

COASTAL CONSERVANCY

Staff Recommendation
October 5, 2006

ALAMEDA COUNTY WILDLIFE-FRIENDLY POND RESTORATION

File No. 06-078
Project Manager: Betsy Wilson

RECOMMENDED ACTION: Authorization to disburse up to \$50,000 to the Alameda County Resource Conservation District (ACRCD) to assist in the restoration of a minimum of five livestock ponds in Alameda County pursuant to Natural Resources Conservation Service wildlife-friendly design standards and specifications.

LOCATION: Alameda County (Exhibit 1)

PROGRAM CATEGORY: San Francisco Bay Area Conservancy

EXHIBITS

Exhibit 1: Project Location and Site Map

Exhibit 2: CEQA Documents

Exhibit 3: Site-Specific Project Descriptions

Exhibit 4: Letters of Support

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31160-31164 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes the disbursement of an amount not to exceed fifty thousand dollars (\$50,000) to the Alameda County Resource Conservation District (“ACRCD”) to assist in the restoration of a minimum of five livestock ponds in Alameda County pursuant to Natural Resources Conservation Service wildlife-friendly design standards and specifications, subject to the following conditions:

1. The work shall not have commenced prior to September 1, 2006.
2. Prior to the disbursement of Conservancy funds, the grantee shall submit for the review and approval of the Executive Officer of the Conservancy a work program, schedule for completion and project budget, the names and qualifications of any contractors employed or to be employed, a plan for acknowledging Conservancy funding, and documentation that ACRCD has obtained all permits and approvals required for the project under federal, state,

and local law. For each project site, the grantee shall also submit for the Executive Officer's review and approval an agreement or other instrument providing for the maintenance of the ponds for a minimum of 10 years according to Natural Resources Conservation Service (NRCS) design standards and specifications."

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 project is consistent with the purposes and criteria set forth in Chapter 4.5 (Sections 31160-31164) of Division 21 of the Public Resources Code regarding the enhancement of natural resources of the San Francisco Bay Area.
2. The proposed project is consistent with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 25, 2001.
3. The Conservancy has independently reviewed the Negative Declaration for the Alameda County Partners in Restoration Permit Coordination Program as adopted on December 3, 2004 by the Board of Directors of the Alameda County Resource Conservation District, and as attached to the accompanying staff recommendation as Exhibit 2, and finds that there is no substantial evidence that the implementation of the Alameda County Wildlife-Friendly Pond Restoration project, which is being undertaken as a part of the Permit Coordination Program, will have a significant effect on the environment, as defined in 14 California Code of Regulations Section 15382."

PROJECT SUMMARY:

This authorization would provide up to \$50,000 to the Alameda County Resource Conservation District (ACRCD) to assist with the restoration of a minimum of five livestock ponds pursuant to Natural Resources Conservation Service (NRCS) wildlife-friendly design standards and specifications. The ACRCD, in partnership with the NRCS, offers financial and technical incentives to private landowners for restoring ponds and maintaining the surrounding upland areas in a way that meets the biological needs of the California red-legged frog, California tiger salamander, and other species that use livestock ponds as habitat. The requested Conservancy funds would enable the ACRCD to meet cost-share requirements for five pond restoration projects that have been or will be undertaken in Fall 2006 and for which the anticipated funding source unexpectedly fell through.

Many of the estimated 650 ponds in Alameda County are artificial, installed in the late 1940s through the early 1960s to support cattle production. The ponds, designed to last 10 to 20 years, lasted well into the late 1980s, when siltation and spillway erosion began to threaten the integrity of the ponds. At this point, pond repair, along with new environmental regulations and permitting, had become so expensive and time consuming that ranchers began "letting the ponds go" and turned to spring development and tank and trough placement to replace failing ponds. Although the ponds are no longer as important for the cattle operations, they have become vital habitat for many wildlife species, including several listed species whose natural aquatic habitat has been greatly reduced. Most of these ponds are on privately-owned land, so recovery efforts for these species will require voluntary efforts by private landowners.

The ACRCDD and the NRCS, together as the Alameda County Conservation Partnership, are assisting ranchers in Alameda County with the repair of their failing livestock ponds. NRCS provides technical and financial assistance through the Environmental Quality Incentives Program (EQIP) by designing projects and offering 50% of the cost of pond restoration. ACRCDD provides environmental permitting assistance for the landowner through their Alameda County Permit Coordination Program. However, these incentives alone are not enough to encourage many landowners to take on the cost, effort, and risk involved with species recovery and habitat restoration.

To provide for additional incentives, the ACRCDD and the NRCS collaborated with United States Fish and Wildlife Service (USFWS) and Environmental Defense, a national environmental organization, to offer compelling incentives to ranchers who repair ponds in a way that benefits listed species. NRCS, with support from the other partners, has developed a wildlife-friendly pond restoration Conservation Practice designed to benefit the California red-legged frog and California tiger salamander. Wildlife-friendly pond design includes measures above and beyond typical pond repair, such as specifying pond depths, loafing areas, vegetation, and management measures for the surrounding landscape. Landowners who choose this enhanced wildlife-friendly option will be required to restore and manage the ponds and the surrounding 300 acres of rangeland in accordance with the habitat needs of these two species. In return, they will receive up to 90% cost-share for the pond restoration, and Safe Harbor assurances from the USFWS (i.e., private landowners receive assurances that no additional regulatory restrictions will be imposed as a result of their voluntary conservation actions which benefit endangered and threatened species). The restoration projects will in turn make these lands more competitive for conservation easement dollars that would protect the habitat in perpetuity.

The first five pond restoration projects to be undertaken as a part of the Alameda County Wildlife-Friendly Pond Restoration program were identified in early 2006. The ACRCDD and NRCS worked with the participating landowners to design, permit, and get the projects construction-ready by the Fall 2006 construction season, which generally runs from September 1 to October 15. However, in mid-August 2006, ACRCDD learned that there was a problem with one of the two major funding sources for the project. Specifically, landowners receiving USFWS Private Stewardship Grant funds for restoration projects are not eligible to use the project site for mitigation for the next ten years. This restriction made USFWS funding source incompatible with ACRCDD's and participating landowners' goals to use these sites for mitigation and receive mitigation funds in exchange for placing conservation easements on the property. Without USFWS funds, the ACRCDD no longer had sufficient cost-share funds for the five pond restoration projects planned for Fall 2006.

The ACRCDD contacted Conservancy staff to see if the Conservancy could provide funding to fill the unanticipated gap. Staff agreed to recommend funding approval to the Conservancy at the next scheduled meeting in October 2006. However, if the scheduled pond restoration projects waited until after the October 2006 meeting to proceed, the narrow construction window would likely be missed and the restoration projects would have to wait until the next window in Fall 2007. The ACRCDD felt it was important to complete the restoration projects in Fall 2006 so they would have successful demonstration projects on the ground, and so that next year they would be able to move on to the next 5-10 ponds. Therefore, the ACRCDD, in consultation with Conservancy staff, made the decision to proceed with the restoration projects prior to receiving

funding approval and is requesting that the Conservancy approve funding retroactive to September 1, 2006.

Conservancy staff is aware that the ACRC and the landowners intend to receive mitigation funds in exchange for placing conservation easements on the properties on which pond restoration occurs. The mitigation funds would compensate the landowners for permanently restricting use of the ponds and associated upland areas – not for the cost or benefit of pond restoration itself – although they do provide a financial incentive to undertake wildlife-friendly pond restoration projects. Therefore, the Conservancy will not require the grantee to remit funds generated in connection with this type of mitigation to the Conservancy.

The ACRC and the NRCS collaborate as the Alameda County Conservation Partnership to serve as the lead conservation agency in Alameda County. The Partnership collaborates with many partners, including local, state, and federal agencies and other organizations, to develop and implement various conservation and agricultural strategies. Although the Partnership agencies are non-regulatory, they are the necessary link between landowners and public agencies and other organizations. The Partnership coordinates its efforts to ensure that locally-appropriate and voluntary solutions are proposed and implemented that address resource and agricultural challenges throughout Alameda County.

Site Description: The wildlife-friendly pond restoration projects are being undertaken as a part of the Alameda County Permit Coordination Program, which covers the entirety of Alameda County. However, the Permit Coordination Program primarily serves the ranching community in the eastern, rural portion of Alameda County. Agricultural lands dominate the eastern portion of the county, with grazing on 200,000 acres of rangeland being the predominant agricultural land use.

All five of the 2006 wildlife-friendly pond restoration projects (Exhibit 3) are located on private property in eastern Alameda County (Exhibit 1). Each of the ponds to be restored is at risk of failure due to siltation and/or spillway erosion, but is otherwise potential habitat for California red-legged frog and/or California tiger salamander. Restoring the deteriorating livestock ponds and maintaining the surrounding upland habitat will result in benefits for several listed species including the California red-legged frog, California tiger salamander, Western pond turtle, Tricolored blackbird, curved-foot hygrotus beetle, San Joaquin kit fox, and Alameda whipsnake.

Project History: In June 2002, the Conservancy approved funding for the Alameda County Permit Coordination Program. The project assisted the ACRC and the NRCS in obtaining a master permit for specified habitat restoration projects on private agricultural lands in Alameda County. The goal of the program was to streamline and simplify the permit process and to expedite project implementation timelines.

The Permit Coordination Program is now in place, having received agreements and master permits from six regulatory agencies (USFWS, National Marine Fisheries Service/NOAA Fisheries, US Army Corps of Engineers, California Department of Fish and Game, Regional Water Quality Control Board, and Alameda County Public Works Agency) for a set of 18 specified conservation practices and methodologies. The master permits cover eligible projects so long as landowners adhere to the agreements. Application time for pond restoration and other conservation projects will be approximately 30 days, not 1-2 years or more as under the previous permitting system.

The pond restoration projects are being undertaken as a part of the Permit Coordination Program. Without Permit Coordination, landowners would be much less interested in the pond restoration projects and the ACRC would not have the staff time to help more than a few landowners with permitting.

PROJECT FINANCING:

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| Coastal Conservancy | \$ 50,000 |
| Natural Resources Conservation Service | 65,600 |
| National Fish and Wildlife Foundation | 4,000 |
| Private Landowners | <u>12,500</u> |
| Total Project Cost | \$132,100 |

The expected source of the proposed grant is a FY 04/05 appropriation made to the Conservancy pursuant to the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002 (Proposition 40), which allocates bond funds to the Conservancy to protect and restore land and water resources in accordance with the Conservancy's enabling legislation (Public Resources Code Section 5091.650(b)(8)). The proposed project will accomplish these purposes by restoring deteriorating livestock ponds and maintaining the surrounding upland habitat in a wildlife-friendly manner. The restoration projects will enhance habitat for federally threatened California red-legged frog and California tiger salamander, as well as several other listed species.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

This project would be undertaken pursuant to Chapter 4.5 of the Public Resources Code, which establishes the San Francisco Bay Conservancy Program.

Pursuant to Sections 31162 and 31163, the Conservancy is authorized to undertake projects with and award grants to public and private agencies in the nine-county San Francisco Bay Area, and support interagency coordination.

Consistent with Section 31162(b), the proposed wildlife-friendly pond restoration project will restore and enhance natural habitats, watershed, and other open-space resources of regional importance, a primary goal of the San Francisco Bay Conservancy Program. The project will restore and enhance livestock ponds that provide aquatic habitat for two federally threatened species, the California red-legged frog and the California tiger salamander. Restoring the ponds and maintaining the surrounding upland habitat will also result in benefits for several other listed species, including Western pond turtle, Tri-colored blackbird, curved-foot hygrotus diving beetle, Alameda whipsnake, and San Joaquin kit fox.

This project meets the criteria set forth in Section 31163(d), in that it would: (1) be consistent with the Alameda County East County Plan which includes among its main objectives the preservation and enhancement of agriculture, recreation, open space resources, and the natural environment; (2) involve multiple agencies working together; (3) be implemented and completed rapidly; (4) provide opportunities that otherwise might be lost due to lack of sufficient cost-

sharing funds for private landowners to improve their livestock ponds and the surrounding upland habitat; and (5) include matching funds from other sources.

**CONSISTENCY WITH CONSERVANCY'S
STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):**

Consistent with **Goal 10, Objective A**, the project will restore and enhance at least five deteriorating livestock ponds that provide aquatic habitat for several endangered species, including the California red-legged frog, California tiger salamander, Western pond turtle, Tri-colored blackbird, and curved-foot hygrotylus diving beetle. The project will also enhance and maintain surrounding and connecting upland habitat to benefit and enhance the meta-populations of these species and also the Alameda whipsnake and San Joaquin kit fox.

**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

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. **Support of the public:** The project is supported by the Alameda County Flood Control and Water Conservation District – Clean Water Program, University of California Cooperative Extension, East Bay Regional Park District, East Bay Municipal Utility District, San Francisco Public Utilities Commission, California Cattlemen's Association, California Rangeland Trust, Defenders of Wildlife, and Sustainable Conservation. These agencies and non-profit organizations have expressed their support for this program because it promotes voluntary wildlife habitat restoration and creation on private lands, protects watersheds, promotes public-private partnerships for conservation, and provides an example of a win-win situation for ranchers and wildlife. Letters of support are included as Exhibit 4.
4. **Location:** The proposed project is in Alameda County, within the jurisdiction of the San Francisco Bay Area Conservancy Program.
5. **Need:** Until recently, ACRCDD had all of the funding in place for five pond restoration projects in 2006 and, based on the secured funding, proceeded to work with five private landowners in designing wildlife-friendly pond restoration plans. However, ACRCDD was recently informed that USFWS funds were not compatible with one of ACRCDD's and the participating landowners' main goals for the project, establishing conservation easements using mitigation funds. Conservancy funding is needed to fill the unanticipated gap and to enable the five restoration projects to be completed this year.

6. **Greater-than-local interest:** The wildlife-friendly pond restoration projects have been tailored to the biological needs of two federally threatened species, the California red-legged frog and the California tiger salamander. Restoring the ponds and maintaining upland habitat will also result in benefits for several other listed species, including the Western pond turtle, Tri-colored blackbird, curved-foot hygrotus diving beetle, San Joaquin kit fox, and Alameda whipsnake.

Additional Criteria

7. **Urgency:** All of the livestock ponds are in a deteriorated condition, with some near failure. If the ponds are not restored in this year's Fall construction season, some of the ponds may fail over the course of the year, resulting in a loss of habitat for listed species and a release of any accumulated sediment into the watershed.

In addition, the pond restoration projects will be permitted through the Alameda County Permit Coordination Program, which provides programmatic approvals that expire in 2009. ACRCDD is trying to restore as many ponds as possible before the Permit Coordination Program approvals expire.

8. **Resolution of more than one issue:** In addition to the habitat benefits for several threatened species, the pond restoration projects will prevent the release of accumulated sediment into the watershed and will help the participating landowners compete for easement funding. Easements on the private ranches will protect the value of the lands as habitat, open space, and agriculture.
9. **Leverage:** See the "Project Financing" section above.
10. **Innovation:** Ranchers voluntarily restoring ponds for habitat is an innovative concept. The specific technical guidance on wildlife-friendly project design was invented for this program because there was no existing standard. These initial pond restoration projects can serve as demonstrations in an effort to restore many more such ponds in Alameda County and throughout the affected species' range, and to promote more public-private partnerships to preserve habitat and open space in the privately-owned uplands of the Bay Area.
11. **Readiness:** ACRCDD is planning to implement five pond restoration projects in the Fall 2006 construction season, which generally runs from September 1 to October 15. Since some or all of the projects may have already been implemented prior to the October Board meeting, the Board is being asked to approve funding retroactive to September 1, 2006.
12. **Realization of prior Conservancy goals:** Creation of the Alameda County Permit Coordination Program was funded in part through a grant from the Conservancy. This permit streamlining project made it feasible for the ACRCDD and the participating landowners to do these pond restoration projects. Without Permit Coordination, landowners would be much less interested in these projects, and the ACRCDD would not have the staff time to help more than a few landowners with permitting.
13. **Cooperation:** The Alameda County Wildlife-Friendly Pond Restoration program is a partnership between the ACRCDD, NRCS, USFWS, Environmental Defense, and private landowners.

COMPLIANCE WITH CEQA:

The ACRCDD is the lead agency under the California Environmental Quality Act (CEQA) for the Alameda County Partners in Restoration Permit Coordination Program. The ACRCDD's Board of Supervisors adopted a Negative Declaration for the Permit Coordination Program on December 3, 2004 (Exhibit 2). The purpose of the Permit Coordination Program is to provide blanket approval for specified types of projects, thus streamlining the permitting process and expediting implementation of projects. Eighteen NRCS conservation practices were selected for inclusion in the program. There were no potentially significant impacts identified in the Negative Declaration.

The purpose of the Permit Coordination Program and the associated conservation practices is to reduce erosion and sedimentation and enhance habitat values in Alameda County watersheds. Project implementation would contribute to the health of the natural resources and agricultural sustainability in Alameda County. As a result of these proposed conservation activities, wildlife habitat values on private land would be increased, listed species protected, and water quality improved in Alameda County streams.

Each individual project included under the Permit Coordination Program will receive careful planning utilizing NRCS's nine-step conservation planning process. The detailed description of the proposed actions provided in the Negative Declaration incorporate a full-range of environmental protection measures (general; conservation-practice-specific; and species-specific measures) into the program. These measures are essential, inseparable components of the specific design and plan for each individual project and will prevent significant impacts and will minimize any temporary, highly localized, and minor impacts that may occur during installation and maintenance of the conservation practices.

Biological Resources: Implementation and maintenance of the conservation practices will be conducted in the minimum footprint possible. Additionally, habitat disturbance and other construction-related effects to the federally and state-listed species will be limited to periods that federal and state wildlife agencies indicate would have negligible impact on the migration, breeding, sheltering, or feeding of the species. Project activities that have potential to result in short-term impacts include soil excavation, grading, preparation of the ground for seeding and mulching, grade and stream stabilization, channel excavation, construction of earthen embankments, placement of fill, vegetation removal, and burial, trampling or crushing of vegetation from equipment and foot traffic. Numerous environmental protection measures will be incorporated into the project to avoid and minimize any of these potential adverse effects. The 18 conservation practices selected by ACRCDD for inclusion in the Permit Coordination Program are designed to result in enhanced habitat values for both plant and animal populations, thus providing net environmental benefits to federally listed and other special status species.

On a long-term basis, all practices provide for improved aquatic, riparian, and/or upland habitat and decreased sedimentation in water bodies to benefit fish, amphibians, reptiles, resident and migratory birds, and many other species.

Geology and Soils: The ACRCDD/NRCS planning process and policies require all projects to be evaluated for soil hazards and mitigated if appropriate. ACRCDD/NRCS do no work in areas of known geologic instability without approval of a certified engineer. Therefore, there is no potential for a negative impact to geology or soils.

Reduced erosion and consequent improvement in water quality of Alameda County streams are primary objectives and benefits of the Alameda County permit coordination program; however, some temporary, construction-related increase in sediment would occur. Estimates show that any contributions of sediments from construction are offset within the first year by the reduction in sediment delivery over the 5-year life of the Permit Coordination Program. Best management practices will be utilized during construction to prevent soil loss and polluted runoff.

Hazards and Hazardous Materials: Some use and storage of earthmoving equipment at the site will occur during the implementation of the practices. ACRCDD and NRCS have incorporated many protective measures into the proposed action to ensure that adverse impacts do not occur during routine operations, including limitations on construction equipment. Limits on construction equipment use and maintenance ensure that the use or storage of petroleum-powered equipment will be accomplished in a manner to prevent the potential release of petroleum materials into waters of the state.

Hydrology and Water Quality: Design criteria, implementation, and maintenance of the ACRCDD/NRCS conservation practices are specific to the hydrologic conditions of Alameda County watersheds. The conservation practices selected for coverage by this permit coordination program have a proven ability to result in improvement in hydrology and water quality. They are specifically designed to stem and resolve erosion and sediment problems, to minimize runoff from agriculture, which may contain nutrients, fertilizers, pesticides, and herbicides, and to be installed in such a manner that there is low to no risk of causing environmental impacts. Best management practices and erosion control measures are used both during construction and in the permanent erosion control measures to avoid adverse impacts to adjacent watercourses, hydrology, and water quality.

Transportation/Traffic: Additional traffic associated with individual project construction is likely, however the increase will be minor and not exceed the capacity of the street system.

The Conservancy, a CEQA responsible agency with respect to the Alameda County Wildlife-Friendly Pond Restoration project, will provide funds to the ACRCDD to assist with the restoration of livestock ponds based on NRCS wildlife-friendly design standards and specifications. The Pond Restoration project is being undertaken as a part of the Permit Coordination Program.

The five currently-planned pond restoration projects (Exhibit 3) consist of the installation of one or more of the following NRCS conservation practices: Pond Restoration, Critical Area Planting, Grade Stabilization Structures, Grassed Waterways, Obstruction Removal, and Structure for Water Control. California tiger salamander and California red-legged frog either are present or are potentially present at all five project sites. All applicable protective measures (general; conservation-practice-specific; and species-specific measures) identified in the Negative Declaration have been incorporated in these projects.

Staff has reviewed ACRCDD's Negative Declaration and agrees that the Pond Restoration project fits the criteria of the Permit Coordination Program and will not have a significant effect on the environment if done in accordance with the general, applicable conservation-practice-specific, and applicable species-specific protective measures identified in the Negative Declaration. Staff, therefore, recommends that the Conservancy find that the proposed project does not have the potential for an adverse effect on the environment as defined in 14 Cal. Code of Regulations, Section 15382.

The Pond Restoration project will receive funding from NRCS' Environmental Quality Incentives Program (EQIP). NRCS meets National Environmental Policy Act (NEPA) requirements through an environmental assessment worksheet (EAW). The EAW, which is completed for each project, meets state and local environmental review requirements and covers issues specific to California. In addition, based on a Final EQIP Environmental Assessment (EA) and a Supplement to the Final EQIP EA, the Chief of NRCS made a Finding of No Significant Impact (FONSI) and the determination was made that no environmental impact statement is required to support National implementation of EQIP.

Upon approval, staff will file a Notice of Determination pursuant to CEQA for the project.