

STATE OF CALIFORNIA—THE RESOURCES AGENCY

CRAY DAVIS, Governor

DELTA PROTECTION COMMISSION

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May 10, 2002

Patrick Wright, Executive Office
 CALFED
 1416 Ninth Street, 11th Floor
 Sacramento, CA 95814

Subject: Comments on 2002 Ecosystem Restoration Grants Recommended for
 Funding in the Delta Primary Zone

Dear Mr. Wright:

The Delta Protection Commission is the State-authorized land use planning agency for the Primary Zone of the Delta. The Commission has planning and limited regulatory authority over local government actions in the Primary Zone. The Commission does not have authority over State or federal actions, so these comments are advisory only. The full Commission has not had the opportunity to review the projects proposed for funding, however, these comments have been discussed and reviewed by the Commission's CALFED Committee and the Chairman of the Commission.

About 80 applications for funding of studies and projects in the Delta were reviewed by CALFED. The CALFED Committee had no comments on *studies* that are recommended for funding; deferred comments on those projects recommended for further consideration by CALFED this fall ("*consider as a directed action*") until such time as the revised applications are submitted; and had no comments on projects *not recommended for funding*.

The Committee has comments on the following projects proposed for funding:

#253

Geomorphic and Geologic Mapping for Restoration Planning, Sacramento-San Joaquin Delta Region, William Lettis & Associates, Inc.: \$120,000

Project Description: Two year research study to map geomorphic landforms and geologic deposits in the North Delta for floodplain restoration, evaluation of selective levee breach and planning for setback levee construction on the lower river systems.

COMMENT: *Data developed should be made available at no cost to agencies and interested parties working in the Delta, including the Delta Protection Commission.*

Re: #150

Restoring Ecosystem Integrity in the Northwest Delta, Phase II, Solano Land Trust:
\$1,803,223

Project Description: This project has three sub-parts.

One task is development of a management plan for Wilcox Ranch, which is outside of and west of the Legal Delta.

The second task is study of restoring tidal action to the 1,000-acre site owned by Department of Fish and Game which includes portions of Calhoun Cut and is bounded to the north by Barker Slough. This site is in the Primary Zone, east of the Jepsen Prairie Preserve owned and managed by Solano Land Trust, and is in public ownership.

COMMENTS:

- *Funding should include a complete inventory of all existing habitats and values on the Department of Fish and Game site; this task may require additional funding.*
- *Analysis of restoration should describe how proposed restoration would meet CALFED Ecosystem Restoration Goals for the North Delta segment of the Sacramento-San Joaquin Delta Ecological Management Zone for Phase II (Years 1-7).*

The third task is acquisition of 775 acres of privately-owned land north of Barker Slough/Lindsey Slough (Pemco) and study of possible relocation of the existing levee in order to restore portions of the site to aquatic and riparian habitat.

COMMENTS:

- *Applicant states acquisition is exempt from CEQA, but future restoration actions which would retire agricultural land should be evaluated under CEQA. Site is designated PRIME; Williamson Act data omitted from application.*
- *CALFED should condition funds for acquisition so lands upland of any new setback levee will be sold to private landowner for permanent agricultural use with access to riparian water, and not sold or transferred to a State or federal agency. To further long-term protection of Delta agricultural land, an agricultural easement should be associated with the new remnant parcel. [Note: This option is included in the application].*
- *Proposed levee setback project would require review and approval from Reclamation District 2060 and Solano County. Coordination and letters indicating positions of each should be required by CALFED prior to funding acquisition [PSP requires "consistent with County General Plan, or evidence of local government support"].*
- *Applicant should coordinate with Reclamation District 2060 to ensure that appropriate studies that may be required for evaluation of a new setback levee are included in this study phase (geology, soils, flood control, seepage issues, etc). This task may require additional funding.*
- *CALFED should require the project proponents to present the long-term plan for lands in the Primary Zone at a public meeting of the Delta Protection Commission.*

#168

McCormack Williamson Tract Restoration: Wildlife-Friendly Levee Management, The Nature Conservancy: \$2,476,835

Project Description: Island is owned by The Nature Conservancy, funds from CALFED. Height of eastern levee is restricted by legal agreement, so Island designed to flood before other nearby islands. Island within study area of CALFED/DWR North Delta Improvements Project. Island may be floodway and/or tidal habitat restoration. Either future use requires reconstruction and reconfiguration of interior levees to eliminate erosion. Pilot project completed in 2001 to reslope at 5:1 and plant. This funding would allow additional levee reconstruction work and associated planting.

COMMENTS:

- *Design and construction of reconfigured levees should not preclude full analysis of viable alternatives currently under evaluation as part of the North Delta Improvements Project. The entire North Delta Improvements Project will be reviewed by the Delta Protection Commission.*

#58

Staten Island Wildlife-Friendly Farming Demonstration, Ducks Unlimited: \$1,507,459

Project Description: On Staten Island, owned by The Nature Conservancy, and purchased with CALFED ERP funds approved land year, Ducks unlimited will construct small internal levees to allow seasonal flooding of agricultural lands to serve as seasonal habitat. The project includes construction of a new four-unit pumping facility that will allow water to stay on the upper portions of the Island for a longer period of time, and yet be drained for planting. The pump station would release waters into South Fork of the Mokelumne. Finally, the project includes a three-year monitoring project of the discharge from the flooded areas. Island is within study area of CALFED/DWR North Delta Improvements Project. Island may be used as floodway and will be managed permanently for wildlife-friendly agriculture.

COMMENTS:

- *Design and construction of the new levees and pump station should not preclude full analysis of viable alternatives currently under evaluation as part of the North Delta Improvements Project, such as use of Staten Island as a floodway or with setback levees. The entire North Delta Improvements Project will be reviewed by the Delta Protection Commission. This comment has also been submitted by Department of Water Resources staff.*
- *Design and construction of reconfigured levees should support or be neutral for agriculture activities on Staten Island as well as seasonal wildlife habitat. A memo to that affect was sent to Delta Protection Commission by The Nature Conservancy staff.*

#80

Sustainable Restoration Technologies for Bay/Delta Tidal Marsh and Riparian Habitat, HART, Inc.: \$1,800,00

#80
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Project Description: The project builds upon experiences along Mokelumne River and Georgiana Slough protecting more than 11,000 linear feet of bank using wildlife-friendly biotechnical techniques and several miles of tidal marsh restoration using specialized planting methods. The methods are "low-tech" and cost-effective and serve to protect levees while at the same time restoring valuable riparian and tidal marsh habitat. Propose to continue along Georgiana Slough and new efforts on Sacramento River (Brannan-Andrus Island); below Rio Vista as the base of the Montezuma Hills; near Courland; Steamboat Slough (Grand Island); Sutter Slough and Miner Slough (RD 999).

COMMENTS: Support.

Thank you for the opportunity to review and comment on the project proposed for funding by the CALFED program. We look forward to review an additional group of projects this fall. Please do not hesitate to call if you need additional information about these comments.

Sincerely,



Margit Aramburu
Executive Director

- Cc: Delta Protection Commissioners
- Dan Castleberry, CALFED ERP Program
- Harry Englebright, Solano County Planning Department
- Pam Muick, Solano Land Trust
- Mike Eaton, The Nature Conservancy
- Christopher Sasso, Ducks Unlimited
- Gwen Knittweiss, Department of Water Resources



DEPARTMENT OF CONSERVATION
STATE OF CALIFORNIA

May 9, 2002

DIVISION OF
LAND RESOURCE
PROTECTION

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GRAY DAVIS
GOVERNOR

Mr. Dan Ray
CALFED Bay-Delta Program
1416 9th Street, Suite 630
Sacramento, CA 95814

Dear Mr. Ray:

Subject: Review of CALFED Proposals #150 - Solano County
Farmlands and Open Space Foundation's "Restoring Ecosystem
Integrity in the Northwest Delta: Phase II", and #179 - The
Tuolumne River Preservation Trust's "The Tuolumne River-Big
Bend Project"

The Department of Conservation's (Department) Division of Land Resource Protection staff has reviewed the documentation prepared for the above referenced projects. Both projects are to receive funding from CALFED. Both projects involve acquisitions. The "Restoring Ecosystem Integrity in the North Delta: Phase II" (Phase II) project proposes to acquire 775 acres and the Tuolumne project proposes to acquire 65 acres in fee and a 181-acre easement. Each acquisition and subsequent project implementation will involve conversion of Prime Farmland and Farmland of Statewide Importance and the cancellation of Williamson Act contracts.

The Division monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act and other agricultural land conservation programs. We offer the following comments:

Williamson Act Contracted Lands

A Williamson Act contract is an enforceable restriction pursuant to Article XIII Section 8 of the California Constitution and Government Code Section 51252. The accepted method of termination is nonrenewal. Premature termination undermines the public purpose of the Williamson act in preserving agricultural land. The loss of agricultural land represents a permanent reduction in the State's agricultural land resources. The Department encourages the purchase of agricultural conservation easements on land of at least equal quality and size as compensation for the direct loss of agricultural land. Since agricultural land may be

Mr. Dan Ray
May 9, 2002
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permanently lost or the level of significant impact may vary, the acreage ratio may be increased accordingly. It is important to note that subvention payments to the associated local agency will decrease accordingly.

Compliance with the California Environmental Quality Act

The proposal document prepared for the Tuolumne – Big Bend project indicates that an environmental document is to be prepared in accordance with the California Environmental Quality Act (CEQA). The proposal document prepared for the Phase II project indicates that no CEQA document will be prepared. CEQA Guidelines Section 21065 defines a project. Section (b) states that a project is an activity undertaken by a person that is supported, in whole or in part, through contracts, grants, subsidies, loans or other forms of assistance from one or more public agencies. We ask that the determination that CEQA need not be complied with for the Phase II project be reconsidered.

Impact Analysis

Under CEQA, the Department considers reduction in agricultural resources and premature termination of a Williamson Act contract to be significant impacts. Additionally, impacts to agricultural resources may be quantified and qualified by use of established thresholds of significance (CEQA Guidelines Section 15064.7). The Division has developed a California version of the USDA Land Evaluation and Site Assessment (LESA) Model, a semi-quantitative rating system for establishing the environmental significance of project-specific impacts on farmland. The model may also be used to rate the relative value of alternative project sites. The LESA model is available at <http://www.consrv.ca.gov/dlrp/index.htm>.

As mentioned earlier in this letter, the Department encourages the purchase of agricultural conservation easements on land of at least equal quality and size as compensation for the direct loss of agricultural land. This can be implemented by at least two alternative approaches; the outright purchase of easements or the donation of mitigation fees to a local, regional or statewide organization or agency whose purpose includes the acquisition and stewardship of agricultural land should be deemed an impact of at least regional significance and the search for replacement lands conducted regionally, and not limited strictly to lands with in the project's immediate proximity. Also, the projects' mitigation measures that will minimize impacts to agricultural resources should be consistent with the measures identified in the Record of Decision.

Thank you for the opportunity to provide comment on these two project proposals. Please call me at (916) 323-4943 if you have any questions.

Sincerely,



Jeannie H. Blakeslee, Environmental Scientist
CALFED Liaison

RECLAMATION DISTRICT #2060

HASTINGS TRACT - SOLANO COUNTY
1143 CRANE STREET, SUITE 200
MENDOTA PARK, CALIFORNIA 94025-4341
PHONE: 925-328-0820 FACSIMILE: 925-323-5390

HENRY N. KUEHLER IV
VICE PRESIDENT

RECEIVED

May 8, 2002

CALFED Bay-Delta Program

Mr. Dan Ray
CALFED Bay-Delta Program
1416 Ninth Street, Suite 630
Sacramento, California 95814

Re: Comments on Funding for Solano County Farmlands and Open Space
Foundation Acquisition of Pembco Parcel (Barker Slough Proposal)

Dear Mr. Ray:

Reclamation District #2060 is a Reclamation District formed under the California Reclamation District Act (Water Code Section 50000 *et seq.*). As such, it is a public agency of the State of California that has a duty to provide drainage and reclamation services for the lands within its boundaries. The parcel which the Solano County Farmlands and Open Space Foundation ("Foundation") desires to acquire is within the boundaries of Reclamation District #2060 ("District"). It is from this perspective that the District provides these comments.

The District is opposed to the land being acquired for the purposes identified in the grant proposal. As a preliminary matter, as a local public agency with jurisdiction over these lands, the District should have been officially consulted on this issue. The purposes for which this property is planned to be used would, to some extent, conflict with the very mission of this District.

Specifically, we are troubled by the proposal to perform an assessment on moving the Project Levees. Such an action would require the approval of the Army Corps of Engineers, the State Reclamation Board, and the District. Such actions are not taken lightly. Based on past actions of the District, it seems highly unlikely that the District would approve of any effort to move levee's within its jurisdiction.

In addition, the Solano Land Trust's proposal is unclear how the Project Levees might be moved. Moving them so as to allow the Pembco parcel to be affected by tidal flows, either partially or in toto, could increase the neighboring Coelho and Hastings Island Land Company parcels exposure to seepage and flooding. The movement of the Project Levees could also have the effect of reducing the District's financial base, as the District would need to assess what benefit it would be providing if the property was outside of the District's Project Levees.

One of the activities of RD 2060 is to maintain the Project Levees which surround the District.

In order to do that, the District maintains a rigorous course of rodent control. This is to ensure that rodents do not burrow into the levees, a known cause of levee failure. The grant proposal suggests, by promoting "wildlife friendly agricultural practices," that no rodent control would be maintained on the property to be acquired by the Foundation; in fact, rodent control might even be antithetical to the desired purpose of the property. Thus, this issue of levee maintenance also suggests that the property should not be acquired for purpose stated in the proposal.

The District believes that it should be formally consulted before any money is expended on this proposal. Should you have questions regarding this matter, please feel free to contact me at the District's main office, (650) 328-0820.

Sincerely,

A handwritten signature in black ink, appearing to read "Henry N. Kuechler IV". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Henry N. Kuechler IV

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HASTINGS ISLAND LAND COMPANY

150

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HENRY N. KUECHLER IV
PRESIDENT

RECEIVED

May 8, 2002

CALFED Bay-Delta Program

Mr. Dan Ray
CALFED Bay-Delta Program
1416 Ninth Street, Suite 630
Sacramento, California 95814

Re: Comments on Funding for Solano County Farmlands and Open Space
Foundation Acquisition of Pembco Parcel (Barker Slough Proposal)

Dear Mr. Ray:

The Hastings Island Land Company ("Company") is the owner of land directly adjacent to the Pembco parcel proposed to be acquired by the Solano County Farmlands and Open Space Foundation ("Foundation"). It is also the largest landowner within Reclamation District #2060, the Reclamation District that provides drainage and reclamation services for the Company and for Pembco. It is from this perspective that the Company provides these comments.

The Company is opposed to the land being acquired for the purposes identified in the grant proposal. As a preliminary matter, we are concerned about the effect of this proposal on Reclamation District #2060. As such, we reiterate the comments made by Reclamation District #2060 to this proposal.

We are also troubled by the proposal to the extent that it suggests that the Project Levees which protect our property may be moved. The Project Levees make up a comprehensive and complex system of flood control for our property. The movement of these levees has the potential of exposing the Company to an increased risk of flooding. For example, if the Project Levees were moved so that they did not fully protect the Pembco parcel, the western flank of the Company's property could be exposed to flood waters. This is especially troubling because the levee along that portion of the Company's property is not designed to withstand the kind of flood flows that a Project Levee is subject to.

The Company is also troubled by the proposal's potential adverse effect on agriculture on the Company's property.

As the adjoining landowner to the proposed project site, the Company believes that it should be formally consulted before any money is expended on this proposal. Should you have any questions regarding this matter, please feel free to contact me at 650-328-0820.

Sincerely,



Henry N. Kuechler IV

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