

COASTAL CONSERVANCY

Staff Recommendation

July 21, 2011

**BAY AREA RIDGE TRAIL: SIERRA VISTA CONSTRUCTION**

Project No. 06-043-02

Project Manager: Jeff Melby

**RECOMMENDED ACTION:** Authorization to disburse up to \$68,150 to the Santa Clara County Open Space Authority to construct a segment of the San Francisco Bay Area Ridge Trail in the Sierra Vista Open Space Preserve to connect with City of San Jose parklands.

**LOCATION:** Northeast of the City of San Jose, in unincorporated Santa Clara County

**PROGRAM CATEGORY:** San Francisco Bay Area Conservancy

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**EXHIBITS**

Exhibit 1: [Project Location and Site Maps](#)

Exhibit 2: [Project Letters](#)

Exhibit 3: [CEQA Documents](#)

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**RESOLUTION AND FINDINGS:**

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

“The State Coastal Conservancy hereby authorizes disbursement of an amount not to exceed sixty-eight thousand one hundred and fifty dollars (\$68,150) to the Santa Clara County Open Space Authority (Open Space Authority) to construct a segment of the San Francisco Bay Area Ridge Trail in the Sierra Vista Open Space Preserve of Santa Clara County.

Prior to the disbursement of Conservancy funds for construction, the Open Space Authority shall submit for the review and approval of the Executive Officer of the Conservancy:

1. Evidence that the Open Space Authority has obtained all necessary permits and approvals.
2. A signing plan for the project acknowledging Conservancy participation and identifying the trail as part of the Bay Area Ridge Trail system.
3. A final work plan (including the names of any contractors to be used in the completion of the project), and a project schedule and budget.

4. Prior to the disbursement of funds, the Open Space Authority and the Conservancy shall enter into an agreement sufficient to protect the public interest in the project and to provide public access to the project site.”

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 current Project Selection Criteria and Guidelines.
2. The proposed authorization is consistent with the purposes and objectives of Chapter 4.5 of Division 21 of the Public Resources Code, regarding the resource and recreation goals of the San Francisco Bay area.
3. The Conservancy has independently reviewed the Mitigated Negative Declaration (attached to the accompanying staff recommendation as Exhibit 3) and findings adopted by the Open Space Authority on April 28, 2011 for the Sierra Vista Preserve Trail Development project under the California Environmental Quality Act. The Conservancy finds that there is no substantial evidence that the project, as mitigated, may have a significant effect on the environment as defined in 14 California Code of Regulations Section 15382.”

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**PROJECT SUMMARY:**

Staff recommends the Conservancy authorize a grant of up to \$68,150 to the Santa Clara County Open Space Authority (Open Space Authority) to construct a new 5.8-mile multi-use segment of the San Francisco Bay Area Ridge Trail (Ridge Trail) in the Sierra Vista Open Space Preserve. The property is located east of the City of Milpitas and the Berryessa District of the City of San Jose. If funding is approved, the Open Space Authority will complete construction of the Ridge Trail through the former Kirk, Furtado, and Vilas properties, which the Open Space Authority owns in fee title, as well as the Frankel property, on which the Open Space Authority acquired a conservation and trail easement.

The proposed segment of trail will cover approximately half of the distance of a strategic gap in the Ridge Trail between Alum Rock Park and Joseph D. Grant County Park to the south (see Exhibit 1). The trail will connect an existing segment of Ridge Trail on Open Space Authority lands to the multi-use Boccardo Trail. The Boccardo Trail in turn connects to multi-use trails within the state’s oldest existing City Park, Alum Rock Park. When completed, the trail on Open Space Authority lands and easements will allow hikers to walk from a beautiful low-elevation riparian corridor within Alum Rock Park to spectacular vistas above 2,500-feet in elevation. The route runs along prominent ridgelines north and south of the Penitencia Creek Canyon, providing sweeping views of San Francisco Bay, the South Bay, the Peninsula and the Santa Cruz and Hamilton mountain ranges.

The trail alignment utilizes approximately 4.5 miles of existing ranch roads and will require 1.3 miles of new single track trail construction. The trail will require a total of four clear-span

bridges<sup>1</sup> capable of supporting equestrian use: two custom fiberglass bridge structures to be manufactured by a bridge construction firm and assembled in place by Open Space Authority staff; and two wood bridge structures which will be built by Open Space Authority staff. The grant from the Conservancy would fund the fiberglass bridges, and some interpretive sign panels.

The new 5.8-mile trail segment will be designed to current county standards for multiple-use regional trails. The proposed trail initially will be dual-use (hikers and bicyclists only); the Open Space Authority intends to add equestrian use as soon as concerns regarding potential conflicts among users on certain segments of the trail alignment are resolved. These segments are on fairly steep side slopes, with limited line of sight. The Open Space Authority staff have committed to monitoring use of the trail to determine if adding equestrian use will be compatible with hiking and cycling. When such a determination is made, the Open Space Authority will open the trail to equestrians.

A staging area on Sierra Road was planned, but that project has been put on hold due to city requirements for significant road improvements leading to the site. Initially, access to the new Sierra Vista Ridge Trail will be through Alum Rock Park, where the nearest parking lot (Eagle Rock) is about 2.5 miles away, and 1,200 feet lower in elevation. That site has limited staging area space for equestrians on weekends, when the lot typically is very heavily used.

The Bay Area Ridge Trail Council (BARTC) and Open Space Authority staff will reach out to adjacent landowners to the south and east, including managers of the University of California Natural Reserve System property at Blue Oak Ranch, to determine best opportunities for extending the trail south about 2 miles to Joseph D. Grant County Park, site of an existing dedicated Ridge Trail segment.

This is a regionally-significant trail segment, providing new trail experiences to South Bay communities. The project site is located east of downtown San Jose and is convenient from a large number of population centers and recreation facilities. There is a direct link to the project site from the City of San Jose's Alum Rock Park, and easy access from the Penitencia Creek Park chain, the Berryessa Community Center, and multiple city parks and neighborhoods.

**Site Description:** The lands subject to this project are the former Kirk, Furtado, Vilas, and Frankel properties. They lie between Ed Levin County Park to the north and Joseph D. Grant County Park to the south, within northern Santa Clara County. The heavily-used Alum Rock Park lies directly west and below the properties. Alum Rock Park was a spectacular destination in the early 20<sup>th</sup> century, with mineral baths, an indoor swimming pool, tea garden, dance pavilion and the Alum Rock Steam Railroad which ran from 1890 to 1911 before being destroyed by heavy floods. Typical of the Diablo range, the subject properties contain a mix of grassland and oak woodland, are hot and dry in late spring and summer, and cool and moist in late fall and winter. The trail's location along a western ridgeline of the Diablo Range will provide spectacular views of the bay, Santa Clara Valley, and the coast interior range.

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<sup>1</sup> A clear span bridge is small-scale bridge structure that completely spans a watercourse without altering the stream bed or bank.

**Project History:** The vision for the Bay Area Ridge Trail is a 550-mile trail that rings San Francisco Bay high on the ridgeline and serves hikers, mountain bicyclists and equestrians. Under the leadership of the Conservancy and the BARTC, and supported by a diverse group of project participants, the Ridge Trail creates an interconnected system of open space and trails that provides recreational opportunities and scenic views to the public. Begun over 20 years ago, over 330 miles of trail are now dedicated and open to the public in all nine Bay Area counties. This authorization will further the Conservancy's statutory and strategic goal of improving access around San Francisco Bay and is consistent with previous Conservancy authorizations to negotiate and acquire trail easements, prepare trail construction plans and designs, and construct and open trail segments to the public. The proposed project will continue to build connections between existing trail segments and help complete the more than 550-mile trail by connecting the Diablo Range to the Santa Cruz Mountain range via the Santa Clara Valley.

In January of 2000, the Conservancy authorized \$500,000 in funds to the Open Space Authority to complete the acquisition of the Kirk Property. The Conservancy, in October of 2002, authorized \$100,000 to the Open Space Authority to acquire the nearby Aoki Property. The Furtado and Vilas properties were acquired by the Open Space Authority in 2001 and 2003, respectively, and the Frankel easement was acquired by the Open Space Authority in 2005. The first Ridge Trail segment on these Open Space Authority lands was dedicated in May of 2002.

In June 2006, the Conservancy Board authorized disbursement of \$50,000 to the Open Space Authority to plan a trail linking the Kirk, Furtado, Vilas, and Frankel properties. In April of 2011, the Open Space Authority applied for Conservancy funding to implement this plan, as a major step in closing the Ridge Trail gap between Alum Rock Park and Joseph D. Grant County Park to the south. The BARTC and Conservancy staff ranked the project as a high priority due to the regional significance of the trail gap, the location of the proposed trail near a major population center, and the importance of the partnership with the Open Space Authority to complete the Ridge Trail in Santa Clara County.

**PROJECT FINANCING**

<b>Coastal Conservancy</b>	\$68,150
Santa Clara County Open Space Authority	<u>57,940</u>
<b>Total Project Costs</b>	\$126,090

The anticipated source of Conservancy funds for this grant is the fiscal year 2009/10 appropriation to the Conservancy from the "Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006" (Proposition 84). Proposition 84 funds may be used for the purposes of promoting access to and enjoyment of the urban open space resources in the nine-county San Francisco Bay Area in accordance with the provisions of the Conservancy's enabling legislation. Consistent with the purposes of Proposition 84, the proposed project will be undertaken pursuant to the San Francisco Bay Area Conservancy Program (Chapter 4.5 of Division 21 of the Public Resources Code), as described below.

Chapter 4.5 of Division 21 provides that the San Francisco Bay Conservancy Program give priority to projects with matching funds. (Pub. Res. Code §31163(c)). The Open Space Authority has committed to providing matching funds in the amount of approximately one half of the total cost of the project. The Open Space Authority staff will also provide matching labor totaling \$16,640 in addition to the \$57, 940 cash contribution.

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

This proposed project is consistent with the Conservancy’s San Francisco Bay Area Conservancy Program enabling legislation codified at Chapter 4.5 of Division 21 of the Public Resources Code (Sections 31160 to 31164). That chapter directs the Conservancy to address the resource and recreational goals of the nine bay area counties in a “coordinated, comprehensive, and effective way.”

Pursuant to Section 31162(a) of the Public Resources Code, the Conservancy may award grants in the nine-county San Francisco Bay Area that will help to improve public access to, within, and around the ridgetops, consistent with the rights of private property owners, and without having a significant adverse impact on agricultural operations and environmentally sensitive areas and wildlife. Consistent with Section 31162(a), the proposed project will complete the Ridge Trail through the Open Space Authority’s properties and easements in northeastern Santa Clara County, one of the nine Bay Area counties.

Consistent with Section 31163(a), the Conservancy cooperates with nonprofit land trusts and other organizations in identifying and adopting long-term resource and outdoor recreational goals for the San Francisco Bay Area. Completion of the Ridge Trail is identified in (1) *The San Francisco Bay Area Conservancy Program Regional Needs Briefing Book* (Bay Area Ridge Trail Council, July 1999) and (2) *400 Miles and Beyond: A Strategic Plan for Completing the Bay Area Ridge Trail* (BARTC, Draft 2006).

The proposed project satisfies the criteria for determining project priorities under Section 31163(c) in the following respects:

- 1) The project is consistent with approved plans including:
  - a) The Ridge Trail alignment that has been adopted by the BARTC;
  - b) Trail alignment R5-B (Bay Area Ridge Trail, Diablo Range) as identified in the *Santa Clara County Parks and Recreation Countywide Trails Master Plan*, adopted by the Board of Supervisors in November of 1995; and
  - c) The City of San Jose’s *Greenprint for Parks and Community Facilities and Programs, Citywide Trail Strategy, C2*, adopted by the San Jose City Council in September of 2000, which supports the proposed routes in the Countywide Trails Master Plan.
- 2) The Ridge Trail is a multijurisdictional resource and serves a regional constituency;
- 3) The project can be implemented in a timely way as the grantee is prepared to begin work upon project approval;
- 4) The construction of the Ridge Trail through the lands managed by the Open Space Authority provides an opportunity for benefits that could be lost if the Open Space Authority develops recreational uses of the properties without Ridge Trail funding; and

5) The project includes significant matching contributions from the Open Space Authority.

**CONSISTENCY WITH CONSERVANCY'S 2007  
STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):**

Consistent with **Goal #11, Objective G** of the Conservancy's 2007 Strategic Plan, which seeks to develop an additional 30 miles of the Ridge Trail, the proposed project will create 5.8 miles of the Bay Area Ridge Trail.

**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 June 4, 2009, 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:** There is a great deal of local support for the project from trail users and members of the local community. Strong support for trail development within the lands controlled by the Open Space Authority comes from hikers, equestrians, and mountain cyclists, including the Responsible Organized Mountain Pedalers (ROMP), a local cycling club with over 400 members. Members have expressed great enthusiasm for multi-use trails providing access to open space and ridgelines, as well as enthusiasm for completing more segments of the Ridge Trail. The project is also supported by State Senator Elaine Alquist and Assemblyperson Simon Salinas. See Exhibit 2.
4. **Location:** The proposed project is in Santa Clara County, within the jurisdiction of the San Francisco Bay Area Conservancy Program.
5. **Need:** Conservancy funding is needed to enable the Open Space Authority to implement this trail construction project. No other source of funding is currently available to complete the project.
6. **Greater-than-local interest:** The Ridge Trail is truly a regional attraction. The 550-mile trail network offers spectacular views of the Bay Area and links many parklands and open space preserves. In addition, the Ridge Trail will be tied to the San Francisco Bay Trail and the California Coastal Trail systems, creating an extensive trail network. Completion of the Ridge Trail is one of the goals identified in the Bay Area Open Space Council's *Regional Needs Briefing Book*.
7. **Sea level rise vulnerability:** The project is not located in an area vulnerable to future sea level rise, lying between 1,000 and 2,500 feet in elevation.

**Additional Criteria**

8. **Leverage:** See the “Project Financing” section above.
9. **Readiness:** The Open Space Authority is prepared to start construction immediately upon approval.
10. **Realization of prior Conservancy goals:** See “Project History” above.
11. **Cooperation:** The San Francisco Bay Area Program of the State Coastal Conservancy has been working cooperatively with BARTC to administer a competitive grant program to identify projects that help implement the Ridge Trail. The highest priority proposals from that grant program are recommended for funding by the Conservancy.
12. **Vulnerability from climate change impacts other than sea level rise:** Additional precipitation due to climate change could impact the trail, so extra care will be taken to ensure that the tread and drainage structures will withstand significant rainfall. Park patrols will include survey of trail conditions and additional maintenance will be scheduled as needed.
13. **Minimization of greenhouse gas emissions:** For singletrack trail segments, trail width will be kept to the minimum feasible in order to reduce the amount of time power equipment will be operated. Wherever practical, existing (unpaved) service roads will be used as trail alignment; upgrading existing roadbeds would require significantly less equipment time than excavating new routes. Much of the vegetation management will be accomplished by use of hand tools rather than power equipment. The project site is densely vegetated, including expansive woodlands and grasslands, providing significant carbon sequestration potential. Care will be taken during the design and construction phases to align the trail to minimize vegetation removal. The grantee will also employ Bay Area Air Quality Management District best management practices to minimize greenhouse gas emissions during construction.<sup>[1]</sup>

**COMPLIANCE WITH CEQA:**

Pursuant to the California Environmental Quality Act (CEQA), the Open Space Authority, as lead agency, prepared the Initial Study and Mitigated Negative Declaration, which were noticed and circulated for public review on March 18, 2011. The comment period ended on April 18, 2011. The Open Space Authority’s Board of Directors approved the project and adopted the Mitigated Negative Declaration (MND) including a Mitigation Monitoring and Reporting Program (MMRP) (Exhibit 3) on April 28, 2011. On April 29, 2011, the Open Space Authority filed a Notice of Determination with the County Clerk of Santa Clara County.

CEQA requires consideration of potential environmental effects of agency actions and approvals, unless exempt. The Initial Study and MND identified potentially significant impacts in the areas of biological resources and cultural resources; however, mitigation measures have been

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<sup>[1]</sup> [Bay Area Air Quality Management District, California Environmental Quality Act Air Quality Guidelines \(May 2011\).](#)

incorporated into the project to assure that these potential impacts were eliminated or reduced to *less than significant levels*, as summarized below:

**Mitigation incorporated into project for biological resources:**

(BIO-1) **Special-status plant surveys** by a qualified botanist will be conducted to avoid any potential impacts to special-status plants that may occur on-site. Surveys will be conducted in early April to 1) identify special-status plants that are spring blooming, and 2) to identify plants that are in the same genus as the special-status plants, or share similar vegetative structures, and which grow within the trail alignment. If vegetative plants in the same genus, or sharing similar vegetative structures are identified, then a 20 ft buffer surrounding the potential special-status plant populations will be flagged or fenced to avoid any impact from trail construction at this time. These areas will then be surveyed in June or early July to verify whether the plants in question are in fact special-status. If the re-surveys do not reveal the presence of these plants, summer surveys will not to be required.

If any potentially-occurring special status species are found within areas of proposed new trail creation, the trail will be re-directed to avoid these populations and provide a 20-ft buffer between the perimeter of the population and any new trail bed. In the unlikely event that relocating the trail is not feasible in a specific location, a qualified botanist will prepare a mitigation approach to ensure that no adverse impacts to the population will occur. For any significant populations of CNPS list 1, or federally or state endangered or threatened plants identified adjacent to the trail alignment, a split-rail fence and interpretive signage will be erected as an additional mitigation measure to minimize potential indirect impacts to these populations stemming from increased land use and possible off-trail vegetation trampling. Adopting these avoidance and mitigation measures will ensure that the construction and operation of the Sierra Vista Project will cause no significant negative impacts to any special-status plant species.

***BIO-2. Dusky-footed Woodrat Avoidance.*** The trail will be designed in such a way as to accommodate San Francisco dusky-footed woodrat homes (i.e., be realigned so as to not completely remove homes). Crews conducting survey and construction work for the trail will be briefed on identification of dusky-footed woodrat, their natural history and home composition.

To enhance existing woodrat population, vegetation removed to facilitate construction of the trail will be cut and placed in such a way as to provide additional house material in the area. Woodrat homes either occupied or presumed to be non-occupied will be avoided when establishing equipment and materials staging areas. In addition, the Open Space Authority will pursue local researchers to conduct work related to recreational trails and dusky-footed woodrat populations.

(BIO-2) **Seasonal Avoidance (Work Window).** To the extent practicable, ground-disturbing activities should not occur during the wet season, from October 15 through April 15, when California red-legged frogs are most likely to be found in upland habitats away from aquatic habitat. The preferred work window will be April 16 to October 14.

(BIO-3) **On-site Construction Crew Education Program.** Before the commencement of construction, a qualified biologist will explain to construction workers how best to avoid the accidental take of California red-legged frogs. The biologist will conduct a training session that will be scheduled as a mandatory informational field meeting for contractors and all construction

personnel. The field meeting will include topics on species identification, life history, descriptions, and habitat requirements during various life stages. Emphasis will be placed on the importance of the habitat and life stage requirements within the context of project avoidance and minimization measures. Handouts, illustrations, photographs, and project maps showing areas where minimization and avoidance measures are being implemented will be included as part of this education program. The program will increase the awareness of the contractors and construction workers about existing federal and state laws regarding endangered species as well as increase their compliance with conditions and requirements of resource agencies.

**(BIO-4) Pre-construction Surveys.** Prior to any work within 200 ft of riparian habitat or seasonal seeps, a pre-construction survey will be conducted by a qualified biologist. If any red-legged frogs are found within the work area, the United States Fish and Wildlife Service (USFWS) will be contacted, and if approved by the USFWS, the qualified biologist will remove the individual(s) to a safe location nearby.

**(BIO-5) Habitat Management.** The Open Space Authority will continue to manage its lands adjacent to the trail in such a way that it continues to provide upland dispersal habitat for the California red-legged frog. This includes maintaining open grasslands with no barriers that could prevent movement of red-legged frogs.

**(BIO-8) Pre-construction Surveys.** Pre-construction surveys for Burrowing Owls should be completed in potential habitat in conformance with California Department of Fish and Game (CDFG) protocols, no more than 30 days prior to the start of construction. If no Burrowing Owls are located during these surveys, no additional action would be warranted. However, if Burrowing Owls are located on or immediately adjacent to the site the following mitigation measures will be implemented.

**(BIO-9) Buffer Zones.** If Burrowing Owls are present during the non-breeding season (generally September 1 to January 31), a 150-ft buffer zone should be maintained around the occupied burrow(s) if practicable. If maintaining such a buffer is not feasible, then the buffer must be great enough to avoid injury or mortality of individual owls, or else the owls should be passively relocated as described in BIO-10 below. During the breeding season (generally February 1 to August 31), a 250-ft buffer, within which no new activity will be permissible, will be maintained between project activities and occupied burrows. Owls present on site after February 1 will be assumed to be nesting on or adjacent to the site unless evidence indicates otherwise. This protected area will remain in effect until August 31, or at the CDFG's discretion and based upon monitoring evidence, until the young owls are foraging independently.

**(BIO-10) Passive Relocation.** If construction will directly impact occupied burrows, eviction of owls should occur outside the nesting season. No burrowing owls will be evicted from burrows during the nesting season (February 1 through August 31) unless evidence indicates that nesting is not actively occurring (e.g., because the owls have not yet begun nesting early in the season, or because young have already fledged late in the season). Owls will be evicted by a qualified biologist, who will install one-way doors in the occupied burrow and any nearby burrows within the impact footprint. The doors will remain in place for at least 2 nights, after which the doors will be removed and the burrows back-filled to prevent reoccupation of the burrows prior to trail construction.

(BIO-11) **Habitat Management.** If Burrowing Owls are impacted by the project, existing grassland habitat owned by the landowner adjacent to the trail shall be managed in such a way that it continues to provide breeding habitat for Burrowing Owls. Management of grassland habitat for Burrowing Owls is consistent with management of suitable upland dispersal and aestivation habitat for California tiger salamanders and California red-legged frogs.

(BIO-12) **Pre-construction Surveys/Avoidance.** Prior to any action that would result in clearing of coastal sage scrub, coyote brush chaparral, and cismontane woodland habitats, a qualified biologist should conduct a survey for San Francisco dusky-footed woodrat nests. If multiple nests are found in the area to be disturbed, the nests should be avoided if feasible, preferably with a minimum 10-ft buffer around any nests. If avoidance is not feasible, the following mitigation measure should be implemented.

(BIO-13) **Relocation.** If active woodrat nests are found within impact areas on the project site, and the nests cannot be avoided, the nesting material will be relocated using the following methodology (or accepted CDFG protocol at the time of impact, if different from the following). All understory vegetation will be cleared within the project site or in the area immediately surrounding the nests, but the nest itself should not be removed at this stage. Then, each active nest will be disturbed by a qualified wildlife biologist to the degree that all woodrats leave the nest and seek refuge off the site. The nest sticks will then be removed from the site and piled at the base of a nearby hardwood tree (preferably an oak or California bay with refuge sites among the tree roots). The spacing distance between the newly placed piles of sticks should not be less than 100 ft, unless a qualified wildlife biologist has determined that a specific habitat can support higher densities of nests.

(BIO-14) **Seasonal Avoidance.** Golden Eagles may be nesting from February 1 through August 31. If construction-related work is conducted outside this period, potential impacts to the active nests of Golden Eagles will be avoided.

(BIO-15) **Pre-construction Surveys/Buffer Zones.** If work cannot be scheduled to occur from September 1 to January 31, pre-construction surveys should be conducted along the trail alignment for any Golden Eagle nests that could be disturbed. The distance at which disturbance may lead to abandonment may vary with topography and the type of disturbance. The area to be surveyed should be determined by a qualified ornithologist in the field, but will likely include the viewshed of potential work areas, within 0.5 mi of the proposed new trail segments. If an active nest is found, disturbance should be avoided by establishing a disturbance-free buffer zone around the nest for the remainder of the breeding season (September 1, or when all chicks have fledged). The dimensions of this buffer zone will be determined by a qualified ornithologist.

**Mitigation incorporated into project for cultural resources:**

(CULT-1) Construction personnel should be alerted to the possibility of buried cultural remains in the Project area. Personnel should be instructed that upon discovery of buried cultural materials, work in the immediate area of the find should be halted, and a qualified cultural resources professional should be contacted to examine the discovery and determine its significance.

(CULT-2) Upon discovery of cultural materials, stop work immediately, at that site and any nearby area reasonably suspected to have remains, and contact the County Coroner. The Coroner

has two working days to examine the remains after being notified by the person responsible for the excavation. If the remains are Native American, the Coroner has 24 hours to notify the Native American Heritage Commission. The Native American Heritage Commission will immediately notify the person it believes to be the most likely descendant of the deceased Native American. The most likely descendant has 24 hours to make recommendations to the owner, or representative, for the treatment or disposition, with proper dignity, of the remains and grave goods. If the descendant doesn't make recommendations within 24 hours, the owner must reenter the remains in an area of the property secure from further disturbance, or if the owner doesn't accept the descendant's recommendations, the owner or the descendant may request mediation by the Native American Heritage Commission. If mediation fails to provide measures acceptable to the landowner, the landowner or his or her authorized representative shall reenter the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance.

Staff concurs with the Open Space Authority's determination and therefore, recommends that the Conservancy find that the project as mitigated will not have a significant effect on the environment as defined in 14 California Code of Regulations Section 15382. Upon approval, staff will file a Notice of Determination for the project.