

DELTA PROTECTION COMMISSION

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December 18, 2002

Dan Castleberry, Manager, CALFED Ecosystem Restoration Program
1416 Ninth Street, 11th Floor
Sacramento, CA 95814

Subject: Comments on Revised Applications for CALFED Ecosystem Restoration Grants

Dear Mr. Castleberry:

Thank you for inviting the Delta Protection Commission to submit comments on the revised applications for CALFED Ecosystem Restoration grants in the Delta. Unfortunately, due to the short turn-around time allotted for public comments, the full Commission has not had the opportunity to review the revised applications. However, at its last meeting, the Commission voted to delegate the Delta Protection Commission CALFED Committee to prepare and submit comments on behalf of the entire Commission.

The Delta Protection Commission's CALFED Committee met on Tuesday, December 17, 2002 to review and discuss the revised applications. **To summarize, the Committee found that all of the proposed projects would be consistent with the goals of the Commission's adopted Land Use and Resource Management Plan for the Primary Zone of the Delta (1995).**

The Committee had additional comments regarding each project, and opportunities to integrate agriculture, wildlife habitat, and recreation in each project as described below.

1. PACIFIC FLYWAY CENTER INITIAL PLANNING: \$394,919

Applicant: Yolo Basin Foundation

Location: Immediately West of the Legal Delta, Yolo County; the 69 acre site of the proposed Pacific Flyway Center was acquired by the Wildlife Conservation Board in August 2001 with funds from Proposition 40.

Ecozone: Yolo Basin

Type of Project: Education

Length of Time to Complete Project: Two Years

Ecosystem Restoration Goals: None

Project Description: The grant is for initial planning for the creation of the Pacific Flyway Center, an educational center and gateway, focused on the Central Valley wetlands habitat values, the floodway functions of the Yolo Bypass, the specific habitat resources of the Vic Fazio Yolo Wildlife area and other nearby habitat restoration projects in the North Delta Ecozone. The grant would fund site and program planning and development of a management plan.

The completed project would include habitat, trails, and a 12,000 square foot educational center. The Flyway Center would be developed in partnership with Department of Fish and Game. Its intended users include the general public and local schools. Yolo Basin Foundation and Department of Fish and Game are preparing a \$5 million grant application to the Wildlife Conservation Board for construction of the first phase of the project. The habitat component would be designed and constructed by the Corps of Engineers through a Section 206 Habitat Restoration project with a cost of up to \$5 million; those funds have already been approved.

Nearby CALFED Projects: CALFED has funded several studies in the Yolo Bypass with goal of learning more and educating the public about the value of the flooded agricultural lands as habitat for endangered fish and terrestrial species, including two grants for the Discover the Flyway Center, and grants to Department of Water Resources and Natural Heritage Institute to study the potential for fish habitat restoration.

CONSISTENCY WITH LAND USE AND RESOURCE MANAGEMENT PLAN FOR THE PRIMARY ZONE OF THE DELTA:

Land Use Policy P-1 states "The rich cultural heritage and strong agricultural base of the Delta shall be preserved and recognized in public/private facilities, such as museums within the existing communities."

Land Use Policy P-3 states: "New residential, recreational, commercial, or industrial development shall ensure that appropriate buffer areas are provided by those proposing new development to prevent conflicts between any proposed use and existing agricultural use. Buffers shall adequately protect integrity of land for existing and future agricultural uses. Buffers may include berms and vegetation, as well as setbacks of 500 to 1,000 feet."

CONSISTENCY WITH CALFED ECOSYSTEM RESTORATION PROGRAM PLAN:

The CALFED ERPP does not include goals or targets for educational projects.

Committee Comments: *The proposed project will provide a valuable public service, and could provide an opportunity to demonstrate the inter-relationship and value of all land uses in the Delta: agriculture, wildlife habitat, and recreation. In addition, the proposed location, and the required travel from I-80 to the site, would allow for observation and better understanding of the role of the Yolo Bypass and its levees in*

regional flood control. The planning process should include actions to minimize adverse impacts to agriculture and should include preparation on the appropriate environmental document. Appropriate mitigation measures should be included in the proposed project.

2. BIG BREAK AND MARSH CREEK WATER QUALITY AND HABITAT RESTORATION PROGRAM: \$2,998,049 (total project cost: \$5,344,143)

Applicant: Natural Heritage Institute

Location: Along Marsh Creek, south of Big Break, in the Cities of Oakley and Brentwood, Contra Costa County

Ecozone: Central and West Delta Ecozone

Type of Project: Habitat Restoration

Length of Time to Complete Project: Three Years

Ecosystem Restoration Goals: Tidal Marsh (29 acres), Dune Scrub (1 acre); Riparian Habitat (5,000 linear feet).

Project Description: Restore tidal marsh, floodplain, and Antioch dune habitat on the delta of Marsh Creek to restore fish and dune species.

The tidal marsh area would be approximately 29 acres on land owned by Ironhouse Sanitary District. No acquisition is required for this project.

The project would restore 5,000 linear feet of flood control channel in the City of Brentwood (out of the Legal Delta) with bio-filtration floodplains and wetlands to improve water quality.

The project location, Marsh Creek, is out of the Legal Delta and in the Secondary Zone of the Delta, and drains into the Primary Zone at Big Break. Big Break is owned by East Bay Regional Park District and is being developed as a regional shoreline park. There is an existing EBRPD bike path alongside Marsh Creek.

The project also includes surveys of species in Marsh Creek, water quality monitoring, creation of a native plant nursery for creek restoration, and a public outreach and education program.

Nearby CALFED Projects: CALFED has recently funded acquisition of approximately 1,200 acres at Dutch Slough site in Contra Costa County. The project includes acquisition of the property and development of a restoration plan. No other habitat restoration projects have been implemented in the area around Marsh Creek. The ERPP has also funded a feasibility study of ecosystem and water quality benefits associated with restoration of Franks Tract, Big Break, and Lower Sherman Lake and a Marsh Creek Watershed Stewardship Program.

CONSISTENCY WITH LAND USE AND RESOURCE MANAGEMENT PLAN FOR THE PRIMARY ZONE OF THE DELTA:

Environment Policy P-1 states "Lands managed primarily for wildlife habitat shall be managed to provide several inter-related habitats. Deltawide habitat needs should be addressed in development of any wildlife habitat plan..."

Water Policy P-3 states "Water agencies at local, State, and federal levels shall work together to ensure that adequate Delta water quality standards are set and met and that beneficial uses of State water are protected consistent with the CALFED...Record of Decision..."

CONSISTENCY WITH CALFED ECOSYSTEM RESTORATION PROGRAM PLAN:

The CALFED ERPP Habitat Restoration Targets and Programmatic Actions for the Sacramento-San Joaquin Delta Ecological Management Zone for Years 1-7 include:

- Fresh Emergent Wetlands (tidal) 8,000-12,000 acres Deltawide
- Riparian and Riverine Aquatic Habitat: 25 miles Deltawide

***Committee Comments:** The proposed project will enhance the Marsh Creek riparian corridor, allow for restoration of habitat without impacting agriculture, and will result in enhanced water quality in the waterways of the western Delta. The proposed project should be managed in partnership with the East Bay Regional Park District's Big Break Regional Shoreline, its regional trail system, and the public access and habitat enhancements proposed for the adjacent Dutch Slough site. The Committee recommended that new public access and education and/or interpretive information be included in the project to emphasize the relationship of the watershed to the Delta.*

3. RESTORING ECOSYSTEM INTEGRITY IN THE NORTHWEST DELTA; PHASE II: \$1,563,506

Applicant: Solano Land Trust (formerly Solano County Farmlands and Open Space Foundation)

Location: Western Delta, Primary Zone in Solano County. Includes Department of Fish and Game (DFG)-owned Calhoun Cut Ecological Reserve, and lands between the Reserve north and south of Lindsey Slough to its confluence with Cache Slough.

Ecozone: North Delta

Type of Project: The project has two components:

- First, development of a plan to restore the DFG property to tidal action (no implementation is proposed in the current application). This component will cost approximately \$400,000
- Second, acquisition of easements on up to 1,100 acres to continue agricultural uses (grazing) and introduce best management practices to protect and enhance riparian habitat areas. This component will cost approximately \$1,150,000

Length of Time to Complete Project: Three Years

Ecosystem Restoration Goals: Goal of the overall project is to restore vital ecosystem function through the entire Lindsey Slough watershed by simultaneously maintaining compatible agricultural land uses. The expected outcome is a restored, protected corridor extending from Jepson Prairie to Prospect Island. The applicants propose to significantly increase the overall acreage of marsh and riparian habitats, double the restored acres of vernal pool/perennial grasslands and increase the abundance and local distribution of at risk and other native plant and animal species.

Project Description: Calhoun Cut planning project includes slough bathymetric study and hydrodynamic modeling, including background data searches, surveys, data compilation and report writing. The project originally proposed fee title acquisition of the 775-acre Pembco property. That aspect of the proposed project has been deleted. Instead, the proposal now seeks funding for conservation easements on land considered highest priority. The DPC also requested a complete inventory of existing habitats on the Preserve; in 2001, a detailed fish, invertebrate and habitat study was completed.

Nearby CALFED Projects: Earlier this fall, CALFED funded a portion of the original application in the amount of \$246,370, to start vernal pool restoration and stakeholder outreach in the Yolo Bypass with goal of learning more about the value of the flooded agricultural lands as habitat for endangered fish species. The Solano Land Trust completed a report entitled "Site Conservation Plan for the Jepson Prairie-Prospect Island Corridor" in November 2002; the Plan describes restoration opportunities in the corridor, and ranks land for protection in the corridor. This ranking will be used to guide negotiations for conservation easement with the requested funds.

CONSISTENCY WITH LAND USE AND RESOURCE MANAGEMENT PLAN FOR THE PRIMARY ZONE OF THE DELTA:

Land Use Policy P-8 states "Local governments shall encourage management of agricultural lands which maximize wildlife habitat seasonally and year-round..."

Environment Recommendation R-4 states "Feasible steps to protect and enhance aquatic habitat should be implemented as may be determined by resource agencies consistent with balancing other beneficial uses of Delta resources."

Environmental Recommendation R-5 states: "Publicly-owned land should incorporate, to the maximum extent feasible, suitable and appropriate wildlife protection, restoration and enhancement as part of a Deltawide plan for habitat management."

CONSISTENCY WITH CALFED ECOSYSTEM RESTORATION PROGRAM PLAN:

The CALFED ERPP goals for Years 1-7 include:

- Restore and Enhance Delta Slough Habitat: 50 miles Deltawide
- Wildlife-Friendly Agricultural Land: 40,000 to 75,000 acres Deltawide

Committee Comments: The Committee supported the proposal for study of possible habitat restoration in the Calhoun Cut Ecological Preserve, and agreed that the proposal is consistent with recommendations of the Commission that CALFED fund restoration of publicly owned lands (prior to funding acquisition of privately-owned agricultural land). The Committee recognized the value of restoring lands in the Calhoun Cut Preserve due to its adjacency to the Jepsen Prairie Preserve and its habitat values. The Committee supports a vision of restored wetland habitat and a grazing program on the upland areas to aid control of invasive exotics and promote threatened, rare and endangered plants.

The Committee recognized that there might be opportunities for additional public access and education through an expansion of the Jepsen Prairie Preserve's docent program, and supports controlled, appropriate public access on lands enhanced through this grant.

The Committee supports the proposed acquisition of easements along the Jepsen Prairie-Prospect Island Corridor if the easements allow continued agricultural use in the corridor, and use of management practices that will meet the ecosystem restoration goals of the CALFED Ecosystem Restoration Program Plan.

Appropriate environmental document should be prepared and any adverse impacts to agriculture should be identified and mitigated.

Please feel free to contact me if you have questions about the Committee's comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Margit Aramburu", with a long horizontal line extending to the right.

Margit Aramburu
Executive Director

Cc: Delta Protection Commission
Grant Applicants
Solano, Contra Costa and Yolo County Planning Departments



DEPARTMENT OF CONSERVATION
STATE OF CALIFORNIA

February 6 2003

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GRAY DAVIS
GOVERNOR

Mr. Dan Castleberry, Manager
Ecosystem Restoration Program
CALFED
1416 gth Street
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Subject: CALFED Ecosystem Restoration Program (**ERP**) Directed
Action Projects

Dear Mr. **Castleberry**

The Department of Conservation's (Department) Division of Land Resource Protection (DLRP) has reviewed the projects recently approved for funding. These projects include 29DA, 53DA, 150DA, 159DA, 167DA, 171 DA, 174DA, 185DA, 193DA, 205DA, 223DA, 230DA, and 256DA. Several projects involve the conversion of agricultural lands to another use, and possibly the cancellation of Williamson Act-contracted lands. We are limiting our comments to those projects involving conversion of agricultural lands and/or that may impact agricultural resources.

We ask that CALFED-funded projects' environmental documentation, including Notices of Exemption, prepared in accordance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) be sent to DLRP for our records and review. The address is as follows: CA Department of Conservation, DLRP, 801 K Street, Sacramento, CA 95814.

It appears that lead agencies have already determined whether to prepare a negative declaration or an environmental impact report. It is, however, important to recognize the Department's established thresholds of significance. A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be less than significant. They are not intended to be stand-alone environmental policies, although they may reflect the agency's policies. The Department has established two standards that pertain to impacts to agricultural resources:

1. The Department of Conservation's Land Evaluation Site Assessment Model (LESA) is an optional tool under CEQA for lead agencies to determine threshold of significance. DLRP recommends the use of California's (LESA) model to determine significance, as it is more stringent than the federal model under the Federal Farmland Protection Policy Act.

2. Loss of more than 1 00 acres of Williamson Act contracted lands is considered of local, regional and statewide significance (CEQA Guidelines section 15206 (b)(3)).

Additionally, CALFED's Significance Criteria for Evaluation of Impacts - the CALFED EIR/S Section 7.1.5 Significance Criteria identifies several impacts on agricultural land that may be potentially significant if implementing a Program action:

- Permanent or long-term reduction in agricultural acreage in a region or the conversion of any lands categorized as prime, statewide importance, or unique farmland.
- Adverse effects on agricultural resources or operations (for example, impacts on soils or farmland, or impacts from incompatible land uses).
- Any increase in groundwater pumping that would cause or exacerbate overdraft of a basin, which in turn leads to conversion of farmlands to non-agricultural uses.
- Inconsistency with agricultural objectives of local, regional and state plans.
- Conflicts with applicable environmental plans or policies adopted by agencies with jurisdiction over the project.
- Conflicts with general plan designations or zoning.
- Conversion of lands under the Williamson Act or other agricultural easement to an incompatible use.. (Note: The EIR/S (p. 7.1-17) indicates that a substantial amount of the agricultural land that the various programs could convert would be enrolled in the Williamson Act. State or local agencies acquiring Williamson Act contracted lands are required to notify the Department beforehand and in the case of prime farmland, to make findings that no other non-contracted lands is feasible for the proposed use. However, these findings are not required for *some* types of fish and wildlife enhancement projects or flood control projects, which are defined in the Act as compatible with agricultural preserves. Also exempted from this requirement are projects designated as State Water Facilities. Although the conversion of agricultural lands enrolled in the Williamson Act is often used as an indicator of significance, projects from both the Ecosystem Restoration Program and the Levee System Integrity Program likely would be compatible with the Act.) It should be noted that failure to meet the notification requirements is, under statute, admissible in court for any action opposing the project, and may result in continuation of the contract even after public agency acquisition.

DLRP has prepared an expansion of the Record of Decision (RDO) Mitigation Measures as they pertain to Section 7.1 Agricultural Land and Water Use of the ROD. While only

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document should address how removal of these structures affect agricultural resources and practices in adjacent areas that remain in agriculture. Is the 10 acres to be returned to grazing after construction?

230DA - US Fish and Wildlife Service Recovery Implementation for the Brush Rabbit and Riparian Woodrat on the Lower Stanislaus River

Comment: The project involves acquisition of 185 acres of prime farmland, and the conversion of at least 50 acres to non-agricultural uses. As a large portion of the project site is affected by Williamson Act contracts, we ask that DLRP be contacted early in project development phases. The proposal states that contract cancellation may be necessary. As recommended previously, the project proponent should consult with DLRP prior to project implementation regarding Williamson Act contract compatible use, public acquisition and termination requirements. The project description indicates that a negative declaration is to be prepared. As there may be impacts to agricultural resources, the project proponents should consider implementing agricultural land management practices for continued agricultural productivity as well as habitat restoration. Also, the Negative Declaration should provide mitigation for adverse environmental impacts (e.g. agricultural land conversion) consistent with the CALFED ROD.

256DA - Yolo Basin Foundation Pacific Flyway Center Initial Planning

Comment: The project will involve initial planning for a 69-acre site that is currently in agricultural use. The Wildlife Conservation Board acquired the site in August 2001. The proposed project will include habitat, trails and a 12,000 square foot educational center. Any impacts resulting from the change in land use should be addressed in a document prepared in accordance with CEQA.

Thank you for the opportunity to provide comment on the directed actions. Again, please distribute the environmental documents to DLRP for review and comment when they become available. We would be pleased to provide assistance in assuring that our concerns are addressed. Please call Jeannie Blakeslee at (916) 323-4943 if you have any questions regarding these comments.

Sincerely,

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Dennis J. O'Bryant
Manager
Williamson Act Program