

MEMO

To: Carl Wilcox, Caitlin Bean, Juliet Virtue

cc: Wildlands, Inc.

From: Scott Wilson

Date: December 23, 1999

Re: Comments on the Draft Byron Burrowing Owl Conservation Bank Agreement

I have reviewed the document and provided written comments on the document itself. The following is a summary of my comments:

- The Department should hold the endowment funds and transfer management funding to Wildlands annually.
- The Management Plan needs to be developed, as this will specify the management activities to be performed on the site.
- The covered species should be clearly identified along with the number of credits available for each species. At this time, only burrowing owls are known to utilize the site.
- An explanation should be provided of why 118 credits are proposed for burrowing owls. The site is 120 acres. How much of the site is wetlands, disturbed, or other habitats not suitable for burrowing owls?
- Any wetland restoration activities undertaken on the site may impact burrowing owl habitat. If wetlands restoration activities occur, they need to take into account impacts to burrowing owl habitat, mitigate for any impacts, and adjust bank credits appropriately.
- The endowment funding of \$800 per credit seems low to me. The Management Plan has not been completed, and therefore the scope of management activities to be funded from the endowment account has not been discussed, but I would guess the funding amount should be increased by at least 50%. Important issues are species monitoring, site maintenance, reporting, and grazing management. Also, the Department will require some endowment funding to oversee, review, and coordinate management of the site.
- Exhibit A should include a vicinity map as well, showing the site and areas within 5-10 miles of the site.
- I did *not* conduct a thorough review of the Conservation Easement (Exhibit E) or the Title Report (Exhibit F).
- Section 8(e) should also include grazing information. Section 8(g) should be 8(f).

TRACKING # 1802-1999-055-3

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Brushy Creek Conservation Bank

Bank Details » Contact us to change your bank data.

Location	Contra Costa , California
Status	Sold Out
Total Credits Awarded:	118
Total Credits Sold:	188
Service Area:	Contra Costa (California)
Date Established	03/09/2000
Size	157 acres
Agreement Type:	Conservation Banking Agreement

Bank Owner: Wildlands Inc.

- Related Links**
 - [Bank Website](#)

CONTACT
 To inquire use the bank information permitted purchases by the applicant(s).

Bank Manager: Wildlands Inc.

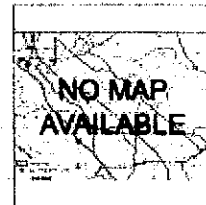
Contact:
 Marketing
Tel: 916-
Fax: 916-
Email: C
Website:

Credits

Vernal Pool Enhancement, Preservation

Availability	Sold Out
Credits Awarded	Data Unavailable
Credits Sold	Data Unavailable
Asking Price	Data Unavailable
Credit Ratio	1:1
Ecological Prescription	enhancement, preservation
Service Area (Counties)	Contra Costa

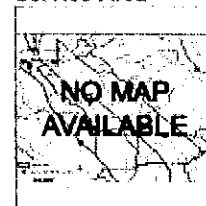
Service Area



Western Burrowing Owl

Availability	Sold Out
Credits Awarded	Data Unavailable
Credits Sold	Data Unavailable
Asking Price	Data Unavailable
Credit Ratio	1:1
Ecological Prescription	enhancement, preservation
Service Area (Counties)	Contra Costa

Service Area



From: Deborah Collet
To: Tambini, Cindy
CC: Gan, Janice; Garofalo, Diana; Valerio, Katrina
Date: 4/5/2011 12:49 PM
Subject: RE: Brushy Creek CE Grant Reviewed By DFG
Attachments: Brushy Creek CE edits 0405_2011 by DFG_jgjkvdgdc.doc

Hi Cindy,

Thanks so much for getting this started. Attached please find the CE Grant for Brushy Creek with CDFG's suggested edits as outlined below. I've also noted below the process we should follow to get the CE Grant executed once we agree on its content and my schedule this month.

The edits we suggest to the CE Grant Deed generally are as follows:

- o The grantee on page 1, the Conservation Bank reference on page 2, and the actual Certificate of Acceptance format on page 9 have been changed to bring them current.
- o Notice periods have been standardized to 30 days.
- o References to the Property, Easement, CDFG, section (versus paragraph) and Conservation Values have been made consistent.
- o Any typos, capitalization or punctuation issues have been corrected, when noted.
- o Sections have been added regarding extinguishment, condemnation, additional easements, and amendment and termination of rights and obligations.
- o Some sections have suggested edits based on current CE language used by CDFG.

The process after we agree on the language in the CE Grant should be as follows:

- o Wildlands, Inc. executes their COO's notarized signature on the CE Grant.
- o Wildlands, Inc. mails the original executed CE Grant to the attention of Diana Garofalo at the CDFG address shown in my signature block below.
- o Wildlands, Inc emails a scanned copy of the executed CE Grant to me and those cc'd on this note and advises the CE Grant is in the mail, so Diana and I can watch for it.
- o Upon receipt, Diana will notarize the signature by our Deputy Legal Counsel.
- o I will email you and those cc'd herein a copy of the fully executed CE Grant and a copy of the signed cover memo when the package is transmitted to the Wildlife Conservation Board for acceptance.

I would appreciate a call after you and your legal staff have reviewed the suggested edits to the CE Grant, especially if you have any acceptance issues. Fyi, my planned work schedule this month are from 8 AM to 4 PM on the following days:

Tuesday, April 5
Thursday, April 7
Tuesday, April 12
Thursday, April 21
Tuesday, April 26

I look forward to hearing from you.

Deborah

Deborah Collet-Rugne
Senior Land Agent, Retired Annuitant
Department of Fish and Game
Habitat Conservation Planning Branch
1416 Ninth Street, Suite 1280
Sacramento, CA 95814

Office Ph. (916) 651-3121
Cell Ph. (916) 718-3479
DCollet@dfg.ca.gov

>>> Cindy Tambini <ctambini@wildlandsinc.com> 3/8/2011 9:21 AM >>>
Hi Deborah,

I finally finished typing the Brushy easement and I added the changes

DFG legal made to the Kimball easement to the Brushy easement as well as updated the signature block and acceptance page they provided for Kimball. The changes within the easement are redlined from what was in the easement approved in the CBA, however the changes to the signature block and acceptance are not red-lined.

There may be some typos or mistakes in the easement so I would appreciate a thorough review comparing it to the original scanned version I included in my March 1st email.

Cindy

Cindy Tambini
Director of Planning
Wildlands, Inc.
3855 Atherton Road
Rocklin, CA 95765
phone: (916) 435-3555
fax: (916) 435-3556
www.wildlandsinc.com

MP Please consider the environment before printing this email. Thank you.

-----Original Message-----

From: Deborah Collet [<mailto:dcollet@dfg.ca.gov>]
Sent: Tuesday, March 08, 2011 5:52 AM
To: Cindy Tambini
Subject: RE: Brushy Creek

Hi Cindy,
I'll be working remotely this afternoon due to some personal appointments this morning. I'll call to try to connect with you later today. Thanks for noting a time window when I might reach you.

Deborah

Deborah Collet-Rugne
Senior Land Agent, Retired Annuitant
Department of Fish and Game
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>>> Cindy Tambini <ctambini@wildlandsinc.com> 03/07/11 9:37 AM >>>
Hi Deborah

Sorry I didn't get back to you on Wednesday. I was in and out of meetings most of that day and couldn't make time for a call. I am in on Tuesday if you are working and have most of the day between 9:30 and 2:00 available.

Cindy

Cindy Tambini
Director of Planning

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Rocklin, CA 95765
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fax: (916) 435-3556
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MP Please consider the environment before printing this email. Thank you.

-----Original Message-----

From: Deborah Collet [<mailto:DCOLLET@dfg.ca.gov>]
Sent: Thursday, March 03, 2011 8:35 AM
To: Cindy Tambini
Cc: Janice Gan; Katrina Valerio
Subject: Re: Brushy Creek - Are you in the office today (Thursday)?

Hi Cindy,

I had to change work plans unexpectedly this week, so I'm in office today instead.

Are you in office today? If so, I'll be here until 4 PM and would love to get a call from you.

Thanks for the documents you sent with the email below. That's a great starting point.

Deborah

Deborah Collet-Rugne
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Habitat Conservation Planning Branch
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>>> Cindy Tambini <ctambini@wildlandsinc.com> 3/1/2011 1:02 PM >>>
Hi Deborah,

For our call...the first attachment (word attachment) is a newly typed (but not quite done) version of the 2000 CE that was approved as part of the Bank document. The pdf one is the actual one I had in my bank binder.

I've also attached the Kimball easement we recently got out of DFG legal. I haven't made the changes to them yet, but the changes made to 9.3 & 9.4 (of the Kimball CE) may apply.

Are you calling me?

Cindy

Cindy Tambini

Director of Planning

Wildlands, Inc.

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phone: (916) 435-3555

fax: (916) 435-3556

www.wildlandsinc.com

MP Please consider the environment before printing this email. Thank you.

June 25, 2004

Mr. Scott Wilson
California Department of Fish and Game
PO Box 47
Yountville, CA 94599



WILDLANDS, INC.

Dear Mr. Wilson:

It has come to my attention that the tables and figures for the habitat management plans attached to the easements being resubmitted for the Brushy Creek Conservation Bank and Haera Wildlife Conservation Bank were not included in the package sent to you yesterday. I have enclosed the tables and figures; please accept my apologies for the inconvenience.

If you have any questions, please contact me at (916) 435-3555.

Sincerely,

Cindy Tambini
Wildlands, Inc.

cc: ~~Eric Barden, CDFG~~
Richard Jackson, CDFG

Table 1. Special-Status Species Occurring on the Brushy Creek Conservation Bank (BCCB)

Common Name Scientific Name	Status State/Federal	Habitat Affinities	Occurrence on BCCB
ANIMALS:			
<i>Amphibians:</i>			
California Tiger Salamander <i>Ambystoma californiense</i>	SSC/FC	Breeds in temporary pools, estivates in grassland and oak savanna	Not present, but occurs on nearby properties
California red-legged frog <i>Rana aurora draytonii</i>	SSC/FT	Breeds in semi-permanent pools with emergent vegetation	Not present, but occurs on nearby properties
<i>Birds:</i>			
Ferruginous hawk <i>Buteo regalis</i>	SSC/SSC	Winters in grasslands	Present
Golden eagle <i>Aquila chrysaetos</i>	SSC/--	Forages in a variety of open habitats	Present
Burrowing owl <i>Athene cunicularia</i>	SSC/SSC	Grasslands and open scrub habitats	Present
California horned lark <i>Eremophila alpestris actia</i>	SSC/--	Short-grass grasslands	Present
Loggerhead shrike <i>Lanius ludovianus</i>	SSC/SSC	Grasslands, scrublands, and oak savanna	Present
<i>Mammals:</i>			
San Joaquin kit fox <i>Vulpes macrotis mutica</i>	ST/FE	Grasslands, saltbush scrub	Not sighted here, but occurs on nearby properties
American badger <i>Taxidea taxus</i>	--/--	Grasslands and oak savanna	No recent sightings, but has occurred
San Joaquin pocket mouse <i>Perognathus inornatus</i>	--/SSC	Grassland, saltbrush scrub	Known from project area
<i>Invertebrates:</i>			
Vernal pool fairy shrimp <i>Branchinecta lynchi</i>	--/FT	Vernal pools and swales	Present
California linderiella <i>Linderiella occidentalis</i>	--/--	Vernal pools and swales	Absent
Curved-footed Hygrotus diving beetle <i>Hygrotus curvipes</i>	--/SSC	Small mineralized pools and small pools in intermittent streams formed by rain	Present

Table 1. Continued

Common Name Scientific Name	Status State/Federal/CNPS	Habitat Affinities	Occurrence on BCCB
Heartscale <i>Atriplex cordulata</i>	CEQA/--/1B	Chenopod scrub, valley grassland on hard alkali and saline soils	Present
Brittlescale <i>Atriplex depressa</i>	CEQA/--/1B	Chenopod scrub, playa and valley/foothill grassland on alkali and clay soil	Present
Recurved Larkspur <i>Delphinium recurvatum</i>	CEQA/--/1B	Chenopod scrub, valley grassland, alkali places on poorly drained soils	Not present, but historically recorded on nearby property
Diamond-petaled California poppy <i>Eschscholzia rhombipetala</i>	CEQA/--/1A	Foothill and valley grassland on clay soils	Not present, but historically recorded on nearby property
Contra Costa goldfields <i>Lasthenia conjugens</i>	SE/FE/1B	Valley grassland and vernal pools	Not present, but historically recorded from Byron Hot Springs
Little mousetail <i>Myosurus minimus</i> ssp. <i>apus</i>	--/--/3	Alkaline vernal pools	Present
Round woolly marbles <i>Psilocarphus tenellus</i> var. <i>globiferous</i>	CEQA/--/4	Vernal pools	Present

Status Codes:

California Department of Fish and Game designations:

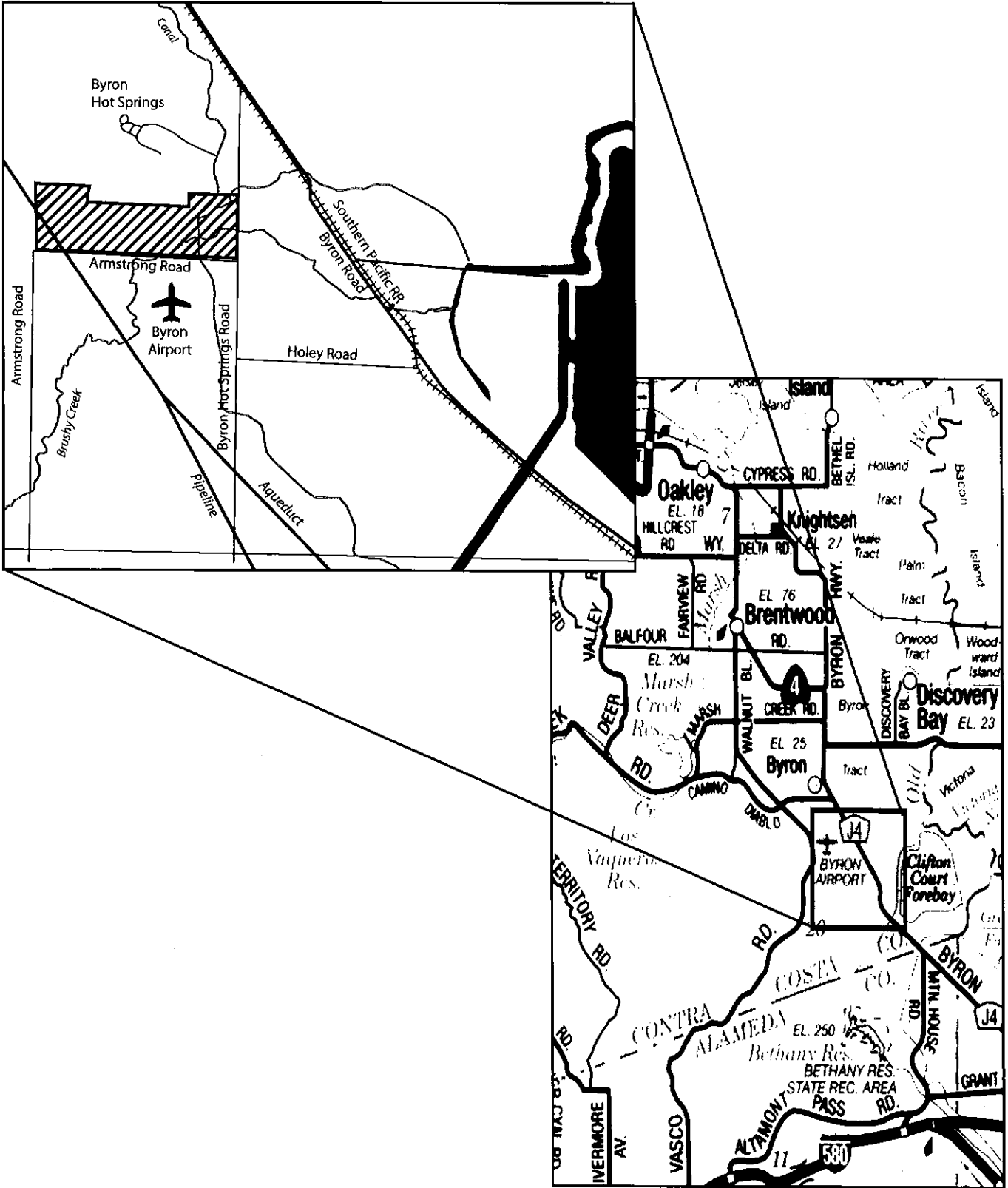
- SE: listed as endangered by DFG
- ST: listed as threatened by DFG
- SSC: listed by DFG as a species of special management concern
- CEQA: indicates a taxa that might be locally significant and should be evaluated for consideration during preparation of CEQA documents

U.S. Fish and Wildlife Service designations:

- FE: listed as endangered
- FT: listed as threatened by USFWS
- FC: a federal candidate species for listing by the U.S. Fish and Wildlife Service (USFWS) as threatened or endangered
- SSC: listed by USFWS species of special management concern

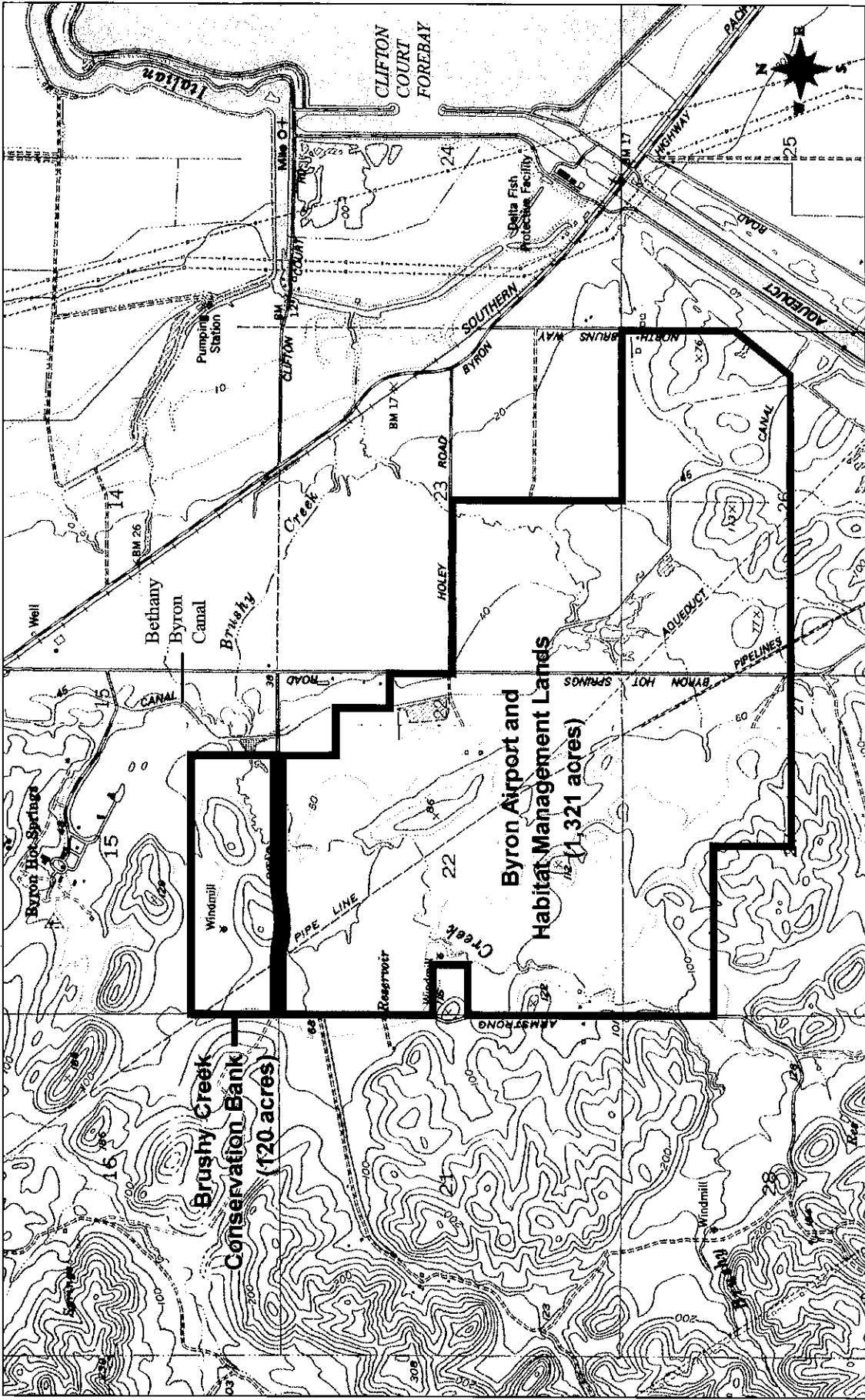
California Native Plant Society designations:

- 1A: California Native Plant Society (CNPS) designation for plants presumed extinct in California
- 1B: CNPS designation for plants considered to be rare and endangered in California and elsewhere
- 3: CNPS designation for plants about which additional data is needed to evaluate conservation status
- 4: CNPS designation for plant of limited distribution



Wildlands, Inc.

Brushy Creek Conservation Bank Project Location

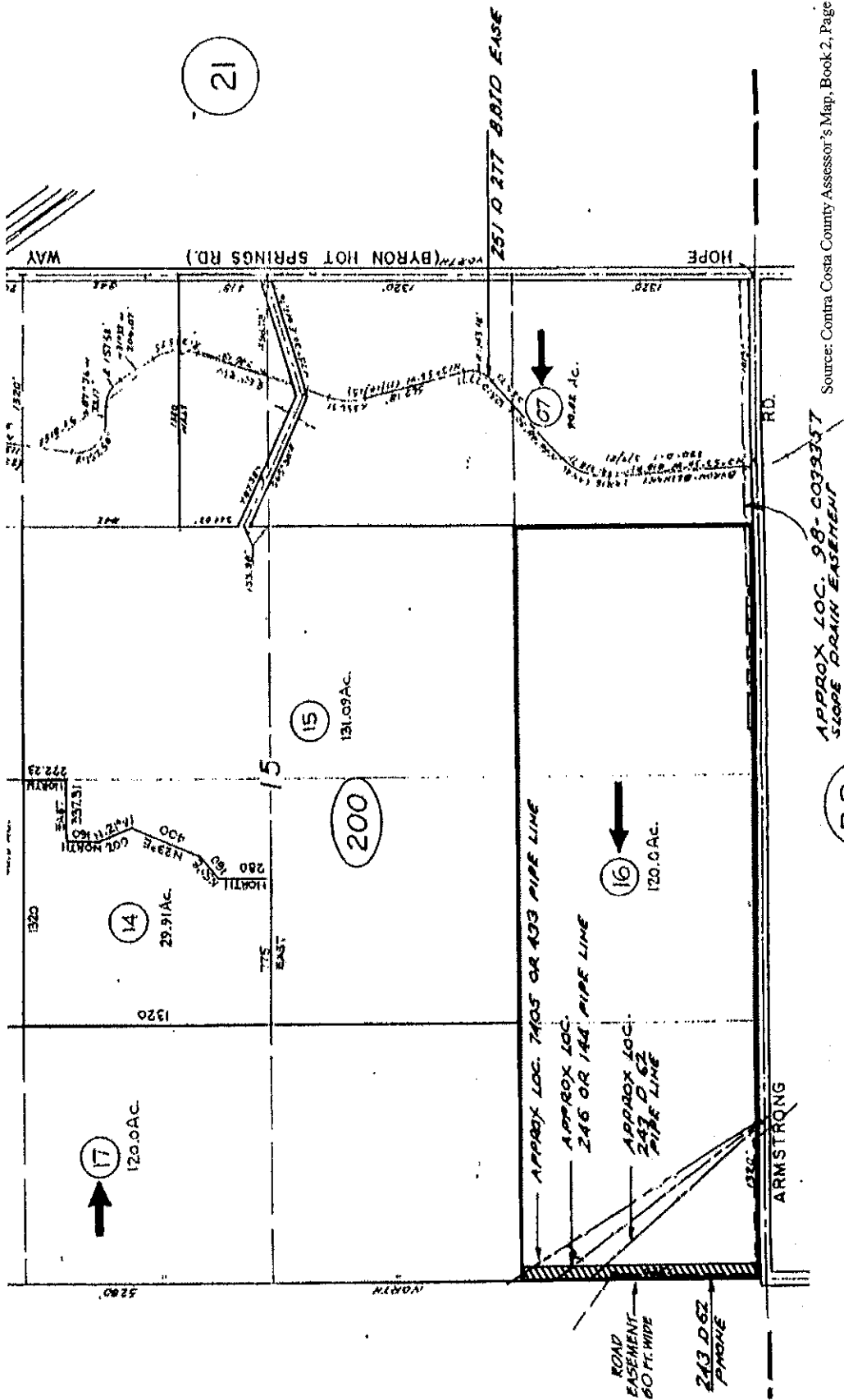


Brushy Creek Conservation Bank and Vicinity

Figure 2



Wildlands, Inc.



Source: Contra Costa County Assessor's Map, Book 2, Page 20

Existing Easements on the Brushy Creek Conservation Bank Property

Wildlands, Inc.



Figure 4

June 15, 2000

Carl Wilcox, Habitat Conservation Manager
Central Coast Region
California Department of Fish and Game
P.O. Box 47
Yountville, CA 94599

Scott Wilson, Environmental Specialist
Central Coast Region
California Department of Fish and Game
P.O. Box 47
Yountville, CA 94599

Terry Roscoe, Environmental Services Supervisor
Region II
1701 Nimbus Road
Rancho Cordova, CA 95670

Regarding: Brushy Creek Conservation Bank Expansion

Dear Carl, Scott and Terry:

Wildlands has the opportunity to expand the Brushy Creek Conservation Bank, established March 9th of this year near Byron, California. Please consider the enclosed amendment to our March 9th agreement toward that end.

The 120-acre Brushy Creek Conservation Bank protects a mixture of annual grassland, vernal pool, and seasonal wetland habitats that are utilized by a resident population of western burrowing owls. The conservation vision for the property has always been to create a lasting burrowing owl habitat preserve managed in perpetuity. We feel that the proposed 38.7-acre expansion of the Conservation Bank helps to fulfill that vision.

Subject to your approval, two parcels will be purchased and placed under conservation easement. The 15.3-acre Parcel 1 abuts a segment of the existing property line near the northwest corner of the site. This parcel encompasses the northern extent of the gently sloping valley bottomlands of the Conservation Bank and its addition to the Bank would unify this topographic feature. At the time of our surveys, no owls were observed on Parcel 1. However, we have recorded occurrences of owls on the northern border of the Conservation Bank (see attached Figure), which makes it very likely that owls also use the area of proposed expansion. Parcel 1, like the Bank, has suitable topography and ground squirrel burrows. We are requesting a total of 14.8 acres of



WILDLANDS, INC.

credits on Parcel 1, reserving one half acre for the continuation of the road easement that currently exists along the west perimeter of the existing Conservation Bank.

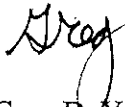
Parcel 2 is a 23.4-acre property, most of which (15.5 acres) lies between the eastern boundary of the Conservation Bank and the Byron-Bethany Canal. Approximately 7.9 acres extends west of the canal to Byron Hot Springs Road. Parcel 2 consists predominantly of grasslands (17 acres) and valley sink scrub (4.4 acres). Approximately 2 acres of habitat on Parcel 2 is freshwater marsh associated with Brushy Creek and the Byron-Bethany Canal. We have observed owls at potential natal burrows on Parcel 2 this spring; locations of the sightings are shown on the attached map. We are requesting 21.4 acres of credit on Parcel 2, given that the marsh does not provide habitat for the burrowing owl.

In summary, the total acreage to be added to the bank is 38.7 and the total number of credits requested is 36.2. This credit total is incorporated into the draft amendment.

The addition of over 38 acres to the Bank will enhance the defensibility and long-term viability of the Conservation Bank and will increase the amount of money dedicated to the endowment account by 32%. As you will see in the proposed amendment, all the terms and conditions of the original agreement will apply to the added acreage.

Thank you for considering our request.

Sincerely,



Greg DeYoung
Planning Director

Enclosures

Cc: Caitlin Bean
Juliet Virtue

BRUSHY CREEK
CONSERVATION BANK AGREEMENT
SECOND AMENDMENT
June 15, 2000

THIS SECOND AMENDMENT TO THE BRUSHY CREEK CONSERVATION BANK AGREEMENT (the "Agreement Amendment") is made and entered into this ____ day of _____, 2000 between WILDLANDS, INC. ("Bank Developer") and the California Department of Fish and Game ("CDFG"). Bank Developer and the CDFG entered into the original agreement on March 9, 2000. Amendment One took place on April 12th for the purpose of changing the name of the project from "Byron Burrowing Owl Conservation Bank" to "Brushy Creek Conservation Bank." An "Addendum" was executed on April 24th for the purpose of expanding the service area of the conservation bank.

The purpose of this Amendment is to expand the Brushy Creek Conservation Bank from its current 120 acres to 158.7 acres. The characteristics of the additional 38.7 acres are described in the attached letter.

As a result of the benefits accruing to endangered, threatened, and sensitive species and their habitats upon the establishment of the Conservation Bank and Bank Developer's commitment to manage the entire property, including the added acreage, minus an easement for access to the adjoining property, for conservation purposes, the Brushy Creek Conservation Bank shall have a revised total of 156.2 Conservation Credits which may be used for burrowing owl. All of the obligations pertaining to the Conservation Bank as outlined in the Brushy Creek Conservation Bank Agreement apply to the revised total acreage, including the funding of the endowment account, the maintenance for a five year period, and the long-term monitoring and management of the property.

This Agreement Amendment shall be governed by and construed in accordance with the internal laws of the State of California.

Executed this _____ day of _____, 2000.

IN WITNESS HEREOF, the Parties hereto have executed and delivered this Conservation Bank Agreement Amendment as of the date first set forth above.

CDFG:

Bank Developer:

THE CALIFORNIA DEPARTMENT
OF FISH AND GAME

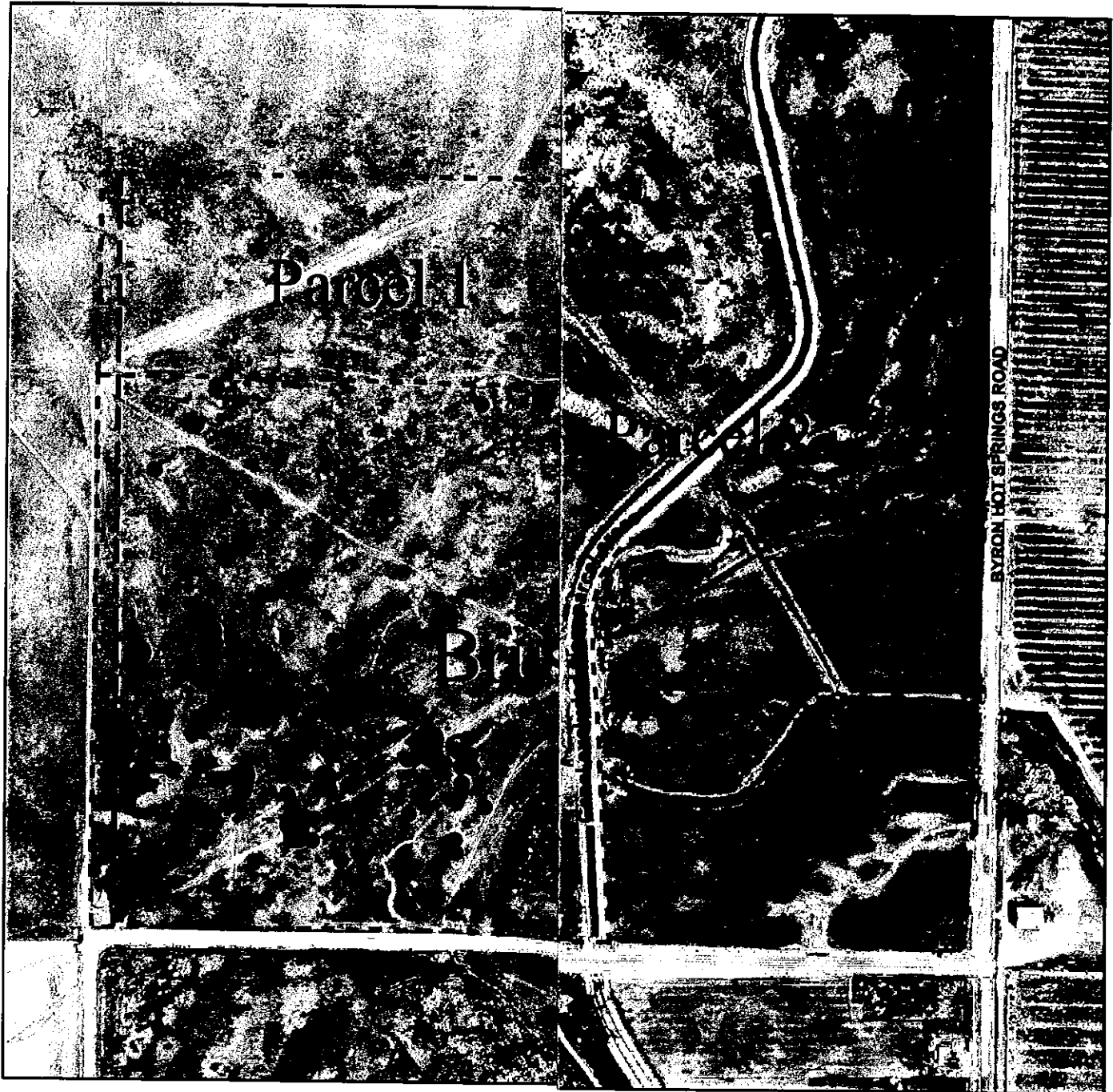
WILDLANDS, INC.

By: _____

By: _____

Title: _____

Title: _____



Aerial Source: Radman Aerial Flown: 4-26-00

Burrowing Owl Occurrences

- Burrowing Owl Sighting (Observed)
- ⊙ Burrows with molted feathers, cast

Property Boundary Lines

- - - Property Boundaries
- - - 50' Easement



Wildlands, Inc.

300



Figure 1. Brushy Creek Conservation Bank Existing Bank and Proposed Expansion Areas