, and Key Decision Points for the East Contra Costa County HCP/NCCP

## KEY DECISIONS

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## SCHEDULE

October 2001

August 2002

January 2003

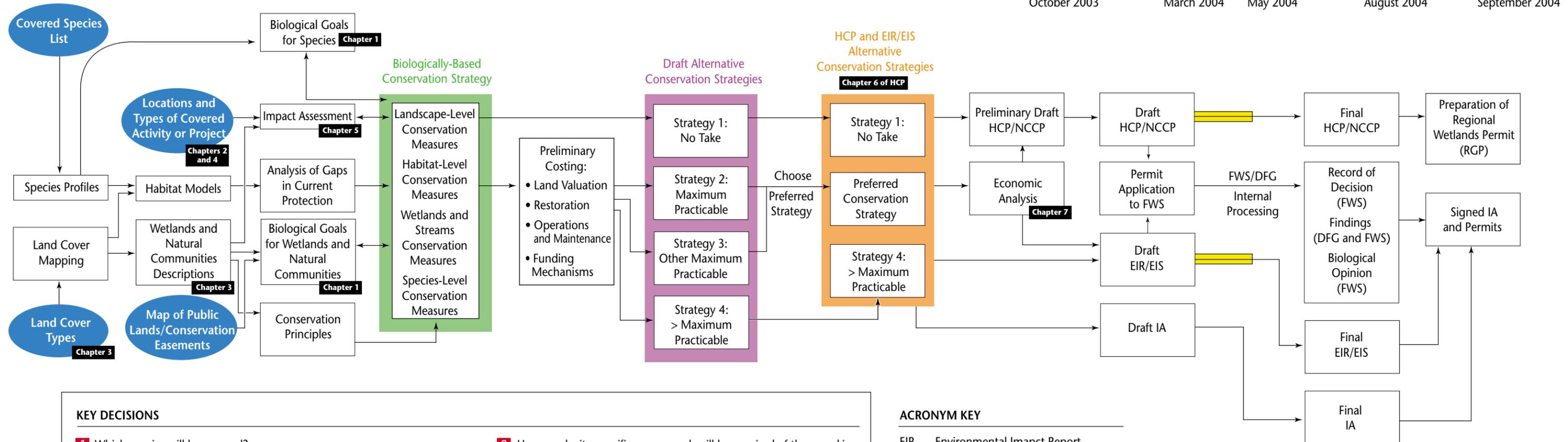
April 2003  
October 2003

August 2003  
March 2004

October 2003  
May 2004

February 2004  
August 2004

March 2004  
September 2004



## KEY DECISIONS

- 1 Which species will be covered?
- 2 What activities will be covered?
- 3 How will covered activities impact covered species?
- 4 What ecological principles should guide conservation?
- 5 What area will be covered by the permit (perhaps different areas for different activities)?
- 6 What conservation measures are necessary to receive permit(s)?
- 7 Should conservation easements or fee simple purchases be used to protect habitat (or both)?
- 8 Should the plan be map-based or policy based? (i.e., should the plan specifically map areas targeted for acquisition)
- 9 How much site-specific survey work will be required of those seeking permits through the HCP? (e.g. wetland delineations, species surveys)
- 10 How much will the plan cost to implement?
- 11 What assurances can be provided to landowners near preserves created by HCP?
- 12 How will implementation be funded?
- 13 What agency(s) will hold the permit and implement the plan?
- 14 What is the adaptive management plan? What implementation assurances shall be provided to involved parties? What are the protocols for amending the plan/permit?
- 15 How long will the permit last?

## ACRONYM KEY

- EIR Environmental Impact Report
- EIS Environmental Impact Statement
- FWS U.S. Fish and Wildlife Service
- DFG California Department of Fish and Game
- HCP Habitat Conservation Plan
- IA Implementation Agreement
- RGP Regional General Permit
- NCCP Natural Community Conservation Plan

Start

Public Review Period



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

**DATE:** June 19, 2003  
**TO:** Executive Governing Committee (EGC)  
**FROM:** Member Agency Staff  
**SUBJECT:** Letter from the City of Antioch requesting that Antioch be removed from HCPA study area

---

**RECOMMENDATION**

- 1) REVIEW letter from Antioch Mayor Donald Freitas dated February 13, 2003 requesting that the City of Antioch be removed from the HCPA study area.
- 2) REVIEW the attached summary of options for responding, DETERMINE which option the EGC prefers (staff recommends Option #2), and AUTHORIZE the Chair to sign a letter responding to the City of Antioch.

**FISCAL IMPACTS**

No additional cost to remove Antioch from the permit area (beyond the already approved costs of maintaining flexibility on Antioch this far into the process). Modest costs (less than \$10,000) to remove Antioch from the inventory area and from the area being studied for willing seller acquisitions, should the EGC choose to make such changes. Alternatively, if Antioch were to join the HCPA at this late date, some additional modest costs would be incurred to update baseline mapping and documentation (less than \$10,000, though, as described above, these costs would be in addition to costs already incurred in maintaining flexibility this far into the project). This limited estimate does not attempt to consider the overall impact of Antioch's joining the HCPA—be it positive or negative—on project schedule and/or the effectiveness of the effort, both of which could have significant budget implications.

**DISCUSSION**

A copy of the letter from the City of Antioch is attached for your review. Staff evaluations of the various alternative responses that could be considered in responding to the City of Antioch are presented in the attached table. Based on the need for including regional context in the HCP analysis, the regional analysis requirements of the new NCCP Act, and cost and project schedule considerations, as well as Antioch's unwillingness to participate in the HCPA's effort to request permits, staff recommend that option 2 be the basis for any HCPA response.

**Staff Analysis of Options for Responding to Antioch’s Request for Removal From the HCPA Study Area**

| <b>Option</b>   | <b>Pros</b>  | <b>Cons</b>  |
|---|--|--|
| <p>1) No adjustments to the study or analysis areas.</p>  | <p>Most efficient if Antioch does eventually join.</p>   | <p>If Antioch never joins, can’t be in permit area. Does not respond to Antioch’s request.</p> |
| <p>2) Remove Antioch from permit area and impact analysis (except cumulative impacts).</p> <p>Retain Antioch in inventory area (veg. maps &amp; habitat models).</p> <p>Continue to consider willing seller conservation measures in Antioch.</p> | <p>Retains needed planning context (NCCP Act). Retains flexibility in designing effective conservation measures.</p> | <p>Antioch may not be satisfied</p>  |
| <p>3) Remove Antioch from permit area and impact analysis (except cumulative impacts)</p> <p>Retain Antioch in inventory area (veg. maps &amp; habitat models).</p> <p>No longer consider willing seller conservation measures in Antioch.</p>    | <p>Retains needed planning context (NCCP Act).</p>   | <p>Limits ability to design effective conservation measures.</p>                               |
| <p>4) Remove Antioch from all mapping &amp; conservation planning.</p>  | <p>Most responsive to Antioch</p>  | <p>No context, no conservation flexibility. Some moderate costs to implement.</p>              |

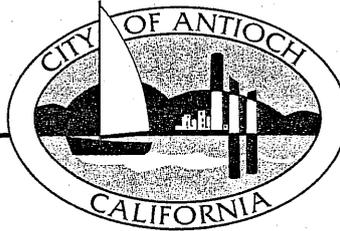
RECEIVED agenda item #5

FEB 25 2003

OFFICE OF THE MAYOR

CONTRA COSTA

03 MAR -6 PM 4:41



CITY OF ANTIOCH  
COMMUNITY DEVELOPMENT

Mayor  
Donald P. Freitas

Mayor Pro Tem  
James D. Davis

Council Members  
Jim Conley  
Brian Kalinowski  
Arne Simonsen

February 13, 2003

Mayor Jeff Huffaker  
3639 Main Street  
Oakley, CA 94561

Re: Antioch Participation in the East Contra Costa County Habitat Conservation Plan Association

Dear Mayor Huffaker:

On May 22, 2002 the City of Antioch City Council considered participation in the East Contra Costa County Habitat Conservation Plan Association (HCPA). The City Council approved participation contingent upon receiving assurances that the City of Antioch would not be required to pay future additional costs associated with developing the HCP.

Most recently, On September 10, 2002, the City of Antioch City Council reconsidered participation in the HCPA. The prior decision to require financial assurances prior to participation was upheld and to date those assurances have not been made.

Despite the lack of assurances, and the City's decision to not participate without them, the geographical area of Antioch continues to be included in the HCP study area. The City requests that the HCPA remove Antioch from the study area.

Preparation, consideration, and ultimate adoption of an HCP and the issues surrounding its development are land use matters. The legally appropriate body to make land use decisions within the City of Antioch is the Antioch City Council and the Council is in fact requiring the preparation of a Resource Management Plan (RMP) for Future Urban Area 1 in order to manage biologic issues. With no present Antioch representation on the HCPA, we respectfully request that the City of Antioch be removed from the HCP study area.

Sincerely,

A handwritten signature in black ink, appearing to read "Donald P. Freitas", is written over a large, stylized flourish.

Donald P. Freitas  
Mayor

Cc: City of Antioch City Council  
City of Antioch Planning Commission  
Linda J. Pappas Díaz, Acting City Manager  
John Kopchik, HCP staff coordinator

P.O. Box 5007  
Antioch, CA 94531-5007  
(925) 779-7010  
FAX (925) 779-7003



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

**DATE:** June 19, 2003  
**TO:** Executive Governing Committee (EGC)  
**FROM:** Member Agency Staff  
**SUBJECT:** Interim Payment Limit for Jones and Stokes (agenda item #6)

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**RECOMMENDATION**

- 1) AUTHORIZE staff to issue a modified Notice to Proceed letter(s) to Jones and Stokes to complete Phase 2 of the project, raising the interim payment limit on that contract of \$422,908 by \$227,044 to \$649,952 as sufficient funds are deposited in the HCPA account. Consistent with EGC action in January, continue to AUTHORIZE staff to further raise the interim payment limit for Jones and Stokes if dedicated outside funds are received for budget augmentation item 3 (Additional Covered Species) by an amount equal to the amount of funds received.
- 2) MAINTAIN interim expenditure limit of \$113,092 on the \$327,136 in new tasks provisionally approved by the EGC in January.

**DISCUSSION**

**Authorization to Modify Notice to Proceed Letter:** The HCPA's contract with Jones and Stokes includes an overall payment limit of \$705,400, but also includes provisions for setting an interim payment limit through the issuance of Notice to Proceed Letters. As authorized by the EGC in January, the interim payment limit is currently set at \$422,908. Staff recommends a \$227,044 increase to the interim payment limit, the amount we will estimate will be necessary to complete Phase 2, including a Preliminary Draft HCP/NCCP and an initial draft of the EIR/EIS. As indicated in the recommendation above, such increases will be conditioned on having adequate funds in the HCP account to cover all outstanding and authorized expenses, including expenses incurred or to be incurred under the Jones and Stokes contract, the Resources Law Group contract, the Science Panel contracts, costs incurred by the County as the HCPA Coordinating Agency, and all other HCPA costs (please see table below for more documentation on how the recommended interim payment limit increase was calculated).

If dedicated outside funds are received add additional covered species to the HCP/NCCP (budget augmentation item #3 in the budget taken by the EGC in January), staff requests continued authorization to raise the interim payment limit by an amount equal to the amount of dedicated funds received.

Staff further recommends that all interim expenditure limits on the budget augmentations approved by the EGC in January remain in effect. These interim limits will be reviewed at the September EGC meeting as part of the larger budget evaluation planned for that meeting.

The HCPA is expecting to receive almost \$300,000 of new revenues in its account over the upcoming months as the Section 6 contract is finalized and as the final increment of the EPA

grant is received. Such committed revenues will be adequate to complete Phase 2 and will be nearly adequate to complete formal drafts of the HCP/NCCP and of the EIR/EIS.

| <b>INTERIM PAYMENT LIMIT CALCULATION</b>   |                      |
|--|----------------------|
| Amount spent to date (up to 4/27/03) on J&S work products  | \$359,452            |
| Est. remaining J&S costs (from 4/27/02) to complete Phase 2 (incl Prelim Draft HCP/NCCP & EIR/EIS)   | <u>\$290,500</u> (+) |
| <b>Total estimated cost to complete Phase 1 and Phase 2</b>  | <b>\$649,952</b>     |
| Current interim payment limit  | <u>\$422,908</u> (-) |
| <b>Recommend increase to interim payment limit to complete Phase 2</b>   | <b>\$227,044</b>     |
| <b>WILL WE HAVE ADEQUATE REVENUES TO COMPLETE PHASE 2?</b>   |                      |
| Current revenues (deposited in HCPA account)   | \$574,056            |
| Additional revenues that have been committed but not yet deposited <ul style="list-style-type: none"> <li>• EPA grant=\$25,000</li> <li>• Section 6 grant = \$267,040</li> <li>• Clayton addition = \$1,762</li> </ul> | <u>\$293,802</u> (+) |
| <b>Total committed revenues</b>  | <b>\$867,858</b>     |
| Estimated J&S cost to complete Phases 1&2 (i.e., recommended new interim J&S Payment limit)  | \$649,952 (-)        |
| Non-J&S costs incurred to date (Science panel, County, etc.)   | \$89,986 (-)         |
| Additional non-J&S costs expected between now and end of Phase 2   | <u>\$40,000</u> (-)  |
| <b>Estimated balance upon completion of Phase 2 (if no new revenues come in)</b>   | <b>\$87,920</b>      |

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

**DATE:** June 19, 2003  
**TO:** Executive Governing Committee (EGC)  
**FROM:** Member Agency Staff  
**SUBJECT:** Administrative matters

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**RECOMMENDATION**

1) RATIFY recent invoices, three from Jones and Stokes and one from Erica Fleishman.

**DISCUSSION**

The HCPA Joint Powers Agreement authorizes the HCPA Treasurer to pay consultant invoices upon receiving approval from HCPA Coordinating Agency staff. The Treasurer pays invoices submitted by Contra Costa County upon approval by member agency staff. The HCPA Joint Powers Agreement further provides that such invoices, following staff review and payment by the Treasurer, shall be provided to the EGC for final review and ratification. The purpose of this arrangement is to afford the EGC a maximum possible degree of oversight while also enabling the HCPA to meet its obligations to consultants for payment of invoices within 60 days.

The attached three invoices from Jones and Stokes and one invoice from Erica Fleishman have been reviewed and approved for payment by Coordinating Agency staff.



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

**DATE:** June 19, 2003  
**TO:** Executive Governing Committee (EGC)  
**FROM:** Member Agency Staff  
**SUBJECT:** EGC Workshop (agenda item #8)

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**RECOMMENDATION**

None.

**DISCUSSION**

**Purpose of workshop:** The intent of this item is to provide time on the agenda for an interactive presentation and discussion of key upcoming issues related to development of the HCP/NCCP. The HCPA is now approaching that point in the process where substantive policy decisions will need to be made, and the advice received by staff from the EGC Chair was that it would be most helpful if the EGC could preview such issues in an informational rather than decision-making capacity. This workshop is proposed to help satisfy that goal. We hope this portion of the meeting will allow EGC members to hear more about and discuss some of the complicated aspects of the developing HCP/NCCP and to ask as many questions as they'd like. We will use a more intimate table and seating arrangement to facilitate casual dialogue.

**Draft HCP/NCCP Framework Document:** For the last several months, the HCPA Coordination Group has been discussing and helping to shape the attached Framework document. The purpose of the Framework is to attempt to condense what will likely be a 500+ page planning document into a manageable, meaningful document that can be discussed, edited, and even negotiated through a committee process. The Framework is something like an Executive Summary, but is developed in conjunction with the plan and should guide the content of the ultimate, full plan. The introductory paragraph of the Framework provides helpful context and is excerpted below:

*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.*

Thus far, the Coordination Group has indicated that they think the Framework approach is helpful to discussions and will lead to more meaningful stakeholder participation in developing the plan. Staff felt the Framework would also serve as a useful template for the EGC workshop.

One note on the Framework, though the Coordination Group has seen iterative versions of the Framework at several consecutive meetings and have commented on it each time, the document should not be viewed as a consensus product of that body. It is hoped the document may reach that point eventually, but it is still premature to even pose that question. Finally, it should also be noted that, at the May Coordination Group meeting, the group agreed to let staff and consultants attempt substantial additions and refinements to the document. Such refinements were made and will be presented to the Coordination Group for the first time and their meeting just prior to the EGC meeting.

**Permit Area background:** Two other documents are attached that provide additional background that may be relevant for this workshop. Both relate to the question of the HCP/NCCP permit area. These documents include an explanatory memo of permit area question which was presented to the Coordination Group in April and a flowchart/menu explaining how permit area alternatives could be framed.

PRELIMINARY DISCUSSION DRAFT OUTLINE

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

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*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.*

*The Principles of Participation approved by HCPA member agencies upon joining the HCPA (County version is used as a starting point) are included as an attachment. The Principles have been referenced to the section of this Framework that discusses the relevant subject matter.*

### 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 Regulatory Assurances
- 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 was adapted from a grant application, is still somewhat rough, and should be refined over time. .*

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) and to finding more sustainable ways to grow, existing land use plans and development approvals allow significant new development on rangelands and irrigated crop lands. 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 Helianthella. 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.

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<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.

### 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:**

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, assist with evaluating cumulative impacts, and 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.

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

**Term of permit:** 30 years (*local agency's current working assumption*)

**Permit holders:** TBD (Could be the implementing entity or each individual jurisdiction (i.e., County, cities, CCWD, and the organization responsible for managing the Preserves))

**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 (Incidental Take Permit under Section 10 of the Federal Endangered Species Act) (see badly formatted species lists below)

| Species to be covered by the permit: |
|--------------------------------------|
| Townsend's Western Big-eared Bat     |
| San Joaquin Kit Fox                  |
| Tricolored Blackbird                 |
| Golden Eagle                         |
| Western Burrowing Owl                |
| Swainson's Hawk                      |
| Silvery Legless Lizard               |
| Alameda Whipsnake                    |
| Giant Garter Snake                   |
| California Tiger Salamander          |
| California Red-legged Frog           |
| Foothill Yellow-legged Frog          |
| Longhorn Fairy Shrimp                |
| Vernal Pool Fairy Shrimp             |
| Midvalley Fairy Shrimp               |
| Vernal Pool Tadpole Shrimp           |
| Mount Diablo Manzanita               |
| Brittlescale                         |
| San Joaquin Spearscale               |
| Big Tarplant                         |
| Mount Diablo Fairy Lantern           |
| Recreated Larkspur                   |
| Diablo Helianthella                  |
| Brewer's Dwarf Flax                  |
| Showy Madia                          |
| Adobe Navarretia                     |

| No-Take Species (Extremely Rare Plants and Fully Protected Species) |  |  |  |
|---|--|--|--|
| Common Name   | Status                                     |  | Remarks  |
| Scientific Name   | State                                      | Federal                                |  |
| <b>Plants</b>   |  |  |  |
| Large-flowered fiddleneck   | SE   | FE                                     | No natural populations occur in the inventory area; if one were discovered, it would be highly significant and should be preserved.                                      |
| <i>Austrochloa grandiflora</i>                                      |  |  |  |
| Alkali milkvetch  | IB   | -                                      | Thought to be extirpated from Contra Costa County; suitable habitat may be present in the inventory area; if any populations are found, they would have to be preserved. |
| <i>Astragalus tener-ssp. tener</i>                                  |  |  |  |
| Mount Diablo buckwheat  | IA   | -                                      | Presumed extinct; if any populations were discovered in the inventory area, they would have to be preserved.   |
| <i>Eriogonum fasciculatum</i>                                       |  |  |  |
| Diamond-petaled poppy   | IB   | -                                      | Known from only two populations in the world; not seen in the inventory area since 1888. Any populations found in the inventory area would be highly significant.        |
| <i>Erythrorhiza rhombipetala</i>                                    |  |  |  |
| Contra Costa goldfields   | IB   | FE                                     | All known populations in inventory area have been extirpated; if new populations were discovered, they would have to be preserved.                                       |
| <i>Leuzoea conopsea</i>   |  |  |  |
| Cape-fruited tropidocarpus  | IA   | -                                      | Presumed extinct; historic occurrence in the inventory area; if discovered, population would have to be preserved.   |
| <i>Tropidocarpus caperoides</i>                                     |  |  |  |
| <b>Birds</b>  |  |  |  |
| White-tailed Kite   | FP   | -                                      | No take is allowed because species is fully protected.   |
| <i>Elanus leucurus</i>  |  |  |  |
| Peregrine Falcon  | FP   | -                                      | No take is allowed because species is fully protected.   |
| <i>Falco peregrinus</i>   |  |  |  |
| Golden Eagle  | FP   | BGPA                                   | No take is allowed because species is fully protected.   |
| <i>Haliaeetus cinnereus</i>   |  |  |  |
| <b>States:</b>  |  | <b>State</b>                           |  |
| <b>Federal</b>  |  | SE                                     | State Listed as Endangered   |
| FE  | Federally Listed as Endangered             | ST                                     | State Listed as Threatened   |
| FT  | Federally Listed as Threatened             | CSC                                    | California Special Concern Species   |
| FSC   | Federal Species of Concern                 | SR                                     | State Rare (plants)  |
| BGPA  | Bald Eagle and Golden Eagle Protection Act | FP                                     | Fully Protected  |
|   |  | <b>California Native Plant Society</b> |  |
|   |  | IA                                     | Presumed Extinct   |
|   |  | IB                                     | Rare or Endangered in California and Elsewhere   |

- b) Section 2835 of CESA (Incidental Take Permit under the California Endangered Species Act through provisions of the California Natural Community Conservation Planning Act)
- c) Section 1601 (Master streambed alteration agreement under the California Fish and Game Code)
- d) Section 404 of CWA (Regional General Permit under Section 404 of the Federal Clean Water Act)
- e) Section 401 of CWA (Water Quality Certification from the State Water Resources Control Board)

**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, 2002 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
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)
13. Wind turbines to be discussed later

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

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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.

## V Biological Commitments

*This section is clearly still a work in progress. 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:**

The conservation strategy will be designed to meet the biological goals and objectives of the plan. The strategy will be based on four fundamental regulatory goals: mitigate the impacts to the covered species to the maximum extent practicable, contribute to the recovery of the covered species, maintain ecosystem processes, and conserve biological diversity.

- 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.

- Habitat restoration should be included in the conservation strategy for habitats that have historically been lost or degraded such as riparian woodland, seasonal wetlands, and native grasslands.
- Habitat restoration should only occur within HCP/NCCP Preserves except in cases where there are no restoration opportunities within the new preserves. If restoration must occur outside preserves, it will occur only on public lands adjacent to or near HCP/NCCP preserves and in direct support of these preserves (e.g., along the same stream).
- The plan will include “stay ahead” provisions to ensure that land acquisition and restoration occurs ahead of development. The plan will also include a “jump start” provision to ensure that the implementing entity acquires and begins to restore some land before any impacts occur.

### **Preserve Design Principles\***

Maximum Size  
 Minimize the Number of Preserve Units  
 Link Preserves  
 Include Urban Buffer  
 Minimize Edge  
 Maximize Environmental Gradients  
 Consider Watersheds  
 Consider Full Ecological Range of Communities  
 \*See the Conservation Strategy for a description of each of these principles

- Agriculture can be compatible with conservation. Many agricultural activities, such as grazing, will be critical for maintaining and restoring habitat values in some areas.
- The impacts of development close to the proposed HCP/NCCP Preserves will be minimized through the use of planning surveys (as described in the conservation strategy), creation of buffer zones, and more intensive management along the urban-wildland interface. The plan assumes that minimization measures will not be required for most species in isolated areas such as urban infill.
- Development will not take “no take” species (see Key Permit Terms and Conditions)
- HCP/NCCP Preserves will conserve biological resources at all scales including small-scale features such as rock outcrops, native grassland vegetation associations, seeps, springs, and other features determined to be important to native biological diversity.
- The plan will contribute substantially to the recovery of the Alameda whipsnake despite relatively low impacts to this species because the inventory area includes such a large proportion of this species’ entire range (approximately 20%).
- The implementing entity will acquire and manage land in key areas to maintain connectivity between Contra Costa County and neighboring counties to support landscape-level ecological functions such as the long-term survival of the San Joaquin kit fox in Contra Costa County.
- Recreational use of HCP/NCCP Preserves will be limited to areas and types of uses that have negligible impacts on covered species and habitats.
- All relevant elements of this plan will be monitored in the field to ensure that the biological goals and objectives will be achieved and to inform the on-going adaptive management process.
- 

**Quantitative Conservation Requirements:**

- Pending (the types of tables we might put here are shown below)

|                      | Total in Inventory Area | Inside Public Lands (%) | Outside Public Lands | Estimated Impact <sup>1</sup> (% of Outside) | Available in Zones <sup>2</sup> | HCP/NCCP Preservation Requirement for Compensation and Recovery <sup>3</sup> (% of Zone) | Minimum Preserved <sup>4</sup> (% of Remaining) |
|----------------------|-------------------------|-------------------------|----------------------|--|---------------------------------|--|---|
| Annual grassland     |                         |                         |                      |  |                                 |  |   |
| Alkali grassland     |                         |                         |                      |  |                                 |  |   |
| Oak savanna          |                         |                         |                      |  |                                 |  |   |
| Oak woodland         |                         |                         |                      |  |                                 |  |   |
| Chaparral/scrub      |                         |                         |                      |  |                                 |  |   |
| Cropland and pasture |                         |                         |                      |  |                                 |  |   |
| Total                |                         |                         |                      |  |                                 |  |   |

**A table that shows land acquisition requirements by habitat type would be an appropriate insert here.**

## VI Landowner Commitments

*This section still needs more work, though several comments were made on March 20 that seem appropriate for including here as we start to fill this section out. Likewise, the work of the Agricultural Subcommittee has generated material for this section and should continue to do so.*

### **Fundamental assurances:**

- The plan should respect and protect the rights of property owners.
- All land or easements purchased by the implementer of the plan must be from willing sellers. Eminent domain cannot be used.
- The plan should assume that agricultural lands not purchased for conservation will not necessarily continue to be operated and to function as they do now.

### **Neighboring landowner assurances:**

- The plan must consider the interests of property owners adjacent to HCP/NCCP Preserves. Such land owners should be offered assurances that any proliferation of endangered species on the Preserves will not hinder their existing operations (i.e., beyond conditions before the Preserves are established).
- Questions to be worked out: “opt-in” vs. “opt-out” (i.e., whether all neighboring lands are automatically covered and landowners can choose to opt out, or whether all neighboring lands must choose to receive protection) and how the pre-preserve baseline of endangered species is established

### **Financial assurances:**

- HCP/NCCP fees and other funding sources must fully fund the cost of land acquisition and maintenance, but must not be so high as to discourage development.
- The plan should provide the option of purchasing either conservation easements or fee title, but, given the limited use of easements in this area to date, the economic analysis should be fiscally conservative and assume that easement purchases will be rare.
- The plan will operate in and affect the local real estate market. This role must be undertaken sensitively to avoid significant disruptions of the private marketplace.

### **Agricultural assurances:**

- The plan should contribute to keeping grazing viable, both as an economical agricultural activity and as a necessary habitat and species management tool.
- 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 include a provision to allow for a transfer of agricultural conservation easements to lands with equal or greater biological value to allow for flexibility in future agricultural operations

## VII Implementing Entity

*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

*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 Regulatory Assurances

*This section will summarize & expand on key assurances such as described in principles 6 and 7.*

### **No Surprises Assurances:**

- The permittees will obtain “No Surprises” assurances so that the implementing entity will not be responsible for additional land, water, money, or other restrictions beyond that provided in the plan for any unforeseen circumstances or changed circumstances not provided for in the plan.
- The unlisted covered species are addressed in the plan as if they were listed, so if the unlisted covered species are listed in the future, the permit will be amended to include these species with no additional mitigation requirements.
- 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 types of impacts, and assurances that funding keeps pace with habitat protection benchmarks established in the plan.

## IX 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.*

**Draft**

## Memorandum

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Date: April 11, 2003

To: HCPA Coordination Group

cc:

From: David Zippin and John Kopchik

Subject: **Background on HCP/NCCP Permit Areas for Other Plans**

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The preliminary impact analysis presented to the Coordination Group on January 23, 2003, describes 3 possible impact scenarios, all of which are consistent with the County General Plan or city General Plans (though, of course, these plans are not always consistent with each other). The assumed permit term for the HCP/NCCP is 30 years, while the shelf life of many of the General Plans within the inventory area may be 10-15 years, perhaps less. Likewise, separate from urban development (the focus of the preliminary impact analysis) the HCP/NCCP may cover other specific activities that may not be described in General Plans and may be located outside of the three impact scenarios; activities such as public infrastructure projects, agricultural activities, etc. Building on the preliminary impact analysis and the covered activities discussion, the HCPA will be defining a permit area or areas (different covered activities could have different permit areas) for the HCP/NCCP. This memo provides brief, introductory background information on how the permit area for urban development can be defined and how other planning efforts have addressed this issue. The permit area for non-urban development activities is not specifically the subject of this memo because the covered activities list has not yet been finalized.

As mentioned above, when writing an HCP, the location of future growth may be uncertain because:

- 1) The term of the HCP/NCCP is longer than that for General Plans;
- 2) General Plans of participating land use planning agencies may not be consistent and annexations can therefore lead to policy change;
- 3) General Plans are sometimes amended long before they expire;
- 4) Designation of undeveloped lands for a more intensive land use does not necessarily mean that the property owner will choose to develop or that he or she will receive required permits for building on the property during the life of the HCP/NCCP.

There are two basic approaches available in an HCP/NCCP to address this uncertainty over where urban growth will occur 30 years into the future. The simplest approach is to set a permit area consistent with existing approved land uses and defer addressing the uncertainty issue until a future process. The HCP/NCCP can acknowledge the possibility that growth patterns may be different in the permit area and describe a process to formally amend the HCP/NCCP if and

when growth is needed outside of areas planned for growth at the time the plan is adopted, or if and when growth is no longer needed inside an area that is currently planned for growth. The HCP/NCCP amendment process is much simpler than preparing a new HCP/NCCP, but a substantial amount of work may be required for such an amendment.

The second basic approach is to build in a “cushion” of take coverage in the HCP/NCCP to allow for the possibility of future growth beyond current approved land uses and/or in locations other than those for which growth is currently planned. This cushion could be developed based on policies from approved General Plans (i.e. city General Plan policies for areas outside their city limits and/or spheres of influence) or could be defined some other way.

The benefits and drawbacks of these two general approaches are presented in Table 1. Background on how other planning efforts are dealing with or have dealt with this question is presented in Table 2.

**Table 1.** Benefits and Drawbacks to Alternative Approaches for Covering Growth Different from Current General Plans

| <b>Approach</b>                             | <b>Benefits</b>  | <b>Drawbacks</b>   |
|---|--|--|
| Defer Coverage to future HCP/NCCP amendment | <ul style="list-style-type: none"> <li>• Defers all the work of estimating different growth patterns until later</li> <li>• May reduce controversy associated with including “unplanned” growth in HCP/NCCP</li> </ul>   | <ul style="list-style-type: none"> <li>• Work associated with future amendment may be much greater than addressing issue now</li> <li>• Mitigation requirements will likely increase in the future associated with an HCP/NCCP amendment</li> </ul>                        |
| Add take coverage “cushion” to HCP/NCCP     | <ul style="list-style-type: none"> <li>• Perhaps the most realistic approach if growth different from current approved land uses is likely or desirable</li> <li>• Reduces work and regulatory burden on Implementing Entity in the future because issue is addressed now</li> </ul> | <ul style="list-style-type: none"> <li>• May generate additional controversy for HCP/NCCP by giving the appearance of allowing for growth different from current approved land uses</li> <li>• May complicate HCP/NCCP analysis and may slow agency review time</li> </ul> |

**Table 2.** Approach Taken By Selected HCPs in Addressing Growth Different from Current General Plans

| <b>HCP</b>             | <b>Approach</b>  | <b>Notes</b>  |
|------------------------|--|---|
| San Joaquin County HCP | Included “unmapped land uses” to estimate full buildout of cities beyond current General Plans | <ul style="list-style-type: none"> <li>• 8% of take coverage is “unmapped land uses”, composed of 15 types of activities</li> <li>• Take coverage granted on case-by-case basis</li> <li>• Coverage granted under “minor revision” if impacts are consistent with HCP and do not result in new significant environmental impacts</li> <li>• Technical Advisory Committee and Agency representative on TAC must approve</li> </ul> |

**Draft**

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| HCP   | Approach   | Notes   |
|---|--|---|
|   |  | <ul style="list-style-type: none"> <li>• Locations of unmapped land uses are not specified</li> </ul>   |
| Yolo County HCP (Jan. 2001 draft)               | Did not include a cushion except for agricultural processing facilities  | <ul style="list-style-type: none"> <li>• Estimated 1,000 acres of future development of ag processing facilities in unknown locations</li> </ul>  |
| Western Riverside County HCP (Nov. 2002 draft)  | Did not include a cushion  | <ul style="list-style-type: none"> <li>• Covered activities based solely on existing County and city General Plans (~500,000 acres of projected urban and rural growth in existing GPs)</li> <li>• HCP prepared concurrently with major update of County General Plan and Regional Transportation Plan (3 plans called the “Riverside County Integrated Plan”)</li> </ul> |
| Clark County HCP (Nevada)                       | Created a ceiling of take of 145,000 acres of habitat  | <ul style="list-style-type: none"> <li>• Estimated future development on non-federal lands until end of permit term (30 years) based on population projections</li> </ul>   |
| Kern County Valley Floor HCP (April 2001 draft) | All covered activities subject to ceiling on take of key habitats; ceiling includes future development in very general locations | <ul style="list-style-type: none"> <li>• Habitat-based take ceiling limits apply to 3 zones of different conservation value</li> </ul>  |



# 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)

