

scanned/routed**DEPARTMENT OF CONSERVATION****DIVISION OF LAND RESOURCE PROTECTION**

801 K STREET • MS 18-01 • SACRAMENTO, CALIFORNIA 95814

PHONE 916 / 324-0850 • FAX 916 / 327-3430 • TDD 916 / 324-2555 • WEBSITE conservation.ca.gov

October 24, 2008

VIA E-MAIL: ldavis@dfg.ca.gov

Mr. Chuck Armor, Regional Manager
Department of Fish and Game
Bay-Delta Region
P.O. Box 47
Yountville, CA 94599

Fish & Game

OCT 28 2008

Yountville

Dear Mr. Armor:

Subject: Public Acquisition of Land Enrolled in Williamson Act Contract
Alton South Conservation Bank, Sonoma County

Thank you for your letter notifying the Department of Conservation (Department) that the Department of Fish and Game (DFG) is considering the acquisition of 8.11 acres of land enforceably restricted by a Williamson Act contract (Government Code (GC) §51200, et. seq.). The subject property is located at 2779 Piner Road, Santa Rosa, Sonoma County (County) and appears to be the site of a viable vineyard. The notice does not provide any assessor's parcel number(s) to facilitate identifying the specific parcel proposed to be acquired by DFG, the Department investigated further in order to verify several distinct parcels using aerial photography images in concert with the maps of the area to identify the proposed site of the acquisition. DFG considers the property necessary for DFG's habitat preservation efforts for threatened, endangered and sensitive species of the Santa Rosa Plain. Its purpose will be the creation of habitat for three endangered species; Burke's goldfields, Sonoma Sunshine, and California Tiger Salamander.

Pursuant to the requirements of GC §51291, we forwarded a copy of your notice to the Department of Food and Agriculture. They had no comments on the matter.

The acquisition of contracted parcels by public agencies raises several issues that affect the agency's acquisition process and the future use of the property. When as in this case, the acquisition occurs without the use of eminent domain power, the contract remains in effect until and unless terminated by nonrenewal, cancellation, easement exchange or rescission and entry into an open space easement. Since the contract continues in effect, the uses on the land proposed by the public agency must be compatible with the contract and local rules. We have not reviewed the County rules in

considering our response to your notice. However, since the acquisition notice proposes to continue agricultural uses of the property, the continued agricultural use of the property, albeit less intensive, does not raise any compatibility issues under state law. Significant land changes to the landform of the property could change this conclusion.

In addition to the matter of compatible use, you are aware that public agencies must consider the restrictions on acquisitions imposed by the Act itself. Our comments below consider those requirements and your responses to them.

Required Findings

With some limited exceptions, the Williamson Act (GC §51292) prohibits public agencies from locating public improvements in agricultural preserves unless the following specific findings are made by the public agency:

- "The location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve." (GC §51292(a)).
- "If the land is agricultural land covered under a contract pursuant to this chapter for any public improvement, that there is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvement." (GC §51292(b)).

The letter states that required findings of GC §51292 do not apply pursuant to GC §51293(j), discusses the definition of agricultural use and states that the project's Long-Term Monitoring and Management Plan allows for grazing for income generation in the management and operation of the site. While in the Department's experience, 8.11 acres does not provide for a commercial agricultural operation, adding this acreage to other land managed by DFG in the area may provide an adequate basis for common grazing operations. Therefore, it appears that GC §51293(j) in combination with GC §51201(b) provides an exception to the findings for the subject acquisition.

The Department has worked cooperatively with the Wildlife Conservation Board (WCB) in processing many notices of acquisition of Williamson Act land. It would be useful to know whether WCB is involved in this acquisition and, if so, in what capacity. We also request explanation as to the roles and responsibilities among the conservation bank proponents, the United States Fish and Wildlife Service and DFG, including what entity is acquiring the title to the subject property and what entity will continue to hold title. Finally, will the subject property function as a mitigation bank?

Eminent Domain

As noted above, the Williamson Act contract is an enforceable restriction pursuant to Article XIII, §8 of the California Constitution and GC §51252. Only acquisition by or in lieu of eminent domain will void a Williamson Act contract pursuant to GC §51295 (assuming other necessary requirements are met). Otherwise, uses of the contracted property will be affected and limited by the terms of the contract and provisions of the Act. The Department assumes that the subject property will not be acquired by eminent domain or in lieu of eminent domain.

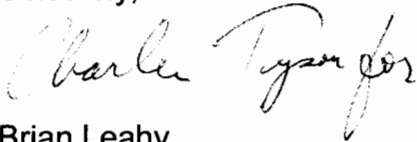
Mr. Chuck Armor
October 24, 2008
Page 3 of 3

Additional Notification

Please note that, pursuant to GC §51291(d), the Department and local governing body must be notified of any proposed, significant changes to the project. The Department must also be notified within 10 days when the property is actually acquired (GC §51291(c)). If DFG determines not to locate the proposed public improvement on the subject property, before returning the land to private ownership, it must give written notice to the Director of Conservation and the local governing body.

Thank you for providing notice of the proposed acquisition to the Department of Conservation. If you have any questions, please feel free to contact this office at, (916) 324-0850.

Sincerely,



Brian Leahy
Assistant Director

cc: Pete Parkinson, Director
County of Sonoma
Permit and Resource Management Department
2550 Ventura Avenue
Santa Rosa, CA 95403

Memorandum

Date: August 29, 2008

To: Bridgett Luther, Director
Department of Conservation (IMS: A-51)
801 K Street, Suite 1815
Sacramento, CA 95814

COPY ORIGINAL SIGNED BY
SCOTT WILSON

From: Charles Armor, Regional Manager *for*
Department of Fish and Game – Bay Delta Region
Post Office Box 47
Yountville, CA 94599

Subject: Notification of Public Acquisition of Williamson Act Land: Alton South Conservation Bank, 1802-2007-004-03

The following information is being provided regarding the Alton South Conservation Bank. Our responses are in bold:

1. What is the total number of acres of Williamson Act contracted land and/or agricultural preserve land being considered for acquisition? **8.11 acres**
2. Is the land considered prime or nonprime agricultural land according to Government Code Section 51201? **The land in question is a mix of prime and nonprime agricultural land, devoted for the most part to vineyard use that has been abandoned for more than 10 years, interspersed with seasonal wetlands.**
3. What is the purpose of the acquisition? **Restoration and enhancement of habitat for Burke's goldfields and Sonoma sunshine. Preservation of California tiger salamander habitat. Preserve functioning habitat for all three species.**
4. Where is the land located? **2779 Piner Road, Santa Rosa (see attached maps).**
5. Why was this land identified as necessary for the public improvement? **This property has been identified by the Department of Fish and Game (DFG) as necessary for its ongoing, long-term habitat preservation efforts for the threatened, endangered, and sensitive species of the Santa Rosa Plain.**

SURNAME

FG-455 (REV. 1/92)

Moeszinger
W. Kern approved Key

SW for RM

6. How does this acquisition meet the findings required under Government Code sections 51292(a) and 51292(b)? **Under Section 51293(j), the finding requirements of Section 51292 are not applicable to: “The acquisition of a fee interest...in order to restrict the land to agricultural or open space uses as defined by subdivisions (b) and (o) of Section 51201.” Section 51201(b) defines “Agricultural Use” to mean “use of land...for the purpose of producing an agricultural commodity for commercial purposes.” The term “agricultural commodity” is defined in Section 51201(a) to mean any and all plant and animal products produced in this state for commercial purposes.” The “Long-Term Monitoring and Management Plan” entered into among the conservation bank proponent, the U. S. Fish and Wildlife Service, and DFG calls for grazing as among the methods to be used for (1) exotic and invasive plant species control to protect the subject property and its species as well as adjacent properties, (2) general vegetation management and enhancement activities, (3) fire control, (4) scientific research in the use of various grazing methods for habitat enhancement and management and (5) income generation for assistance in management and operations on site as may be required by the adaptive management practices that may evolve over time. The grazing program will encompass the subject property and will be coordinated with grazing activities on hundreds of acres owned or controlled by DFG on the Santa Rosa Plain.**
7. Submit a copy of the contract(s) covering the land. **See attachments (2).**
8. Submit copies of all related Environmental Impact Reviews pursuant to the CEQA process. **The acquisition is categorically exempt from CEQA. The appropriate Notice of Exemption will accompany the real estate transaction paperwork for this acquisition.**

If you have any questions, please contact Liam Davis, Senior Environmental Scientist, at (707) 944-5529 or ldavis@dfg.ca.gov.

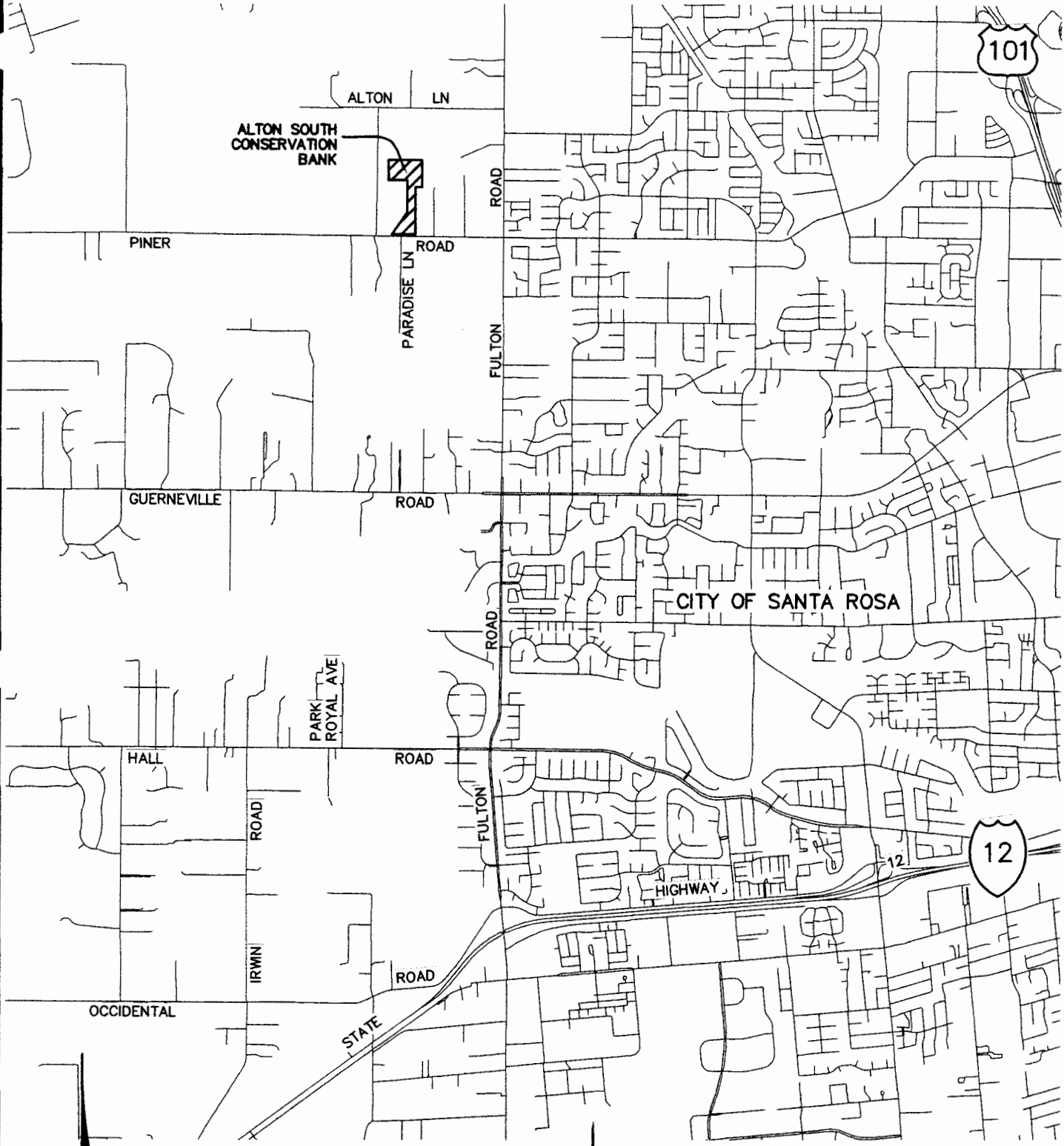
Attachments

cc: Pete Parkinson, Director
County of Sonoma
Permit and Resource Management Department
2550 Ventura Avenue
Santa Rosa, CA 95403

ec: Diana Garofalo, HCB Sacramento
Liam Davis, Patrick Moeszinger

PM/kg

LOCATION MAP



CINQUINI & PASSARINO, INC.
LAND SURVEYING

- ▲ BOUNDARY
- ▲ TOPOGRAPHIC
- ▲ CONSTRUCTION
- ▲ SUBDIVISIONS

1360 No. Dutton Ave.
Santa Rosa, Ca. 95401
Phone: (707) 542-6268
Fax: (707) 542-2106

JOB NAME: ALTON SOUTH CONSERVATION BANK	DRAWN BY: JMD	CHECKED BY:
DESCRIPTION: LOCATION MAP	SCALE: 1"=3000'±	DATE: 9/5/06
	JOB #: 5444-05	SHEET: 1 OF 1

RECORDED AT REQUEST OF

AT Co. Courthouse MIN. PAST 2:30 M
Sonoma County, California

Hub. [Signature] RECORDER

MAR 2 1972

OFFICIAL RECORDS

LAND CONSERVATION CONTRACT

FEES \$ 16 Fee PD.

W 58028

THIS CONTRACT, made and entered into this 14 day of

February, 1972, by and between _____

DANIEL D. BOSSA, BAPTISTE BOSSA, EDITH BOOS and MARY L. BANASCO

hereinafter referred to as "OWNER", and the COUNTY OF SONOMA, a political subdivision of the State of California, hereinafter referred to as "COUNTY";

W I T N E S S E T H:

The parties, in consideration of the mutual covenants and conditions set forth herein and the substantial public benefits to be derived therefrom, do hereby agree as follows:

1. PURPOSE. The within contract is made and entered into pursuant to the California Land Conservation Act of 1965 (Chapter 1443, Statutes 1965), as amended. This contract shall be subject to said act and any amendments thereto.
2. SUBJECT PROPERTY. The Owner possesses real property located within the County, as more particularly described in Exhibit "A" which is attached hereto and incorporated herein by reference.
3. RESTRICTION TO AGRICULTURAL OR COMPATIBLE USE. During the term of this contract, the above-described land shall not be used for any purpose other than "an agricultural or compatible use" as the same is defined in the rules for the agricultural preserve in which said land is situated, said rules have been or are about to be, adopted for the lands in said preserve by resolution of the County's Board of Supervisors and said rules may be revised from time to time by said Board for the purpose of achieving and shall be consistent with the objectives of said Land Conservation Act.
4. TERM, AUTOMATIC EXTENSION AND PHASE OUT. This contract shall be effective commencing on the 1st day of March, 1972, and shall remain in effect for a period of 10 years therefrom. This contract shall be automatically extended at the end of each year for an additional one year period unless notice of non-renewal is given as provided in Section 51245 of the California Government Code--to the end that at all times during the continuation of this contract as extended, there shall be a 10-year term of restriction unless notice of nonrenewal has been given.

EXCEPTION

2

2

5. REPORT OF VALUE. The County's Assessor shall annually, during the continuation of this contract, report to the Owner and to the County's Board of Supervisors the restricted value and the unrestricted value (i.e. the value the property would have had if not subject to the restrictions imposed by this contract). Thereupon, the Owner may request equalization of said values.

6. CANCELLATION. This contract shall only be subject to cancellation in accordance with the provisions of Government Code Sections 51281 through 51285; provided, however, that instead of the cancellation fees therein provided, the cancellation fees shall be those provided in the following paragraph hereof; provided, nevertheless, that the County's Board of Supervisors shall not approve any request for cancellation unless the cancellation fee (calculated in the manner described in Paragraph 7 hereof) equals or exceeds the cancellation fee described in Paragraph (b) of Government Code Section 51283 - except in those instances in which said Board of Supervisors pursuant to Paragraph (c) of said Section 51283 finds that in the public interest all or part of the cancellation fee should be waived.

7. CANCELLATION FEES AND WAIVER. In the event of cancellation as above provided, subject, nevertheless, to the power of the County to waive such fees in proper cases as provided by Government Code Sections 51281 to 51285, the Owner shall pay the County the following fees:

(a) DEFERRED TAXES. Said fees shall equal the tax saving for each and every year this contract has been in effect, subject to a maximum period of 20 years figured backward from the date of cancellation. The tax saving for a particular year shall be calculated on the basis of the difference between the restricted value and the non-restricted value for the particular year times the total composite tax rate as shown on county records for that year.

(b) ADDITIONAL FEES. In addition to the deferred taxes mentioned above, the Owner shall also pay the County a fee calculated by multiplying the full cash value (i.e. market value) of the property at time of cancellation times the percentage figure, for the contract year--after date hereof, as set forth in the following table:

<u>Contract Year</u>		<u>Contract Year</u>	
1st	22.5%	11th	12.5%
2nd	21.5%	12th	11.5%
3rd	20.5%	13th	10.5%
4th	19.5%	14th	09.5%
5th	18.5%	15th	08.5%
6th	17.5%	16th	07.5%
7th	16.5%	17th	06.5%
8th	15.5%	18th	05.5%
9th	14.5%	19th	04.5%
10th	13.5%	20th	03.5%
		21st and succeeding years	0.00%

8. EMINENT DOMAIN. In lieu of the provisions of Government Code Section 51295, the Owner's rights arising out of an action in eminent domain or the threat thereof shall be governed by the provisions of paragraphs 6 and 7 of this contract. In that regard, it is recognized that on occasion, the Owner's right to relief should not be restricted to instances in which the fee of an entire parcel of land subject to contract is being condemned and that in other instances the condemnation of small slivers of a parcel of land may have little, if any, effect on the conduct of agricultural operations on a parcel of land subject to contract.

9. CONSIDERATION. Owner shall not receive any payment from the County in consideration of the obligations imposed hereunder, it being recognized and agreed that the consideration for the execution of the within contract is the substantial benefit to be derived by both parties.

10. SUCCESSORS IN INTEREST. The within contract, its terms and restrictions shall run with the land described herein and shall be binding upon the heirs, successors, and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have affixed their hands and seals the day and year first above written.

COUNTY OF SONOMA

ATTEST:

Engene C. Williams
Clerk of the Board

By Henry H. Pomeroy
Chairman, Board of Supervisors

OWNERS:

Daniel D. Bossa
Daniel D. Bossa
Edith Boss
Edith Boss
Mary L. Banasco
Mary L. Banasco

Baptiste Bossa
Baptiste Bossa

I, Edna M. Bossa, wife of Daniel D. Bossa, disclaim any interest in the property covered by the above agreement.

ENCUMBRANCE HOLDERS:

Edna M. Bossa
Edna M. Bossa

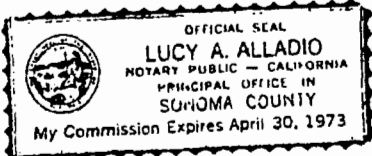
We, the undersigned trust, deed or other encumbrance holders, do hereby agree to and agree to be bound by above imposed restrictions.

Note: (Acknowledgments must be attached)

ACKNOWLEDGMENTS

STATE OF CALIFORNIA)
) ss.
COUNTY OF SONOMA)

On this 29th day of February, 1972, before me
Lucy A. Alladio, personally appeared Henry H. Borne
known to me (or proved to me on the oath of _____) to be
CHAIRMAN OF THE BOARD OF SUPERVISORS OF SONOMA COUNTY and known to
me to be the person who executed the within instrument on behalf
of said public corporation, agency or political subdivision, and
acknowledged to me that such COUNTY executed the same.



Lucy A. Alladio

STATE OF CALIFORNIA)
) ss.
COUNTY OF SONOMA)

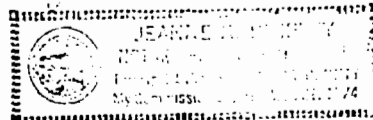
On this 14 day of February, 1972, before me
the undersigned _____, a Notary Public in and for the
County of Sonoma, State of California, duly
commissioned and sworn, personally appeared _____
Marv L. Banasco

known to me to be the person whose name is subscribed to the
within instrument and acknowledged to me that she executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed
my official seal in the City of Santa Rosa County of Sonoma
the day and year in this certificate first above written.

Jeanne H. Shively

STATE OF CALIFORNIA)
) ss.
COUNTY OF SONOMA)



On this 14 day of FEBRUARY, 1972, before me,
~~the undersigned~~ _____, a Notary Public in and for the
County of Sonoma, State of California, residing therein,
duly commissioned and sworn, personally appeared Daniel D. Bossa, Edith
Boos, and Baptiste Bossa known to me to be the _____
of the corporation described in and that executed the within instrument
on behalf of the corporation therein named, and acknowledged to me that
such corporation executed the same.

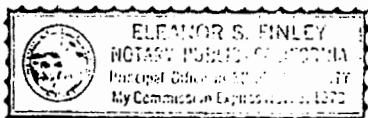
IN WITNESS WHEREOF I have hereunto set my hand and affixed my
official seal in the _____ County of _____
the day and year in this certificate first above written.

STATE OF California
COUNTY OF Sonoma } ss.

BOOK **2608** PAGE **529**

ON February 14, 19 72,
before me, the undersigned, a Notary Public in and for said State, personally appeared
DANIEL D. BOUSA, EDITH BOOS, MARY L. DENASCO,
AND BAPTISTE BOUSA known to me,
to be the persons whose names is subscribed to the within instrument,
and acknowledged to me that he Y executed the same.

WITNESS my hand and official seal.



Eleanor S. Finley
Notary Public in and for said State.

EXHIBIT A

The real property which is the subject of this contract is situated within agricultural preserve #2-434 as shown by map thereof recorded in preserve map book 4, page 45, in the office of the County Recorder of Sonoma County, California, and said real property is more particularly described as follows:

All that real property situate in the County of Sonoma, State of California, described as follows: (in an unincorporated area)

PARCEL ONE:

COMMENCING at the quarter section corner between Sections 7 and 8 in Township 7 North of Range 8 West, M.D.M., said point of commencement being in the center of what is commonly known as the Old Redwood Road running West from the Pine District School House: thence North from said point of commencement 40.09 chains; thence North 89° 30' West, 11.68 chains; thence South 0° 45' East 40.09 chains to the center of said road: thence South 89° 15' East, 11.28 chains to the point of beginning;

Courses true-Magnetic Variation 17° 15' East, and being the most Easterly portion of the Northeast quarter of Section 7, in Township 7 North of Range 8 West, M.D.M., and being the same lands which were conveyed by Wm. D. Knapp and wife, to said Battista Bossa by deed dated February 13, 1897 and recorded in Book 170 of Deeds, page 184, Sonoma County Records.

EXCEPTING THEREFROM the following:

Being a portion of the Southeast quarter of the Northeast quarter of Section 7, Township 7 North, Range 8 West, M.D.D.&M., and more particularly described as follows:

BEGINNING at the quarter corner common to section 7 and 8, Township 7 North, Range 8 West; thence North along the Easterly line of said section 7, 1388.05 feet; thence South 89° 45' West, 762.66 feet to the Westerly line of the land of Margherita Bossa as recorded Official Records Book 212, on page 458, Sonoma County Records; thence South 0° 45' East, along said Westerly line of the lands of Bossa, 1384.84 feet to the centerline of Piner Road; thence East along said centerline of Piner Road, 744.48 feet to the point of beginning, containing 23.98 acres.

PARCEL TWO:

BEING a portion of the Northwest quarter of Section 8 Township 7 North of Range 8 West, M.D.M. and beginning at a stake in the South side of a lane from which stake a point at or near the quarter section corner between sections 5 and 6 bears North 89° 30' East, 22.34 chains distant said stake marking also the Northeast corner of the tract of land conveyed by J. M. Holmes and wife by Deed dated November 1, 1906 and recorded in Book 225 of Deeds at page 208, Sonoma County Records: thence along the South side of said lane South 89° 30' West 17.45 chains to the Northwest corner of the land conveyed to Frank Ross by above mentioned Deed of January 11, 1906; thence South 0° 15' East (at 0.18 chains, a stake) 21.73 chains to a stake in a rail fence; thence South 89° 45' East 17.57 chains to a stake in a picket fence; thence North 0° 30' West (at 21.77 chains a stake) 21.95 chains to the point of beginning

PARCEL THREE:

BEING a portion of Section 8, in Township 7 North Range 8 West, M.D.M., and beginning at a point in the center of a 50 foot road at the Southwest corner of the tract of land conveyed by J. M. Holmes to Frank Ross and wife, by deed dated January 11, 1906 and recorded in Liber 225 of Deeds at page 208 of Sonoma County Records, said point being at or near the quarter section corner between sections 7 and 8; thence leaving said Road North 18.32 chains to a stake driven in the ground at the Southwest corner of the 38 24/100 acre tract conveyed by Frank Ross to Battista Bossa by deed dated July 2, 1906 and recorded in Liber 229 of Deeds at page 472 of Sonoma County Records; thence along the South line of said 38 24/100 acre tract, South 89° 45' East, 7.45 chains to a stake; thence leaving said South line South 0° 18' East, 18.29 chains to the center of a 50 foot road; thence along the center of said road West 7.54 chains to the point of beginning

PARCEL FOUR

BEING a portion of Section 8, Township 7 North Range 8 West, T.7N., and beginning at a stake on the South side of a lane, and from which stake a point at or near the quarter-section corner between sections 5 and 8 bears North 89° 30' East, 22.34 chains distant; said stake also marks the Northeast corner of the tract of land conveyed by J. M. Holmes to Frank Ross and wife, by Deed dated January 11, 1906 and recorded in Liber 225 of Deeds, page 208 of Sonoma County Records: thence South 0° 30' East, 21.95 chains to a stake, the point of beginning of the herein described tract: thence South 1° 56' East, 6.00 chains, thence North 89° 45' West, 10.32 chains to the East line of the 13.72 acre tract conveyed by Frank Ross to R. Bossa by Deed dated February 13, 1908 and recorded in Liber 245 of Deeds, at page 215 of Sonoma County Records; thence North 0° 29' West, 6.00 chains to the South line of land conveyed by said Ross to Bossa by Deed dated July 2, 1906 thence South 89° 45' East, 10.15 chains to the point of beginning.

From: Jennifer Deleon
To: Davis, Liam; Flint, Scott
CC: Geary, Kathy; Roderick, Cara; Wilson, Scott
Date: 7/18/2007 12:04 PM
Subject: Fwd: Re: Need tracking #

Liam,

I have been very busy- sorry for the delayed response.

1802-2007-004-03

Jennifer

>>> Liam Davis 7/18/2007 11:59 AM >>>

Dear Folks:

Can we have a tracking number for a Conservation Bank? The required information is in a 7/9 email below.

Thank you for your time in providing this.

Liam H. Davis
Environmental Scientist
Bay Delta Region
Habitat Conservation Planning
Department of Fish and Game
P.O. Box 47
Yountville, California 94599
707-944-5529 office
707-944-5563 fax
ldavis@dfg.ca.gov

>>> Cara Roderick 7/17/2007 9:45 AM >>>

Hi Liam:

I think that until Jennifer gets a replacement, she is, unfortunately for her, covering both jobs. I'll defer to Jennifer/Scott to answer your question.

Regardless, I don't give out tracking #'s, they come from Scott's shop.

>>> Liam Davis 7/14/2007 12:26 PM >>>

Dear Friends:

I understand that Jennifer Deleon has transferred to another position. Please route this to the appropriate person who can provide Bay Delta Region with a Tracking No. for the bank document below.

For your time in doing this I appreciate it. Thanks

Liam H. Davis
Environmental Scientist
Bay Delta Region
Habitat Conservation Planning
Department of Fish and Game
P.O. Box 47
Yountville, California 94599
707-944-5529 office
707-944-5563 fax
ldavis@dfg.ca.gov

>>> Kathy Geary 7/9/2007 3:32 PM >>>

Hi Jennifer,

Liam Davis has asked me to get a 1802 tracking no.:

Alton South Conservation Bank
2779 Piner Road, Santa Rosa, Sonoma County
8.11 acres
Oak savannah and seasonal wetlands
Species: CTS, Burke's goldfields, Sonoma sunshine flower

Thanks! Kathy

Kathy Geary
Executive Secretary
to the Regional Manager
Department of Fish and Game
Bay Delta Region (Region 3)
Post Office Box 47
Yountville, CA 94599
(707) 944-5517
(707) 944-5563 (FAX)