

MEMORANDUM

To: East Contra Costa County Habitat Conservation Plan Association
From: Teifion Rice-Evans, Jason Tundermann
Subject: Draft Potential HCP Funding Sources Memorandum; EPS #11028
Date: January 16, 2003

This memorandum describes potential funding sources available for the East Contra Costa Habitat Conservation Plan/ Natural Communities Conservation Plan (HCP/ NCCP). Case studies of three regional, multi-species HCPs are also provided to illustrate the use of some of these funding sources. The descriptions of potential funding sources will help inform the selection of an HCP funding strategy as required for HCP approval.

HCP funding sources can be divided into three primary groups:

(1) development-based funding sources; (2) local tax-based funding sources; and (3) grants-based funding sources. Examples of the different funding sources within each category are provided below. A typical HCP relies on a mix of funding sources, including development mitigation fees, federal, State and private foundation grants, and often some form of local tax-based funding. In reviewing these funding source descriptions and developing funding strategy preferences, it is worth noting the following:

- Regional HCPs are rarely funded without some form of charge on development, whether a direct mitigation fee or exaction, or via assessments on properties, both of which ultimately affect the real estate market and land developers.
- Direct developer fees often do not go beyond meeting mitigation goals – i.e. do not meet recovery goals – and developer fees that are too high can both adversely affect other regional public policy goals, such as housing and economic development goals, and discourage developer participation in the plan.
- Some form of local funding is therefore often necessary to meet recovery goals and to satisfy nexus requirements. Existing residents and development can be expected to make a contribution to conservation efforts that benefit the region. Local funding sources may be in the form of a sales tax increase, a parcel tax, or a benefit assessment district (see below for more examples). Adoption of these funding sources is subject to a vote and is often difficult to pass. As a result, obtaining local funding is often the most challenging component of HCP funding.



- To receive sufficient votes, local HCP funding measures must often be incorporated in a funding package with multiple goals, possibly including HCP, other open space, and transportation goals. Alternatively, if a clear nexus exists to water users, water rates could be increased without a vote.
- Grants are often a key funding source for most regional, multi-species efforts – especially for planning and early land acquisition, and possibly for endowing an operations and maintenance fund. There are, however, limitations on the inclusion of these often uncertain sources in establishing the ability of the HCP to meet its long-term costs.

POTENTIAL FUNDING SOURCES

DEVELOPMENT-BASED FUNDING/ PROGRAMS

Developer mitigation fees often provide the base of funding for HCPs. Approved HCPs, such as the San Joaquin County MSCP and the North Natomas HCP, rely heavily on developer mitigation fees (see case studies section). In addition, most of the regional HCP's currently under development in Northern California also envision developer mitigation fees as a primary funding source. Land dedication incentives and transfer of developer credit programs provide opportunities for land preservation at no (or low) cost and, if implemented successfully, can complement the funding raised for land preservation.

- *Mitigation Fees* – Developers can be required to pay a mitigation fee for lands developed within a jurisdiction in exchange for coverage under the HCP permit. Mitigation funds can then be used to acquire lands identified for habitat protection. This is the most common form of direct developer charge.
- *Developer Land Dedications* – Developers can be required to acquire or set-aside lands identified as sensitive habitat areas, and to insure their preservation in perpetuity, in order to obtain approval for developing land elsewhere in the jurisdiction. These dedications are more commonly part of case-by-case mitigations with the U.S. Fish & Wildlife Service (USFWS).
- *Transfer of Development Credits (Density Bonuses)* – A transfer of development credits program could be established that offers incentives to developers to avoid the development of sensitive habitat areas. Landowners or developers are permitted to develop certain areas at higher densities than currently zoned in exchange for not developing areas that have been identified for habitat protection. Such programs can serve as useful adjuncts to open space preservation programs, though are rarely an integral part of an HCP.



LOCAL TAX-BASED FUNDING¹

Local funding is often required in addition to grants and developer mitigation fees. Local funding can be important to help ensure a proper match between HCP benefits and costs between affected parties, to obtain certain grants, to pay for non-mitigation-related conservation efforts, and to meet funding gaps in land preservation, habitat restoration, and on-going operations and management costs. While often a critical component of HCP funding, the development of a local funding source, especially a tax-based one that requires voter-approval, can be challenging. Success often requires a concerted outreach over time and may depend on joining efforts with funding for other public infrastructure. A list of potential local funding sources is provided below.

- *General Obligation Bonds/ Ad Valorem Property Tax* – General obligation bonds are backed by a pledge to annually set the ad valorem property tax at a rate sufficient to pay the annual principal and interest due on the bonds. They are considered the most secure type of municipal bond, and therefore are the least expensive bond local governments can issue (the interest on these bonds is lower than the interest on other types of bonds). The term of general obligation bonds may vary, but cannot exceed 40 years. General obligation bonds must be approved by a 2/3 majority in a popular election. Measure AA, approved by voters in Contra Costa and Alameda Counties in 1988 to fund local parks, is an example of such a bond. General Obligation Bonds cannot be used to fund operations and maintenance costs.
- *Mello-Roos District Special Tax* – A Mello Roos district can be established to charge special tax for habitat conservation. Mello Roos districts often encompass areas proposed for large development projects. They require a two-thirds majority vote of landowners, if small in number, or a vote of all homeowners. The tax can cover areas of different sizes and can be used for operations and maintenance as well as acquisition and restoration,
- *Sales Tax Increase (Special Tax; Bond or Annual Revenue)* – A new stream of revenue could be developed with a dedicated use by raising sales taxes in the County via approval by 2/3 of eligible voters in an election. The tax increase could only be in 0.25% increments (though the Legislature can grant authority to tax at smaller increments), though the increase could be shared among several special purposes. Based on the Contra Costa Transportation Authority's 1998 revenue estimates for Measure C (1988), a 0.125% sales tax increment would yield approximately \$12 million annually, a 0.25% sales tax increase would yield approximately \$24 million annually, and a 0.5% sales tax increase would yield approximately \$48 million annually. These estimates do not include a market analysis of possible impacts of an increased sales tax and are based on old estimates of taxable sales.
- *Parcel Tax (Special Tax)* – Revenues for open space and agricultural acquisitions could be created by establishing a new special tax on property or a parcel tax. This tax could be imposed on a county-wide or a regional basis by 2/3 vote under a number different mechanisms. This approach provides significant flexibility in designing the special tax

¹ The description of local funding sources relies heavily on a June 1999 memorandum prepared by the Contra Costa County Community Development Department titled "Options for Funding the Acquisition and Protection of Open Space and Agricultural Land in Contra Costa County."



- on property, or parcel tax, which would be imposed under this funding mechanism. The tax could take the form of a flat per parcel charge, could be imposed only on some classes of parcels but not on others (for example, imposed on residential parcels but not on commercial or industrial parcels), and could be graduated based on the size or value of improvements on the parcel. The flexibility of parcel taxes differs markedly from the other mechanism for raising a property-related tax, the general obligation bond. Furthermore, a flat per parcel tax applied to all parcels would impose a much smaller burden on commercial and industrial property owners than a general obligation bond.
- *Transient Occupancy Tax (Special Tax)* – Contra Costa County currently levies a transient occupancy tax on overnight accommodation units. Tax revenue is limited to overnight units in the unincorporated County, and a tax increase dedicated to a specific purpose (habitat preservation) would require a two-thirds majority. The County tax rate may already be set at the state limit. Cities impose this tax on land within their jurisdiction.
 - *Real Estate Transfer Tax (Special Tax)* – The County tax is at the state maximum and special legislation would be needed to raise it further. As an alternative to raising the rate, the County could seek to change the procedures for determining which transfers are taxable to make the tax more uniformly applicable to all transfers. However, state legislation would be required for this approach as well.
 - *Other Special Taxes - Business Taxes and Utility Taxes.*
 - *Benefit Assessment Districts* – Benefit Assessment Districts establish an assessment on each parcel within the District which must be proportional to the benefit received. They are a new technique and may be complicated to administer, requiring detailed annual accounting. Approval requires a weighted majority vote of property owners (weighted according to the amount of the proposed assessment on each parcel). The Santa Clara County Open Space Authority is funded by a Landscape and Lighting District. Fire Suppression Districts are another form of benefit assessment district that can be associated with habitat preservation and maintenance efforts.
 - *Water Rates* – Water rate surcharges could be imposed on water users to cover costs to a water district associated with the HCP. These surcharges must be approved by the governing board of the water district and a clear nexus must exist.
 - *General Fund Contributions (Temporary)* – Many negotiated HCPs require contributions from a local funding source in order to obtain approvals. If the plan receives its approvals and becomes operational before the lead agency has established a viable local funding source, the agency may decide to temporarily contribute an equivalent share from its General Fund revenues until permanent local source is available.

GRANTS

There are a large number of grants available for habitat conservation efforts. These grants can provide an important component of funding for HCPs. For example, federal and State grants have funded significant land acquisitions as part of the implementation of the San Diego MSCP. These grants are, however, competitive, and total available funding fluctuates periodically. While



grant applications and funding provide an important part of the implementation of all HCPs, the difficulty of predicting revenue means that they must support rather than lead funding efforts. A partial list of grant sources that have helped fund other HCPs and open space preservation efforts is provided below. Some of these funding sources include grants for the potential collateral or indirect benefits of HCPs, such as agricultural preservation.

Federal Grant Programs

U.S. Fish & Wildlife Service Section 6 Grants

Section 6 of the Endangered Species Act authorizes the USFWS to provide financial assistance to states (through the lead state agency) that are developing programs for the conservation of endangered or threatened species. These Section 6 grants are a common source of HCP funding, though grants are awarded on an annual basis and applicants must reapply for funding each year.

- *HCP Land Acquisition Grants (USFWS Section 6 Grant)* – This grant program is designed to complement, but not replace, private mitigation responsibilities. To be eligible, the plan must include at least 25 percent non-Federal funding, the proposal must identify discrete parcels to be acquired, all lands must be acquired from willing sellers, and conservation and management must be guaranteed in perpetuity. In 2002, the USFWS awarded \$23.7 million for land acquisition under California HCP/NCCPs, all of which were located in southern California.
- *HCP Assistance Grants (USFWS Section 6 Grant)* – These grants can be used to fund activities such as document preparation, outreach, and baseline surveys and inventories. To be eligible, the plan must include at least 25 percent non-Federal funding, and all the identified projects to be funded must have discrete starting and end points. In 2002, the USFWS awarded \$160,000 from this grant program to the East Contra Costa HCP/NCCP. An additional \$1.23 million was awarded to other HCP/NCCPs throughout the state in 2002.

Other U.S. Fish & Wildlife Service Grant Programs

- *North American Wetlands Conservation Act* – This Act provides matching grants to private or public organizations or to individuals who have developed partnerships to carry out wetlands conservation projects. Approximately \$80 million was available nationwide in 2002.
- *Partnership for Wildlife* – This matching grant program is available for state governments. Grants are designed to benefit a broad array of diverse fish and wildlife species and to provide nonconsumptive fish and wildlife recreation opportunities (game species, endangered or threatened species, and marine mammals do not qualify for funding). \$768,000 was available in 2002 on a matching basis.
- *Federal Aid in Wildlife Restoration (Pittman-Robertson Act)* – This Act was designed to provide funding for the selection, restoration, rehabilitation and improvement of wildlife habitat, wildlife management research, and the distribution of information produced by the projects. Funds are derived from an 11 percent Federal excise tax on sporting arms, ammunition, and archery equipment, and a 10 percent tax on handguns.



- *State Wildlife Grant Program* – This program was designed to assist States by providing federal funds for the development and implementation of programs that benefit wildlife and their habitat, including species that are not hunted or fished. Both planning and implementation of programs are permitted. To be eligible, State and Territorial wildlife agencies must submit or commit to develop a comprehensive wildlife conservation plan. \$3.8 million was available to California in 2002.

Other Federal Grant Programs

- *Natural Resource Conservation Service Grants (Farmland Protection Program)* – This grant program provides matching funds to help purchase development rights to keep productive farm and rangeland in agricultural uses. Working through existing programs, the Natural Resource Conservation Service (NRCS) partners with State, tribal, or local governments and non-governmental organizations to acquire conservation easements or other interests in land from landowners. NRCS provides up to 50 percent of the fair market easement value. To qualify, farmland must: (1) be part of a pending offer from a State, tribe, or local farmland protection program; (2) be privately owned; (3) have a conservation plan for highly erodible land; (4) be large enough to sustain agricultural production; (5) be accessible to markets for what the land produces; (6) have adequate infrastructure and agricultural support services; and (7) have surrounding parcels of land that can support long-term agricultural production.
- *National Fish & Wildlife Foundation Grants* – Grant programs include General Challenge Grants, Five-star Restoration Challenge Grants, Wildlife and Habitat Management Grants, and Wetlands and Private Lands Grants. Grants up to \$150,000 are available under the General Challenge Grant Program for projects that foster cooperative partnerships to conserve fish, wildlife, plants, and their habitats. Modest grants (up to \$20,000) are available under the Five-star Restoration Challenge Grant Program for projects that support community-based wetland, riparian, and coastal habitat restoration projects that build diverse partnerships and foster local natural resource stewardship.
- *Land and Water Conservation Fund State Grants (USFWS/NPS)* – These grants are administered by multiple Federal agencies, including the U.S. Fish & Wildlife Service and the National Park Service. Total grants nationwide average approximately \$200 million annually. Land suitable for national or state parks is favored.

State Grant Programs

Wildlife Conservation Board Grant Programs (California Department of Fish & Game)

- *Land Acquisition Program* – Land acquisition grants to government entities or nonprofit corporations.
- *Public Access Program* – Funds projects to provide access to wildlife, including acquisition.
- *California Riparian Habitat Conservation Program* – For the preservation or restoration of riparian habitat.



- *Land Conservation Matching Grants Program* – For the acquisition and restoration of habitat or open space. Grants to \$500,000.
- *Inland Wetland Conservation Program* – 50 percent matching grants to local and state agencies and nonprofit organizations for the acquisition, restoration, or enhancement of wetland habitats.
- *Habitat Enhancement and Restoration Program*

Department of Conservation Grant Programs

- *California Farmland Conservancy Program* (formerly Agricultural Land Stewardship Program) – Funding for projects that use and support agricultural conservation easements. \$6.5 million available in 2001 (\$5 million from Proposition 12 bond funds). Five to ten percent matching funds required.
- *Resource Conservation District Assistance Program* – Grants to State Resource Conservation Districts to promote watershed management and conservation. The grant program supports specific on-the-ground efforts to improve and sustain the health of California's watersheds and to build the capacity of districts to work with communities and landowners towards that end.

Other State Grant Programs

- *Resources Trust Fund* – This program is funded from remaining tidelands oil revenue, after certain mandated deductions. In 1999 approximately \$18.8 million was allotted for habitat conservation and \$1.6 million for acquisition.
- *Habitat Conservation Fund* (Proposition 117, 1990) – This program is administered by the California Department of Parks & Recreation and is funded by ten percent of revenues from increased cigarette tax (Proposition 99, 1988). The program provides approximately \$2 million annually state-wide, and up to \$500,000 per project.
- *Environmental Enhancement and Mitigation Program* (Prop. 111, 1990/SB 117) – State sponsored grant program intended to mitigate for transportation programs. Disperses \$10 million annually state-wide, and is funded by gasoline tax revenues. Grants are typically in the \$100,000 range, and require a clear transportation nexus.
- *Environmental License Plate Fund* – Funding can be used for acquisition of natural areas. Funded by the Department of Motor Vehicles' sale of personalized license plates. Program has generated over \$500 million since its inception in 1970.

Existing General/Limited Obligation Bond Funds

- *Proposition 12, 2000* – A \$2.1 billion bond was approved by California voters under the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000. Bond funds can be used for measures to protect open space and habitat in the face of urban encroachment, and includes approximately \$223 million for NCCPs, threatened and endangered species, and wildlife corridors.



- *Proposition 13, 2000* – A \$1.97 billion bond was approved under the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Bond Act of 2000. Bond funds can be used for projects that protect land that preserves drinking water quality and to improve California's ability to manage drought conditions through conservation, recycling, reclamation and groundwater storage.
- *Proposition 40, 2002* – A \$2.6 billion bond was approved under the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2000. Bond funds can be used to conserve natural resources and to acquire and improve local and state parks. Funding allotments include \$450 million for wildlife habitat, agricultural land, and urban river parkway acquisition, and approximately \$830 million for urban, local, and regional park land acquisition.
- *Proposition 50, 2002* – A 3.44 billion bond was approved under the California for Clean Water and Coastal Protection Act of 2002. \$640 million was allotted for projects including fish and wildlife enhancement.

Private Grant Programs

There are a number of private foundations that have provided significant grants for open space and habitat acquisition in the past. Several of these foundations are currently re-strategizing their funding allocations. Major California foundations include:

- David and Lucile Packard Foundation
- The Columbia Foundation
- William and Flora Hewlett Foundation
- Irvine Corporation

CASE STUDIES

As outlined in detail above, a wide range of potential sources are available to fund HCPs/NCCPs. While a variety of HCPs, NCCPs, and HCPs/NCCPs can apply for funding from nearly all the sources mentioned above, the specific scope and goals of each plan often help determine the most appropriate suite of financing mechanisms. For example, large regional HCPs/NCCPs with numerous jurisdictions and multiple species present will have different funding requirements and challenges than smaller, more localized HCPs/NCCPs that focus on one or two key species. The combination of the NCCP with the HCP can also add conservation goals and funding requirements which can affect the selection of funding sources.

To illustrate how the specific needs and goals of a particular plan can influence the choice of finance mechanisms, EPS has prepared three brief case studies of existing plans in California: the Natomas Basin HCP, the San Joaquin County MSHCP, and the San Diego MSCP.

NATOMAS BASIN HABITAT CONSERVATION PLAN

The Natomas Basin HCP is a relatively small regional plan. The entire planning area encompasses 53,000 acres with 17,500 acres identified for future development. The plan covers



26 total species, though is primarily focused on two – the giant garter snake and the Swainson’s hawk. The plan was developed to achieve the primary goal of minimizing and mitigating impacts to undeveloped habitat related to urban growth and irrigation activities. Although this goal is consistent with efforts to ensure the recovery of the covered species, a specific recovery standard is not applied.

As a mechanism to mitigate for the loss of undeveloped land due to urban growth, the Natomas Basin HCP relies almost exclusively on developer fees as a funding source. The plan specifies that for every acre of land developed within the planning area that one-half acre of land with high habitat value be preserved in perpetuity. In addition, a portion of plan funds are derived from rice farm leases and hunting revenues, though these do not represent significant components of overall plan funding.

SAN JOAQUIN COUNTY MULTI-SPECIES HABITAT CONSERVATION PLAN

The San Joaquin County MSHCP is a large regional plan covering the entire County. The plan includes a 900,000 acre planning area with 109,000 acres allowed for future development and over 82,000 acres of habitat identified for preservation. The plan originally requested coverage for over 100 species, but not all of these were included in the permit. The primary goals of the plan are to mitigate impacts related to urban growth, mining, and agricultural activities, and to restore and enhance habitat within the preserve area. As this plan incorporates a restoration component, it is more closely aligned with species recovery goals than plans that focus solely on mitigation, although recovery is not an explicit standard under the plan.

The San Joaquin County MSHCP sets forth a multi-tiered developer mitigation fee, which is tailored to the diversity of habitat types covered by the plan and to principles of equity related to impacts from new versus existing development. Development of vernal pool habitat requires a mitigation fee of \$30,000 per acre. This fee is levied exclusively on new development because nearly all vernal pool habitat in the County is outside the range of existing development, with very little habitat having been lost as a result of historical growth. In contrast, mitigation fees for the remaining two types of habitat under the plan – high-value and low-value habitat – are allocated to both existing and future development. High-value habitat is mitigated at \$1,500 per acre and low-value habitat is mitigated at \$750 per acre. New development is responsible for 60 percent of the total cost burden and existing development responsible for 40 percent of the total cost burden. This determination was made based on a geospatial analysis of likely historical habitat coverage and land development. A local funding source is intended to fund the costs allocated to existing development.

SAN DIEGO MULTI-SPECIES CONSERVATION PLAN

The San Diego MSCP is a very large regional HCP, which is currently composed of four distinct subarea plans, and may eventually include up to 11 subarea plans. The total planning area encompasses approximately 580,000 acres with 172,000 acres identified for preservation. Each subarea plan defines the areas within which the preserve will be established and the mechanisms by which preservation will be achieved. The plan covers 85 species and is centered on the protection of coastal sage scrub, a rare southern California habitat type utilized by the threatened California Gnatcatcher. The goal of the plan is minimize and mitigate impacts related to urban growth and to preserve core areas and habitat linkages. As part of a regional NCCP planning



effort, which itself incorporates several regional HCPs/NCCPs in a five-county area, the San Diego MSCP is required to work towards a recovery standard for all state listed species covered by the plan.

The funding mechanisms for the MSCP are still under development, but in general are equally divided among three sources: approximately one-third will be funded by developer mitigation fees, one-third by State and Federal contributions, and one-third by a local funding source. Each participating subarea is responsible for identifying and implementing the local funding source in its jurisdiction. As a result, each participating subarea develops a local funding source according to its own needs and preferences. For example, the San Diego County subarea plan, approved in 1998, intends to use a portion of a proposed sales tax increase to count towards their local funding contribution, though this measure has not yet been approved by the voters. In the meantime, the County is using its General Fund revenues to cover its local funding obligation until it can establish a more permanent funding source.

