

COASTAL CONSERVANCY

Staff Recommendation
October 18, 2012

ALAMEDA COUNTY WILDLIFE-FRIENDLY POND RESTORATION, PHASE II

Project No. 12-038-01
Project Manager: Betsy Wilson

RECOMMENDED ACTION: Authorization to disburse up to \$175,000 to the Alameda County Resource Conservation District to plan and implement a minimum of four wildlife-friendly pond restoration projects in Alameda County as part of the Alameda County Wildlife-Friendly Pond Restoration Program.

LOCATION: Alameda County (Exhibit 1)

PROGRAM CATEGORY: San Francisco Bay Area Conservancy

EXHIBITS

- Exhibit 1: [Project Location and Site Map](#)
 - Exhibit 2: [Final Mitigated Negative Declaration](#)
 - Exhibit 3: [Photographs of Pond Restoration Projects](#)
 - Exhibit 4: [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 one hundred seventy-five thousand dollars (\$175,000) to the Alameda County Resource Conservation District (ACRCD) to plan and implement a minimum of four wildlife-friendly pond restoration projects in Alameda County as part of the Alameda County Wildlife-Friendly Pond Restoration Program, subject to the following conditions:

1. No Conservancy funds shall be disbursed for the project until the Conservancy’s Executive Officer has reviewed and approved in writing:
 - a. A final work plan, including a budget and schedule.
 - b. The name and qualifications of any contractors that ACRCD intends to retain to carry out the project.
 - c. A plan for acknowledging Conservancy funding.

2. For each project site, ACRCDD shall provide evidence that all permits and approvals have been obtained.
3. For each project site, ACRCDD shall submit for the Conservancy's 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 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 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, Sections 31160-31165, regarding the San Francisco Bay Area Conservancy Program.
3. The Conservancy has independently reviewed the *Final Mitigated Negative Declaration for the Alameda County Voluntary Local Program*, August 2012 as adopted on August 20, 2012 by the ACRCDD's Board of Directors, which is attached to the accompanying staff recommendation as Exhibit 2 and which adequately describes the proposed project, and finds that there is no substantial evidence that the proposed project 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 \$175,000 to the Alameda County Resource Conservation District (ACRCDD) to plan and implement a minimum of four wildlife-friendly pond restoration projects in Alameda County as part of the Alameda County Wildlife-Friendly Pond Restoration Program (Program). The ACRCDD and the Natural Resources Conservation Service (NRCS) created the Program and have been working over the past ten years to implement it. The Program offers incentives to ranchers to restore failing livestock ponds and maintain the surrounding upland areas in a way that meets the biological needs of the California red-legged frog, California tiger salamander, and other wildlife that use the ponds as habitat. In carrying out the proposed project, ACRCDD will compile existing data on populations of native and non-native predator species on public and private lands in eastern Alameda County, advertise the Program to landowners, select a minimum of four restoration sites, prepare restoration design plans and acquire permits for the selected restoration sites, provide financial assistance to landowners to implement the selected restoration projects, and conduct construction and post-construction monitoring. Twenty wildlife-friendly livestock pond restoration projects have been successfully implemented since the beginning of the Program, including five restorations that received funding from a previous Conservancy grant. The requested Conservancy funds would enable the ACRCDD to continue implementing the Program, with a minimum of four additional pond restoration projects being completed over the next two years.

The survival and recovery of the California red-legged frog and the California tiger salamander, both federally listed threatened species, in Alameda County increasingly depends on existing livestock ponds and the efforts of local cattle ranchers. Much of these two species' habitat has

been altered or lost to development and cropland. Natural breeding habitat (slow-moving creeks and vernal pools) in particular has been affected by these uses. Remaining habitat occurs mostly on ranches and grazed public lands. Stock ponds, which can provide high-quality aquatic habitat for both species, have become a vital feature on the landscape as natural habitat is lost.

In addition, properly functioning and managed stock ponds help prevent the release of accumulated sediment into the watershed, thereby improving and protecting the water quality of Alameda County watersheds. Most of the agricultural lands in Alameda County are located within the Alameda Creek watershed, a major watershed of the San Francisco Bay. However, it is possible some of the restoration sites will be located in other, smaller watersheds in Alameda County, some of which drain to the Sacramento-San Joaquin River Delta.

There are approximately 800-1,000 livestock ponds in Alameda County. Most of these ponds were installed thirty to sixty years ago, and were designed with a twenty-year lifespan. Many are now approaching failure due to erosion or siltation. Pond repairs are not economical for ranchers, with costs ranging from ten to ninety thousand dollars. Many ranchers no longer depend on stock ponds for livestock water as water tanks and troughs are a cheaper alternative to addressing cattle water needs on the landscape.

The Program offers incentives to ranchers to restore their ponds for wildlife. 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 are 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 receive up to 90% cost-share for the pond restoration, streamlined permitting assistance, project planning and design, engineering/biological assistance during project implementation, and federal Safe Harbor assurances (i.e., assurances that no additional regulatory restrictions will be imposed as a result of the landowners' voluntary conservation actions which benefit endangered and threatened species). The restoration projects in turn make these lands more competitive for conservation easement dollars that would protect the habitat in perpetuity.

As with the previous Conservancy grant which funded restoration of five ponds under this Program, Conservancy staff is aware that the landowners that participate in pond restoration may also be interested in opportunities to sell conservation/mitigation easements on the properties on which pond restoration occurs. There is a market for the conservation easements among developers who are required to mitigate impacts of their development projects through conservation. The opportunities to sell conservation easements provide an incentive for some landowners to undertake wildlife-friendly pond restoration projects. If a landowner participates in a conservation easement, it is most likely the easement will be used to mitigate the adverse impacts of development in Alameda or Contra Costa County. 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. Therefore, the Conservancy will not require ACRCDC to remit funds generated in connection with this type of mitigation to the Conservancy.

The ACRCDC 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 is non-

regulatory, it provides an important link between landowners and public agencies and other organizations. ACRCDC has conducted numerous successful projects with support from the Conservancy, including the first implementation round of the pond restoration Program.

Site Description: The proposed project will include a minimum of four livestock ponds located on Alameda County rangelands. While the specific restoration sites have not yet been identified, the primary consideration in selecting a specific pond restoration project to participate in the Program is the natural resource benefits to be provided. Livestock ponds are generally located in the hills of eastern Alameda County, near the towns of Livermore, Sunol, Pleasanton, and Fremont. Habitat surrounding the ponds typically consists of annual grassland and oak woodland. Sites are generally grazed by livestock for vegetation management. The large majority of Alameda County's rangelands are California red-legged frog critical habitat and core recovery lands, and a large extent warranted California tiger salamander critical habitat designation on ecological grounds.

Photographs of sample pond restoration sites and projects are included as Exhibit 3.

Project History: In June 2002, the Conservancy approved funding for the Alameda County Permit Coordination Program. The project assisted the ACRCDC 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 and is an important incentive for the pond restoration Program.

In 2006, the Conservancy provided funding for the initial implementation of the pond restoration Program. Conservancy funds contributed to the implementation of five pond restoration projects between 2006 and 2008.

PROJECT FINANCING

Coastal Conservancy	\$175,000
Natural Resources Conservation Service	66,000
Landowners	<u>12,000</u>
Total Project Costs	\$253,000

The anticipated source of Conservancy funds is an appropriation to the San Francisco Bay Area Conservancy Program from the "Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006," Public Resources Code § 75001 et seq. (Proposition 84). Proposition 84 authorizes the use of these funds for protection of coastal waters and watersheds, including projects that protect and restore the natural habitat values of coastal waters and lands and that are consistent with the Conservancy's San Francisco Bay Area Conservancy Program pursuant to Chapter 4.5 of Division 21 of the Public Resources Code. Public Resources Code § 75060(c). The term "protection" in Proposition 84 includes restoration. Public Resources Code §75005(n). The proposed project will restore important habitat values of livestock ponds and improve the water quality of Alameda County watersheds. Accordingly, funding the proposed project qualifies for Proposition 84 funding. This project is also appropriate for prioritization under the selection criteria set forth in Public Resources Code § 75071 because there are non-state matching contributions toward the restoration, and the project will contribute to the long-term protection of the water and biological quality of resources of

Alameda County watersheds that are priority watersheds of San Francisco Bay or the Sacramento-San Joaquin River Delta, which are major biological regions of the state.

CONSISTENCY WITH CONSERVANCY’S ENABLING LEGISLATION:

This project is undertaken pursuant to Chapter 4.5 of the Conservancy’s enabling legislation, Public Resources Code Sections 31160-31165, to address resource and recreational goals in the San Francisco Bay Area.

The proposed project is located in Alameda County, one of the nine San Francisco Bay Area counties in which the Conservancy is authorized, under Sections 31160 and 31161 of the Public Resources Code, to undertake projects and award grants to address resource and recreational goals for the region.

Consistent with Section 31162, the Conservancy may undertake projects that will help to achieve specified goals for the San Francisco Bay Area Conservancy Program. Under Section 31162(b), the Conservancy may act “to protect, restore, and enhance natural habitats and connecting corridors, watersheds, scenic areas, and other open-space resources of regional importance.” The proposed 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, Alameda whipsnake, and San Joaquin kit fox. The proposed project will also help prevent the release of accumulated sediment into the watershed, thereby improving the water quality of Alameda County watersheds.

The proposed project satisfies all of the criteria for determining project priority under Section 31163(c), as follows: The project (1) is supported by adopted regional and local plans including the *East Alameda County Conservation Strategy*, a planning document which provides a framework to protect, enhance, and restore natural resources in eastern Alameda County; (2) involves multiple agencies working together; (3) can be implemented and completed over the next two years; (4) provides 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) includes matching funds as described in the Project Financing section.

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

Consistent with **Goal 10, Objective A**, of the Conservancy’s 2007 Strategic Plan, the proposed project will restore and enhance approximately thirty acres of wetland habitat (restored ponds and moist refuges within 100 meters) that provide aquatic habitat for several endangered species, including the California red-legged frog and California tiger salamander.

**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 November 10, 2011, 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 NRCS, the California Rangeland Conservation Coalition, and Defenders of Wildlife. Project letters 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:** Pond restoration is expensive and with less expensive watering alternatives available, restoring existing livestock ponds is not economically viable for many landowners. One of the main incentives the ACRCDC has been able to provide to landowners who participate in the Program is additional cost share assistance beyond the level provided by NRCS' Environmental Quality Incentives Program. Without Conservancy funds, the ACRCDC would not be able to offer land managers the needed financial incentives to restore ponds.
6. **Greater-than-local interest:** The wildlife-friendly pond restoration projects will be designed to meet the biological needs of two threatened species, the California red-legged frog (federally listed) and the California tiger salamander (federally and state listed). 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, San Joaquin kit fox, and Alameda whipsnake.
7. **Sea level rise vulnerability:** The project is not located in an area close to a shoreline that is vulnerable to sea level rise.

Additional Criteria

8. **Urgency:** Many of the 800-1,000 livestock ponds in Alameda County are now approaching failure due to erosion and/or siltation. Ponds that fail either by drying up due to sedimentation or spillway failures will result in a loss of valuable breeding habitat for the California red-legged frog and California tiger salamander.
9. **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.
10. **Leverage:** See the "Project Financing" section above.
11. **Innovation:** Ranchers voluntarily restoring ponds for habitat is an innovative concept. The specific technical guidance on wildlife-friendly project design was developed by the NRCS for this program because there was no existing standard. It is important to build on the initial

success of the Alameda County Wildlife-Friendly Pond Restoration Program to restore many more such ponds in Alameda County and throughout the affected species' range, and to further promote public-private partnerships to preserve habitat and open space in the privately-owned uplands of the Bay Area.

12. **Readiness:** The Alameda County Wildlife-Friendly Pond Restoration Program is well-established with over 20 pond restoration projects completed to date. Through this Program, the ACRCDD is prepared to plan and implement a minimum of four pond restoration projects over the next two years.
13. **Realization of prior Conservancy goals:** See "Project History" above.
14. **Cooperation:** The Alameda County Wildlife-Friendly Pond Restoration Program is a partnership between the ACRCDD, NRCS, and private landowners.
15. **Vulnerability from climate change impacts other than sea level rise:** Drought and reduced water availability needed for the species could affect the availability of breeding sites and the duration of water needed for effective breeding by the California red-legged frog and California tiger salamander. The restored ponds will be designed to have enough capacity to hold water throughout the breeding season for each species.
16. **Minimization of greenhouse gas emissions:** The pond restoration actions will involve additional vehicle and equipment operation during the construction time period (August 31 to October 15 of each year), resulting in a slight contribution of greenhouse gases. Each pond restoration will be designed to use the shortest route possible for construction equipment to reach the site and staging areas will be sited as close to the project site as is practicable.

COMPLIANCE WITH CEQA:

The California tiger salamander was state listed as threatened in 2009. This state listing became a hindrance to the pond restoration Program because all restoration projects need to go through the California Endangered Species Act process that requires funding assurances and permanent protection of the area impacted through a conservation easement; this process is financially infeasible for landowners conducting voluntary restoration projects. For almost two years, ACRCDD has been working collaboratively with the California Department of Fish and Game (DFG) to establish a Voluntary Local Program (VLP) for activities in Alameda County. A VLP is a programmatic mechanism to permit take of state-listed species incidental to routine and ongoing agricultural activities if management practices to maintain and enhance habitat are ongoing. See Fish and Game Code § 2086. The resulting Alameda County VLP was approved by the ACRCDD on August 20, 2012. DFG intends to act on the VLP in October or November 2012. The Alameda County VLP allows incidental take of the California tiger salamander and Alameda whipsnake during certain agricultural operations that have the potential to benefit wildlife and habitat if carried out properly, including livestock pond restoration, stream restoration, livestock and wildlife water distribution, and erosion control. The Alameda County VLP identifies numerous management practices that consist of measures to avoid or minimize impacts to listed species during these activities. As individual livestock ponds are identified for restoration, the landowner will enter into a Cooperative Agreement with ACRCDD that requires implementation of the appropriate management practices specified in the Alameda County VLP.

The proposed project to plan and implement restoration of four livestock ponds is within the scope of the Alameda County VLP.

The ACRCDD is the lead agency under the California Environmental Quality Act (CEQA) for the Alameda County VLP. The ACRCDD's Board of Supervisors adopted the *Final Mitigated Negative Declaration for the Alameda County Voluntary Local Program*, August 2012 (MND) on August 20, 2012 (Exhibit 2).

The MND addresses the impacts of the activities described in the Alameda County VLP, including livestock pond restoration. The MND indicates that the only potentially significant effects from implementation of the pond restoration activities proposed in this authorization are in the area of Biological Resources. Mitigation measures are identified in the MND to avoid, reduce or mitigate all of the potentially significant environmental effects on biological resources. The mitigation measures include: limiting construction hours; minimizing vegetation disturbance; avoiding plastic mono-filament matting; avoiding animal burrows; managing removed sediment; capping pipes, culverts and similar structures; using escape ramps; using native trees/shrubs; conducting cavity/tree nesting bird surveys and ground nesting bird surveys; conducting bat surveys; limiting in-stream restoration seasonally; appropriately locating and managing equipment staging and storage; dewatering activities; avoiding rock outcroppings; limiting use of herbicides; avoiding special-status plants; and complying with all applicable permit conditions. The mitigation measures also include particular measures for protecting several special-status species and their habitats (California red-legged frog, California tiger salamander, Alameda whipsnake, San Joaquin kit fox, Longhorn fairy shrimp and Vernal pool fairy shrimp, Callipe silverspot butterfly, and San Francisco dusky footed woodrat).

Staff has independently reviewed the MND and has determined that the proposed pond restoration project is within the scope of the Alameda County VLP and is adequately described in the MND, and that there is no substantial evidence that the project, as mitigated, may have a significant effect on the environment. Staff will file a Notice of Determination upon approval of the project.

ACRCDD adopted a mitigation monitoring and reporting program (MMRP) along with the MND on August 20, 2012. The MMRP addresses all of the mitigation measures necessary to insure that the proposed project will not have a significant effect on the environment.