

EXHIBIT B

CEQA FINDINGS RELATED TO THE CERTIFICATION OF THE EIR FOR THE EAST CONTRA COSTA COUNTY HABITAT CONSERVATION PLAN / NATURAL COMMUNITY CONSERVATION PLAN BY THE EAST CONTRA COSTA COUNTY HABITAT CONSERVATION PLAN ASSOCIATION

I. INTRODUCTION

1. These are the CEQA findings prepared by the East Contra Costa County Habitat Conservation Plan Association (HCPA) as lead agency for the East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan (“Proposed Project” or “HCP/NCCP”). These findings pertain to the Project and the Environmental Impact Report prepared for that Project (SCH #2005092129). The Draft EIR, the Final EIR, and all the appendices comprise the “EIR” referenced in these findings.

2. The HCPA is a joint powers authority that is comprised of: the Cities of Brentwood, Clayton, Oakley, and Pittsburg; Contra Costa County; the Contra Costa Water District (CCWD); and the East Bay Regional Park District. The HCPA was formed to manage and fund development of the proposed HCP/NCCP for submission to the agencies that formed the HCPA and to United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (DFG).

3. These CEQA findings are attached as Exhibit B to a staff report documenting the HCPA’s adoption of these CEQA findings and certification of the EIR. That staff report also documents the HCPA’s adoption of an Exhibit C, which contains the Mitigation Monitoring and Reporting Plan (“MMRP”), and which references the Project’s impacts, mitigation measures, levels of significance before mitigation, and resulting levels of significance after mitigation.

II. THE PROJECT

4. The proposed HCP/NCCP plan offers the best combination of project benefits, including factors related to both the project’s purpose and need and its impacts, and contains the elements described below.

Two permit areas which reflect the range of expected growth in the area would be established: an initial urban development area (which would authorize 9,796 acres of ground-disturbing urban development activities); and a maximum urban development area (which would authorize up to 13,029 acres of ground-disturbing urban development activities).

Covered activities (i.e., specific activities or projects) in the proposed HCP/NCCP which would be permitted by DFG and USFWS include the following three distinct categories: (1) Activities and projects associated with urban growth, in accord with local general

plans; (2) Specific infrastructure projects outside the urban development area; and (3) certain activities inside the proposed HCP/NCCP preserves including construction and maintenance of recreational or management facilities, habitat enhancement, restoration, and creation, management activities necessary to achieve the HCP/NCCP's biological goals, surveys for covered species, vegetation communities, and other resources, agricultural activities on adjoining land within one mile of the preserve boundary, low-intensity recreational use, and construction and maintenance of utility infrastructure.

Other activities or projects not specifically described above may be evaluated for coverage under the proposed HCP/NCCP on a case-by-case basis.

The main element of the proposed HCP/NCCP conservation strategy is the creation of a Preserve System that would preserve approximately 23,800 acres of land with the initial urban development area, or approximately 30,300 acres of land under the maximum urban development area. Likely locations for land acquisition have been divided into Acquisition Analysis Zones, and are under study as detailed in Chapter 2 of the EIR.

The proposed HCP/NCCP conservation measures address the landscape-level, community-level (or habitat), and species-level impacts, and includes measures to address the following objectives: design of covered activities to avoid or minimize impacts on covered species and covered vegetation communities; preservation of covered vegetation communities; preservation of covered species populations and habitats; restoration of covered species habitat and vegetation communities to compensate for direct and indirect impacts on specific species and vegetation communities; restoration of species habitat to contribute to the recovery of listed covered species and help prevent the listing of non-listed covered species, and management of preserves to maximize the functions of habitats for covered species.

III. ENVIRONMENTAL REVIEW OF THE PROJECT

5. Pursuant to the California Environmental Quality Act, Public Resources Code section 21000 *et seq.* ("CEQA") and the CEQA Guidelines, Code of California Regulations, Title XIV, Section 15000 *et seq.*, the HCPA determined that an Environmental Impact Report consisting of a Draft EIR, a Final EIR and all the appendices ("EIR") would be prepared for the Project.

6. The HCPA issued a Notice of Preparation (NOP), which was circulated to responsible agencies and interested groups and individuals for review and comment on June 30, 2003.

7. Upon completion of the Draft EIR, the HCPA filed a notice of availability (NOA) in compliance with CEQA with the State Clearinghouse. The HCPA distributed the NOA and the EIR to interested agencies, organizations, and individuals for review and comment and made the EIR available at public libraries for public review. The public review period was September 2, 2005, to December 1, 2005; however, both the Draft HCP/NCCP and the Draft EIR were made available in June 2005.

8. The HCPA received written comments on the Draft EIR during the public review period. The HCPA prepared responses to comments on environmental issues, and made changes to the Draft EIR. The responses to comments, changes to the Draft EIR and additional information were published in the Final EIR on October 10, 2006.

9. The Executive Governing Committee of the HCPA held a public meeting on the EIR on November 8, 2006. At this meeting, the HCPA certified the EIR and approved the HCP/NCCP for submission to the City Councils of the Cities of Brentwood, Clayton, Oakley, and Pittsburg, the Contra Costa County Board of Supervisors, and the East Bay Regional Park District Board of Directors.

10. At all public meetings during the preparation of the HCP/NCCP, the HCPA staff and its consultants provided information about the Project, the potential environmental impacts, and the CEQA review process. At each meeting, members of the public had the opportunity to ask questions and express their concerns and interests for the Project.

11. CEQA Guidelines Section 15088.5 requires a lead agency to recirculate an EIR for further review and comment when significant new information is added to the EIR after public notice is given of the availability of the draft EIR but before certification. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect that the project proponent declines to implement. The Guidelines provide examples of significant new information under this standard. Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR. The HCPA finds that the EIR does not contain significant new information as defined in the Guidelines and that recirculation of the EIR therefore is not required.

IV. THE RECORD

12. The record upon which all findings and determinations related to the Project are based includes the following:

- a. The EIR and all documents referenced in or relied upon by the EIR.
- b. All information (including written evidence and testimony) provided by HCPA staff to the HCPA relating to the EIR, the proposed approvals, the Project or its alternatives.
- c. All information (including written evidence and testimony) presented to the HCPA by the environmental consultant and subconsultants who prepared the EIR, or incorporated into reports presented to the HCPA.
- d. All information (including written evidence and testimony) presented to the HCPA from other public agencies relating to the Project or the EIR.
- f. All information (including written evidence and testimony) presented at any public hearing or workshop related to the Project and the EIR.

g. For documentary and information purposes, all locally-adopted land use plans and ordinances, including, without limitation, general plans, specific plans and ordinances, together with environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area.

h. The MMRP for the Project.

i. All other documents comprising the record pursuant to Public Resources Code Section 21167.6(e).

13. The custodian of the documents and other materials that constitute the record of proceedings upon which the HCPA's decision is based is John Kopchik, Principal Planner, Contra Costa County Community Development Department. The general location of these material is the Contra Costa County Community Development Department at 651 Pine Street, North Wing, Fourth Floor, Martinez, California 94553.

14. These findings are based upon substantial evidence in the entire record before the HCPA. The references to certain pages or sections of the EIR set forth in these findings are for ease of reference only and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

V. CERTIFICATION OF THE EIR

15. In accordance with CEQA and the CEQA Guidelines, the HCPA, as lead agency, certifies that the EIR has been completed in compliance with CEQA and the CEQA Guidelines. The HCPA further certifies that it has reviewed and considered the information in the EIR prior to approving the Project. Similarly, the HCPA finds that it has reviewed the record and the EIR prior to approving any element of the Project. By making these findings, the HCPA confirms, ratifies and adopts the findings and conclusions of the EIR, as supplemented and modified by the findings contained herein. The EIR and these findings represent the independent judgment and analysis of the HCPA.

16. The HCPA certifies that the EIR is adequate to support the approval of the Project and for each approval required for construction or operation of the Project.

VI. MITIGATION MEASURES, CONDITIONS OF APPROVAL, AND MMRP

17. Public Resources Code Section 21081.6 and CEQA Guidelines Section 15097 require the HCPA to adopt a monitoring plan or reporting program to ensure that the mitigation measures and revisions to the Project identified in the EIR are implemented. The HCPA finds that MMRP included in Exhibit C meets these requirements and hereby adopts the MMRP.

18. The mitigation measures recommended by the EIR and incorporated into the Project are specific and enforceable. As appropriate, some mitigation measures define performance standards to ensure no significant environmental impacts occur. The MMRP adequately describes conditions, implementation, verification, and reporting

requirements to ensure the Project complies with the adopted mitigation measures. The MMRP ensures that the mitigation measures are in place, as appropriate, throughout the life of the Project. The mitigation measures described in Exhibit C are incorporated into these findings as conditions of each of the approvals required for the Project.

19. The mitigation measures set forth in Exhibit C reflect the mitigation measures set forth in the EIR.

VII. FINDINGS REGARDING IMPACTS

20. In accordance with Public Resources Code section 21081 and CEQA Guidelines sections 15091 and 15092, the HCPA adopts the findings and conclusions regarding impacts and mitigation measures that are set forth in the EIR, and summarized in Table A-1. These findings do not repeat the full discussions of environmental impacts contained in the EIR. The HCPA ratifies, adopts and incorporates the analysis, explanation, findings, responses to comments and conclusions of the EIR. The HCPA adopts the reasoning of the EIR.

21. The HCPA has, by its review of the evidence and analysis presented in the EIR and in the record, acquired a better understanding of the full scope of the environmental issues presented by the Project. In turn, this understanding has enabled the HCPA to make fully informed, thoroughly considered decisions on these important issues. These findings are based on a full appraisal of the EIR and the record, as well as other relevant information in the record of proceedings for the Project.

22. The HCPA finds that, with HCP/NCCP implementation, including all conservation measures in Chapter 5 of the HCP/NCCP, and all the conditions on covered activities in Chapter 6 of the HCP/NCCP, and with implementation of the identified mitigation in the MMRP, all of the Project impacts will be at a level of less than significant as shown in table ES-1 of the final EIR.

VIII. FINDINGS REGARDING ALTERNATIVES

26. The HCPA adopts the EIR's analysis and conclusions regarding alternatives considered and the alternatives eliminated from further consideration, both during the scoping process and in response to comments.

27. The EIR evaluated a reasonable range of alternatives to the original project. Fully evaluated alternatives included: Alternative 2 (Conservation Strategy B); Alternative 3 (Reduced Development Area); and Alternative 4 (No Action/No Project). The analysis examined the feasibility of each alternative, the environmental impacts of each alternative, and the ability of each alternative to meet the project objectives. As the EIR was combined with a NEPA Environmental Impact Statement (EIS), the evaluation of alternatives was at an equal level of detail. Seven additional alternatives were considered, but eliminated from further consideration for the reasons disclosed in Chapter 2 of the EIR and discussed below.

28. The HCPA certifies that it has independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the HCPA's independent judgment as to alternatives. The HCPA finds that the Proposed Project (Conservation Strategy A) provides the best balance between satisfaction of the project objectives and mitigation of environmental impacts to the extent feasible, as described and analyzed in the EIR. All the remaining alternatives were not selected for the following reasons.

29. Alternative 2 (Conservation Strategy B) provides a different and lower amount of land acquisition and habitat restoration than the Proposed Project. As further described in Chapter 2 of the EIR, Alternative 2 proposed conservation in different areas and less conservation overall than the Proposed Project. Conservation measures related to land management, principles of habitat restoration, and impact avoidance and minimization are the same between the two alternatives. Alternative 2 was not selected because the conservation strategy incorporated in the Proposed Project better fulfill the land use and biological goals of the HCP/NCCP as a whole.

30. Alternative 3 (Reduced Development Area) would designate a single, smaller permit area, rather than the initial and maximum urban development areas designated in the Proposed Project. Under this alternative, covered activities and projects within the urban development area would be limited to lands inside city limits that are designated for development and lands in unincorporated areas with a development land use designation in the Contra Costa County General Plan. Rural infrastructure projects and activities within the preserves, as described for the proposed HCP/NCCP, would also be covered under this alternative. Under this alternative, the permit area would be 6,991 acres, approximately 1,958 acres less than the initial urban development area and 6,225 acres less than the maximum urban development area. Land acquisition priorities identified for the initial urban development area would remain the same as the Proposed Project. Requirements for land acquisition and restoration would be reduced under because these requirements are scaled according to the level of development. All other elements would be identical to the Proposed Project. Alternative 3 was not selected because it would not provide flexibility in adapting the HCP/NCCP to future changes in land use planning over the life of the permit term. Fixing the permit area into currently designated areas for development would require costly and inefficient revision and amendment to the HCP/NCCP to adapt to future development patterns. The Proposed Project allows for flexibility within the maximum urban development area while fulfilling the biological goals of conservation and recovery for covered species in the area.

31. Alternative 4 (No-Action/No-Project) would not include the proposed HCP/NCCP, including implementation of conservation measures and creation of a Preserve System, would not be adopted, and permits pursuant to Section 10(a)(1)(B) of ESA and Section 2835 of the NCCPA would not be issued by USFWS and DFG, respectively. Compliance with ESA and CESA would continue to be addressed on a case-by-case basis. Projects and activities with a potential to affect federally listed species would be required to individually comply with ESA through either the preparation of individual HCPs and Section 10 permit application, or the Section 7

consultation process in cases in which federal authorization (e.g., Section 404 CWA permitting by USACE) or funding (e.g., Federal Highway Administration [FHWA] funding for transportation projects) are required. Section 7 compliance would focus on federally listed species and would not address state-listed or nonlisted species. In the absence of a Section 10 permit, private activities near or adjacent to the habitat of listed species would have a greater risk of take of listed species and of civil penalties and injunctive relief. Alternative 4 was not selected because it would not fulfill the purpose and need of the project.

32. Alternative 5 (No-Take Alternative). Section 10(a)(2)(A)(iii) of the federal ESA states: "No permit may be issued by the Secretary authorizing any taking referred to in paragraph (1)(B) unless the applicant therefore submits to the Secretary a conservation plan that specifies what alternative actions to such taking the applicant considered and the reasons why such alternatives are not being utilized." In accordance with this requirement, the proposed HCP/NCCP considers alternatives to take for each of the federally listed species covered under the proposed HCP/NCCP (see HCP/NCCP Chapter 10, Alternatives to Take). Alternatives to take for each federally listed species were rejected in the proposed HCP/NCCP because they would not allow reasonable development consistent with the general plans of the cities or County, they would not be practicable to implement, or they would result in an outcome that is biologically inferior to that of the proposed HCP/NCCP. Alternatives to take for federally listed species were thus eliminated from further consideration in the EIR.

33. Alternative 6 (Expanded List of Covered Species). During the scoping process, it was suggested that the EIR consider an alternative that provides coverage for additional species. The Science Advisory Panel reviewed the Proposed Project covered species list and considered it appropriate. However, it did recommend reconsidering 13 species that were originally not recommended for coverage (ECCC HCP/NCCP Science Advisory Panel 2002). Of these 13 species, the HCP/NCCP consultant recommended that the ECCC HCPA consider adding the following six covered species if additional funding could be found: Peregrine Falcon; Short-eared Owl; Western pond turtle; Western spadefoot; California horned lizard; Round-leaved filaree; and Western pond turtle and round-leaved filaree were added as a result of the Science Advisory Panel's recommendation. An alternative that includes the remaining four species is not feasible because additional planning funds to add these species to the proposed HCP/NCCP has not been secured. Furthermore, adding these species would not substantially change the proposed HCP/NCCP conservation strategy. Conservation measures already proposed in the HCP/NCCP to protect and enhance grassland and oak woodland would incidentally conserve foraging habitat for peregrine falcon, potential foraging and breeding habitat for short-eared owl, foraging and breeding habitat for California horned lizard, foraging and aestivation habitat for western spadefoot. Pond protection, enhancement, restoration, and creation would also conserve habitat for western spadefoot. Species-specific conservation measures might be added to the proposed HCP/NCCP if these additional four species were added, but these measures would not substantially change the conservation strategy, its implementation cost, or its impacts. Adding these species would not reduce any environmental impacts associated with the proposed HCP/NCCP.

This alternative was eliminated from further consideration in the EIR based on it not substantially changing the project description or the project impacts.

34. Alternative 7 (ESA-Listed Species Only). Under this alternative, only those species that are federally listed as threatened or endangered would be proposed for coverage under the HCP/NCCP. The following species would be covered: San Joaquin kit fox; Alameda whipsnake; Giant garter snake; California red-legged frog; California tiger salamander; Longhorn fairy shrimp; Vernal pool fairy shrimp; Vernal pool tadpole shrimp. Under a Listed Species Only alternative, no assurances would be provided by USFWS, as part of the ITPs, that the avoidance and mitigation measures provided in the proposed HCP/NCCP would adequately conserve currently nonlisted species that may be listed during the term of the HCP/NCCP. Other sensitive species would not be covered, and take would be addressed on a project-by-project basis, like that described above for the No-Action/No-Project alternative. This alternative would not meet the Project Objectives of the HCPA to develop and implement a plan that provides comprehensive species protection, avoids future listing of species, and provides assurances that the HCP/NCCP would adequately minimize and mitigate impacts on nonlisted species that may be listed in the future. Non-coverage of additional species would also result in a loss of potential permitting efficiency, another key Project Objective. This alternative was therefore eliminated from further consideration in the EIR.

35. Alternative 8 (Preserve Acquisition Outside the Inventory Area). Under this alternative, land acquisition could occur both inside and outside the inventory area. This alternative would allow the Implementing Entity a broader geographic area in which to seek willing sellers and potentially a greater ability to target land-cover types or areas of particular importance for achieving the established biological goals and objectives. This alternative was eliminated from consideration first because it would not meet the Project Objective of the HCPA to provide for species and community conservation in eastern Contra Costa County. The first recommendation to prepare an HCP/NCCP by FWS and DFG was intended to mitigate the impacts of increased growth in this specific geographic area. Preservation and mitigation are most effective if they occur as close to the area of impact as possible. Acquisition outside the inventory area may reduce the effectiveness of the overall conservation strategy; it would also reduce the amount of funding available for acquisition of lands within the inventory area that are essential for the creation of a comprehensive management plan. In addition, many of the covered plant species are not present in the San Joaquin Valley. The ability to acquire preserve lands outside the current HCP/NCCP inventory area would be constrained by several other land use and planning considerations. Land acquisition to the west and north would be virtually precluded by existing urban areas, parklands, and the Bay-Delta. Land acquisition to the east in San Joaquin County could interfere with the land acquisition efforts necessary for San Joaquin County to meet the requirements of its approved Countywide HCP. Land acquisition to the south could interfere with conservation and land acquisition efforts being undertaken independently by a number of local agencies, including the EBRPD and the Altamont Landfill Open Space Committee. Finally, local authorities in Contra Costa County may lack jurisdiction to fully implement the proposed HCP/NCCP in Alameda or San Joaquin County since the implementing ordinance would have no affect and

enforcement would be based solely on agreements reached with individual landowners within those jurisdictions. Thus, this alternative was eliminated from further consideration in the EIR.

36. Alternative 9 (Reduced Permit Duration). Under this alternative, the term of the HCP/NCCP and the take permits would be limited to 20 years to enable local jurisdictions, permitting agencies, and the Implementing Entity to evaluate the success of the HCP/NCCP prior to full development of the expanded permit area. This alternative would not result in impacts that differ substantially from those of the proposed HCP/NCCP. Although a reduced permit term would more closely parallel the time frame of the local general plans, a longer permit term is necessary to fully implement a comprehensive regional planning and conservation strategy in eastern Contra Costa County. Limiting the term of the permit would also limit the ability of the Implementing Entity and the Permittees to secure funding from development sources to implement the regional conservation strategy. The covered activities (urban development/growth) and preserve assembly is expected to take up to 30 years. In the judgment of the HCPA, the reduced permit alternative would not cover the full duration of potential covered activities nor the conservation program implementation (including funding considerations). This alternative was eliminated from consideration in the EIR.

37. Alternative 10 (Existing Reserves Only). Under this alternative, conservation would be provided only within current park or open space lands in eastern Contra Costa County. Conservation would take the form of changes in management and habitat restoration on existing preserves to benefit covered species. This alternative would meet neither the HCP standards requiring it to mitigate to the maximum extent practicable, NCCPA requirements to conserve the covered species, nor the Project Objectives to focus on preservation of lands that are not currently protected. Existing preserves are owned by EBRPD, CCWD, California Department of Parks and Recreation, and Save Mount Diablo (the last two entities are not participating in the HCP). As a condition of the Planning Agreement for the proposed HCP/NCCP between the HCPA and DFG, it was established that existing preserves would not be relied upon in the proposed HCP/NCCP to compensate for impacts of covered activities. In addition, this alternative would also not meet the Project Objectives of satisfying the requirements for issuance of ITPs under the NCCPA. Existing reserves would provide conservation of only a limited extent of vegetation communities and species. Moreover, existing reserves are widely distributed throughout eastern Contra Costa County and do not provide adequate corridors for movement of species between areas of suitable habitat. Broader conservation and recovery, as well as avoidance of future listings, could not be provided within the limitations of existing park and open space lands. This alternative does not minimize and mitigate to the maximum extent practicable. This alternative was eliminated from consideration in the EIR

38. Alternative 11 (Modified Urban Growth Model). An alternative that assumes a “smart-growth” or other urban growth model for eastern Contra Costa County was suggested during the public scoping period for the EIR. Smart-growth or similar alternative growth models strive for new development that is more town centered; is auto-accessible while also accommodating transit and pedestrian activity; and has a

greater mix of housing, commercial, and retail uses. It also seeks to preserve open space and protect sensitive areas such as wetlands. This alternative focuses on changing land use policy as oppose to looking at alternative HCP/NCCP approaches, i.e., conservation strategies, covered species, permit duration, etc. This alternative requires changing development patterns for the purpose of creating town centers, accommodating transit and pedestrian activities, requiring greater mixed uses, preserving open space, and protecting sensitive resources. To a great extent, benefit to species would be secondary and incidental to broad reaching changes to land use policy.

The Proposed Project is the HCP/NCCP not the applicable General Plans. The HCP/NCCP is required to assess and mitigate for impacts of the “covered activities” on “covered species”. In order to adequately mitigate for impacts the HCP/NCCP may limit the amount or location of development that the applicable general plans contemplate; however, the HCP/NCCP is not intended to supercede the general plans or land use authority of the applicable jurisdictions but rather to impose restrictions on the general plan implementation through consideration of regional conservation requirements necessary to protect the covered species.

The current general plans for the County and the cities are the current guide to future development in eastern Contra Costa County and are the basis or baseline for the assessment of impacts and conservation in the proposed HCP/NCCP. Alternative growth models would not be precluded under the proposed HCP/NCCP and could be implemented through the local legislative process by the applicable jurisdictions in the future. However, development of a smart-growth alternative for analysis in the EIR would require either that the local land use agencies develop and adopt new general plans policies that incorporate smart-growth as a basis for conservation planning, or that the proposed HCP/NCCP make broad assumptions about how a smart-growth alternative would be implemented by each of the local jurisdictions. The time and cost associated with development of new general plans for each applicable jurisdiction would be prohibitive and would effectively offset any efficiencies local jurisdictions would hope to achieve in preparing the proposed HCP/NCCP. Development of and reliance on a growth model that is different from the current general plans would be highly speculative due to the legislative/political nature of such an action. Accordingly, this alternative is not feasible due to legal and financial reasons. Additionally, requiring significant changes to existing general plans, does not meet the participating jurisdictions’ specific CEQA goal and objective of reasonably and efficiently implementing their respective general and specific plans.

Exhibit B, Table A-1 East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan, Impact Findings

Impact	Findings	Mitigation	Rationale
Impact BIO-1: Loss of up to 4,152 Acres of Annual Grassland Habitat.	<i>Impacts will be less than significant; no mitigation measures are required.</i>	None Required	<p>Under the HCP/NCCP, at least 13,000 acres of annual grassland outside public lands would be acquired for compensation within HCP/NCCP preserves, with the initial urban development area. As a result, approximately 66% of the total area of annual grassland in the inventory area would be preserved either in HCP/NCCP preserves or existing parks.</p> <p>Native grasslands would be enhanced within the Preserve System, in accordance with Conservation Measure 2.4, by using experimental burning and/or grazing techniques to enhance cover of native forbs and perennial grasses. Annual grasslands are common in the inventory area, representing 34% of the land area, and are degraded and dominated by nonnative species. The conservation measures in the proposed project would preserve and enhance native grassland.</p>
Impact BIO-2: Loss of up to 115 acres of alkali grassland habitat.	<i>Impacts will be less than significant; no mitigation measures are required.</i>	None Required	<p>Currently, 19% of alkali grasslands are protected within public lands. The HCP/NCCP would preserve at least 900 acres (with the initial urban development area) of the 1,618 acres of alkali grassland habitat that are currently outside of public lands, resulting in the preservation of 1,279 acres (68%) of the alkali grassland that would remain after full implementation of the HCP/NCCP. The HCP/NCCP aims to acquire large blocks of alkali grassland in Zone 5. In accordance with measures described in Chapter 6 of the HCP/NCCP, project applicants would be required to conduct pre-construction surveys to identify alkali grassland habitat and to avoid and minimize impacts whenever possible.</p>
Impact BIO-3: Loss of up to 238 acres of oak woodland and oak savanna habitat.	<i>Impacts will be less than significant; no mitigation measures are required.</i>	None Required	<p>A total of 5,894 acres of oak savanna and 24,198 acres of oak woodland occur in the inventory area. Covered activities could result between 42 and 165 acres of impact to oak savanna and between 21 and 73 acres of oak woodland impact. The HCP/NCCP provides for the acquisition of at least 900 acres of oak savanna and woodland (500 acres and 400 acres, respectively) with both the initial and maximum urban development areas. Up to a total of 9,000 acres of oak savanna and woodland could be acquired in the preserve system. Impacts on oak savanna would be mitigated at a ratio of 1:1, resulting in the restoration of up to 165 acres within preserves. The HCP/NCCP contains several measures to avoid, enhance, and restore oak savanna and oak woodland (see Conservation Measures 1.1, 2.4, and 2.7).</p>
Impact BIO-4: Loss of up to 2 Acres of chaparral/scrub habitat.	<i>Impacts will be less than significant; no mitigation measures are required.</i>	None Required	<p>A total of 3,016 acres of chaparral/scrub was mapped in the inventory area. The proposed HCP/NCCP requires that 550 acres of chaparral/scrub be acquired with both the initial and maximum urban development areas. Under the HCP/NCCP, the historical extent, frequency, and conditions of fire in the chaparral and coastal sage scrub within the preserves would be assessed and used to determine whether fire or other active management techniques should be used to maintain these stands. Prescribed fire may be used to maintain or enhance chaparral/scrub habitat on preserves; the vegetation would be monitored to determine the effectiveness of this management tool.</p>

Impact	Findings	Mitigation	Rationale
Impact BIO-5: Loss of up to 35 acres of riparian woodland/scrub habitat.	<i>Impacts will be less than significant; no mitigation measures are required.</i>	None Required	<p>A total of 448 acres of riparian/scrub was mapped in the inventory area. The proposed HCP/NCCP requires that 60 acres of riparian/scrub be acquired with the initial urban development area and 70 acres be acquired with the maximum urban development area. Conservation Measures 2.9 and 2.10 provide for enhancement and restoration of riparian woodland/scrub. In addition, affected riparian woodland/scrub would be compensated for at a 1:1 ratio resulting in restoration of an additional 50 to 55 acres of habitat for recovery of covered species and biological diversity.</p>
Impact BIO-6: Loss of up to 255 acres of wetlands, ponds, and sloughs, and 0.8 miles of stream.	<i>Impacts will be less than significant; no mitigation measures are required.</i>	None Required	<p>Total acquisition would be 470 acres of wetland habitat with the maximum urban development area. Impacts to streams require preservation at a 2:1 ratio for perennial streams and a 1:1 ratio for intermittent and ephemeral streams. Impacts to perennial or intermittent streams also require restoration at a 1:1 ratio where feasible. Where infeasible, restoration of seasonal wetlands or perennial wetlands will be substituted. Measures set forth in Chapter 6 of the HCP/NCCP require project proponents to perform a wetland delineation and to document all measures that have been included for avoidance and minimization of impacts to wetlands. Conservation Measure 2.12 requires avoidance of wetland, pond, and stream habitats. Conservation Measure 2.2 requires wetland and pond enhancement and management. Conservation Measure 2.3 requires restoration or creation of between 320 and 354 acres of aquatic habitat to promote recovery of associated species.</p>
Impact BIO-7: Loss of up to 5,011 acres of cropland or pasture.	<i>Impacts will be less than significant; no mitigation measures are required.</i>	None Required	<p>The Plan provides for the Implementing Entity to secure acquisition or conservation easements on between 250 and 400 acres of cropland or pasture. Cropland is a common land cover in the area, representing approximately 12% of the total land cover in the inventory area, and approximately 19,808 acres would remain outside preserves or public lands after Plan implementation. In addition to the land acquisition requirements, Conservation Measures 1.3 and 2.11 provide for development of management plans for cultivated lands and for enhancement of agricultural lands to benefit covered species.</p>
Impact BIO-8: Potential disturbance or loss of covered special-status plant and wildlife species and their habitat associated with proposed plan.	<i>Impacts will be less than significant; no mitigation measures are required.</i>	None Required	<p>The proposed HCP/NCCP establishes a conservation strategy to avoid, minimize, and mitigate, to the maximum extent practicable, impacts to each covered species, and to establish and maintain habitat to preserve and recover each covered species. These goals are implemented through specific objectives for each covered species. These goals and objectives would be specifically implemented through a comprehensive set of landscape, vegetation, and species-specific measures. The HCP/NCCP provides for specific measures relative to each covered species and represents a complete and adequate mitigation program. In addition, the HCP/NCCP provides for acquisition of preserves comprised of suitable habitat for covered species, organized across the landscape to provide ecosystem integrity. A comprehensive monitoring and adaptive management program would be required of the Implementing Entity to examine the effectiveness of the program and to ensure that these measures are successful over time in achieving the biological goals and objectives.</p>

Impact	Findings	Mitigation	Rationale
Impact BIO-9: Potential disturbance or loss of valley elderberry longhorn beetle and their habitat associated with the proposed plan.	<i>Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.</i>	Mitigation Measure BIO-1: Conduct surveys for elderberry shrubs.	Within suitable habitat for the valley elderberry longhorn beetle a qualified biologist would identify and mark all elderberry shrubs with stems 1.0 inch or more in diameter within 100 feet of the construction area. A 100-foot buffer would be established around all elderberry shrubs, and no construction activities would be permitted within the buffer zone without consultation with USFWS. In areas where encroachment on the 100-foot buffer has been approved by USFWS, no ground-disturbing activities would be permitted within 20 feet of the dripline of each elderberry shrub unless the activity is necessary to complete the project. No riparian vegetation within 100 feet of elderberry shrubs would be removed by construction activities. This action will reduce restoration impacts to the valley elderberry longhorn beetle to a less than significant level.
Impact BIO-10. Temporary disturbance to nesting habitat for special-status bird species during restoration activities.	<i>Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.</i>	Mitigation Measure BIO-2: Conduct preconstruction surveys to locate special-status bird species' nest sites or rookeries before construction is initiated and avoid breeding sites.	A qualified biologist will conduct surveys in suitable habitat to locate nest sites of the above-mentioned species in the spring of each construction year. If the survey does not identify any nesting special-status bird species in the area potentially affected by the proposed activity, no further mitigation is required. If nest sites or young are located, a no-disturbance buffer will be established around the active nest. The biologist will consult with CDFG to determine the size of the no-disturbance buffer. This action will reduce restoration impacts to the nesting birds to a less than significant level.
Impact BIO-11. Potential disturbance or loss of non-covered special-status plant species and their habitat associated with the proposed Plan.	<i>Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.</i>	Mitigation Measure BIO-3. Document special status plant populations and avoid or minimize impacts.	The Implementing Entity, or its designated agents, will retain a qualified botanist to document the presence or absence of non-covered special-status plant species in the preserves. If special-status plants are found, the population would be incorporated into the project or restoration design to avoid, to the extent feasible, direct or indirect impacts to these species. Special-status plants near the project site will be protected during construction by installing environmentally sensitive area fencing (orange construction barrier fencing) around special-status plant populations. The Implementing Entity would coordinate with the appropriate agencies (CDFG, USFWS) to develop appropriate avoidance and mitigation measures. These measures will reduce impacts to special-status plants to a less than significant level.
Impact BIO-12: Potential Disturbance or Loss of Common Wildlife Species and Their Habitat Associated with Proposed Plan.	<i>Impacts will be less than significant; no mitigation measures are required.</i>	None Required	The major habitat types affected by implementation of the HCP/NCCP are abundant in the region (annual grassland and cropland). Much of the habitat that would be restored or converted is already used for agriculture or grazing activities. A change in land use would not result in significant reductions in common wildlife populations. Protection measures established to reduce impacts on covered and non-covered special-status wildlife would also function to protect common wildlife species, including migratory birds. Specific measures are included in the HCP/NCCP to avoid impacts on migratory birds protected under MBTA. The adverse effects on birds of presently operating wind turbines in the plan area could be reduced if land with wind turbines is acquired and those turbines are subsequently removed from operation, as is encouraged under the Plan.

Impact	Findings	Mitigation	Rationale
<p>Impact LU-1: Physically divide an established community through acquisition and preservation of lands.</p>	<p><i>Impacts will be less than significant; no mitigation measures are required.</i></p>	<p>None Required</p>	<p>The proposed HCP/NCCP would provide incidental take coverage for growth and development within the established cities and in areas necessary for development of supporting infrastructure, in exchange for conservation of key areas of habitat throughout the rural parts of East Contra Costa County. Establishment of preserves under the HCP/NCCP would occur within the six Zones. Zones 1–5 encompass all unprotected and undeveloped land in the inventory area, most of which occurs outside the current ULL. Zone 6 encompasses all cultivated agriculture outside the current ULL. These zones contain scattered residential uses, such as ranchettes. Additionally, the unincorporated communities of Byron, Knightsen, and Bay Point are located within the Zones. Although lands surrounding these communities are proposed for preserve acquisition, land within the communities would not be acquired. Thus, acquisition of lands for conservation purposes, preserve development, potential recreational uses, and ongoing preserve maintenance activities would not physically divide any established communities in the inventory area.</p> <p>Existing land uses in Zones 1–5 include grazing and other agricultural production, while the predominant existing use in Zone 6 is cultivated agriculture. Establishment of preserves in Zones 1–5 would result in minor land use changes. While lands would remain undeveloped, they would be managed primarily for covered species protection and enhancement, with some passive recreational use allowed.</p> <p>In accordance with Conservation Measure 1.2, grazing is expected to continue as a management tool on many of the preserve lands that are acquired in Zones 1–5. If necessary, grazing practices may be modified and brought into compliance with the proposed HCP/NCCP’s conservation strategy and adaptive management framework. Such modifications could include shifting grazing regimes from year-round to seasonal or changes in grazing intensity, duration, and location.</p>
<p>Impact LU-2: Incompatibility of preserves with existing land uses.</p>	<p><i>Impacts will be less than significant; no mitigation measures are required.</i></p>	<p>None Required</p>	<p>In accordance with Conservation Measure 1.1, preserve lands in Zone 6 would be acquired through purchase of conservation easements that would provide for continued agricultural use of the land. Such easements would help achieve the biological goals and objectives of the HCP/NCCP while allowing continuation of current agricultural use. Conservation Measure 1.3 further describes the need for agricultural management plans for preserved croplands and pasturelands. These plans would describe the agricultural practices that would be undertaken to ensure the land’s suitability for covered species. Conservation Measure 1.3 also indicates that habitat maintenance and enhancement measures would be compatible with maintaining the ongoing economic viability of agricultural use.</p> <p>The impact on existing land uses between the initial urban development area and the maximum urban development area would be comparable, although additional preservation under the latter would result in slightly greater potential for impact on surrounding land uses. Measures included in the proposed HCP/NCCP to reduce incompatibilities with surrounding land uses would be effective at reducing any impacts on additional land acquisitions.</p>

Impact	Findings	Mitigation	Rationale
Impact LU-3: Incompatibility of preserves with adjacent land uses.	<i>Impacts will be less than significant; no mitigation measures are required.</i>	None Required	<p>The proposed HCP/NCCP preserve design strategy would follow principles of conservation biology that seek to avoid biological incompatibilities between adjacent uses, including maximizing preserve size, minimizing the number of preserves, limiting edge effects, and buffering urban impacts. With certain provisions and restrictions, agricultural lands within 1.0 mile of the preserve boundary would also be eligible for take coverage during the course of routine agricultural activities and during the permit term of the HCP/NCCP.</p> <p>Conservation Measure 1.9 would apply to preserves that occur at the edge of the HCP/NCCP urban development area or adjacent to areas with moderate or high priorities for land acquisition. It includes multiple design elements that would be considered for the urban-wildland interface to reduce potential incompatibilities. Specific elements include buffers, fencing, trails, minor roads with permanent wildlife barriers, access restrictions, and noninvasive and fire-resistant landscaping.</p> <p>Conservation Measure 1.8 would provide for buffer zones between preserves and adjacent developed or agricultural lands to “eliminate or minimize the potential adverse effects of adjacent urban and agricultural uses on sensitive preserved, enhanced, restored, and created natural communities and covered species habitats.”</p> <p>Conservation Measure 1.5 would provide that as part of the recreation plan developed for preserve lands, new trails will be sited to minimize impacts on sensitive species and communities, including covered species, and disturbance to adjacent landowners and land uses.</p> <p>These conservation measures would be considered effective means of reducing potential land use incompatibility between the preserves and adjacent uses.</p>

Impact	Findings	Mitigation	Rationale
<p>Impact LU-4: Potential inconsistencies between preserve land acquisition and local land use plans and policies.</p>	<p><i>Impacts will be less than significant; no mitigation measures are required.</i></p>	<p>None Required</p>	<p>Acquisition of preserve lands within city ULLs or within planned areas outside city ULL may conflict with certain long-term policy and planning objectives set forth in City general plans. Although policies established in current City general plans are not applicable to unincorporated lands, they provide a good indication of areas where future annexations and ULL adjustments may be proposed. The acquisition of land in Subzones 1a, 2e, and 2f could have a potential conflict with certain long-range development objectives of the Cities of Pittsburg, Antioch or Brentwood for certain areas. Some of these areas are within the recent City-adopted ULLs in Pittsburg and Antioch. The HCP/NCCP provides for a maximum urban development area that allows flexibility in terms of adapting preserve acquisition strategies to minimize inconsistencies between local land use planning and HCP/NCCP implementation. The potential preserve zones identified are larger than the target preserve size, which also allows flexibility to minimize potential land use conflicts. Overall, given the amount of developable land in the permit area and the flexible approach to HCP/NCCP preserver assembly, the project is not expected to result in a significant impact on local City land use plans and policies.</p> <p>Nearly all land and easement acquisition in unincorporated parts of the county would be in areas that are designated as Agricultural Lands (AL). Preserve lands would be managed for the benefit of covered species and habitat; however, agricultural use of much of the preserve land is anticipated to continue. Some acquisitions are proposed in unincorporated areas that are designated as Agricultural Core (AC) but such acquisitions of land or easements (easements are more likely) would allow for continued agricultural use, and would be consistent with plans or policies.</p>
<p>Impact LU-5: Potential conflicts of preserves with applicable rural land use designations.</p>	<p><i>Impacts will be less than significant; no mitigation measures are required.</i></p>	<p>None Required</p>	<p>The majority of lands in Zones 1–6 are outside the ULL and are designated as Agricultural Lands or Agricultural Core in the Contra Costa County General Plan Land Use Element. Zones 1–5, where the primary use is livestock grazing, are predominantly designated as AL. The Contra Costa County General Plan indicates that while the AL designation is intended to be descriptive of the predominant land-intensive agricultural uses in these areas, other uses such as open space and other non-urban uses are allowed. Although management of preserves in areas where livestock grazing occurs would change, grazing is expected to continue on most lands. Preserve acquisition in Zone 6 would not conflict with the AC and AL designations in this area because lands would be acquired in easement to ensure the maintenance of economically viable agricultural operations in the zone.</p>
<p>Impact LU-6: Potential conflicts with existing HCPs.</p>	<p><i>Impacts will be less than significant; no mitigation measures are required.</i></p>	<p>None Required</p>	<p>The HCP/NCCP would not conflict with the biological goals and objectives or other conservation planning occurring in San Joaquin or Alameda County. Implementation of the HCP/NCCP may have a beneficial impact on land use by coordinating acquisition with the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan and conservation in Alameda County, and thereby avoiding potential land use incompatibilities.</p>

Impact	Findings	Mitigation	Rationale
<p>Impact LU-7: Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere.</p>	<p><i>Impacts will be less than significant; no mitigation measures are required.</i></p>	<p>None Required</p>	<p>The HCP/NCCP is not expected to be a substantial impediment to meeting current or future residential development needs, including affordable housing allocations. All of the local jurisdictions (Pittsburg, Antioch, Brentwood, and Oakley) have identified that they have sufficient residentially-designated land within their current city limits to meet their current and future regional housing needs, including affordable housing. In the long-term there are several compatibility conflicts between areas outside the city limits that are designated high-priority HCP/NCCP acquisition areas and are designated for residential use. However, most of these areas are located in the foothills, and are designated for low-density housing. These areas are likely to provide market rate housing, not low-income housing which is usually provided within city limits in areas designated for medium and high-density residential development. Overall, given the local jurisdiction identification of substantial available acreage for residential development and that the limited areas of conflict primarily concern market-rate housing, the HCP/NCCP is not likely to result in a disproportionate impact on low-income housing utilized by economically disadvantaged residents of eastern county. In the long-term, Pittsburg, Antioch, and Brentwood may need to adjust the location of future residential development depending on where HCP/NCCP acquisitions actually occur, but given the ample opportunity lands that are identified in the local jurisdictional housing elements and the flexibility in the preserve system assembly, there is no substantial evidence that the HCP/NCCP will hinder the ability of the local jurisdictions to meet their regional housing allocations.</p>
<p>Impact AG-1: Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to nonagricultural use.</p>	<p><i>Impacts will be less than significant; no mitigation measures are required.</i></p>	<p>None Required</p>	<p>The amount of Prime, Statewide, and Unique Farmland in Zones 1–5 that may be converted to nonagricultural uses under the Plan is small and represents only a fraction of the total amount of Prime, Statewide, and Unique Farmland within the county. Most of the agricultural land acquired by the implementing entity would remain in some form of agricultural production. Because only a small area or important farmland (prime, statewide, or unique) may be converted and agricultural would continue in most acquired areas, this impact is considered less than significant.</p>
<p>Impact AG-2: Conflict with existing zoning for agricultural use or a Williamson Act contract.</p>	<p><i>Impacts will be less than significant; no mitigation measures are required.</i></p>	<p>None Required</p>	<p>Acquisition Zones 1–5 contain large amounts of non-prime land enrolled under the Williamson Act. Land within Zones 1–5 would be acquired primarily in-fee. Because public agencies are not eligible for coverage under a Williamson Act contract, any of these contracted lands in Zones 1–5 that are purchased in-fee or donated in-lieu of payment to the Implementing Entity would be removed from Williamson Act contract. Although the contract would be voided, the land would remain in agricultural production or as open space, a use that is compatible with a Williamson Act contract, and would create no physical change in the environment. In accordance with Government Code Section 51291(b), the Implementing Entity would be required to notify the Director of the California Department of Conservation and the Contra Costa County Community Development Department of Williamson Act–contracted land proposed for acquisition. Thus, there would be no physical significant impact on the environment from removal of these lands from Williamson Act contract.</p>

Impact	Findings	Mitigation	Rationale
Impact PS-1: Increased demand for fire protection services as a result of increased recreation and use of prescribed burns.	<i>Impacts will be less than significant; no mitigation measures are required.</i>	None Required	<p>The HCP/NCCP would result in the creation of new recreational areas which would lead to an increase in the number of visitors to these areas. The risk of fire would likely increase, because more people would be participating in recreational activities that may pose potential fire hazards. Possible human activities that may increase the fire risk include campfires, cigarette smoking, and barbecues. In addition, prescribed burning would occasionally be used in the preserves for vegetation management.</p> <p>ECCFPD typically responds to fires, including structural and wildland fires, in the unincorporated areas of the county, and would be called on to respond to fires in the Preserve System. Although the fire risk would increase from the activities mentioned above, the implementation of the Preserve System would be a gradual process requiring years. ECCFPD currently has adequate existing or planned facilities to address the potential increased need presented by the proposed Preserve System. Funding for additional fire protection would be achieved through provisions in Chapter 9 of the proposed HCP/NCCP</p>
Impact PS-2: Increased demand for police protection services due to increased recreational use in the preserves.	<i>Impacts will be less than significant; no mitigation measures are required.</i>	None Required	<p>The Preserve System would attract new visitors to areas that currently do not experience a high volume of human activity. Accordingly, the addition of recreational areas would increase the demand for law enforcement within the preserves. The Contra Costa County Sheriff's Department responds to incidents in the unincorporated areas of the County and would be responsible for protecting the preserves. EBRPD Police also respond to incidents within and near regional parks and preserves. The current network of stations is believed to be adequate to provide any additional police services required by the creation of preserves in the unincorporated areas. Moreover, funding for any additional police protection would be achieved through provisions in Chapter 9 of the proposed HCP/NCCP.</p>
Impact PS-3: Increase in recreational opportunities and parklands in East Contra Costa County.	Beneficial	None Required	<p>The HCP/NCCP would increase the amount of recreational land in East Contra Costa County, creating a beneficial impact.</p>
Impact WTR-1: Potential for short-term degradation of surface water quality from construction associated with urban growth and infrastructure projects.	<i>Impacts will be less than significant; no mitigation measures are required.</i> <i>Project-level mitigation for urban growth and infrastructure projects is within the jurisdiction of local land use authorities and the RWQCBs and is feasible.</i>	Project-level mitigation, as determined necessary, by land use authorities	<p>Potentially significant short-term water quality impacts from urban development and infrastructure projects covered in the HCP/NCCP would be reduced to a less-than-significant level by the implementation of the Conditions on Covered Activities included in Chapter 6 of the HCP/NCCP, existing water quality regulations, and by any additional project-level mitigation determined to be necessary during project-level land use permit processing and CEQA analysis.</p> <p>The HCP/NCCP does not authorize individual projects. Construction BMPs are routinely implemented, are feasible, and are within the authority of the local land use authorities and the San Francisco and Central Valley Regional Water Quality Control boards.</p>

Impact	Findings	Mitigation	Rationale
<p>Impact WTR-2: Potential for long-term degradation of surface or groundwater quality, alteration of drainage patterns, increased flooding potential associated with urban growth and infrastructure projects.</p>	<p><i>Impacts will be less than significant; no mitigation measures are required.</i> <i>Project-level mitigation for urban growth and infrastructure projects is within the jurisdiction of local land use authorities and the RWQCBs and is feasible.</i></p>	<p>Project-level mitigation, as determined necessary, by land use authorities</p>	<p>Potentially significant long-term water quality impacts from urban development and infrastructure projects covered in the HCP/NCCP would be reduced to a less-than-significant level by the implementation of the Conservation Measures included in Chapter 6 of the HCP/NCCP and by any additional project-level mitigation determined to be necessary during project -level permit processing and CEQA analysis.</p> <p>The HCP/NCCP does not authorize individual projects. Project-level drainage BMPs are routinely implemented, are feasible, and are within the authority of the local land use authorities and the San Francisco and Central Valley Regional Water Quality Control boards.</p>
<p>Impact WTR-3: Potential for short-term degradation of surface water quality from activities in HCP/NCCP preserves.</p>	<p><i>Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.</i></p>	<p>Mitigation WTR-1: Implement erosion and sediment control BMPs.</p>	<p>The Implementing Entity or its designated agents will implement multiple erosion and sediment control BMPs in areas with potential to drain to surface waters. These BMPs will be selected to achieve maximum sediment removal and represent the best available technology that is economically achievable. BMPs to be implemented as part of this mitigation measure could include temporary erosion control measures, protection of drainage facilities in downstream offsite areas, and establishment of grass or other vegetative cover as soon as possible after disturbance. BMPs would be consistent with Contra Costa County and participating city ordinances, and with grading, erosion, and sediment control standards. These measures will reduce short-term water quality effects of preserve activity to a less than significant level.</p>
<p>Impact WTR-4: Potential for long-term degradation of surface or groundwater quality, alteration of drainage patterns, increased flooding potential from activities in HCP/NCCP preserves.</p>	<p>Beneficial</p>	<p>None Required</p>	<p>The proposed HCP/NCCP outlines methods to enhance and maintain water quality, prevent siltation, and enhance flood protection (Conservation Measures 1.7 and 1.10). The conservation measures establish buffers between urban development and protected streams to protect uplands and wetlands within the proposed HCP/NCCP preserves. The buffer zones would reduce the potential for flooding through the establishment of a floodplain and meandering channel. Impacts on people or structures from flooding would be reduced through implementation of the HCP/NCCP. The overall impact would be beneficial.</p>

Impact	Findings	Mitigation	Rationale
<p>Impact SOCIO-1: Effects on employment, industry, or commerce, or displacement of businesses or farms from implementation of the proposed Plan.</p>	<p><i>Impacts will be less than significant; no mitigation measures are required.</i></p>	<p>None Required</p>	<p>Implementation of the proposed HCP/NCCP and issuance of take permits would change development conditions, which could in turn affect the overall economic and market climate in the area.</p> <p>The HCP/NCCP also makes specific requirements of project applicants. These costs may be minor in some cases, such as biological survey costs, or may have higher costs, such as reduced development footprints and greater setbacks. These measures may reduce the developable area of a property. However, existing biological constraints would affect development potential with or without the project and likely result in similar or even higher costs due to the current lack of a coordinated conservation strategy. Thus, the addition of conditions on covered activities would not represent an undue burden that would be expected to displace development and result in significant secondary physical effects on the environment in other locations.</p> <p>The acquisition of lands for preserves and management for purposes of biological resources could have implications for the development potential of certain lands. The decision to acquire land for HCP/NCCP preserves would rely on identification of willing sellers and a determination that subject properties are suitable. Overall, as disclosed in the EIR, the project is flexible in accommodating future development in accordance with general plans, and acquisition is primarily focused in lands outside of those designated for urban development. Thus, land acquisition while it may affect specific parcel development potential, would not overall impede the ability for growth to occur in the plan area.</p> <p>Cultivated agricultural lands in Contra Costa County are primarily in the far eastern portions of the county, in and around an area designated in the County General Plan as AC. The HCP/NCCP contemplates land acquisition in the County’s AC, but most land acquired in this area would be acquired through conservation easement. Lands acquired by conservation easement would permit continued agricultural use. Agricultural management plans will be prepared for preserved croplands and pasturelands (Conservation Measure 1.3). Changes in agricultural practices (e.g., use of pesticides or herbicides, schedule of activities) may be required as conditions of the proposed HCP/NCCP easement, but the conditions would be compatible with maintaining the ongoing economical viability of agricultural use. The use of conservation easements within this area would avoid displacing any farms and avoid substantially affecting the major economically productive lands in the county.</p> <p>Agricultural lands elsewhere in the county are primarily grazing lands with limited areas of hay or cultivated crops. However, lands currently in agriculture would likely continue in agricultural use under lease to farmers and under prescribed protocols of an agricultural land management plan. Grazing would be continued or used on many of the acquired preserve lands to support vegetation management objectives (Conservation Measure 1.2).</p> <p>The HCP/NCCP would thus not affect regional economy, substantially displace farms, or permanently change the conditions that affect individual businesses or the local economic climate (land use, transportation systems, customer base, etc.).</p>

Impact	Findings	Mitigation	Rationale
<p>Impact SOCIO-2: Potential effects on property values or local tax base from acquisition of land for preserves.</p>	<p><i>Impacts will be less than significant; no mitigation measures are required.</i></p>	<p>None Required</p>	<p>Property values are dependent on a wide range of site-specific and broad geographic considerations, such as size and shape of the property, accessibility and visibility, environmental conditions, legal constraints, utilities, zoning and regulation, land supply, and overall economic climate. The proposed Project would not rezone any parcels, introduce any new or substantially different uses, or alter or expand any support infrastructure to these areas (e.g., expand water service, improve transportation network) such that the value of surrounding lands would be affected. Land acquisition under the proposed HCP/NCCP could indirectly affect property values by influencing a number of land valuation factors.</p> <p>Land acquisition for preserves would result in specific restrictions on the use of individual preserve properties. The extent and type of restrictions would be highly variable, depending on the current conditions and use of the property. For example, agricultural lands acquired may continue in agriculture use, but with minor conditions on use to enhance biological values. Restrictions on use of property could be perceived in the marketplace as detrimental to the value of adjacent agricultural properties. The proposed HCP/NCCP provides take coverage for adjacent agricultural parcels to prevent impacts on surrounding agricultural practices. Other more intensively managed lands in proximity to preserves (i.e., commercial or industrial uses) would not likely be affected to any measurable degree, because these lands offer little habitat value that would attract sensitive species.</p> <p>Similarly, acquisition and maintenance of lands in open space could increase property values. Implementation of the HCP/NCCP could result in land speculation, whereby lands are purchased with the intent to resell to the HCP/NCCP Implementing Entity at a profit. Land speculation is not likely to be substantial in East Contra Costa County due to the broad areas that are suitable for acquisition. Land acquisition for open space is also viewed as an important amenity in the regional context and could have a positive effect on land values. Preserved lands in proximity to developed areas, but within the region, is a substantial component of property values of the residential housing market.</p> <p>Finally, land acquisition under the HCP/NCCP could affect the local tax base by removing lands from the County tax rolls. Lands acquired through conservation easement would continue to be taxed as agricultural lands and would not affect the tax base. Land acquired in fee title would be broadly distributed throughout inventory area. Because the HCP/NCCP does not specify the amount of in-fee versus easement acquisition, or specific parcels for acquisition, a detailed determination of impact on the tax base is not feasible. Based on a tax rate of 1.20%, the potential maximum reduction in property tax receipts is estimated as \$2,124,000. The property tax roll for land in Contra Costa County in 2003 was approximately \$40,483,000,000. The loss in property tax under the HCP/NCCP would represent approximately 0.005% of the County’s annual property tax revenue and is not considered significant.</p>

Impact	Findings	Mitigation	Rationale
<p>Impact SOCIO-3: Potential effects on minority, low-income, elderly, disabled, transit-dependent, or other specific interest groups from acquisition of land for preserves.</p>	<p><i>Impacts will be less than significant; no mitigation measures are required.</i></p>	<p>None Required</p>	<p>All of the local jurisdictions (Pittsburg, Antioch, Brentwood, and Oakley) have identified that they have sufficient residentially-designated land within their current city limits to meet their current and future regional housing needs, including affordable housing. In the long-term there are several compatibility conflicts between areas outside the city limits that are designated high-priority HCP/NCCP acquisition areas and are designated for residential use. However, most of these areas are located in the foothills, and are designated for low-density housing. These areas are likely to provide market rate housing, not low-income housing which is usually provided within city limits in areas designated for medium and high-density residential development. Overall, given the City’s own identification of substantial available acreage for residential development and that the limited areas of conflict primarily concern market-rate housing, the HCP/NCCP is not likely to result in a disproportionate impact on low-income housing utilized by economically disadvantaged residents of the eastern county. In the long-term, Pittsburg, Antioch, and Brentwood may need to adjust the location of future residential development depending on where HCP/NCCP acquisitions actually occur, but given the ample opportunity lands that are identified in the local jurisdictional housing elements and the flexibility in the preserve system assembly, there is no substantial evidence that the HCP/NCCP will hinder the ability of the local jurisdictions to meet their long-term regional housing allocations including those for affordable housing.</p> <p>Removal of lands from agricultural production could result in a loss of agricultural jobs, an employment sector that has a large percentage of minority and low-income workers. The HCP/NCCP could potentially remove from production less than 1% of irrigated agricultural land including cropland, vineyards, and orchards. The loss in land available for agricultural use would be offset in part by the purchase of easements on agricultural lands that would ensure continued agricultural use. The proposed project is likely to have only a minor impact on the agricultural economy, and it would not disproportionately affect minority, low income, elderly, disabled, transit-dependent, or other interest groups.</p>
<p>Impact GEO-1: Expose people or structures to rupture of a known earthquake fault, strong seismic ground shaking, or seismic-related ground failure.</p>	<p><i>Impacts will be less than significant; no mitigation measures are required.</i></p>	<p>None Required</p>	<p>No structures for human occupancy are proposed for construction to support implementation of the HCP/NCCP or the Preserve System. Any minor construction, such as installation of restrooms, would be built according to appropriate standards, including the current UBC and California Building Standards Code (CBSC).</p>

Impact	Findings	Mitigation	Rationale
Impact GEO-2: Expose people or structures to landslides.	<i>Impacts will be less than significant; no mitigation measures are required.</i>	None Required	<p>In the unincorporated portions of the County, restoration or other activities requiring substantial grading (more than 200 cubic yards of soil) would require the Implementing Entity to obtain a grading permit from the County Department of Building Inspection. In order to obtain a grading permit, the Implementing Entity would be required to retain a qualified professional to conduct site-specific geotechnical investigations consistent with all applicable standards of professional engineering geologic/geotechnical practice. These investigations would be conducted once land has been designated for restoration/creation and will provide a geologic basis for the development of appropriate project design. Earthwork recommendations to ensure slope stability and erosion controls, based on site conditions, would be incorporated into the project construction documents. The Implementing Entity may also be required to secure an NPDES permit as part of the grading permit (see also Mitigation Measure WQ-1). Periodic monitoring and inspection during construction would be conducted by County staff to ensure proper implementation of all design recommendations as stated in County regulations.</p> <p>No structures for human occupancy are proposed for construction to support implementation of the Plan or the Preserve System. Earthwork would take place only in areas not open to the public. Consequently, there is no additional risk to humans or structures from habitat restoration or creation activities.</p>
Impact GEO-3: Result in substantial soil erosion or loss of topsoil.	<i>Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.</i>	Mitigation WTR-1: Implement erosion and sediment control BMPs.	<p>Restoration activities would include ground-disturbing earthwork such as digging, trenching, grading, and other activities that may promote soil erosion and/or loss of topsoil. Mitigation Measure WQ-1 states that the Implementing Entity, when undertaking such ground-disturbing activities, will require implementation of appropriate BMPs and, if activities would disturb more than 1 acre of land, prepare and implement a SWPPP subject to requirements of Section 402 of the federal CWA and NPDES. The SWPPP would include BMPs to control erosion and sedimentation. If more than 1 acre of land is disturbed during the restoration or creation activities in the Preserve System, the Implementing Entity would be required to obtain and implement the SWPPP. The specific acreage of land that will be disturbed will not be known until land acquisition of each parcel takes place. If necessary, the Implementing Entity would be responsible for monitoring to ensure the SWPPP is enforced. Adherence to existing regulations and implementation of Mitigation Measure WQ-1 would reduce this impact to a less-than-significant level.</p>
Impact GEO-4: Be located on expansive soil.	<i>Impacts will be less than significant; no mitigation measures are required.</i>	None Required	<p>When building on expansive soils, some construction materials (e.g., steel or concrete) may become corrosive. Compliance with the California Building Standards Code, which contains provisions for design and construction on expansive soils, is required in order to prevent corrosion.</p>

Impact	Findings	Mitigation	Rationale
<p>Impact CR-1: Potential impacts on known or unknown cultural resources, cultural deposits, or human remains.</p>	<p><i>Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.</i></p>	<p>Mitigation Measure CR-1: Develop HCP/NCCP cultural resources management plan. Mitigation Measure CR-2: Stop work if cultural materials are discovered during ground-disturbing activities.</p>	<p>Preserve activities would be controlled by the cultural resources management plan which will establish an area of potential effect, summarize known resources, identify areas of potential cultural sensitivity, establish mitigation and recordation measures to treat the adverse effects of undertakings such a relocation (of individual structures), recordation, data recovery, and curation.</p> <p>If archaeological deposits, such as chipped stone or groundstone, historic debris, or building foundations, are discovered during construction-related activities, all ground-disturbing activities will cease within a 100-foot radius. A qualified archaeologist will be notified immediately to assess the discovery and identified appropriate treatment measures.</p> <p>If human remains of Native American origin are discovered during ground-disturbing activities, restoration activity will comply with state laws regarding the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (Pub.Res. Code Sec. 5097).</p> <p>This mitigation is feasible and will lower potential impacts to a less than significant level.</p>
<p>Impact TRA-1: Temporary construction-related traffic increases and traffic safety hazards.</p>	<p><i>Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.</i></p>	<p>Mitigation Measure TR-1: Prepare and implement a traffic control plan.</p>	<p>For any restoration or construction activity requiring a grading permit from the County or a city, the Implementing Entity or its designated contractor will, as part of the application for a grading permit, prepare a traffic control plan to address construction-related traffic nuisances and public safety. These plans are feasible, commonly implemented, and would reduce traffic impacts to a less than significant level.</p>
<p>Impact TRA-2: Potential conflicts with transportation plans, programs, and planned projects.</p>	<p><i>Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.</i></p>	<p>Mitigation TRA-2: Avoid planned transportation improvement sites.</p>	<p>As part of the process of identifying suitable sites for proposed HCP/NCCP land acquisition, the Implementing Entity will avoid lands that are within or adjacent to proposed alignments for the following planned transportation projects: Byron Highway-Vasco Road Connector, Kirker Pass Road widening, Marsh Creek Road realignment at selected curves, Vasco Road widening/SR 84, Bridge replacement, repair, and retrofit, Marsh Creek regional trail, and SR 239 (Brentwood-Tracy Expressway). These projects are identified in CCTA’s Contra Costa CTP or MTC’s RTP. Lands within or adjacent to the proposed rights-of-way should not be considered for acquisition unless it is determined that, as part of acquisition, adequate avoidance and minimization measures could be provided to permit construction of the proposed project and avoid inconsistencies with the goals and objectives of the proposed HCP/NCCP. The implementation of this measure will reduce transportation impacts to a less than significant level because of the avoidance of conflict with planned transportation improvement sites.</p>

Impact	Findings	Mitigation	Rationale
Impact TRA-3: Potential traffic increases from proposed HCP/NCCP implementation, including operation and maintenance of preserves.	<i>Impacts will be less than significant; no mitigation measures are required.</i>	None Required	There would be only minor changes in traffic on the roadways due to vehicle trips associated with Plan implementation. Approximately 10 key positions have been identified in the HCP/NCCP as necessary to implement the Plan. These positions may be filled by staff in different agencies, contracted to private specialists, filled at different stages of Plan implementation, or combined. Most vehicle trips would be broadly distributed: they would be associated with species surveys and investigation of potential lands for acquisition, and with operation, maintenance, and passive recreational use of preserves. Although the exact locations of preserves and affected roadways cannot be identified, the establishment of preserves would result in only minor additional vehicle trips. Operation would not generate sufficient additional travel to result in long-term degradation of LOS on adjacent streets.
Impact NOISE-1: Exposure of noise-sensitive land uses to construction-related noise.	<i>Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.</i>	Mitigation Measure NOISE-1: Employ noise-reducing construction practices.	To reduce noise levels to the maximum extent practicable, the restoration contractor will employ the specific identified noise-reducing construction practices. These measures are feasible and can reduce noise impacts to a less than significant level.
Impact NOISE-2: Potential permanent exposure of noise-sensitive land uses to noise levels in excess of established standards.	<i>Impacts will be less than significant; no mitigation measures are required.</i>	None Required	Ongoing activities at the preserves are not expected to create substantial new sources of noise, as they would not generally involve noise-generating actions. Any new noise generated by these activities would be minimal and is not expected to exceed County or city standards.
Impact NOISE-3: Potential increases in traffic noise levels.	<i>Impacts will be less than significant; no mitigation measures are required.</i>	None Required	Implementation of the proposed NCP/HCCP would result in minor increases in traffic associated with habitat restoration and construction in different locations throughout the inventory area. Activities associated with preserve enhancement or construction would be expected to generate a low number of daily trips by both construction workers and trucks, and would not significantly affect noise conditions in the area crossed by the proposed access easement.
Impact AIR-1: Short-term increase in emissions from construction activities.	<i>Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.</i>	Mitigation Measure AIR-1: Implement NOx-reducing construction practices. Mitigation Measure AIR-2: Implement PM10-reducing construction practices.	The project proponent will implement NOx-reducing and PM 10-reducing construction practices, as required, during construction of preserve elements. These measures are feasible and can reduce noise impacts to a less than significant level.

Impact	Findings	Mitigation	Rationale
Impact AIR-2: Short-term increases in CO, ROG, PM10, and NOx from prescribed burning.	<i>Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.</i>	Mitigation Measure AIR-3: Comply with California Air Resource Board's (ARB's) Smoke Management Guidelines for Agricultural and Prescribed Burning. Mitigation Measure AIR-4: Comply with BAAQMD Regulation 5 requirements for wildland vegetation management burning.	The proposed HCP/NCCP will comply fully with ARB's Smoke Management Guidelines for Agricultural and Prescribed Burning. California's Smoke Management Program addresses potentially harmful smoke impacts from agricultural, forest, and rangeland management burning operations. The proposed NCP/HCCP will comply fully with BAAQMD Regulation 5 requirements for all prescribed burns. Compliance entails submission of a smoke management plan for each burn. Each smoke management plan will include specific objectives of the burn, acreage, tonnage to be burned, burn schedule, and particulate matter emissions estimates. If burning were to significantly change from what was originally detailed in the smoke management plan, consultation with BAAQMD staff would be required, and a new smoke management plan may be required, depending on the type of burn. The implementation of these two measures will reduce impacts to a less than significant level as implementation of the ARB and BAAQMD guidelines for prescribed burning are designed to reduce the impacts of such activities on regional air quality.
Impact AIR-3: Determination of Conformity with the State Implementation Plan.	<i>Impacts will be less than significant; no mitigation measures are required.</i>	None Required	The HCP/NCCP would result in annual emissions of 0.11 tons per year of ROG and 1.31 tons per year of NOx. Conformity calculations are provided in Appendix E. These emissions would not exceed the de minimus thresholds of 50 tons per year for these ozone precursors.
Impact AIR-4: Short-term increase in emissions from construction activities.	<i>Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.</i>	Mitigation Measure AIR-5: Implement BAAQMD requirements for the management of PM10.	The project proponent will implement PM 10-reducing construction practices, as required, during construction of preserve elements. These measures are feasible and can reduce air quality impacts to a less than significant level.

Impact	Findings	Mitigation	Rationale
<p>Impact AIR-5: Short-term increases in CO, ROG, PM10, and NOx from prescribed burning.</p>	<p><i>Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.</i></p>	<p>Mitigation Measure AIR-3: Comply with California Air Resource Board's (ARB's) Smoke Management Guidelines for Agricultural and Prescribed Burning. Mitigation Measure AIR-4: Comply with BAAQMD Regulation 5 requirements for wildland vegetation management burning.</p>	<p>The proposed HCP/NCCP will comply fully with ARB's Smoke Management Guidelines for Agricultural and Prescribed Burning. California's Smoke Management Program addresses potentially harmful smoke impacts from agricultural, forest, and rangeland management burning operations.</p> <p>The proposed NCP/HCCP will comply fully with BAAQMD Regulation 5 requirements for all prescribed burns. Compliance entails submission of a smoke management plan for each burn. Each smoke management plan will include specific objectives of the burn, acreage, tonnage to be burned, burn schedule, and particulate matter emissions estimates. If burning were to significantly change from what was originally detailed in the smoke management plan, consultation with BAAQMD staff would be required, and a new smoke management plan may be required, depending on the type of burn.</p> <p>The implementation of these two measures will reduce impacts to a less than significant level as implementation of the ARB and BAAQMD guidelines for prescribed burning are designed to reduce the impacts of such activities on regional air quality.</p>
<p>Impact MIN-1: Loss of availability of a known mineral resource that would be a value to the region and the residents of the state, or loss of availability of a locally important mineral resource recovery site.</p>	<p><i>Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.</i></p>	<p>Mitigation MIN-1: Evaluate mineral resources.</p>	<p>The Implementing Entity shall, when evaluating lands for acquisition in Zones 3 and 5, determine if the lands are within mineral resource protection areas designated in the Contra Costa County General Plan. Lands within the mineral resource protection area will be considered for acquisition only if the Implementing Entity determines that acquisition would not impair future mineral resource extraction in the area by introducing an inherently incompatible use, or by restricting access to other mineral resource areas. Lands adjacent or in proximity to the designated mineral protection area will also be evaluated to assess compatibility with potential future mineral extraction operations, such as quarry transport trucks. This measure is feasible and will substantially avoid the loss of valuable mineral resources and thus result in a less than significant impact.</p>

Additional CEQA Finding Re: Contra Costa County Measure L - Proposed Urban Limit Line

Introduction

Contra Costa County Measure L: Contra Costa County Urban Limit Line was placed on the November 7, 2006 ballot by the Contra Costa County Board of Supervisors.

If this ballot measure is approved by the voters, the measure would amend the County's General Plan (2005-2020) and the 65/35 Ordinance to accomplish the following: (1) extend the term of the 65/35 Ordinance from December 31, 2010, to December 31, 2026; (2) require four-fifths vote of the County Board of Supervisors and voter approval to expand the ULL by more than 30 acres (but voter approval is not required if four-fifths of the Board finds after a public hearing that there is substantial evidence in the record that the ULL expansion is necessary to avoid an unconstitutional taking of private property or is necessary to comply with state or federal law); (3) provide for periodic reviews of the ULL by the Board of Supervisors and a required review in 2016 involving an evaluation of housing and job needs; (4) adopt a new ULL map; and (5) retain the 65/35 land preservation standard and protections for the County's prime agricultural land.

Within the HCP/NCCP Inventory Area, Measure L would change the County's ULL near the cities of Clayton, Pittsburg and Antioch. The proposed ULL would match the City-adopted ULLs for Pittsburg and Antioch that were approved by the respective City covers in November 2005. The proposed ULL would match that requested by the Clayton City Council. Maps showing the proposed ULL changes are enclosed.

Pittsburg and Clayton are participants in the HCP/NCCP. Antioch is not.

Contra Costa County prepared an Initial Study evaluating the proposed changes in the ULL. The Initial Study concluded that the adoption of the proposed ULL would not result in any significant impacts to the environment. A Mitigated Negative Declaration was adopted by the County accordingly.

Additional CEQA Finding

The HCP/NCCP defines two urban development areas for the purposes of the analysis.

The *initial urban development area* is most of the area within the current (pre-Measure L) County ULL and city limits. Urban development within the initial urban development area is expected to result in 8,670 acres of impact to land cover types that may support covered species (see Figure 2-3 in Chapter 2 of the HCP/NCCP).

The *maximum urban development area* is the largest area to which urban development could expand under the terms of the HCP/NCCP. Under this scenario, an additional 3,183 acres of ground-disturbing urban development activities within the permit area would be allowed, as long as the conditions of the proposed HCP/NCCP are met. The size and impacts of the maximum urban development area were established by:

- analyzing areas outside the initial urban development area that are proposed for future development in the general plans of Brentwood, Clayton, Pittsburg, and the County, and
- ensuring consistency with the biological goals and objectives of the Plan and with the conservation strategy (see Chapter 5 of the HCP/NCCP).

As described in Chapter 2 of the Final HCP/NCCP and Chapter 2 of the Final EIS/EIR, if a participating city expands or shrinks its city limit or if the County ULL shrinks or expands, the permit area for the HCP/NCCP would automatically expand or shrink to reflect the land use policy change, as long as the conditions below apply.

- The revised urban development area, together with projected impacts from covered activities outside the urban development area, does not exceed the maximum land cover or total impact projections (i.e., take limits) in Chapter 4 (of the HCP).
- The revised urban development area excludes areas designated as high priorities for acquisition under the HCP/NCCP conservation strategy, as designated in Figure 5-3, Acquisition Priorities Under the Maximum Urban Development Area Scenario (see Chapter 5 of the HCP).
- The revised urban development area is consistent with successful implementation of the HCP/NCCP conservation strategy (see Chapter 5 and Figures 5-2 and 5-3 of the HCP).

The urban development area covered under the HCP/NCCP at the end of the permit term could fall anywhere in the range defined by the initial urban development area and the maximum urban development area, depending on local land use decisions that occur during the permit term.

The proposed revised County ULL includes the following specific areas, totalling 2,268 acres of additional area within the ULL, that are within the ECCC HCP/NCCP Inventory Area:

- Pittsburg - Hills (429 acres) and Kirker Pass (697 acres);
- Antioch - South (1,111 acres); and
- Clayton (inside the ULL - 40 acres; outside the ULL - 9 acres)

This total area proposed to be added to the ULL is approximately 1,000 acres less than allowed by the HCP/NCCP for the maximum urban development area. The potential adoption of a revised County ULL was thus anticipated as an action by the HCP/NCCP and the biological impacts have been accounted for in the conservation strategy in the HCP/NCCP and in the analysis of biological impacts in the EIR.

It is important to note that the HCP/NCCP does not approve urban development or infrastructure projects that are included as covered activities. Such approval is the jurisdiction of the respective land use authorities. The HCP/NCCP is an alternative means of compliance with state and federal endangered species acts and would replace the current project-by-project approach. The EIS/EIR analyzed biological impacts to covered species because the HCP/NCCP would change the way in which such impacts are addressed for covered activities. However, adoption of the HCP/NCCP does not represent any entitlement for development to occur. Thus, while the proposed revisions to the County ULL would change the HCP/NCCP permit area, as discussed below, the relevant impacts of such a change are the impacts of changing how endangered species act compliance is handled, not the impacts of potential development itself, which is outside the authority of the HCP/NCCP. Since the HCP/NCCP and its EIS/EIR anticipated far higher biological impacts through analysis of the maximum UDA, the potential impacts on covered species through additional development in an expanded ULL has been adequately disclosed and analyzed. Impacts of development itself is the purvey of the individual land use authorities, their general plans, and their project-level review.

The Pittsburg-Hills adjustment to the County ULL includes a small area (85 acres) of high-acquisition priority for conservation. Per the HCP/NCCP requirements noted above, the revised UDA and revised permit area will not include the high-priority area. The Pittsburg-Kirker Pass adjustment to the County ULL and the Clayton adjustments are all within low-acquisition priority areas and thus the revised permit area can expand to include these areas.

The Antioch adjustment to the County ULL includes some high-acquisition priority areas in the Roddy Ranch area. Since Antioch is not a participant in the HCP/NCCP, the permit area for the HCP/NCCP does not presently include present or future urban development in Antioch in the UDA. Thus, the adjustment to the County ULL relative to Antioch will not result in any revision to the HCP/NCCP permit area if Antioch ultimately annexes these lands.

The potential land use conflicts between the high conservation priority areas designated by the HCP/NCCP within the City of Pittsburg and Antioch ULLs were an issue raised in comment on the Draft EIR. Potential conflicts were analyzed in the Draft and Final EIR and the comments on this issue were responded to in the response to comments in detail as they relate to land use planning, housing and affordable housing, socioeconomics and environmental justice. These potential conflicts are not considered significant environmental impacts because:

- the amount of land that may be acquired within areas inside the city ULLs is limited and thus disruption to future land use patterns would also be limited;
- the amount of available land for housing and affordable housing is ample for both existing and future housing needs, even if a limited amount of residentially-designated land is acquired for conservation purposes;
- the Final HCP/NCCP adjusted conservation priorities in some of the areas within the Pittsburg ULL and the Antioch ULL to reduce the potential for conflict; and
- there is ample flexibility in preserve assembly to adapt conservation acquisitions to minimize potential conflicts with city planning; and
- the mitigation/conservation requirements will automatically increase in proportion to the increase amount of development that may ultimately be allowed by the applicable land use authority under the expanded ULL.

The proposed changes to the ULL near Clayton are limited in scope (40 acres moved inside the proposed ULL with 9 acres moved outside the ULL). The areas moved inside the proposed ULL are all located in areas with a low conservation acquisition priority. Thus, the potential for land use conflicts and any resultant impacts on land use planning, housing, affordable housing, socioeconomics or environmental justice is considered low and less than significant.

Proposed ULL changes outside the HCP/NCCP inventory and permit area, such as in the Pittsburg Waterfront area, have no effect on the HCP/NCCP.

The potential ULL expansion would not affect or change other CEQA findings because it was anticipated by the EIR and thus would not change the characterization of impacts in the EIR.

CEQA Finding Re: Annexation of the Roddy Ranch and Adjoining Properties to the City of Antioch

Introduction

The Contra Costa County Local Agency Formation Commission (LAFCO) is scheduled to consider an annexation to the City of Antioch on November 8, 2006. The area to be annexed is located south of the current Antioch city limits, includes a portion of property known as the Roddy Ranch, and is within the Inventory Area for the HCP/NCCP. In a November 2005 public initiative, the City of Antioch adopted a ULL that included the proposed annexation area. The United States Fish and Wildlife Service (“USFWS”), the California Department of Fish and Game (“CDFG”) (collectively, the “Wildlife Agencies”) and the HCPA agreed that the City’s adoption of the ULL reduced the feasibility of conserving land in that area to the extent proposed in the draft HCP/NCCP. The Wildlife Agencies and the HCPA also agreed that, given the opportunity presented in the HCP/NCCP to address species needs on a comprehensive and regional basis, that it was possible to adjust to the changes in land use policy while meeting species conservation goals.

CEQA Finding

If LAFCO approves the annexation, because the City of Antioch is not a participant in the HCP/NCCP, the annexation area would not be within the permit area for the HCP/NCCP, would not be covered by the species permits issued for the HCP/NCCP, and would not be subject to the conservation requirements of the HCP/NCCP. To comply with the requirements established by USFWS and CDFG for HCPs and NCCPs, lands within the annexation area would still be considered for acquisition from willing sellers in order to achieve the species conservation requirements for a regional conservation plan, in particular, requirements for a Preserve System that maintains habitat connectivity. However, the constraints associated conserving land in an area

proposed for significant development have been analyzed and the Final HCP/NCCP has been adjusted accordingly. The following points should be noted in this regard:

- Acquisition priorities shown on the acquisition priorities maps for the HCP/NCCP were reduced in the annexation area from the Draft to the Final HCP/NCCP.
- The text of Chapter 5 of the HCP/NCCP describing land acquisition requirements was also modified for the Final HCP/NCCP to address acquisition constraints resulting from the adoption of the Antioch ULL and the probable expansion of the City of Antioch to the south. In particular, as more fully described on pages 5-46 and 5-47 of the Final HCP/NCCP, because the probable expansion of the Antioch city limits to the south makes the complete acquisition of high priority areas infeasible, narrower movement routes will be pursued.
- As indicated in the Final EIR for the proposed annexation, site specific planning would follow the annexation. Likewise the Final EIR for the annexation acknowledges that there may be viable development alternatives that accomplish the stated objectives of the Project and the acquisition objectives of the HCP/NCCP. Further, the Final EIR for the annexation requires that wildlife corridors be provided as a mitigation measure.
- Under the HCP/NCCP, land may only be acquired from willing sellers.
- It was not possible to provide a more detailed conservation strategy for the annexation area through the HCP/NCCP because the land use agency planning development of that area was not a participant in the process. If the City of Antioch were to participate in an amendment of the HCP/NCCP to include land within the Antioch city limits inside the permit area, it would be possible more specifically coordinate conservation requirements and proposed development.

The potential annexation would not affect or change the impact analysis provided in the Final EIR nor would it affect other CEQA findings because the annexation was anticipated by the EIR and thus would not change the characterization of impacts in the EIR.

CEQA Finding Re: Southwest Hills Properties within Pittsburg Urban Limit Line

Introduction

Portions of the Southwest Hills area of the City of Pittsburg General Plan Planning Area (“Southwest Hills”) near Bailey Road, were designated in the draft HCP/NCCP as a high priority for inclusion in the Preserve System. This area is referred to in the HCP/NCCP as Acquisition Analysis Subzone 1a (“Subzone 1a”). At the time the Draft HCP/NCCP was released, much of the Southwest Hills, including Subzone 1a, was outside the city limits of Pittsburg and outside the County Urban Limit Line (“ULL”). After the draft HCP/NCCP had been released for public review, the City of Pittsburg, in a November 2005 public initiative, adopted a ULL that included the Southwest Hills and Subzone 1a in their entirety. The United States Fish and Wildlife Service (“USFWS”), the California Department of Fish and Game (“CDFG”)(collectively, the “Wildlife Agencies”), and the HCPA agreed that the City’s adoption of the ULL reduced the feasibility of conserving land in Subzone 1a to the extent proposed in the draft HCP/NCCP. The Wildlife Agencies and the HCPA also agreed that, given the opportunity presented in the HCP/NCCP to address species needs on a comprehensive and regional basis, it was possible to adjust to the changes in land use policy while meeting species conservation goals.

Consequently, the USFWS, CDFG, and the HCPA considered revisions to the HCP/NCCP to reduce the land acquisition requirements within the City of Pittsburg’s new ULL while continuing to achieve the goals and objectives of the HCP/NCCP with respect to species conservation and streamlined species permitting for areas proposed for development. In the Final HCP/NCCP, land acquisition requirements in Subzone 1a were reduced from 370 acres to 85 acres. Land acquisition requirements in other Acquisition Analysis Subzones were increased by an amount larger than these reductions to ensure that overall conservation and conservation of suitable habitat for covered species met or exceeded the levels proposed in the draft HCP/NCCP. The estimated size of the Preserve System under the Maximum Urban Development Area increased from approximately 30,000 acres in the draft HCP/NCCP to 30,300 acres in the Final HCP/NCCP, despite the reductions in the requirements for Subzone 1a.

To provide additional assurances that the HCP/NCCP would achieve its conservation obligations, the Wildlife Agencies participated in discussions with the owner of two properties located in the Southwest Hills and in and around Subzone 1a. The two properties are referred to as the “Faria South/Costa Property” and the “Montecito Property” (collectively, “Properties”). The Wildlife Agencies and the owner of the Properties have identified substantial, mutually agreeable, additions of land to the Preserve System and funding for HCP/NCCP implementation. These land dedications and funding contributions will comply with the provisions of the HCP/NCCP for contributions of land in lieu of fees. These provisions of the HCP/NCCP are described in Section 8.6.7 and provide an opportunity for project proponents to contribute land instead of paying some or all of the general HCP/NCCP mitigation fees. As with the general mitigation fees, the provisions for contributions of land in lieu fees are consistent with the requirements of and further the HCP/NCCP Conservation Strategy.

The details of the land dedication and funding contribution measures associated with the “Faria South/Costa Project” and the “Montecito Project” will be set forth in an in-lieu fee agreement in accordance with Section 13.2.2.2 of the Implementing Agreement. Since this agreement may be developed prior to formation of the Implementing Entity, the agreement will need to be executed by the Wildlife Agencies. The in-lieu agreement will conform to the requirements set forth in Section 8.6.7 of the HCP/NCCP and other applicable requirements of the HCP/NCCP. The amount of land dedication and funding contribution to be provided through this in-lieu agreement will enable substantial initial progress toward land acquisition and other requirements of the HCP/NCCP and provide additional assurances, beyond the provisions of the HCP/NCCP itself, that conservation requirements will be achieved.

As required by the HCP/NCCP, the in-lieu agreement for the Montecito and Faria Properties will provide for phased dedications of land for conservation, payment of development fees, and additional conservation and habitat management measures. Currently, the draft agreement envisions the pre-development, phased dedication of approximately 900 acres of land for conservation, pre-development payment of substantial development fees, and implementation of additional avoidance, minimization and conservation measures. The retention by the HCP Implementing Entity of the pre-development dedication of land and pre-development payment of fees will be contingent upon (but does not guarantee): approval of the HCP/NCCP by the Wildlife Agencies and the City of Pittsburg; the future approval of land use entitlements for the properties; and future issuance of take permits by the City of Pittsburg.

This information presented above is also presented in the draft Implementing Agreement in Section 9.7 of Appendix B to the HCP/NCCP.

CEQA Finding

The revision of conservation priorities is disclosed in the Final HCP/NCCP and the Final EIS/EIR as it relates to the Southwest Hills and Subzone 1a. While the area of high conservation priority in Subzone 1a was reduced from 370 acres to 85 acres in the Final HCP/NCCP compared to the Draft HCP/NCCP, it is the conclusion of the HCP/NCCP and the EIS/EIR that the overall conservation goals for each of the covered species can be met by the HCP/NCCP as a whole, including this change. By addressing species needs on a comprehensive and regional basis, it was possible to adjust to the local changes in land use policy while meeting species conservation goals. This conclusion is supported by other changes to the Draft HCP/NCCP. For example, acquisition requirements in other Acquisition Analysis Subzones were increased by an amount larger than the reductions to Subzone 1a to ensure that overall conservation and conservation of suitable habitat for covered species met or exceeded the levels proposed in the draft HCP/NCCP. The estimated size of the Preserve System under the Maximum Urban Development Area increased from 30,000 acres in the draft HCP/NCCP to 30,300 acres in the Final HCP/NCCP, despite the reductions in the requirements for Subzone 1a.

In addition, an in-lieu agreement will be executed with the owner of the Properties near Subzone 1a in accordance with Section 8.6.7 of the HCP, and Sections 9.7 and 13.2.2.2 of the Implementing Agreement. This in-lieu agreement will enable substantial initial progress toward land acquisition and other requirements of the HCP/NCCP and provide additional assurances, beyond the provisions of the HCP/NCCP itself, that conservation requirements will be achieved.

It is important to note that the HCP/NCCP does not approve urban land use designations, urban land uses, development projects or infrastructure projects that may ultimately be covered under the HCP/NCCP as covered activities. Such approval is the jurisdiction of the respective local land use authorities, which in this case is expected to be the City of Pittsburg. The HCP/NCCP is an alternative means of compliance with state and federal endangered species acts than the current project-by-project approach. The EIS/EIR analyzed biological impacts to covered species because the HCP/NCCP would change the way in which such impacts are addressed for covered activities. Since the HCP/NCCP and its EIS/EIR anticipated far higher biological impacts than the those related to the initial urban development area through analysis of a maximum urban development area, the potential impacts on covered species through additional development in an expanded ULL (including the Southwest Hills) has been adequately disclosed and analyzed. Other impacts of development itself (e.g. beyond impact to the covered species) is the responsibility of the individual land use authorities, their general plans, and their project-level review. Adoption of the HCP/NCCP does not represent land use entitlement for development to occur. Thus, the revisions to the acquisition priorities in Subzone 1a would change how endangered species act compliance is handled for specific areas in the Southwest Hills, but would not authorize the potential development of these lands itself, which is outside the authority of the HCP/NCCP.

The in-lieu agreement regarding the Faria South/Costa and Montecito properties must meet the criteria in HCP/NCCP Section 8.6.7 which requires that the in-lieu land supports biological resources that meet Plan requirements and contributes to Plan biological goals and objectives. Approval of such an in-lieu agreement for these properties, or, for that matter, other in-lieu agreements during future implementation of the HCP/NCCP, is thus anticipated by the HCP/NCCP and the potential effects of such agreements is anticipated by the analysis of impacts to covered species in the HCP/NCCP and the EIS/EIR.

Thus, the revision of conservation priorities in Zone 1a and the potential signing of a HCP/NCCP compliant in-lieu agreement concerning the two properties would not result in a change in circumstances surrounding the anticipated implementation of the HCP/NCCP, nor would it constitute new significant biological impacts nor a substantial increase in previously disclosed significant biological impacts beyond those disclosed in the draft EIS/EIR. Thus, there is no requirement for recirculation of the draft EIS/EIR as none of the CEQA criteria for recirculation in Section 15088.5(a) of the CEQA guidelines has been met, and the biological impacts resulting from the implementation of the HCP/NCCP, including conservation measures established by in-lieu agreements that comply with the HCP/NCCP continue to be mitigated to a level that is less than significant.

East Contra Costa County HCP/NCCP
Additional CEQA Finding

Neither the HCP/NCCP, the EIS/EIR, the Implementation Agreement, nor any affiliated MOU or agreement with Discovery Builders/Seeno Homes (or any affiliated entities), constitutes any form of city of Pittsburg or County land use approval or determination for development, or an expressed or implied approval by the city of Pittsburg or any County agency of any type, size, location, intensity, or configuration of land use in Subzone 1a.

Any final MOU and/or "in-lieu agreement" between USFWS, CDFG and/or HCPA and Discovery Builders/Seeno Homes (or any affiliated entities), regarding Subzone 1a will not be considered by the city of Pittsburg or any County agency to contain or constitute a determination of the appropriate type, size, location, intensity, or configuration of future development in Subzone 1a or the final determination of the size, location or configuration of areas for open space or preservation within Subzone 1a.

All city of Pittsburg or County determinations or approvals regarding the type, size, location, intensity, or configuration of future development in Subzone 1a, and mitigation for the environmental impacts of such development will be determined solely through the local land use entitlement and environmental review process.

Any MOU and/or "in-lieu agreement" with Discovery Builders/Seeno Homes (or any affiliated entities) regarding Subzone 1a that will be incorporated into the HCP will be prepared in draft and then provided to the cities of Concord and Pittsburg for a minimum of 30 days for review and comment before being finalized and before the city of Pittsburg executes the HCP Implementation Agreement.

The HCP/NCCP and its associated EIS/EIR do not constitute complete CEQA review for any future development in Subzone 1a, and any future development in Subzone 1a will require project specific CEQA review.