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**EXHIBIT 2: October 31, 2002 Staff Recommendation**

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COASTAL CONSERVANCY

Project Summary  
October 31, 2002

**DUTCH SLOUGH ACQUISITION AND PLANNING**

File No. 02-066  
Project Manager: Mary Small

RECOMMENDED ACTION: Acceptance of a grant of \$25,050,000 from the CALFED Bay Delta Program for acquisition and planning of the Dutch Slough Restoration Project. Authorization to disburse up to \$23,000,000 of CALFED grant funds and up to \$5,000,000 of Conservancy funds to the Department of Water Resources to acquire the Dutch Slough property. Authorization to disburse \$2,050,000 of CALFED grant funds and an additional \$260,000 of Conservancy funds for technical studies, planning, data collection, and other work associated with planning for restoration and public access. Authorization to disburse up to \$50,000 to the City of Oakley for development of a public access master plan for the site. Authorization to disburse up to \$75,000 to the Natural Heritage Institute to develop project objectives, performance criteria, and a monitoring plan for the restoration.

LOCATION: South shore of the Sacramento–San Joaquin Delta in the city of Oakley, in eastern Contra Costa County (Exhibit 1)

PROGRAM CATEGORY: San Francisco Bay Area Conservancy

ESTIMATED COST: **Acquisition**

Coastal Conservancy	\$ 5,000,000
CALFED	23,000,000
Landowners (donation)	<u>10,000,000</u>
TOTAL	\$38,000,000

**Restoration and Public Access Planning**

Coastal Conservancy	\$ 385,000
CALFED	2,050,000
City of Oakley	<u>50,000</u>
TOTAL	\$2,385,000

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Conservancy funding would likely be derived from appropriations to the Conservancy from the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002 (Proposition 40) and the Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Act of 2000 (Proposition 12).

**PROJECT SUMMARY:** Staff is recommending that the Conservancy authorize funding for the acquisition of a 1,166-acre property in the city of Oakley, located along the shore of the Sacramento–San Joaquin Delta (Delta) in eastern Contra Costa County for the purposes of restoring habitat and creating public access opportunities (Exhibits 1 & 2).

The topography and location of the Dutch Slough site create a significant opportunity for large-scale tidal marsh restoration. Dutch Slough has not subsided as deeply as many other sites in the Delta, allowing for restoration of a variety of habitat types, including tidal wetland, low marsh, high marsh, riparian habitat, and upland transition zones, including inland dune scrub habitat (Exhibit 3). The site is located in the western delta which is an important area for tidal marsh restoration, because native fish congregate and migrate through this area and because it is in the critical transition zone between freshwater and saltwater habitats. If restored, the site would extend a corridor of tidal marsh habitat eastward along a range of salinity gradients from Suisun Marsh and including Browns Island and Sherman Lake, a distance of nearly 20 miles.

Over 97 percent of the estimated 350,000 acres of historic wetland in the Sacramento–San Joaquin Delta has been eliminated and many of the native fish species that depend on these habitats are in danger of extinction. Many special status species have been documented in this area that will benefit from this project, including Sacramento splittail, Chinook salmon, delta smelt, sandhill cranes, and giant garter snake.

The project site is zoned for mixed-use development and the landowners have a recorded development agreement for this property. If approved, this acquisition will prevent urbanization along the shore of the Delta. If this project is not approved, the site will very likely be developed.

The project will also provide much-needed open space and recreational opportunities in the region. Eastern Contra Costa County is rapidly urbanizing and has very limited parks and open space. There are very few access points where the public

can get to the shore of the Delta. This project will provide opportunities to develop new public access amenities such as wildlife viewing and fishing piers. The project will also provide for development of a trail network along the levees of the western property that will connect to East Bay Regional Park District's Ironhouse Trail.

Staff is recommending that the Conservancy accept a grant from the CALFED Ecosystem Restoration Program and authorize Conservancy matching funds to pay for the acquisition and planning costs. Staff is also recommending that the Conservancy approve a grant to the City of Oakley for development of a public access master plan and a grant to the Natural Heritage Institute to begin work on restoration planning.

This project is being implemented through a partnership between the Conservancy, CALFED, the California Department of Water Resources (DWR), the Natural Heritage Institute, the Conservation Fund, and the City of Oakley. The project has many supporters, including Assemblyman Canciamilla, Senator Torlakson, Congressional Representatives Miller and Tauscher, the City of Oakley, the Contra Costa Board of Supervisors, the Ironhouse Sanitary District, and numerous other local organizations and individuals (see Exhibit 4).

COASTAL CONSERVANCY

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**DUTCH SLOUGH ACQUISITION AND PLANNING**

File No. 02-066

Project Manager: Mary Small

STAFF

RECOMMENDATION: Staff recommends that the State Coastal Conservancy adopt the following Resolution pursuant to Sections 31104 and 31160 *et seq.* of the Public Resources Code:

“The State Coastal Conservancy authorizes acceptance of a grant from the CALFED Bay-Delta Ecosystem Restoration Program (CALFED) of twenty-five million fifty thousand dollars (\$25,050,000) for acquisition and planning of the Dutch Slough Restoration Project in Contra Costa County.

The State Coastal Conservancy further authorizes the disbursement of an amount not to exceed twenty-three million dollars (\$23,000,000) of the CALFED grant funds and an amount not to exceed five million dollars (\$5,000,000) of Conservancy funds to the Department of Water Resources for the acquisition of the Dutch Slough property, subject to the following conditions:

1. Prior to the disbursement of any Conservancy funds, the DWR shall:
  - a. Submit for the review and approval of the Executive Officer of the Conservancy, all relevant acquisition documents, including appraisals, environmental assessments, agreements of purchase and sale, escrow instructions and documents of title necessary to the acquisition; and
  - b. Provide evidence to the Executive Officer that all other funds necessary for this acquisition have been obtained.
2. The property interests shall be acquired for no more than fair market value as established in an appraisal approved by the Executive Officer.
3. The property interests acquired shall be permanently dedicated to public access, open space and watershed

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protection in a manner acceptable to the Executive Officer of the Conservancy.

The State Coastal Conservancy further authorizes disbursement of an amount not to exceed seventy-five thousand dollars (\$75,000) to the Natural Heritage Institute for the development of restoration objectives, performance criteria and a monitoring plan for the restoration project, and the disbursement of two million fifty thousand dollars (\$2,050,000) of CALFED grant funds and an additional two hundred sixty thousand dollars (\$260,000) of Conservancy funds for technical studies, planning, data collection, and other work associated with project planning.

The State Coastal Conservancy further authorizes the Executive Officer to enter into a memorandum of understanding with the City of Oakley setting forth the parties' understandings regarding public access and site management issues as discussed in the accompanying staff recommendation. The Conservancy authorizes disbursement of an amount not to exceed fifty thousand dollars (\$50,000) to the City of Oakley for development of a public access master plan for the restoration project site and the adjacent City property."

Staff further recommends that the Conservancy adopt the following findings:

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed authorization is consistent with Public Resources Code Sections 31160 *et seq.*, regarding the Conservancy's mandate to address the resource and recreational goals of the San Francisco Bay Area, and with the authority of the Conservancy under Section 31104 to apply for and accept funding from public and private sources.
2. The proposed project is consistent with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 24, 2001.
3. The Natural Heritage Institute is a nonprofit organization existing under Section 501(c)(3) of the U.S. Internal Revenue Code, and whose purposes are consistent with Division 21 of the California Public Resources Code."

**STAFF DISCUSSION:**

**Project Description:** The proposed authorization would enable the Department of Water Resources (DWR) to acquire 1,166 acres in three ownerships, located in the city of Oakley, along the southern shore of the Sacramento–San Joaquin Delta in eastern Contra Costa County for the purposes of restoring habitat and creating public access opportunities. The proposed restoration project would create a mixture of shallow water, inter-tidal marsh, floodplain, and riparian habitat. The site will also be designed to provide open space and compatible public access, creating opportunities for recreation, interpretation, and environmental education (Exhibit 2).

Staff is recommending that the Conservancy accept a grant from the CALFED Ecosystem Restoration Program and authorize Conservancy matching funds to pay for a portion of the acquisition and planning costs. Staff is also recommending that the Conservancy approve a grant to the City of Oakley for development of a public access master plan.

This project is being implemented through a partnership between the Conservancy, CALFED, the California Department of Water Resources (DWR), the Natural Heritage Institute, the Conservation Fund, and the City of Oakley. The Conservation Fund will acquire the property from private landowners and sell it to DWR.

**Restoration Potential**

Over 97 percent of the estimated 350,000 acres of historic tidal marsh in the Sacramento–San Joaquin Delta has been eliminated and many of the native fish species that depend on these habitats are in danger of extinction. The Dutch Slough site is an important opportunity for large-scale tidal marsh restoration in the western delta.

Unlike much of the delta, which is deeply subsided, this site has diverse topography, with elevations ranging from –8 to +10. Most of the site, more than 1,000 acres, is between the elevation –3 and +5. Topographic diversity will allow for restoration of an ecological continuum of tidal wetland, low marsh, high marsh, riparian habitat, and upland transition zones, including inland dune scrub habitat (Exhibit 3).

The western delta is an important location for tidal marsh restoration, for the following reasons: 1) numerous native fish congregate or migrate in this area; 2) it is in the critical transition area between freshwater and saltwater habitats; 3) the pro-

ject will be part of a habitat corridor extending from Suisun Marsh eastward along a range of salinity gradients to Browns Island and Sherman Lake; and 4) the site is located away from the Delta water export pumps, reducing potential for entrainment of the native fish.

Numerous and diverse fishes, birds, and other species have been observed adjacent to this site, along the Big Break shoreline and in lower Marsh Creek. Sacramento splittail, Chinook salmon and delta smelt have all been observed in lower Marsh Creek or Big Break. Big Break is one of only three locations in the Delta where adult splittail congregate in large numbers. Many other species are expected to benefit from this project, including bank swallow, black rail, sandhill crane, Swainson's hawk, yellow warbler, black tern, black crowned night-heron, California gull, common yellowthroat, Cooper's hawk, great blue heron, great egret, northern harrier, snowy egret, white-faced ibis, white-tailed kite, yellow-breasted chat, western pond turtle, and giant garter snake.

Finally, the project will prevent urbanization along the shore of the Delta. Although the property is currently in agricultural use, that use will not continue. Urbanization is surrounding the property and the landowners have been working for more than ten years to develop this property. The property was zoned for mixed use development by Contra Costa County in 1991. Each of the three properties proposed for acquisition is the subject of a recorded development agreement that, in conjunction with agreements on the other properties, would permit a master-planned community of 4,100-6,000 housing units. The purchase price of the land reflects the value of these development rights. If the restoration project does not proceed, the site will very likely be developed.

Staff is recommending the disbursement of \$28,000,000 to DWR for the acquisition of these properties. The Conservation Fund (TCF), a 501(c)(3) nonprofit organization, is a co-applicant with the Conservancy and others for the CALFED grant that has been in negotiations with the landowners for the purchase. TCF has undertaken and reviewed a wide range of property studies to carry out the public acquisition. The landowners have agreed to a significant reduction in the purchase price as a charitable contribution. TCF will complete these negotiations and affect the transfer of title to DWR.

Staff is recommending that the Conservancy approve a grant of \$75,000 to the Natural Heritage Institute, another 501(c)(3) nonprofit organization and co-applicant for the CALFED grant,

to develop specific objectives and performance criteria for the restoration project. This grant would also fund the development of a monitoring plan, which will guide baseline data collection for the project.

Working with NHI, DWR, and other project partners, the Conservancy would develop detailed plans for wetland restoration and public access on the site. Staff is also recommending that the Conservancy authorize the disbursement of CALFED and Conservancy funds for technical studies, data collection, planning, and other work necessary for such planning.

### **Public Access Opportunity**

The project will provide much needed open space and recreational opportunities in the region. Eastern Contra Costa County is urbanizing rapidly and has very limited parks and open space. There are very few access points where the public can get to the shore of the Delta. This project will provide opportunities to develop new public access amenities such as wildlife viewing and fishing piers. The project will enable development of a trail network along the levees of the western property that will connect to East Bay Regional Park District's Ironhouse Trail.

If acquisition for the purposes of restoration is approved, the landowners have agreed, in a separate transaction, to deed 63 acres adjacent to the restoration site to the City of Oakley (Exhibit 2). Fifty-five acres of upland, including the Gilbert house and outbuildings, will be given to the City for the exclusive purpose of developing a community park. The landowners have also agreed to move the historic Emerson house onto the City's land. Eight acres east of Jersey Island Road along Dutch Slough will be given in fee title to the City. This property is isolated from the remainder of the project by the levee of Jersey Island Road.

The City of Oakley initially opposed this project because of concerns about the fiscal impacts to the City from lost development fees, uncertainty regarding long-term management, and concerns about public access. Over the past year, the Conservancy, the landowners, and the co-applicants have met with the City numerous times to discuss this project and address the community's concerns. The City Council voted in May to support the project on the condition that the property owners, DWR, and the CALFED co-applicants enter into memoranda of understanding with the City to address its concerns, and specifically on the condition that:

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- DWR agree to be the long-term landowner of the restoration site
- All parties work together to plan for, fund, and provide public access amenities in association with the project
- The Conservancy provide financial assistance to the City for developing a public access master plan.

Staff is recommending that the Conservancy authorize the Executive Officer to enter into a memorandum of understanding with the City that describes the mutual understanding regarding public access and site management. Under the terms of the proposed MOU, the Conservancy would work with the City to identify sources of funding for public access improvements and property management. Additional funding may be sought from the Conservancy's San Francisco Bay Area program for public access; however, this would be the subject of a future staff recommendation and subject to further Board authorization.

Staff is recommending that the Conservancy approve a grant of \$50,000 to the City of Oakley to help fund a public access master plan for both the restoration site and the adjacent regional park. The purpose of this plan will be to balance the objectives of the restoration project with the community recreational objectives.

Project Financing: **Acquisition**

Coastal Conservancy	\$ 5,000,000
CALFED	23,000,000
Landowners (donation)	<u>10,000,000</u>
TOTAL	\$38,000,000

**Restoration and Public Access Planning**

Coastal Conservancy	\$ 385,000
CALFED	2,050,000
City of Oakley	<u>50,000</u>
TOTAL	\$2,385,000

The likely source of funding for the Conservancy's share of the acquisition and restoration planning would be an appropriation to the Conservancy from the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Fund of 2002 (Proposition 40). The proposed public access grant to the City would likely be funded from an appropriation from the Safe Neighborhood Parks, Clean Water, Clean Air and Coastal

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Protection Act of 2000 (Proposition 12) for the San Francisco Bay Program of the Conservancy.

**Site Description:** The Dutch Slough restoration site covers 1,166 acres on three adjacent properties (Exhibit 2). It is located in the city of Oakley, in eastern Contra Costa County. The site is bounded on the north by Dutch Slough, on the south by the Contra Costa Canal, on the east by Jersey Island Road, and on the west by Marsh Creek. The restoration project will be adjacent to and planned cooperatively with a 55-acre regional recreational facility that will be owned by the City of Oakley. The site is immediately east of the East Bay Regional Park District's Big Break Regional Shoreline.

**Project History:** The landowner families have been farming in eastern Contra Costa County for generations. The Emerson family has owned its land since the mid-nineteenth century and has operated a dairy on the site since the early twentieth century. Emerson Dairy is last dairy operating in Contra Costa County. The Burroughs family purchased the lands between Emerson Slough and Jersey Island Road in 1906 and managed them for dairy for several decades. In 1974, they sold the parcel immediately east of Emerson Slough to the Gilbert Family. The Burroughs and Gilbert parcels have been managed as range land for over two decades.

In the 1990 Contra Costa County General Plan, this site was zoned "M-8" mixed use development. In 1997, the landowners and the County recorded development agreements on all three properties that would allow for development of a total of 4,100-6,000 units on the 1,500 acres owned by these three families. When the City of Oakley incorporated in 1999, it was required by law and by the terms of the agreements to honor this development agreement. The site is located within the city limits of Oakley and is inside the County's Urban Limit Line.

In September 2001, the Conservancy, the landowners, the Natural Heritage Institute, and the Conservation Fund applied to the CALFED Bay Delta Ecosystem Restoration Program for a grant of \$32,500,000 to fund acquisition, planning, and the first phase of restoration. During the past year, the Conservancy and other project partners have met with numerous stakeholders to discuss the project and address a variety of concerns. Over the course of these meetings, the conceptual design of the project has evolved to include more public access opportunities and to address restoration constraints such as potential impacts to water quality and the potential invasion of the site by exotic species. If the project goes forward, the Conservancy has committed to leading the res-

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toration planning process which will involve numerous agencies, stakeholders, technical experts, and the public.

In April 2002, CALFED's Selection Panel completed its technical review of the project and directed the Conservancy to revise the proposal. In July 2002, the Conservancy and the project partners submitted a revised grant proposal that addressed technical issues about the feasibility of the proposed restoration and included more public access amenities. The revised proposal requested funding for acquisition, planning, and the first phase of restoration. The Conservancy's proposed cost share in that proposal was \$10,000,000. In September 2002, the CALFED Selection Panel recommended funding a grant of \$25,050,000 to the Conservancy for the acquisition and planning. The Selection Panel recommended waiting for a final restoration plan before funding implementation of the restoration. The CALFED Management Team is expected to make a final recommendation in early October.

**PROJECT SUPPORT:** The project has a broad base of support, including: Contra Costa County Supervisor Glover, Assemblyman Canciamilla, Senator Torlakson, Congressman Miller, Congresswoman Tauscher, the Contra Costa Board of Supervisors, the Ironhouse Sanitary District, the Bethel Island Municipal Advisory Committee, the Knightson Town Council, the Delta Science Center, the Delta Chapter of the Sierra Club, the Mt. Diablo Chapter of the Audubon Society, the Federation of Flyfishers, Save the Bay, and Greenbelt Alliance. Hundreds of local citizens have signed petitions, written letters, and spoken in favor of the project. Letters of support are provided in Exhibit 4.

**CONSISTENCY WITH  
CONSERVANCY'S  
ENABLING LEGISLATION:**

This project would be undertaken pursuant to Chapter 4.5 of the Conservancy's enabling legislation, Public Resources Code Sections 31160-31163, to address resource and recreational goals in the San Francisco Bay Area.

The Dutch Slough restoration site is located in Contra Costa County, consistent with Section 31162 of the Public Resources Code, which authorizes the Conservancy to undertake projects and award grants in the nine-county San Francisco Bay Area.

Under Section 31162(a), the Conservancy may undertake projects to improve public access to and around the Bay, without having a significant adverse impact on agricultural operations and environmentally sensitive areas. The landowners are dis-

continuing farming due partly to conflicts with encroaching urban development, which will soon surround the site and undermine the economic viability of the dairy and grazing operations. The site's conversion from agricultural use was previously authorized by Contra Costa County, when it recorded development agreements for the site. Despite the habitat potential at the site, a wetland delineation and biological surveys identified less than 50 acres of seasonal wetlands and no endangered or at risk species currently on the site. This project will result in the planning for regional trails connecting to population centers, public facilities, and other recreational amenities consistent with the proposed wetland restoration.

Under Section 31162(b), the Conservancy may act to protect, restore, and enhance natural habitats and connecting corridors, watersheds, scenic areas, and other open-space resources of regional significance. The preservation and restoration of the Dutch Slough site will protect and enhance nearly 1,200 acres of wetlands and open space along the south shore of the Delta. The project will provide habitat for several endangered species and contribute to the goals of CALFED's ecosystem restoration program.

The proposed project meets all five of the criteria for priority projects set forth in Section 31163(d), as follows: (1) the project supports the goals of CALFED's regional ecosystem restoration program and is consistent with the City of Oakley's draft General Plan; (2) the project will serve a regional constituency; (3) the project will be implemented in a timely way; (4) Conservancy funding is critical to complete the purchase; and (5) the project includes more than \$20,000,000 in matching funds.

The Conservancy is authorized under Public Resource Code, Section 31104, to apply for and accept federal grants and other financial support from public and private sources.

CONSISTENCY WITH  
CONSERVANCY'S  
PROJECT SELECTION  
CRITERIA & GUIDELINES:

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines adopted January 24, 2001, in the following respects:

**Required Criteria**

**Promotion of the Conservancy's Statutory Programs:** Implementation of the proposed project would advance the purposes of Division 21 of the Public Resources Code, Chapter 4.5, by pro-

tecting, restoring, and enhancing a natural habitat of regional and statewide importance in the San Francisco Bay region.

**Consistency with Purposes of the Funding Source:** The acquisition and restoration planning would use funds appropriated to the Conservancy from the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Fund of 2002 (Proposition 40). These funds are to be used for the acquisition and development of land, air, and water resources in accordance with Division 21 of the Public Resources Code. The public access planning project would use funds appropriated from Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Act of 2000 (Proposition 12). These funds are to be used for planning regional trails and other recreational amenities consistent with the purposes of the San Francisco Bay Program of the Conservancy, Division 21 of the Public Resources Code, Chapter 4.5.

**Support:** The project has a broad base of support, including Supervisor Glover, Assemblyman Canciamilla, Senator Torlakson, Congressman Miller, Congresswoman Tauscher, the City of Oakley, the Contra Costa Board of Supervisors, the Ironhouse Sanitary District, the Bethel Island Municipal Advisory Committee, the Knightson Town Council, the Delta Science Center, the Delta Chapter of the Sierra Club, the Mt. Diablo Chapter of the Audubon Society, the Federation of Flyfishers, Save the Bay, and Greenbelt Alliance. Hundreds of local citizens have signed petition, written letters, and spoken in favor of the project. Letters of support are attached as Exhibit 4.

**Location:** The project is located on the southern shore of the Sacramento San Joaquin Delta, in the city of Oakley, in eastern Contra Costa County, within the jurisdiction of the San Francisco Bay Area Conservancy Program

**Need:** Over 97 percent of the estimated 350,000 acres of historic tidal marsh in the Sacramento–San Joaquin Delta has been eliminated and many of the native fish species that depend of these habitats are in danger of extinction. This project would restore a variety of habitats expected to benefit numerous species, including Sacramento splittail, Chinook salmon, delta smelt, bank swallow, black rail, sandhill crane, Swainson’s hawk, yellow warbler, black tern, black crowned night-heron, California gull, common yellowthroat, Cooper’s hawk, great blue heron, great egret, northern harrier, snowy egret, white-faced ibis, white-tailed kite, yellow-breasted chat, western pond turtle and giant garter snake.

The rapidly developing cities in eastern Contra Costa County have a significant need for parks and open space. This project would protect open space and provide recreational opportunities for residents in the region to access the Delta shoreline.

**Greater-than-local interest:** The preservation and restoration of the Dutch Slough site will protect and enhance nearly 1,200 acres of wetlands and open space along the shore of the Delta. The project will provide habitat for several endangered species and contribute to the goals of CALFED's ecosystem restoration program. CALFED is a joint state-federal effort that was initiated in 1994 to develop long-term solutions to problems in the Bay-Delta Estuary related to fish and wildlife, water supply reliability, natural disasters, and water quality.

**Additional Criteria**

**Urgency:** The landowners have a development agreement for the property but are willing to sell the property for \$10,000,000 below the appraised value as established in an appraisal approved by Department of General Services. The CALFED grant approval process has taken nine months longer than originally anticipated. If funding for acquisition is not authorized immediately, the landowners have indicated that they will resume negotiations for development of the property.

**Resolution of more than one issue:** The proposed Dutch Slough project will create habitat for several endangered species and will also be designed to provide public access opportunities. The Conservancy will work with the City of Oakley and the other project partners to balance these objectives.

**Leverage:** Significant funding (more than \$25,000,000) for the proposed project is being provided by the CALFED Bay Delta Program. The landowners have agreed to sell the property for \$10,000,000 less than the appraised value. DWR will be the landowner of the site and will be responsible for long-term management costs.

**Readiness:** If approved, acquisition will be completed within the next few months and project planning will begin immediately.

**Cooperation:** This project is being implemented through a partnership between the Conservancy, CALFED, the California Department of Water Resources (DWR), the Natural Heritage Institute, the Conservation Fund, the landowners, and the City of Oakley.

CONSISTENCY WITH  
COUNTY AND CITY

GENERAL PLANS: The 1991 Contra Costa County General Plan designated this property as mixed use commercial/residential. In 1997, the landowners and the County recorded development agreements that entitle the landowners to develop 4,100-6,000 units on the 1,500 acres.

The City of Oakley recently incorporated and is currently in the process of developing a general plan. The City is currently planning to zone this area open space and community center. However, the landowners will continue to protect their vested development rights until there is a purchase agreement for the restoration project.

CONSISTENCY WITH  
DELTA PROTECTION

ACT: The project is in the secondary zone of the Sacramento–San Joaquin Delta, outside the primary jurisdiction of the Delta Protection Commission (DPC) as provided in the Delta Protection Act of 1992 (Public Resources Code Division 19.5, commencing with Section 29700).

On September 26, 2002 Conservancy staff presented this project for review by the DPC as an informational item. The Commissioners stated some concerns about the CALFED process, but concluded that the project was consistent with the goals of the DPC in the following respects: 1) it will create a buffer between development and the primary zone of the Delta; 2) it creates recreational opportunities to access the Delta adjacent to the urban communities; and 3) the project does not in and of itself convert economically viable farmland for purposes of restoration.

COMPLIANCE

WITH CEQA: The acquisition of land to preserve its open space character is categorically exempt from the California Environmental Quality Act (CEQA) under 14 Cal. Code of Regulations, Section 15317. The project is also exempt under Section 15313, which provides a categorical exemption for the acquisition of lands for fish and wildlife conservation, including preservation of fish and wildlife habitat and preserving access to public lands and waters, where the purpose of the acquisition is to preserve the land in its natural condition.

Planning activities are statutorily exempt from review under CEQA under 14 Cal. Code of Regulations Section 15262. Similarly, 14 Cal. Code of Regulations Section 15306 exempts

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basic data collection, research, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource.

Upon approval, staff will file a Notice of Exemption for this project.