

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

CONTRA COSTA Co Recorder Office
STEPHEN L. WEIR, Clerk-Recorder
DOC- 2012-0071515-00

State of California
Wildlife Conservation Board
1807 13th Street, Suite 103
Sacramento, CA 95811-7117

Acct 12-Placer Title
Thursday, MAR 29, 2012 08:00:00
FEE \$0.0011
Ttl Pd \$0.00 Rcpt # 0001222234
ENG/R2/1-13

Above Space for Recorder's Use

Placer Title

CONSERVATION EASEMENT GRANT

This CONSERVATION EASEMENT GRANT is made this 17th day of November, 2011, by WILDLANDS, INC. ("Grantor"), in favor of the STATE OF CALIFORNIA ("Grantee"), acting by and through its Department of Fish and Game ("CDFG"), a subdivision of the California Natural Resources Agency.

WITNESSETH

WHEREAS, Grantor is the sole owner in fee simple of certain real property in the County of Contra Costa, State of California, more particularly described in Exhibit "A" attached hereto and incorporated by this reference (the "Property?"); and

WHEREAS, the Property possesses wildlife and native habitat values (collectively, "Conservation Values?") of great importance to Grantor, the people of Contra Costa County and the people of the State of California; and

WHEREAS, CDFG has, pursuant to the Fish and Game Code section 1802, jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and the habitat necessary for the biologically sustainable population of those species; and

WHEREAS, Grantor intends to convey to Grantee the right to preserve and protect the Conservation Values of the Property in perpetuity; and

WHEREAS, Grantee agrees by accepting this grant to preserve and honor the intentions of Grantor stated herein and to preserve and to protect in perpetuity the Conservation Values of the Property in accordance with the terms of this conservation easement for the benefit of this generation and the generations to come;

NOW THEREFORE, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to the laws of California and Civil Code section 815, et seq., Grantor hereby voluntarily grants and conveys to Grantee a conservation easement ("Easement?") in perpetuity over the Property of the nature and character and to the extent hereinafter set forth.

1. Purpose. It is the purpose of this Easement to assure that the Property will be retained forever in a natural condition and to prevent any use of the Property that will significantly impair or interfere with the Conservation Values of the Property. Grantor intends that this Easement will confine the use of the Property to such activities, including without limitation, those involving the conservation and enhancement of native species and their habitat in a manner consistent with the habitat conservation purposes of this Easement.

2. Rights of Grantee. To accomplish the purpose of this Easement, the following rights are conveyed to Grantee by this Easement:

- (a) To preserve and protect the Conservation Values of the Property;
- (b) To enforce the Property management requirements set forth in the Brushy Creek Conservation Bank Agreement dated March 9, 2000, as amended on April 12, 2000, by and among the CDFG and Wildlands, Inc.;
- (c) To enter upon the Property at reasonable times in order to monitor Grantor's compliance with and to otherwise enforce the terms of this Easement, provided that Grantee shall not unreasonably interfere with Grantor's use and enjoyment of the Property;
- (d) To prevent any activity on or use of the Property that is inconsistent with the habitat conservation purposes of this easement and to require the restoration of such areas or features of the Property that may be damaged by an inconsistent activity or use;
- (e) All mineral, air and water rights required to protect and to sustain the biological resources of the Property; and
- (f) All present and future development rights allocated, implied, reserved, or inherent in the Property; such rights are hereby terminated and extinguished, and may not be used on or transferred to any portion of the Property, nor any other property adjacent or otherwise.

3. Prohibited Uses. Any activity on or use of the Property inconsistent with the habitat conservation purposes of this Easement is prohibited. Without limiting the generality of the foregoing, unseasonal watering, indiscriminate use of herbicides, rodenticides, or weed abatement activities, incompatible fire protection activities and any and all other uses which may adversely affect the preservation purposes of this Easement are prohibited. Grantor shall undertake all reasonable actions to prevent the unlawful entry and trespass by persons whose activities may degrade or harm the biological values of the land. Grantor shall not authorize the use by Grantor, Grantor's agents, or any third party of off-road vehicles, for surface entry for the exploration or extraction of minerals.

4. Reserved Rights. Grantor reserves to itself, and to its personal representatives, heirs, successors, and assigns, all rights accruing from its ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not prohibited herein and are not inconsistent with the purpose of this Easement.

5. Grantee's Remedies. If Grantee or other interested parties determines that Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured. If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, ex parte as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement or injury to any Conservation Values protected by this Easement, including damages for the loss of scenic, aesthetic, or environmental values, and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting Grantor's liability therefore, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.

If Grantee in its sole discretion determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property, Grantee may pursue its remedies under this paragraph without prior notice to Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this section apply equally in the event of either actual or threatened violations of the terms of this Easement, and Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relieve described in this section, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity. Furthermore, the provisions of Civil Code Section 815, et seq., are incorporated herein by this reference and this grant is made subject to all the rights and remedies set forth therein.

If at any time in the future Grantor or any subsequent transferee uses or threatens to use the Property for purposes not in conformance with the stated conservation purposes contained herein, notwithstanding Civil Code 815 et seq., the California Attorney General, the Service, or third-party entities organized for conservation purposes have standing as interested parties in any proceeding affecting this Easement.

5.1. Costs of Enforcement. Any costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs of suit and attorneys' and experts' fees, and any costs of restoration necessitated by Grantor's violation or negligence under the terms of this Easement shall be borne by Grantor.

5.2. Grantee's Discretion. Enforcement of the terms of this Easement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this

Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

5.3. Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from i) causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes or ii) acts by Grantee or its employees.

6. Fence Installation and Maintenance. Grantor shall maintain the fence around the Easement area to protect the conservation purposes contained in this Easement.

7. Access. This Easement does not convey a general right of access to the public, however, access for scientific research and interpretive purposes shall be reserved to the Grantee or to the designee of the Grantee, subject to prior written approval by the Grantor.

8. Costs and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind including transfer costs, costs of title and documentation review, expenses incurred from CDFG reviews, and costs related to the ownership, operation, upkeep, and maintenance of the Property.

8.1. Taxes. Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this Easement, and shall furnish Grantee with satisfactory evidence of payment upon request.

8.2. Hold Harmless. Grantor shall hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, representatives, successors, and assigns of each of them (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses (including, without limitation, reasonable attorneys' fees and experts' fees), causes of action, claims, demands, orders, liens, or judgments arising from or in any way connected with: (1) injury to or the death of any person, or physical damages to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due to the negligence of any of the Indemnified Parties; (2) the obligations specified in sections 8 and 8.1; and (3) the existence or administration of this Easement. If any action or proceeding is brought against any of the Indemnified Parties for the reasons listed in this section, Grantor shall, at the election of and upon written notice from Grantee, defend such action or proceeding by counsel reasonably acceptable to the Indemnified Party or reimburse Grantee for all charges incurred for services of the Attorney General in defending the action or proceeding.

8.3. Extinction. If circumstances arise in the future that render the preservation of Conservation Values, including wetland functions and values, or other purposes

of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, in whole or in part, by judicial proceedings in a court of competent jurisdiction.

8.4. Condemnation. This Easement is a "wildlife conservation easement" acquired by a State agency, the condemnation of which is prohibited except as provided in California Fish and Game Code Section 1348.3.

9. Transfer of Easement. This Easement is transferable, but Grantee shall give Grantor at least thirty (30) days prior written notice of the transfer. Grantee may assign this Easement only to an entity or organization that is authorized to acquire and hold conservation easements under Civil Code section 815.3 (or any successor provision then applicable) or the laws of the United States. As a condition of such transfer, Grantee shall require that the conservation purposes that this Easement is intended to advance continue to be carried out and shall require the assignee to record the assignment in the county where the Property is located.

10. Transfer of Property. Grantor agrees to incorporate the terms of this Easement in any deed or other legal instrument by which they divest themselves of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the intent to transfer any interest at least fifteen (15) days prior to the date of such transfer. Grantee shall have the right to approve all subsequent transfers to insure that all subsequent claimants or transferees have notice of the included covenants, terms, conditions and restrictions of this Easement. The failure of Grantor to perform any act required by this section shall not impair the validity of this Easement or limit its enforceability in any way.

11. Additional Easements. Grantor shall not grant any additional easements, rights of way or other interests in the Property (other than a security interest or a leasehold interest that is subordinate to this Easement), or grant or otherwise abandon or relinquish any water agreement relating to the Property, without first obtaining the written consent of Grantee. Grantee may withhold such consent if it determines that the proposed interest or transfer is inconsistent with the purposes of this Easement or will impair or interfere with the Conservation Values of the Property. This section shall not prohibit transfer of a fee or leasehold interest in the Property that is subject to this Easement and complies with Section 10.

12. Estoppel Certificates. Upon request by Grantor, Grantee shall within fifteen (15) days execute and deliver to Grantor any document, including estoppel certificate, which certifies Grantor's compliance with any obligation of Grantor contained in this Easement and otherwise evidences the status of this Easement as may be requested by Grantor.

13. Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by recognized overnight courier that guarantees next-day delivery or by first class mail, postage prepaid, addressed as follows:

To Grantor: Wildlands
Attn: General Counsel
3855 Atherton Road
Rocklin, CA 95765

With a copy to: Timberwest
3715 Northside Parkway
Building 200, Suite 500
Atlanta, Georgia 30327
Attn: General Counsel

To Grantee: State of California
Department of Fish and Game
Region III
P.O. Box 47
Yountville, CA 94599

State of California
Department of Fish and Game
Office of the General Counsel
1416 9th Street, 12th Floor
Sacramento, CA 95814
Attn: General Counsel

or to such other address as either party shall designate by written notice to the other. Notice shall be deemed effective upon delivery in the case of personal delivery or delivery by overnight courier or, in the case of delivery by first class mail, five (5) days after deposit into the United States mail.

14. Recordation. Grantor shall submit an original, signed and notarized Conservation Easement Grant deed to Grantee and Grantee shall promptly record this instrument in the official records of Contra Costa County, California and immediately notify the Grantor through the mailing of a conformed copy of the recorded easement. Grantee may re-record it at any time as may be required to preserve its rights in this Easement.

15. Amendment. This Easement may be amended by Grantor and Grantee only by mutual written agreement. Any such amendment shall be consistent with the purposes of this Easement and California law governing conservation easements and shall not affect its perpetual duration. Any such amendment shall be recorded in the official records of Contra Costa County, State of California.

16. General Provisions.
(a) Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of California.

(b) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and the policy and purpose Civil Code Section 815, et seq. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

(c) Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid or void by a court of competent jurisdiction, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid as the case may be, shall not be affected thereby.

(d) Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and supercedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment in accordance with Section 15.

(e) No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

(f) Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.

(g) Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

(h) Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

(i) Counterparts. The parties may execute this instrument in two counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

IN WITNESS WHEREOF Grantor and Grantee have entered into this Easement
the day and year first above written.


Approved as to form:

Wildlands, Inc.

BY:  _____

TITLE: President _____

Date: 11/17/11 _____

BY:  _____
Thomas Gibson, General Counsel
Department of Fish and Game

Date: 12/21/11 _____

ACKNOWLEDGMENT

State of ~~California~~ ^{Georgia}
County of Fulton)

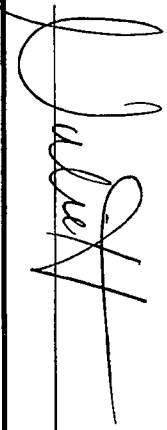
On November 19, 2011 before me, Julie Henshaw
(insert name and title of the officer)

personally appeared Gordon Jones, President of Wildlands, Inc.
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)

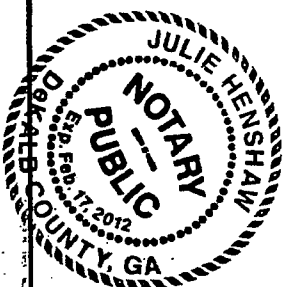


EXHIBIT "A"
LEGAL DESCRIPTION

THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF CONTRA COSTA, UNINCORPORATED AREA, AND IS DESCRIBED AS FOLLOWS:

A PORTION OF SECTION 15, T1S, R3E, MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 15, AND THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 15.

RIGHTS RESERVED IN THE DEED FROM EAST BAY ASSOCIATES, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, TO WILDLANDS, INC., A CALIFORNIA CORPORATION, RECORDED MARCH 29, 2000, INSTRUMENT NO. 2000-0061793, OFFICIAL RECORDS, AS FOLLOWS:

A) FOR THE BENEFIT OF GRANTOR'S ADJACENT LANDS, ALL "DEVELOPMENT RIGHTS" AS HERINAFTER DEFINED, PERTAINING TO THE ENTIRETY OF THE LANDS HEREIN GRANTED (HEREINAFTER "SAID LANDS").

"DEVELOPMENT RIGHTS" ARE HEREBY DEFINED TO MEAN AND REFER TO ALL RIGHTS PERTAINING TO SAID LANDS GRANTED HEREIN TO SEEK AND RECEIVE FROM THE COUNTY OF CONTRA COSTA, THE STATE OF CALIFORNIA, THE UNITED STATES OF AMERICA, AND ALL BRANCHES, AGENCIES, AND INSTRUMENTALITY'S OF ANY THEREOF, ALL RIGHTS, ENTITLEMENTS, APPROVALS, DISPENSATIONS, CHARTERS, LICENSES, PERMITS, FRANCHISES, OR OTHER BENEFITS, UNDER THE PRESENT DESIGNATION OF SAID LANDS UNDER THE ZONING AND GENERAL PLAN ORDINANCES OF THE COUNTY OF CONTRA COSTA, FOR DEVELOPMENT AND IMPROVEMENT OF SAID LANDS FOR ANY URBAN USE OR PURPOSES ALLOWED THEREBY. THE DEVELOPMENT RIGHTS DESCRIBED HEREIN SHALL INURE TO THE BENEFIT OF GRANTOR'S LANDS ADJACENT TO SAID LANDS, AND SHALL BE A FORM OF NEGATIVE EASEMENT WHICH SHALL RUN WITH SAID LANDS AND BIND THE CURRENT OWNER AND ANY FUTURE OWNERS OF ALL OR ANY PORTION OF SAID LANDS.

B) ALL OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES IN AND UNDER SAID LANDS OR THAT MAY BE PRODUCED FROM A DEPTH BELOW FIVE HUNDRED (500) FEET FROM THE SURFACE OF SAID LANDS, WITHOUT THE RIGHT OF ENTRY UPON THE SURFACE OF SAID LANDS, FOR THE PURPOSES OF MINING, DRILLING, EXPLORING, OR EXTRACTING SUCH OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES FROM ANY PORTION OF THE SURFACE OF SAID LANDS TO A DEPTH OF 500 FEET.

C) ALL WATER RIGHTS, INCLUDING, WITHOUT LIMITATION ALL RIGHTS TO EXTRACT, REMOVE FROM SAID LANDS, AND USE FOR ANY PURPOSE, ALL SUBTERRANEAN WATERS LYING THEREUNDER, TOGETHER WITH THE RIGHT TO INSTALL, CONSTRUCT AND MAINTAIN ANY PIPES, WELLS OR OTHER EQUIPMENT NECESSARY TO THE EXTRACTION, REMOVAL OR TRANSPORTATION OF WATERS FROM OR UNDER SAID LANDS.

D) FOR ALL USES AND PURPOSES, ALL AIR RIGHTS OVER SAID LANDS ABOVE A HEIGHT OF FIFTY (50) FEET FROM THE SURFACE OF SAID LANDS.

PROVIDED, HOWEVER, THAT THE RIGHTS HEREIN RESERVED TO GRANTOR SHALL NOT BE USED

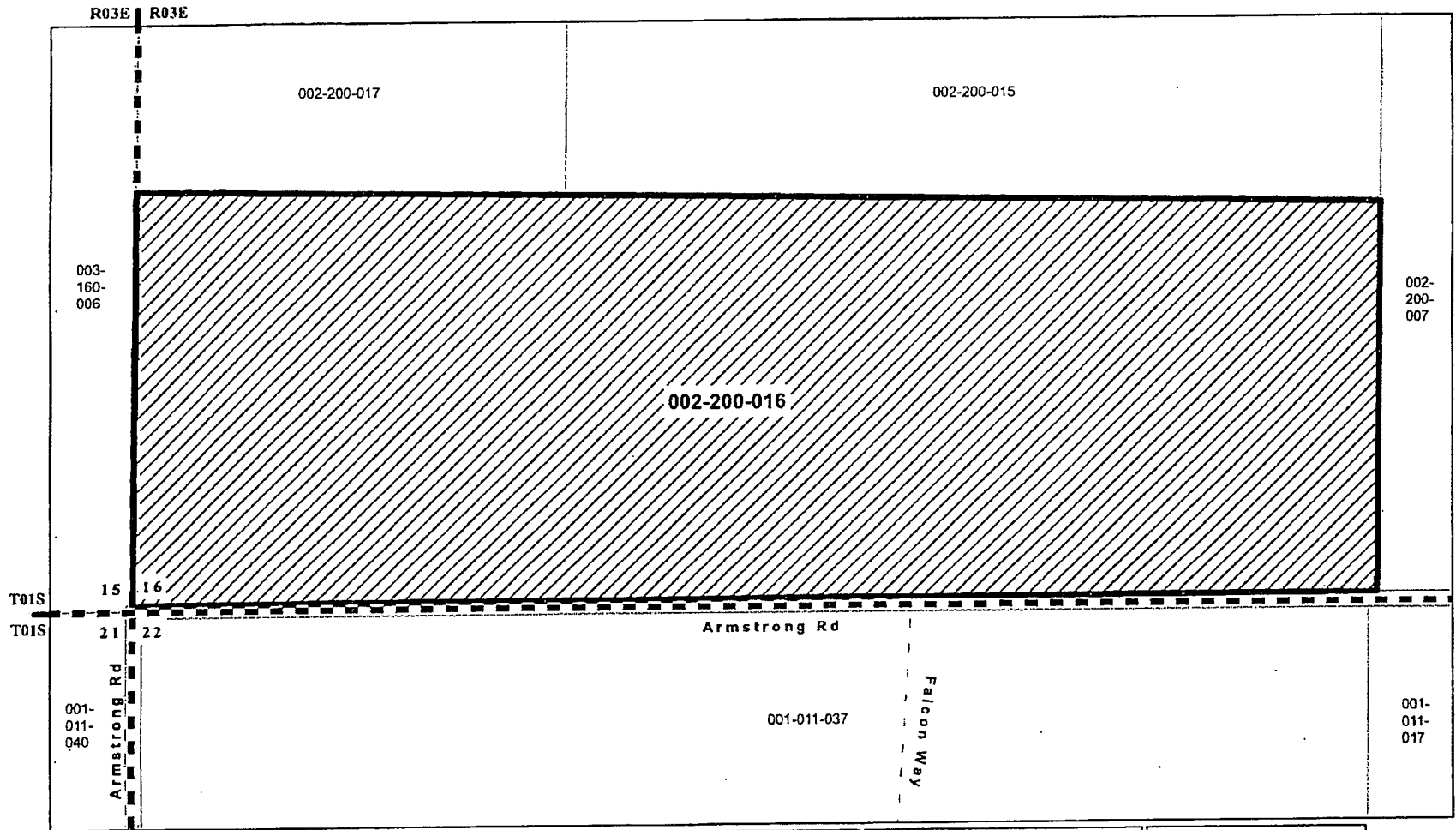
Order No. 108-7074

EXHIBIT "A"

LEGAL DESCRIPTION continued

BY GRANTOR, OR ANY HOLDER OF SUCH RIGHTS THROUGH GRANTOR, IN ANY MANNER THAT WILL CAUSE INTERFERENCE, HARM, DAMAGE OR IMPAIRMENT OF ANY NATURE, TO THE CONSERVATION, HABITAT AND SPECIES USES AND VALUES OF SAID LANDS.

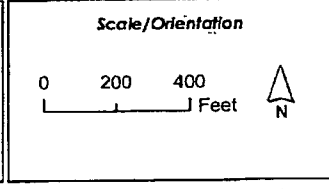
A.P.N. 002-200-016



Legend

- Property Boundary - Contra Costa County APN 002-200-016
- Easement Area
- Other Contra Costa County Parcel Lines
- PLSS Section Line

PLSS Info
 Mt. Diablo Meridian
 Township 01S
 Range 03E
 Section 16



**Exhibit A -
 Easement Area**

Map created 08-19-2011. The boundaries shown on this map have not been surveyed and are for reference only.

**Brushy Creek
Conservation Easement
Contra Costa County**

CERTIFICATE OF ACCEPTANCE

THIS IS TO CERTIFY that the interest in real property conveyed by the conservation easement grant deed dated November 17, 2011, signed by WILDLANDS, INC. to the STATE OF CALIFORNIA, is hereby accepted by the undersigned officer on behalf of the State of California, Natural Resources Agency, Department of Fish and Game, pursuant to authority conferred by California Fish and Game Code and, in furtherance of said transfer, the grantee consents to the recordation of the foregoing deed by its duly authorized officer.

STATE OF CALIFORNIA
Natural Resources Agency
Department of Fish and Game

I hereby certify that all conditions for exemption have been complied with and this document is exempt from Department of General Services' approval.

WILDLIFE CONSERVATION BOARD

By: *John P. Donnelly*
(authorizing signatory)

By: *John P. Donnelly*
John P. Donnelly
Executive Director
Wildlife Conservation Board

Date: 3/20/12

END OF DOCUMENT