

COASTAL CONSERVANCY

Staff Recommendation
May 24, 2018

HORSE VALLEY CREEK AND WETLAND RESTORATION PROJECT

Project No: 18-003-01
Project Manager: Avra Heller

RECOMMENDED ACTION: Authorization to disburse up to \$300,000 to the East Contra Costa County Habitat Conservancy (ECCCCHC) to restore riparian, wetland, and upland habitat in Horse Valley on the Roddy Ranch Property in Antioch, Contra Costa County and adoption of findings pursuant to the California Environmental Quality Act.

LOCATION: Roddy Ranch, Antioch, Contra Costa County

PROGRAM CATEGORY: San Francisco Bay Area Conservancy

EXHIBITS

- Exhibit 1: [Project Location](#)
- Exhibit 2: [Project Photos and Design Plans](#)
- Exhibit 3: [Roddy Ranch Recorded Deed Restriction](#)
- Exhibit 4: [HCP/NCCP and EIS/EIR and MMRP \(given the large size of these documents, they are not attached, but are available at:](#)
- *HCP/NCCP: http://www.co.contra-costa.ca.us/depart/cd/water/HCP/archive/final-hcp/final_hcp_nccp.html;
- *EIS/EIR: http://www.co.contra-costa.ca.us/depart/cd/water/HCP/archive/final_EIS/eis_eir.html;
- *MMRP: http://www.co.contra-costa.ca.us/depart/cd/water/HCP/documents/MMRP_ECCC_Habitat_Conservancy_050907.pdf
- Exhibit 5: [Horse Valley Restoration Mitigation and Monitoring Plan](#)
- Exhibit 6: [Project Letters](#)
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RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31160–31165 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes the disbursement of an amount not to exceed three hundred thousand dollars (\$300,000) to the East Contra Costa County Habitat Conservancy (ECCCHC) to restore riparian, wetland, and upland habitat in Horse Valley on the Roddy Ranch Property in Antioch, Contra Costa County, subject to the following conditions:

1. Prior to commencement of the project, ECCCHC shall submit for the review and written approval of the Executive Officer of the Conservancy the following:
 - a. A detailed work program, schedule, and budget.
 - b. The names and qualifications of any contractors retained in carrying out the project.
 - c. A plan for acknowledgement of Conservancy funding, and Proposition 1 as the source of that funding.
 - d. Evidence that all permits and approvals required to implement the project have been obtained.
 - e. Evidence that ECCCHC has entered into an agreement with the owner of the project site, East Bay Regional Parks District, and with any other needed parties, to ensure that the project will be implemented, operated, and maintained, and that the state’s interest in the project will be protected.
2. In implementing the project, ECCCHC shall ensure compliance with all applicable impact avoidance, minimization and mitigation measures and monitoring and reporting requirements for the project that are identified in the “East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan” (HCP/NCCP), the “Final Environmental Impact Statement / Environmental Impact Report for the East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan” (EIS/EIR), both attached to the accompanying staff recommendation as Exhibit 4, and the “Horse Valley Creek and Wetland Restoration Project Mitigation and Monitoring Plan” (MMP), attached to the accompanying staff recommendation as Exhibit 5, and in any permits, approvals or additional environmental documentation required for the project.”

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 Chapter 4.5 of Division 21 of the Public Resources Code, regarding the San Francisco Bay Area Conservancy Program.
2. The proposed project is consistent with the current Conservancy Project Selection Criteria and Guidelines.
3. The Conservancy has independently reviewed and considered the East Contra Costa HCP/NCCP, the EIS/EIR, and the associated MMRP, adopted by the East Contra Costa

County Habitat Conservation Plan Association (HCPA) on November 8, 2006, pursuant to the California Environmental Quality Act (“CEQA”), linked in the accompanying staff recommendation as Exhibit 4. The Conservancy has also independently reviewed the project’s MMP attached to the accompanying staff recommendation as Exhibit 5, which identifies the specific potential impacts and mitigation measures for the proposed project, as contemplated in the HCP/NCCP and EIS/EIR. The Conservancy finds that: (1) the proposed project, as designed by the HCP/NCCP and as modified pursuant the EIS/EIR, avoids, reduces, or mitigates the potentially significant environmental and cultural impacts of the project to a less-than-significant level, and that there is no substantial evidence based on the record as a whole that the proposed project will have a significant effect on the environment; (2) the EIS/EIR and HCP/NCCP did fully consider the impacts associated with the proposed project; and (3) there are no new impacts or more severe impacts, and that there are no additional mitigation measures required for the proposed project.”

PROJECT SUMMARY:

Horse Valley, a 71-acre parcel situated on the northernmost valley on Roddy Ranch, has long been considered critical to the conservation of state and federally listed special status species in Eastern Contra Costa County. The Roddy Ranch property straddles an ecological transition zone between two significant ecoregions in the greater San Francisco Bay Area. The western extent of the San Joaquin Valley has a hot, windy and dry climate, with ephemeral creeks, and vernal pools; while the eastern reach of the Diablo Range has greater humidity, is comparably cooler, and has higher elevations, which support oak woodland, chaparral, springs and ponds. This transition zone provides critical habitat for a variety of plant and wildlife species. Species documented on site include the San Joaquin kit fox, a variety of vernal pool fairy shrimp, California red-legged frogs, California tiger salamanders, Alameda whipsnakes, golden eagles, bald eagles, Swainson’s hawks, western burrowing owls, and a suite of rare plants including the Mount Diablo fairy lantern, Brewer’s dwarf flax, Contra Costa manzanita, round leaved filaree, big tarplant, and shining navarretia.

The project site was homesteaded in the 1800s and, at that time, modifications were made to the valley’s drainage patterns for agricultural usages. More recently, in the 2000s, the 1,885-acre Roddy Ranch was slated to be developed into a new neighborhood of executive homes around the Roddy Ranch Golf Course. The area received entitlements from the City of Antioch, and some initial infrastructure was installed. This infrastructure included the construction of an elevated paved road which bisects the valley, installation of large culverts to route the creek under the road, and grading of ditches to drain the valley and direct water to the creek. Because of these past modifications, Horse Valley, when compared to the immediate surrounding landscape, is underperforming both biologically and hydrologically.

In 2012 the proposed development ran into financial difficulties and the Roddy Ranch property was put on the market. East Bay Regional Park District (EBRPD) acquired the resource-rich property in 2014. Although EBRPD owns the property, East Contra Costa County Habitat Conservancy (ECCCHC) contributed 75% of the purchase price. Roddy Ranch is the keystone acquisition in the new (not yet opened) Deer Valley Regional Preserve that EBRPD will

manage as part of the HCP/NCCP Preserve System discussed below. EBRPD and other cooperating government agencies, including ECCCHC, continue to work to acquire other properties that will complement the new preserve, and conserve landscape connections to other large protected areas. Since its conservation in 2014, Roddy Ranch has remained active rangeland. EBRPD and the ECCCHC work with the Roddy Family (who still lives on the ranch) to manage livestock and protect natural resources. The ECCCHC has completed a Planning Survey Report for the Horse Valley property to establish baseline data of species occurrences and map sensitive habitat.

The Horse Valley Creek and Wetland Restoration Project (the “project”) will remediate impacts from historical human activity in the valley and restore ecological functions. The proposed project consists of demolition of 194,000 square feet of road and demolition of 151,000 square feet of artificial channels; restoration of hydrologic conditions along 1,115 linear feet of existing creek channel and realignment of 3,000 feet of ephemeral creek will be realigned for a total of 4,120 linear feet of restored/or rehabilitated creek channel; restoration of 2.19 acres of seasonal wetlands; reconstruction of a failing stock pond; remediation of a variety of erosive, sediment loading on-site features; and an adaptive management program. EBRPD will be responsible for the management of the bidding for construction and overseeing the various contractors responsible for implementation of this project. Construction is scheduled to begin in August 2018. The project is anticipated to take approximately two months to complete.

An important component of the project is the monitoring, maintenance and management of the site. ECCCHC has secured funding for a 5-year success monitoring/adaptive management program for the site. Understanding how the project functions and immediately addressing problems that may occur is critical to the project’s ultimate success. This includes but is not limited to: identifying weed infestations early, identifying soil stabilization issues immediately upon the first few rain events, and troubleshooting any problems with the construction or grazing that may impact the project’s success.

As part of a separate project, in the future, upon the proposed project reaching habitat restoration performance standards defined in the Horse Valley Creek and Wetland Restoration Project’s Mitigation and Monitoring Plan (Exhibit 5) EBRPD will convert the maintenance access road used for this project into a single-track trail access to serve the Deer Valley Regional Preserve, connecting the existing Empire Mine Road trail to other nearby conserved open space. EBRPD will manage public access to these sites.

Site Description: Horse Valley (Exhibit 1), is a 71-acre parcel situated on the northernmost valley on the Roddy Ranch property. It is a resource-rich area that functions as the furthest extent of some listed species’ range, including the western extent of vernal pool fairy shrimp; and functions as a key movement corridor for wildlife including the San Joaquin kit fox. The property is in the transition zone between two significant ecoregions in the greater SF Bay Area – the western extent of the San Joaquin Valley and the eastern reach of the Diablo Range. The Roddy Ranch property is owned by EBRPD as part of the HCP/NCCP Preserve System (defined and discussed below – see pg. 2 of Exhibit 1 for a map of the HCP/NCCP Preserve System). As a part of the Preserve System, the property has a recorded deed restriction (Exhibit 3) that ensures that the property will be conserved in perpetuity and will be managed

to benefit special status species in a manner consistent with the HCP/NCCP. Since its conservation in 2014, Roddy Ranch has remained active rangeland. EBRPD and the ECCCHC work with the Roddy Family (who still live on the Ranch) to manage livestock and protect natural resources in accordance with the HCP/NCCP Conservation Strategy.

Grantee Qualifications: In 2006, East Contra Costa Habitat Conservation Plan Association (HCPA), a joint powers authority comprised of the Cities of Brentwood, Clayton, Pittsburg, and Oakley, Contra Costa County, Contra Costa Water District (CCWD), and EBRPD, adopted a Habitat Conservation Plan / Natural Community Conservation Plan (HCP/NCCP). The purpose of the HCP/NCCP was to have a comprehensive, multi-jurisdictional plan that provides for regional species conservation and habitat planning, while allowing local land-use authorities to manage urban growth and development in East Contra Costa County. In addition, the HCP/NCCP also provides a coordinated process for permitting and mitigation of Covered Species under the Endangered Species Act.

In 2007, ECCCHC was formed as a new joint powers authority specifically to implement the adopted HCP/NCCP's Conservation Strategy. The ECCCHC's mission is to acquire, manage, restore, and preserve natural lands acquired under the HCP/NCCP. ECCCHC includes all of the parties to the HCPA, except for the CCWD and EBRPD. While they are not members of ECCCHC, the CCWD and EBRPD remain on ECCCHC's sub-committees to aid implementation and coordination with regards to the HCP/NCCP.

The HCP/NCCP's Conservation Strategy details a system of new preserves, known as the HCP/NCCP Preserve System (Exhibit 2, pg. 2), to create links to existing protected lands to form a network of protected areas alongside the urban development covered under the HCP/NCCP. Through this Preserve System, property is dedicated in perpetuity for the protection of the habitats and species defined in the HCP/NCCP, either through fee-interest or conservation easement. Under the HCP/NCCP, EBRPD-owned property can be designated as within the Preserve System where the land contributes to meeting the goals and objectives of the HCP/NCCP, as in the case of the Roddy Ranch property.

The Conservation Strategy provides for preservation and restoration that both mitigates allowable development and contributes to broader conservation goals of state and federal agencies. The HCP/NCCP establishes a funding plan for the Conservation Strategy, which includes 1) mitigation fees from development activities, and 2) non-fee public funding. Non-fee public funding, such as funding from the Conservancy, can only be used for projects under the HCP/NCCP that contribute to species recovery that go above and beyond what would otherwise be conserved or restored through mitigation fees (HCP/NCCP, pg. ES-7). This project, which is receiving Conservancy funding and other sources of non-fee public funding (see discussion under the "Project Finance" section), is for species recovery that goes above and beyond what would otherwise be restored through mitigation fees, and is not off-setting developer fees under the HCP/NCCP.

ECCCHC has a consistent track record of designing, constructing, monitoring and maintaining restoration projects that target special status species. In the past ten years, the ECCCHC has completed nine restoration projects under the HCP/NCCP ranging in cost from \$20,000 - \$850,000. Three restoration projects (including the proposed project) are in the planning phase. The ECCCHC recently completed a Planning Survey Report of the Roddy Ranch property to establish baseline data of species occurrences and to map sensitive habitat. Species

documented on site include: vernal pool fairy shrimp, California red-legged frog, California tiger salamander, golden eagle, bald eagle, Swainson’s hawk, western burrowing owl, Mount Diablo fairy lantern, Brewer’s dwarf flax, Contra Costa manzanita (perhaps the most eastern occurrence), round leaved filaree, big tarplant, and shining navarretia.

Created in 1934, the EBRPD, the implementation partner on this project, has been constructing, operating, and maintaining parks, trails and open space in the East Bay for over 80 years. They currently manage over 121,397 acres of open space and recreation areas in Contra Costa and Alameda Counties. EBRPD is the property owner and will maintain the property’s restoration work and future public access when the project site is incorporated into the new Deer Valley Regional Preserve.

Project History: In 2011, the Coastal Conservancy, as well as the CA Department of Fish and Wildlife funded the East Contra Costa County Historical Ecology Study, a critical document used in the design of the proposed project. The Horse Valley Creek and Wetland Restoration Project is the first project which ECCCHC is requesting Conservancy funding support for since the completion of that study.

PROJECT FINANCING

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| Coastal Conservancy | \$300,000 |
| California Wildlife Conservation Board | \$350,000 |
| East Contra Costa County Habitat Conservancy | \$260,000 |
| Project Total | \$910,000 |

The expected source of funding for this authorization is an appropriation to the Conservancy from the “Water Quality, Supply, and Infrastructure Improvement Act of 2014” (Proposition 1, Division 26.7 of the Water Code, § 79700 et seq.). Funds appropriated to the Conservancy derive from Chapter 6 (commencing with Section 79730) and may be used “for multi-benefit water quality, water supply, and watershed protection and restoration projects for the watersheds of the state” (Section 79731). Section 79732(a) identifies the specific purposes of Chapter 6, of which the following pertain to this project: implement watershed adaptation projects in order to reduce the impacts of climate change on California’s ecosystems (subsection (a)(2)); protect and restore aquatic, wetland and migratory bird ecosystems including fish and wildlife corridors (subsection (a)(4)); protect or restore natural system functions that contribute to water supply, water quality, or flood management (subsection (a)(11)); and assist in the recovery of endangered species by improving watershed health and instream flows (subsection (a)(12)).

As required by Proposition 1, the proposed project provides multiple benefits. By demolishing the asphalt road, mass grading the site, realigning the creek channel, fine grading seasonal wetlands and vernal pools, repairing the existing stock pond on site, and repairing and stabilizing erosive features, the project will remediate impacts from historical human activities in the valley, and restore valley bottom habitats and hydrology to preserve and recover a variety of state and federal special status species. In addition, the project will restore wetland

habitats for species to migrate through (and to) as climate changes forces them to migrate west toward the Diablo Range away from the San Joaquin Valley ecoregion.

The proposed project was selected through the seventh-round competitive grant process under the Conservancy's *Proposition 1 Grant Program Guidelines* adopted in June 2015 (see § 79706(a)). The proposed project meets each of the evaluation criteria in the Proposition 1 Guidelines as described in further detail in this "Project Financing" section, the "Project Summary" section and in the "Consistency with Conservancy's Project Selection Criteria & Guidelines" section of this report.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

This project is undertaken pursuant to Chapter 4.5 of the Conservancy's enabling legislation, Public Resource Code Sections 31160-31165, to address resource goals in the San Francisco Bay Area. Section 31162 of the Public Resources Code authorizes the Conservancy to undertake projects and award grants in the nine-county San Francisco Bay Area, including Contra Costa County, that achieve the goals of the San Francisco Bay Area Conservancy Program. All of the proposed project area is within Contra Costa County. Additionally, the proposed project will serve to achieve the objectives described in Section 31162(a): to improve public access to within and around the bay, coast, ridgetops, and urban open spaces, by developing a recreation opportunity for a trail connection in the new Deer Valley Regional Preserve from the existing Empire Mine Road trail into other nearby conserved open space; and Section 31162(b): to protect, restore, and enhance natural habitats, connecting corridors, watersheds, scenic areas, and other open-space resources of regional significance. The proposed project will assist in the enhancement of critical habitat of regional significance for a variety of listed species in the San Francisco Bay Area.

The proposed project satisfies all of the criteria for determining project priority under 31163(c), since the project: 1) is supported by and is consistent with adopted regional plans including East Contra Costa County Integrated Regional Water Management Plan (East County Water Management Association, 2015), and the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (2006) for which ECCCHC is the responsible implementing agency; 2) serves a regional constituency by protecting habitat for state and federally protected regional species including the vernal pool fairy shrimp, San Joaquin kit fox, California tiger salamander, California red-legged frog, western burrowing owl, and a suite of rare plants; 3) can be implemented in a timely manner; 4) provides critical habitat benefits to a variety of state and federal special status species; and 5) will include significant matching funds from California Wildlife Conservation Board, as well as from ECCCHC.

**CONSISTENCY WITH CONSERVANCY'S [2018-2022 STRATEGIC PLAN](#)
GOAL(S) & OBJECTIVE(S):**

Consistent with **Goal 12, Objective D** of the Conservancy's 2018-2022 Strategic Plan, the proposed project will enhance seasonal wetlands and uplands habitats.

Consistent with **Goal 12, Objective F**, of the Conservancy's 2018-2022 Strategic Plan, the proposed project will enhance riparian habitats and other watershed functions and process for the benefit of wildlife.

Consistent with **Goal 14, Objective B**, of the Conservancy's 2018-2022 Strategic Plan, the proposed project will assist ranchers to steward the natural resources on their property.

CONSISTENCY WITH CONSERVANCY'S PROJECT SELECTION CRITERIA & GUIDELINES:

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines, last updated on October 2, 2014, in the following respects:

Required Criteria

1. **Promotion of the Conservancy's statutory programs and purposes:** See the "Consistency with Conservancy's Enabling Legislation" section above.
2. **Consistency with purposes of the funding source:** See the "Project Financing" section above.
3. **Promotion and implementation of state plans and policies:**
 - a. *California @ 50 Million: The Environmental Goals and Policy Report* (Governor's Office of Planning and Research, 2015) – The Project is consistent with the California @ 50 Million report's key strategy of natural resource stewardship. The conservation and protection of working landscapes (rangeland) and the long-term stewardship of wetlands is identified as part of "protecting and stewarding natural resources" (pg. 2 of Report).
 - b. *CA Wildlife Action Plan* (California Department of Fish and Wildlife, 2015) – The Project is in the Bay Delta-Central Coast Province of the CA Wildlife Action Plan. The restoration will enhance and restore habitats in the region for breeding, foraging and future climate-change related shifts in habitat for a variety of focal species identified in the CA Wildlife Action Plan including California Tiger Salamander, golden eagle, Swainson's hawk, western burrowing owl, and San Joaquin kit fox.
 - c. *State and Federal Species Recovery Plans*. This project is consistent with Federal Recovery plans for: California red-legged frog, California tiger salamander, vernal pool fairy shrimp and vernal pool tadpole shrimp. This project will restore breeding habitat for these species.
 - d. *Habitat Conservation Plans/Natural Community Conservation Plans*. This project is part of the implementation of the recovery component of the East Contra Costa County Habitat Conservation Plan/ Natural Community Conservation Plan implemented by ECCCHC.

4. **Support of the public:** This project has received broad public support, including support from State Senator Steven M. Glazer, Contra Costa County Supervisor Diane Burgis, and Save Mount Diablo. See “Project Letters,” Exhibit 6.
5. **Location:** This project is located on the Roddy Ranch property, which is part of the ECCCHC’s Preserve System. The property is located in Antioch in Contra Costa County, within the jurisdiction of the San Francisco Bay Area Conservancy Program.
6. **Need:** This project is shovel-ready. If Coastal Conservancy funds are not secured, the project may have to be delayed unless and until additional funding is located.
7. **Greater-than-local interest:** Roddy Ranch has long been considered critical to the conservation effort of state and federally listed special species in eastern Contra Costa County. The property provides habitat for state and federally listed special status species. It is the keystone acquisition in the new (not yet opened) Deer Valley Regional Preserve that will be operated by the EBRPD. EBRPD and partners continue to work to acquire other properties that will complement the new Preserve and conserve landscape connections to other large protected areas.
8. **Sea level rise vulnerability:** Project is located inland, well above sea level, and is not expected to be directly impacted by Sea Level Rise.

Additional Criteria

9. **Leverage:** See the “Project Financing” section above.
10. **Readiness:** There has been a multi-agency, multi-year planning process to bring the Horse Valley Creek and Wetland Restoration Project to shovel-ready status. CEQA was completed in 2006 and ECCCHC has secured funding for project monitoring and ongoing maintenance of the project. Permit applications to resource agencies have been submitted, and some permits have been secured. All permits are anticipated to be secured by May 2018.
11. **Realization of prior Conservancy goals:** “See “Project History” above.”
12. **Return to Conservancy:** See the “Project Financing” section above.
13. **Cooperation:** Project Partners and supporters of this restoration project include: EBRPD (property owner), U.S. Fish and Wildlife Service and California Department of Fish and Wildlife. Additionally, ECCCHC and its member agencies support this project: Cities of Brentwood, Clayton, Oakley, Pittsburg, and Contra Costa County. In response to the State Coastal Conservancy’s formal tribal consultation letter, Chairperson Perez, representing Northern Valley Yokut / Ohlone / and Bay Miwuk, replied requesting that a Native American monitor be on-site during any earth-moving activities, due to the likelihood of discovering cultural resources near to historic creek beds. ECCCHC will work with the Chairperson to coordinate with a Native American monitor during project construction.
14. **Vulnerability from climate change impacts other than sea level rise:** As mentioned above, the Roddy Ranch property is in the transition zone between two significant ecoregions in the greater SF Bay Area – the western extent of the San Joaquin Valley and the eastern reach of the Diablo Range. Horse Valley is the northern-most valley on the Roddy Ranch property which functions as both the furthest extent of some species’ ranges, and as a key movement corridor for wildlife including the San Joaquin kit fox. Because of

its transitional location, the project site is subject to the (relative) climate extremes from either region – extreme wet/cold (frost) and extreme heat/drought. Though the extremes are not ideal, fairy shrimp, red-legged frog and tiger salamander can all withstand the micro-climate variations. This project is designed to moderate species' need to adapt to climate change. The restored hydrology and additional wetlands and ponds will provide habitats for species to migrate through (and to) as climate change forces them to migrate toward the cooler Diablo Range and away from the warmer San Joaquin Valley ecoregion. The habitats restored and created on site will mimic existing reference sites used by the target species.

15. **Minimization of greenhouse gas emissions:** There will be short-term greenhouse gas (GHG) emissions from project construction. To reduce greenhouse gas emissions contractors will be instructed to minimize idling time and maintain all equipment in proper working order. Post construction, the site will be revegetated with native grasses and flowering plants with deep root structures, which will stabilize the erosive landscape. In the long term this site's grassland and wetland habitats are expected to serve as carbon sinks, and the benefits of the site's restoration will outweigh the short-term GHG impacts from the construction of the project. There are no plans to seek carbon credits for the restoration work on site.

CEQA COMPLIANCE:

The project involves additional work in furtherance of and contemplated by the HCP/NCCP. On November 8, 2006, HCPA adopted the HCP/NCCP and certified the "Final Environmental Impact Statement / Environmental Impact Report for the East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan" (EIS/EIR - http://www.co.contra-costa.ca.us/depart/cd/water/HCP/archive/final_EIS/eis_eir.html) and the "East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan Mitigation and Reporting Plan" (MMRP - http://www.co.contra-costa.ca.us/depart/cd/water/HCP/documents/MMRP_ECCC_Habitat_Conservancy_050907.pdf) pursuant to the California Environmental Quality Act ("CEQA"). The EIS/EIR described the HCP/NCCP, assessed the potential environmental impacts associated with the implementation of the HCP/NCCP, and identified additional mitigation measures, beyond the minimization and avoidance measures identified in the HCP/NCCP, that would avoid or reduce these impacts to a less than significant level.

The EIS/EIR is a *programmatic* Environmental Impact Report (Section 15168 of the CEQA Guidelines, 14 Cal. Code of Regulations, Sections 15000 *et seq.*, hereafter "Guidelines") in that it analyzes the potential effects of implementing the HCP/NCCP for all of East Contra Costa County, rather than the impacts of a single individual project. This program-level EIS/EIR identifies mitigation measures that will be applied to reduce or eliminate impacts at treatment locations. The Conservancy may use the EIS/EIR as a basis for "tiered" CEQA review and approval of individual treatment projects under the HCP/NCCP, including the restoration and conservation activities in Horse Valley proposed by ECCCHC.

A subsequent activity that follows under a certified programmatic environmental impact report must be examined in the light of that programmatic report to determine whether an additional environmental document must be prepared. If the agency proposing the later activity finds that

the environmental impacts of the later activity and the required mitigation to reduce those impacts were already identified and considered under the program environmental report, the activity can be approved with no further environmental documentation. (CEQA Guidelines, Section 15168(c)). The Guidelines further suggest the use of a written checklist or similar device to document the evaluation of the activity to determine whether the environmental effects of the operation were covered in the program environmental impact report (*Id.*).

The ECCCHC has prepared the Horse Valley Creek and Wetland Restoration Project Mitigation and Monitoring Plan (MMP) (attached as Exhibit 5) for the restoration activities proposed under this authorization. The MMP achieves the following: (1) identifies the proposed activities and assesses their potential impacts, (2) identifies the required mitigation identified by the HCP/NCCP and EIS/EIR, and determines if the proposed activities will involve any additional impacts or more severe impacts than were identified by the HCP/NCCP and EIS/EIR, and (3) identifies if any additional mitigation measures are needed to avoid or reduce those impacts.

Based on the analysis conducted in the EIS/EIR, HCP/NCCP and MMP, Conservancy staff has concluded that: (1) the HCP/NCCP as designed avoids, reduces, or mitigates the potentially significant environmental and cultural impacts of the HCP/NCCP to a less-than-significant level, and that there is no substantial evidence based on the record as a whole that the HCP/NCCP will have a significant effect on the environment; (2) the EIS/EIR and HCP/NCCP fully considered the impacts associated with this project; and (3) there are no new impacts or more severe impacts, and that there are no additional mitigation measures required for this project. Conservancy staff recommends that the Conservancy adopt a finding to that effect.

In implementing the project, ECCCHC shall ensure compliance with all applicable mitigation measures and monitoring and reporting requirements for the project that are identified in the EIS/EIR, HCP/NCCP, MMP, or in any permits, approvals or additional environmental documentation required for the project.

The following summarizes the impacts of the proposed project and the measures intended to avoid, minimize or mitigate those impacts to a level that is less than significant:

Impacts on Extremely Rare Plants, Fully Protected Wildlife Species, or Migratory Birds:

A variety of special status species have been recorded on the project site. Those species include the San Joaquin kit fox, a variety of vernal pool fairy shrimp, California red-legged frogs, California tiger salamanders, Alameda whipsnakes, golden eagles, bald eagles, Swainson's hawks, western burrowing owls, and a suite of rare plants including the Mount Diablo fairy lantern, Brewer's dwarf flax, Contra Costa manzanita, round leaved filaree, big tarplant, and shining navarretia. The project will avoid direct impacts on any rare plants, fully protected wildlife species or migratory birds. No special-status plants are present in the project footprint, however, impacts will be avoided as discussed below.

Special Status Wildlife Species – A USFWS/CDFW approved biologist has conducted pre-construction surveys on the property and identified the presence of the following species within the project's construction areas: San Joaquin kit fox, Western burrowing owl, California tiger salamander, California red-legged frog, and golden eagles. The

avoidance, mitigation, and construction monitoring measures for these species will involve on-site monitoring during construction by a USFWS/CDFW approved biologist. The biologist will monitor known den and nest sites, direct the avoidance of occupied nests during breeding season, establish buffer zones as appropriate to the various species, and must inform USFWS/CDFW at least 30 days prior to the removal of breeding habitat for the California tiger salamanders and red-legged frogs, giving those agencies at least 45 days from notification to potentially translocate the individuals. To the extent feasible, vegetation removal activities will not occur during the breeding season.

- ***Special Status Plant Populations*** –The MMP determined that one covered species, big tarplant, is present in the project area and immediately adjacent to the west and south in grassland habitat. The colony within the project area will be fenced off and will not be impacted by the project.

Water Quality and Erosion Control

This project will involve earthmoving activities for the construction and restoration of the creek alignment, vernal pools, seasonal wetlands, and the restoration of the existing stock pond and other erosive features on site.

ECCCHC will implement multiple erosion and sediment control Best Management Practices (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 the following.

- Temporary erosion control measures (such as silt fences, staked straw bales/wattles, silt/sediment basins and traps, check dams, geofabric, sandbag dikes, and temporary revegetation or other ground cover) will be employed to control erosion from disturbed areas.
- Grass or other vegetative cover will be established on the construction site as soon as possible after disturbance. At minimum, vegetative application will be completed by September 15 to allow plants to establish. No disturbed surfaces will be left without erosion control measures in place between October 15 and April 15. BMPs would be consistent with Contra Costa County and participating city ordinances, and with grading, erosion, and sediment control standards. The final selection of BMPs will be subject to review by the County.
- Filter fences and mesh will be of material that will not entrap reptiles and amphibians.

Wetland, Pond, and Stream Avoidance and Minimization

The project will avoid impacts to seasonal wetlands. There will be temporary impacts to streams and the stock pond. Vehicles will stay on the approved overland access road until they reach the work area. In addition, the following measures will be implemented:

- All wetlands, streams, ponds and woodland to be avoided will be temporarily staked in the field by a qualified biologist. Personnel will be trained by the biologist in avoidance and minimization measures and the permit obligations of project proponents.
- Vehicles will be parked on existing roads and previously disturbed areas to the extent feasible, and no vehicles will be refueled within 200 feet of wetlands, ponds or streams unless a bermed and lined refueling area is constructed and hazardous material absorbent pads are available.

Cultural Resources

Because there is a medium to high potential of encountering buried prehistoric archeological resources, ECCCHC will comply with these mitigation measures:

- In the event that prehistoric, archaeological or paleontological artifacts or remains are encountered during project construction, all ground disturbing activities will be halted within at least 50 feet and artifacts will be protected in place (in accordance with EBRPD Board Resolution No. 1989-4-124 and State and federal law) until the find is evaluated by a monitor/archaeological consultant, and appropriate mitigation, such as curation, preservation in place, etc., if necessary, is implemented.
- Project supervisors, contractors, and equipment operators will be trained and familiarized with the types of artifacts that could be encountered during earth-disturbing activities and procedures to follow if subsurface cultural resources are unearthed during construction and an archaeologist is not present. To accomplish this, a professional archaeologist will conduct a preconstruction meeting prior to commencement of ground-disturbing activities to familiarize the team with the potential to encounter prehistoric artifacts or historic-era archaeological deposits, the types of archaeological material that could be encountered within the Project Area, and procedures to follow if archaeological deposits and/or artifacts are observed during construction. Historic-period resources potentially include all by-products of human land use greater than 45 years of age, including alignments of stone or brick, foundation elements from previous structures, minor earthworks, brick features, surface scatters of farming or domestic type material, and subsurface deposits of domestic type material (e.g., glass, ceramic, etc.). Prehistoric artifacts that are typically found associated with sites in the area include humanly modified stone, shell, bone or other materials such as charcoal, ash and burned rock that can be indicative of food procurement or processing activities. Prehistoric domestic features include hearths, fire pits, house floor depressions and mortuary features consisting of human skeletal remains.
- If human remains are encountered within the Project Area during construction, all work will stop in the immediate vicinity of the discovered remains and the County Coroner must be notified immediately. If the remains are suspected to be those of a prehistoric Native American, then the Native American Heritage Commission will be contacted by the Coroner so that a “Most Likely Descendant” can be designated to provide further recommendations regarding treatment of the remains. An archaeologist will also be

retained to evaluate the historical significance of the discovery, the potential for additional remains, and to provide further recommendations for treatment of the site.

Based on the foregoing, Conservancy staff recommends that the Conservancy adopt the proposed findings regarding CEQA.

Upon approval of the project, Conservancy staff will file a Notice of Determination.