

DEPARTMENT OF FISH AND GAME

WILDLIFE CONSERVATION BOARD

1807 13TH STREET, SUITE 103
SACRAMENTO, CALIFORNIA 95814
(916) 445-8448
FAX (916) 323-0280
www.wcb.ca.gov

State of California
The Resources Agency
Department of Fish and Game
WILDLIFE CONSERVATION BOARD
Minutes
January 21, 2005

The Wildlife Conservation Board met on Friday, January 21, 2005, in Room 1206 of the Resources Building, Department of Fish and Game, 1416 Ninth Street, Sacramento, California. The meeting was called to order at 1:05 P.M. by Mr. Jim Kellogg, Chairman. At this time he introduced the Board members present and then asked that everyone in the room introduce themselves. He then turned over the meeting to Mr. Al Wright, Executive Director.

WILDLIFE CONSERVATION BOARD MEMBERS

Jim Kellogg, Chairman
President, Fish and Game Commission
L. Ryan Brodrick, Member
Director, Department of Fish and Game
Fred Klass, Program Budget Manager,
Vice, Tom Campbell, Member
Director, Department of Finance

EXECUTIVE DIRECTOR

Al Wright

Staff Present: Al Wright, Executive Director
John Donnelly, Assistant Executive Director
Roxanne Woodward, Budget Officer
Marilyn Cundiff, Public Land Management Specialist
Gary Cantrell, Research Analyst
Mary Grande, Secretary
Nancy Templeton, Department of Fish and Game

Others Present: John R. Weech, California Farm Bureau
Chuck Mills, Trust for Public Land
Ken DaRosa, Department of Finance
Robert Schladale, Department of Finance
Jeff Stump, American Land Conservancy

Mr. Wright explained to the Board and the public the purpose of the meeting was to present proposed changes and procedures affecting the Natural Heritage Preservation Tax Credit Program that the Wildlife Conservation Board (WCB) has responsibility for implementing. The legislature passed the Natural Heritage Tax Credit Act in 2000 and the guidelines were approved by the Board in 2001. Due to increased demands upon the General Fund budget, implementation was suspended for a couple of years. Recognizing the effectiveness and popularity of the program the legislature started working on proposed amendments that would allow the WCB to continue the program. The legislature passed two bills amending the program in 2004. Mr. Wright asked Marilyn Cundiff to present the Board with a brief history of the Act and to discuss the accomplishments and proposed changes. Ms. Cundiff presented a visual presentation (See Attachment A). An informational packet regarding the program was distributed (See Attachment B).

Natural Heritage Preservation Tax Credit Act

The Natural Heritage Preservation Tax Credit Act of 2000 was enacted to integrate and promote economic development and the protection of our natural resources, Chapter 113, Statutes of 2000. The Act was designed to foster public/private partnerships designed to resolve land and water use disputes, to reward and assist habitat stewardship and to demonstrate the State's commitment to encourage and reward landowners who perceive habitat as an asset rather than a liability.

To accomplish these goals, the Act provided \$100 million in tax credits for donations of qualified land and water. In exchange for donated property, the landowner received a tax credit valued at 55 percent of the appraised fair market value of the qualified contribution. As demonstrated with this program, tax credits are an attractive benefit to some landowners rather than a direct payment of cash in exchange for selling specific land rights.

Tax credits claimed by a taxpayer reduce tax obligations. Accordingly, reductions in gross taxable income result in a reduction of revenue to the General Fund. Under the original program, consistent with the provisions of Chapter 113, Statutes of 2000, the Act did not require the reimbursement of the loss of revenue to the General Fund.

The Act required the Board to develop guidelines to implement the program and approve all lands proposed for acceptance into the program. While the Board was required to establish guidelines for implementing the program, the Act also specified numerous programmatic and administrative directives, including the requirement that all donated property must meet one or more of the following criteria:

- The property will help meet the goals of the habitat conservation planning, multi-species conservation plans, natural community conservation plans or similar plans designed to benefit native species of plants and animals and plans to protect forests, old growth trees or oak woodlands.
- The property will provide corridors or preserves for native plants and wildlife habitat that will help in the recovery of listed species or will protect wetlands, waterfowl habitat and river or stream corridors.
- The property interest is a perpetual conservation easement of agricultural land or is a permanent contribution of agricultural land that is threatened by development.
- The property interest is a water right or land with associated water right and its contribution will help improve chances of recovery of a listed species.
- The property will be used as a park or open space and will augment public access to or enjoyment of existing regional or local park, beach and open-space facilities or will preserve archaeological resources.

Since the program's implementation in 2001, the program has completed 13 projects resulting in the permanent protection of 7,061 acres of park land and open space, wildlife corridors and the permanent protection of agricultural lands. In exchange for the donations, the Board has awarded \$33.2 million in tax credits.

While popular among landowners, the tax credit program was putting additional pressure upon the General Fund. As such, in response to increased demands upon the General Fund, Chapter 1033, Statutes of 2002, (AB 3009) suspended any additional approval of tax credits pursuant to the provisions of the Natural Heritage Preservation Tax Credit Act.

The legislature, recognizing the value of the program for preserving California resources, took two actions in 2004 to allow implementation of the program to proceed. Specifically, pursuant to the provisions of Chapter 226, Statutes of 2004, tax credits

may be awarded until fiscal year 2007-2008, provided the amount of all lost revenue resulting from the award of tax credits during that time is reimbursed to the General Fund. Following the passage of Chapter 226, Statutes of 2004, additional legislation was enacted that provided a fund source to reimburse the General Fund. Specifically, Chapter 715, Statutes of 2004, established the Natural Heritage Preservation Tax Credit Reimbursement Account, provided a mechanism to reimburse the General Fund for approved tax credits and required an extensive reporting process to facilitate and ensure the General Fund was properly reimbursed for all tax credits approved pursuant to the provisions of the Natural Heritage Preservation Tax Credit Act. In addition, the statute identified specific provisions of the California Clean Water, Clean Air, Safe Neighborhood, Parks and Coastal Protection Act of 2002 (Proposition 40) and the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Proposition 50), as acceptable fund sources to reimburse the General Fund for approved tax credits pursuant to the provisions of the Natural Heritage Preservation Tax Credit Act.

To facilitate understanding of the new and revised Natural Heritage Preservation Tax Credit Program, the WCB held a workshop on January 7, 2005. The workshop was held for interested legislative staff, funding agencies and administrators of the program to explain the required program changes, the administrative process WCB would follow to implement the new program and solicit comments and recommendations for delivering the revised program. If additional public outreach efforts are needed, staff will conduct workshops specifically designed to meet the needs of NGOs, municipal districts, county and city officials. Meanwhile, based upon comments received from the workshop participants and in response to the legislative authority to reinstate the Natural Heritage Preservation Tax Credit Program, WCB has revised the implementation and administration of the program consistent with the new programmatic and administrative requirements mandated in Chapter 715, Statutes of 2004. In addition to previous program requirements, following the Board's approval of a tax credit application, the Board will implement the following guidelines for compliance with the revised legislative authority:

1. WCB will notify the State Agency responsible for reimbursing the General Fund that the Board approved the donation of the property for inclusion under the NHPTCP and requests the State Agency to encumber eligible bond funds in an amount necessary to reimburse the General Fund for the approved tax credits. Notification will occur upon WCB approval of the donation for inclusion under the NHPTCP before the donated property is transferred. [PRC Section 37034 (2) (A)]
2. State entity (Donee Agency) signs NHPTCP Funding Certification and Encumbrance Document, which is supplied by WCB and returns the original signed document to WCB for final distribution to the State Controller (SCO) and the State Treasurer. The SCO sets up appropriation to be available without regard to fiscal year. [PRC Section 37034 (2)(C)]

3. WCB will notify the Joint Legislative Budget Committee and the Franchise Tax Board of the approved donation and tax credit. [PRC Section 37013]
4. Taxpayer submits claim for tax credit on tax return. Note: Taxpayer may claim a credit annually or until taxpayer has claimed all of the approved tax credits or for a total of nine (9) years, whichever comes first.
5. Franchise Tax Board notifies WCB that taxpayer has made a claim against the tax credit. [PRC Section 37034 (3)]
6. WCB will notify the State Agency that taxpayer has made a claim against the tax credit to Franchise Tax Board and requests the State Agency to transfer the bond funds to the Natural Heritage Preservation Tax Credit Reimbursement Account. The State Agency then has sixty (60) days to complete the transfer. [PRC 37034 (3)]
7. WCB is required to send separate notification to the State Controller and State Treasurer regarding the approval and award of all tax credits. [PRC Section 37040]

To incorporate the programmatic, administrative and reporting requirements necessary to implement the revised tax credit program, staff is revising the tax credit program manual and application package. This information will be posted on the Board's website for the public's use and ultimate participation in the revised tax credit program.

Mr. Wright at this time reviewed the informational packet which included required certificates and a revised administrative process.

Mr. Kellogg asked if there were any further questions.

Mr. Klass asked to make sure that the property is eligible for the funds and that there are sufficient bond balances under Proposition 40 and that the accounts are up-to-date and not exhausted.

Ms. Cundiff stated that as part of the application package we are in the process of designing a new fiscal sheet that will be signed by fiscal officers who will certify that sufficient funds are indeed available to be encumbered.

Mr. Klass asked if the Attorney General was involved in this discussion and if they attended the workshop by the Wildlife Conservation Board.

Mr. Wright reported that they were not at the workshop. He said he had spoken with

Jim Lowrey, from the Treasurer's Office yesterday and they were meeting with their counsel to discuss the mechanics of this and hoped to have it figured out by Monday. He said everyone wants to make sure that any money deposited into the account does not jeopardize the tax status of bonds.

Mr. Klass stated that the Attorney General has to issue a clean opinion on all general obligations bonds before we can do a sale and make sure it is perfectly legitimate. This is a new program for them and he wants to make sure they are comfortable with the issue before giving out the credit.

Ms. Cundiff stated that according to the Franchise Tax Board some of these donations/tax credits have been cashed in the first year or have been staggered.

Mr. Wright stated that in general, tax credits were claimed on average, over a three year period according to testimony from the Department of Finance at a budget hearing last year.

Mr. Jeff Stump, representing the American Land Conservancy, thanked the Board for their support of the program and getting this to the Board so quickly. He stated that this program is an important part of land conservation and that the American Land Conservancy was able to use the tax credit program in Cambria to protect a 418 acre ranch. He said they look forward to using this tax credit program in the future and thanked the Board for supporting it.

Staff recommended that the Board authorize staff to proceed with the development and implementation of guidelines for the revised Natural Heritage Preservation Tax Credit Program consistent with and pursuant to the provisions of Chapter 226, Statutes of 2004 and Chapter 715, Statutes of 2004.

It was moved by Mr. Fred Klass that the Board authorize staff to proceed with the development and implementation of guidelines for the revised Natural Heritage Preservation Tax Credit Program consistent with and pursuant to the provisions of Chapter 226, Statutes of 2004 and Chapter 715, Statutes of 2004.

Motion carried.

With no further business to discuss, the meeting was adjourned at 1:30 P.M.

Respectfully submitted,

AL Wright

Executive Director